

STEVE SCALISE

MAJORITY LEADER

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THE CONSEQUENCES OF CRIMINAL ALIENS ON U.S. COMMUNITIES

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION INTEGRITY,
SECURITY, AND ENFORCEMENT

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

THURSDAY, JULY 13, 2023

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THE CONSEQUENCES OF CRIMINAL ALIENS ON U.S. COMMUNITIES

Thursday, July 13, 2023

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY,
AND ENFORCEMENT

COMMITTEE ON THE JUDICIARY

Washington, DC

The Committee met, pursuant to notice, at 3 p.m., in Room 2141, Rayburn House Office Building, Hon. Tom McClintock [Chair of the Subcommittee] presiding.

Members present: Representatives McClintock, Jordan, Buck, Biggs, Tiffany, Roy, Spartz, Van Drew, Nehls, Moore, Hunt, Jayapal, Nadler, Correa, Escobar, Jackson Lee, and Ross.

Mr. MCCLINTOCK. The House Judiciary Subcommittee on Immigration Integrity, Security, and Enforcement will come to order. Without objection, the Chair is authorized to declare a recess at any time.

The Subcommittee meets today to examine the consequences of criminal aliens on U.S. communities. We'll begin with the opening statements of the Chair and Ranking Member.

Yesterday, FBI Director Christopher Wray testified before the House Judiciary Committee that the open southern border poses a huge security risk for our Nation, his words, and that they attract a significant increase in crime, criminal cartel activity, and gang-related cartels because of this crisis. More than 5.5 million illegal aliens have been encountered at the Southwest border since Joe Biden became President. Over 2.1 million illegal aliens at the border have been released into the United States in that same period of time. More than one and a half million known got-aways have evaded law enforcement and entered the country since January 2021. Among the one and a half million known got-aways, there is no way to estimate the number of terrorists and criminals entering the country.

We do know this. By surrendering to Border Patrol, you're virtually assured now of being released into the country. The one and a half million who have evaded border patrol have done so for a reason. They're either conducting criminal activity or they're hiding criminal records.

Adding to this threat is the fact that the administration has essentially adopted the sanctuary policies that prevent many dangerous illegal aliens from being deported after they have been convicted and incarcerated for committing other crimes while in the United States. According to Mr. Mayorkas' enforcement priorities, quote, "whether a noncitizen poses a current threat to public safety is not to be determined according to bright lines or categories." So much for the rule of law.

The result of such prioritization is that few criminal aliens are arrested and removed. The numbers speak for themselves. In Fiscal Year 2020, the last year of the Trump Administration, ICE removed 186,000 aliens from the United States. Two years into the Biden Administration, deportations have plunged to only 72,000, and that's a decline of more 60 percent. The Trump Administration removed 104,000 convicted criminals from the country in Fiscal Year 2020, yet the Biden Administration only removed 38,000 in Fiscal Year 2022.

Now, that requires repeating. The number of convicted criminal aliens removed from our country has declined by nearly two-thirds under this administration. Similarly in 2020, the Biden Administration removed just 60 percent of the number of known or suspected gang members as the Trump Administration had done just two years prior.

Now, explain to me how this makes our communities safer. Does anyone seriously believe that making it harder to remove criminal illegal aliens from our communities makes our community safer? Does anyone really believe that letting millions of unvetted foreign nationals into our communities makes our communities safer?

Many of these aliens arrived deeply indebted to cartels whose affiliated gangs follow them into our communities to enforce those debts, often by pressing them into drug trafficking and human trafficking. The cartel massacre of an entire family just hit Tulare, California, a rural community not far from my district. The cartels are here because we have let them in.

As Director Wray testified yesterday; we have no idea how many terrorists have now entered the country as well. The crimes committed by criminal aliens aren't just statistics. Every crime devastates the victims of it, their families, their neighborhoods, and their communities as we will hear today.

The sexual assault of a three-year-old at a Chicago McDonald's, the sexual assault and murder of a 92-year-old woman in Queens, New York, the murder of a college student in Iowa, the sexual assault and murder of a 20-year-old girl in Maryland, the assault of a teenage girl in Alabama, the assault and robbery of two friends at a Maryland park, the attempted abduction of a four-year-old girl in Virginia, the murder of a 15-year-old boy in Maryland, and the list goes on and on in heartbreaking detail.

These Democratic policies might create sanctuaries for criminal illegal aliens, but they are creating a dystopian nightmare for law-abiding citizens and noncitizens alike who must live in them.

Now, we have a new phenomenon, crime tourism. In the past several years, criminal gangs, largely from Chile, have exploited the visa waiver program to shake once quiet communities across the United States with million-dollar heists, from Southern Cali-

ifornia to Florida, and burglaries of family homes from New York to Virginia. These criminal aliens continue their crime sprees across the country. In sanctuary jurisdictions, they largely escape accountability.

Today, our witnesses will describe these real, live, everyday consequences of crimes that would not occur at all save for the fact that we are not enforcing our immigration laws. If we simply enforced those laws, there'd be fewer criminal aliens in the country and fewer crimes committed by them. It is that simple. I now recognize the Ranking Member for five minutes.

Ms. JAYAPAL. Thank you, Mr. Chair. I want to start by just taking a moment to express my deepest condolences to Mr. Rosenberg. You have experienced a profound loss, and I am so sorry for that. I appreciate your coming to share Drew's story with us today.

Mr. Chair, I'm glad to see that we're having an immigration hearing that's not solely focused on the border. Unfortunately, I worry that today's hearing will feature more of the same dangerous and harmful rhetoric that some of my colleagues use to demonize and scapegoat immigrants.

For the last six months, and really since President Biden took office, my colleagues have fearmongered about the border and asylum-seekers seeking refuge. This reached a fever pitch in May, when the administration was set to end Title 42 public health policy. We were told that ending this policy, that's supposed to be about public health and not about immigration, would result in high numbers of migrants coming across the border and that the administration was not prepared to deal with the influx.

There was no influx. Like it or not, President Biden's border plan appears to be working. Over the past two months, border numbers have fallen nearly 70 percent despite every projection to the contrary. Politico has called it the migrant crisis that still hasn't arrived.

So, unable to further stoke fears about the border, my colleagues then turn to discussing the potential impeachment of Secretary Mayorkas during a hearing last month. I was very pleased to see that, following the hearing, some of our Republican colleagues on the Committee, including the Chair of this Subcommittee, expressed appropriate reservations about impeaching the Secretary. I hope that my colleagues will realize that we can disagree about immigration policy without resorting to impeachment.

Unable to move farther down the path on impeachment in this Committee, this Committee handed off that investigation to the House Homeland Security Committee. Now, it appears that my Republican colleagues are pivoting to painting immigrants as criminals. As we discussed at our last hearing, Congress has never appropriated, and no administration has ever requested, sufficient resources to detain all noncitizens who fall under the, quote, "mandatory detention categories."

Even former President Trump never tried to detain all migrants. In fact, DHS' own data shows over 500,000 releases at the U.S.-Mexico border under the Trump Administration.

Likewise, no administration has ever requested or been provided the resources to remove all undocumented noncitizens. There are currently about 11 million undocumented individuals in the United

States, and, given the Department of Homeland Security's finite resources, prosecutorial discretion is an essential tool in managing the immigration system.

When President Biden took office, his administration moved to implement a targeted set of enforcement priorities. These priorities, while not perfect, attempt to focus finite resources on the removal of individuals deemed to be a threat to public safety, national security, or border security. Although this was initially blocked in the lower courts, in June, the Supreme Court held that States cannot challenge the Executive Branch's authority to establish enforcement priorities. The Court also ruled that courts do not have the authority to order law enforcement to carry out arrests and deportation.

The Biden Administration has stated that it plans to reimplement these enforcement priorities. Prosecutorial discretion in enforcement has long been an essential element of the Executive Branch's authority. I am glad that the Biden Administration, the Department of Homeland Security, can move forward with immigration enforcement priorities.

However, I do remain concerned about the administration's reliance on State and local law enforcement to carry out immigration enforcement. Local law enforcement needs to have the trust of all members of the Community, including immigrants, to do their jobs. That trust is eroded when local law enforcement is tasked with enforcing Federal immigration policy.

The Major Cities Chiefs Association has previously noted that if law enforcement officers are viewed by members of the immigrant community as colluding or working with immigration law enforcement officers, this would, quote,

Result in increased crime against immigrants in the broader community, create a class of silent victims, and eliminate the potential for assistance from immigrants in solving crimes or preventing future terrorist acts.

The Major Cities Chiefs Association has also explained that cooperation with the immigrant community is a crucial part of solving crime and preventing further criminal activity within the entire community.

Congress recognized this dynamic with strong bipartisan support when we created the U visa program to protect immigrant victims and witnesses of crime to encourage those immigrants to come forward, report crimes, and cooperate with law enforcement to solve crimes. It's worth noting that when local law enforcement is deputized to enforce Federal immigration law, it makes it far more difficult for victims of domestic violence and sexual assault to seek protection and it empowers their abusers. So, I am sure we will hear a lot about immigrants in crime today.

Demonizing all immigrants and attempting to scare the public while using White nationalist rhetoric is straight out of Steven Miller and former President Trump's playbook. The reality is immigrants commit crimes at lower levels. This type of rhetoric only fuels a rising hate that we have seen against immigrant communities.

I do want to note that one of the witnesses is here to discuss Chilean nationals potentially abusing the visa waiver program. If any immigrant is abusing the immigration system, I think we all

agree this is something that DHS should be looking into. The visa waiver program is a privilege that we award to certain countries. It is not a right.

I look forward to hearing from all our witnesses and the perspectives that they bring on this issue. Thank you, Mr. Chair. I yield back.

Mr. MCCLINTOCK. Thank you. The Chair now recognizes the Ranking Member of the Judiciary Committee, Mr. Nadler, for an opening statement.

Mr. NADLER. Thank you, Mr. Chair. I would like to start by offering my condolences to Mr. Rosenberg. No parent should ever have to go through the pain of losing a child. I thank you for sharing Drew's story with the Committee today.

Mr. Chair, today's hearing is on a topic that requires delicacy and nuance, two things the current House majority has struggled with in the past. No one on this dais wants dangerous criminals out on the streets regardless of their immigration status, but we have to be careful not to paint all immigrants with a broad brush. Implying that all undocumented immigrants are criminals who wish to harm our country only lends credence to conspiracy theories that have already taken far too many lives.

Next month, we will commemorate the anniversary of the El Paso shooting. On August 3, 2019, a domestic terrorist walked into a Walmart in El Paso, Texas, and murdered 23 people and injured 22 others. He posted a hateful and racist manifesto online prior to the attack espousing White nationalist theories, like the "great replacement" theory, and claiming that there was a Hispanic invasion. He told investigators that he was targeting Mexicans. Last week, the shooter was sentenced to 90 consecutive life sentences by a Federal judge. No time in prison will help those grieving families get their loved ones back, nor will it help heal the physical, mental, and emotional wounds of the survivors. It won't stop with the next attack.

It is for this reason that we must tread carefully. This is an important topic, and I look forward to a spirited debate with my colleagues on the other side of the aisle. We cannot add fuel to a fire that has already left so much devastation in its wake.

We all want to protect our country. We all want to keep people safe. We have different ways of achieving those goals. The administration takes on national security very seriously. That is why they put in place enforcement guidelines that, while not perfect, attempt to prioritize the removal of dangerous individuals.

The previous administration chose to paint everyone with a broad brush. The Trump Administration created a set of priorities that were so expansive, it included all undocumented and otherwise removable immigrants in the country. A jaywalker and a murderer were given the same degree of prioritization for removal.

ICE started targeting people wherever they could find them, near schools, hospitals, and even at houses of worship. Undocumented immigrants who have been complying with ICE for decades would arrive at the regular check-ins and be placed into immigration detention without warning. People became afraid of law enforcement and afraid of continuing to work with ICE for fear that they too would be detained and removed.

When everyone is a target, no one feels safe. Targeting undocumented immigrants who posed no threat to the country had consequences. During President Trump's time in office, the number of individuals in immigration detention who had been convicted of serious felonies fell by 20 percent.

During that same time, the numbers of detained immigrants grew. Soon immigrants with no criminal conviction at all became the majority of detainees in ICE custody. When President Biden took office, he directed DHS to prioritize targeting individuals who pose a threat to national security, public safety, and border security.

President Trump chose to target everyone. As a result, his administration detained fewer people who committed serious crimes. President Biden's goal was to use our finite resources to prioritize detaining and removing those that pose the biggest threats to us.

Unfortunately, Republican State Attorneys General who disagreed with this goal sued to block the implementation of these priorities. In 2022, the U.S. District Court for the Southern District of Texas enjoined the policy, forcing the administration to revert to the previous administration's priorities, or lack thereof. Last month, in an eight to one decision, the Supreme Court overturned the injunction ruling that it was the Executive Branch's prerogative to set enforcement priorities that the administration could once again move forward with them.

Now that the administration is once again allowed to set its own priorities, we will be able to see which approach will be more effective. I thank the witnesses for coming today. I look forward to hearing their testimony, and I yield back the balance of my time.

Mr. McCLINTOCK. Thank you. Without objection, all other opening statements will be included in the record. Let me now introduce today's witnesses.

Our first witness is Bradley Schoenleben. Mr. Schoenleben is a Senior Deputy District Attorney with the Orange County, California District Attorney's Office. In 2017, the California District Attorney Investigators Association recognized him as California Prosecutor of the Year. More recently, Mr. Schoenleben has helped to prosecute cases related to theft and burglary by organized criminal alien gangs. He has a law degree from Chapman University's Dale E. Fowler School of Law.

Our next witness will be Mr. John Fabbriatore. Mr. Fabbriatore is an Advisory Board Member with the National Immigration Center for Enforcement. He started with the Immigration and Naturalization Service in 1998 and retired from the U.S. Immigration Customs Enforcement in 2022. He served in many different positions including Deputy Field Office Director for U.S. Immigration and Customs Enforcement in the Denver, Colorado area of responsibility before being promoted to Field Office Director in 2020. He also received the Secretary of the Department of Homeland Security silver medal for meritorious service award.

Our third witness is Chief Ramon Batista. Mr. Batista is Chief of Police for the city of Santa Monica, California, a position he's held since October 2021. He began his law enforcement career with the Tucson, Arizona Police Department in 1986. In 2017, Mr. Batista was appointed Police Chief in Mesa, Arizona. Mr. Batista

has a bachelor's degree and master's degree from Grand Canyon University.

Finally, we will hear from Mr. Donald Rosenberg. Mr. Rosenberg is the founder of Advocates for Victims of Illegal Alien Crime after an illegal alien driving without a license killed his son, Drew, in 2010. Mr. Rosenberg founded the organization to raise awareness of crimes committed by aliens who are in the United States illegally. Mr. Rosenberg is a former Entertainment and Publishing Executive who lives in Southern California.

We welcome our witnesses and thank them for appearing today. We'll begin by swearing you in. Would you please rise and raise your right hand. Do you swear or affirm under penalty of perjury the testimony you're about to give is true and correct to the best of your knowledge, information, and belief so help you God?

Let the record reflect the witnesses have answered in the affirmative. Thank you. You may be seated. Please know that your written testimony will be entered in the record in its entirety. Accordingly, we'd ask that you summarize your testimony in five minutes. We'll begin with Mr. Schoenleben.

STATEMENT OF BRADLEY SCHOENLEBEN

Mr. SCHOENLEBEN. Thank you, Chair McClintock, Ranking Member Jayapal, Ranking Member Nadler, and distinguished Members of this Committee. I'm both humbled and honored to be in front of all of you today. Members, there is a loophole in the Department of Homeland Security's ESTA visa waiver program that has allowed hundreds of thousands of Chilean nationals, including violent criminals, into the United States without the required criminal background checks.

In just 2022, over 350,000 Chilean nationals entered the United States utilizing the ESTA visa waiver program. Failure to provide the criminal background checks has created a direct pipeline between the United States and Chile for transnational organized crime rings to shuttle convicted criminals into the United States for the sole purpose of committing residential and commercial burglaries, follow-home robberies, and thefts. Americans across the country are being unknowingly surveilled and stalked in their own homes, the very place they should feel the safest.

In fact, in Ventura County, California, a staggering 76 percent of Chilean nationals arrested since 2019 entered the United States through the ESTA program. In a June 15, 2023, letter to Orange County District Attorney Todd Spitzer, Juan Gabriel Valdez, Ambassador of Chile to the United States, essentially admitted that this country was failing to provide the necessary criminal history for visa waiver applicants. Criminal history prohibits an applicant from being granted an ESTA visa waiver.

Organized crime rings have seized this opportunity to train, recruit, and deploy highly organized and sophisticated teams of burglars across the United States to break into American's homes and businesses. Make no mistake, these criminals deploy sophisticated surveillance teams, high-tech tools such as Wi-Fi jammers, cell phone jammers, electronic trackers, and fake IDs to perfect their art of committing crime and eluding capture.

Organized crime rings have—excuse me. Law enforcement agencies across the Nation have raised alarms about the Chilean nationals' abuse of ESTA, including Nassau County, New York; Flagler County, Florida; Shelby County, Alabama; Williamson County, Tennessee; and Los Angeles, Riverside, San Bernardino, and Ventura County in California. In fact, right now, the FBI is currently working with over 750 different law enforcement agencies across the country on this very issue.

Orange County, California is simply a microcosm of the issue being experienced as a result of transnational organized criminals entering the United States through the ESTA visa waiver program. A target-rich environment, combined with California's soft-on-crime policies, and Federal failures to verify criminal histories for Chilean visa waiver applicants have created the perfect storm for crime. Without criminal histories, courts are incapable of determining the true risk posed by these offenders, resulting in release decisions and sentences, ignorant of the dangers actually posed.

California sanctuary State status only compounds the threat. We know that transnational criminals, including Colombia nationals, are intentionally being arrested at the border to gain entry into the United States knowing they will be released quickly. On release, they commit crimes such as residential burglary and so on. They utilize military-style equipment, such as ghillie suits, to hid in the brush behind Americans' homes, trackers to track victims to and from work to utilize and maximize their window of opportunity.

With easy access to the United States and no punishment, the reward far outweighs the risk. An Orange County victim of these crimes recently talked about the messages that her children gave her after being victimized by that crime. She told the court that her children told her the following: I'm afraid to play basketball in the backyard. I'm not going to go upstairs by myself because someone may be up there. I'm afraid of the dark. I'm so frightened that every light in the house has to be on all night long.

Her triplets are 14 years old, and they are afraid of the dark because this family now knows the terror that happens when lights go out.

In failing to hold Chile accountable for refusing to provide the required criminal background checks, the Department of Homeland Security has failed in its duty to protect the safety and security of our Nation and our citizens. The Secretary of Homeland Security has statutory authority to immediately terminate or suspend a country's designation in the ESTA visa waiver program without notice if there's a credible threat originating from that country which poses an imminent danger to the United States or its citizens.

Members, on behalf of Orange County District Attorney Todd Spitzer and law enforcement across the country, I respectfully ask participation for Chile in the ESTA visa program be suspended until Chile meets with the program requirements. Thank you.

[The prepared statement of Mr. Schoenleben follows:]



TESTIMONY OF

Bradley D. Schoenleben
Senior Deputy District Attorney
Orange County District Attorney's Office
Orange County, California

BEFORE

Committee on the Judiciary
Subcommittee on Immigration Integrity, Security, and Enforcement

ON

"The Consequences of Criminal Aliens on U.S. Communities"

July 13, 2023
Washington, DC

Chairman McClintock, Ranking Member Jayapal, and distinguished Members of the Committee, my name is Bradley Schoenleben, and I am a Senior Deputy District Attorney with the Orange County District Attorney's Office in Orange County, California.

There is a loophole in the Department of Homeland Security's ESTA – Electronic System for Travel Authorization – Visa Waiver Program (VWP) that has allowed hundreds of thousands of Chilean nationals, including violent criminals, into the United States without the required criminal background checks. In just 2022, 350,000 Chilean nationals entered the United States utilizing the ESTA VWP.

Failure to provide criminal background checks has created a direct pipeline between the United States and Chile for transnational organized crime rings to shuttle convicted criminals into the United States for the sole purpose of committing residential and commercial burglaries, follow-home robberies, and thefts. Americans across the country are being unknowingly surveilled and stalked in their own homes – in the very place they should be the safest.

In Ventura County, California, a staggering 76% of Chilean nationals arrested since 2019 entered the United States through the ESTA program.

[In a June 15, 2023 letter to Orange County, California District Attorney Todd Spitzer](#), Juan Gabriel Valdés, Ambassador of Chile to the United States, admitted his country was failing to provide the necessary criminal history for visa waiver applicants. Criminal history prohibits an applicant from being granted an ESTA Visa Waiver.

Organized crime rings have seized this opportunity to recruit, train, and deploy highly sophisticated teams of burglars across the United States to break into American homes and businesses to steal cash and other items.

Law enforcement agencies across the nation have raised alarms about Chilean nationals' abuse of ESTA, including Nassau County, New York; Flager County, Florida; Shelby County, Alabama; Williamson County, Tennessee; and Los Angeles, Riverside, San Bernardino and Ventura Counties in California. The FBI is working with 750 different law enforcement agencies across all 50 states to address this issue.

Orange County – population 3.3 million people – is a microcosm of the issues being experienced as a result of transnational organized criminals entering the United States through the ESTA VWP.

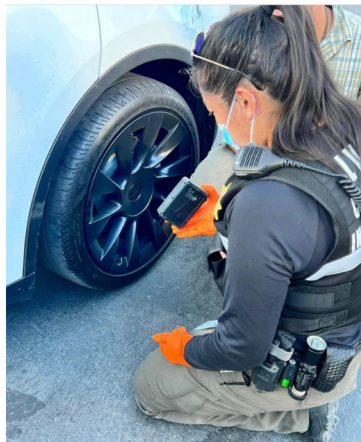
A target rich environment combined with California's soft-on-crime policies and federal failures to verify criminal histories for Chilean Visa Waiver applicants have created the perfect storm.

For six months straight, Irvine, California – repeatedly named the safest City in America – flooded its streets with detectives working overtime to combat residential burglaries. Even with those additional resources, residential burglaries were still being committed – and suspects were still getting away.

This is by design; crews deploy multiple surveillance teams, Wi-Fi jammers, cell jammers, electronic trackers, and fake IDs to perfect their art of committing crime and elude capture.



Tesla security camera captures Colombian suspect installing GPS tracker on vehicle belonging to jeweler who was later stabbed in the parking garage of the Tropicana Hotel in Las Vegas, Nevada in May 2023.



GPS tracker retrieved from vehicle belonging to jeweler stabbed in the parking garage of the Tropicana Hotel in Las Vegas, Nevada in May 2023.

Without criminal histories, courts are incapable of determining the true risk posed by these offenders, resulting in release decisions and sentences ignorant of the danger actually posed. The District Attorney of Nassau County, New York, recently complained members of Chilean organized crime laugh at her in courthouse hallways because they know they aren't staying behind bars.

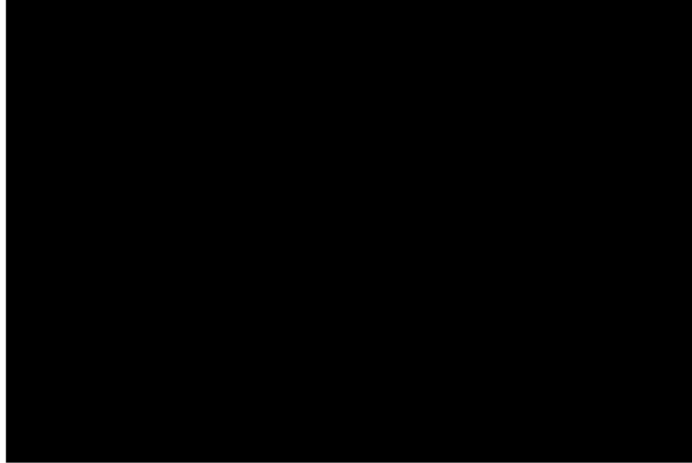
In Orange County, we have a 100% absconscion rate for these crimes; if they bail out, they never return to be held accountable for their actions. This is consistent through the country.

California's sanctuary state status only compounds the threat. We know transnational criminals, including Colombian nationals, are intentionally being arrested at the California border to gain entry into the United States, knowing they will be released quickly. Upon release, they commit residential burglaries and other thefts, including employing military equipment including ghillie suits to blend into the brush for hours to surveil Americans from greenbelts behind their homes – and trackers to track business owners to and from work to maximize their window of opportunity.



Ghillie suit recovered following a July 2022 arrest of Colombian burglary suspects in Irvine, Calif.

With easy access to the United States and no punishment, the reward far outweighs the risk.



Security footage of residential burglaries being committed by Chilean organized crime in Ventura County, Calif.

An Orange County victim of these crimes– the mother of triplets – told the Court how it affected her family: *“Our greatest area of impact has been the emotional stress that this violation of our privacy and security has caused. This burglary has left us all on edge. Scared, disturbed, traumatized disgusted and violated. My children have made these comments to illustrate how emotionally damaged they are, “I’m afraid to play basketball in the back yard;” “I’m not going upstairs by myself because someone may be up there;” “I am so frightened that every light in the house has to be on all night long.”*

Her triplets are 14 years old – and they are afraid of the dark because they know the terror that happens when the lights turn off and it looks like no one is home.

In failing to hold Chile accountable for refusing to provide the required criminal background checks, the Department of Homeland Security has failed in its duty to protect the safety and security of our nation and our citizens.

The Secretary of Homeland Security has statutory authority to immediately terminate or suspend a country’s designation in the ESTA Visa Waiver Program without notice if there is a credible threat originating from that country which poses an imminent danger to the United States or its citizens.

On behalf of Orange County District Attorney Todd Spitzer and law enforcement across the Country, I respectfully ask that Chile’s participation be immediately suspended until it complies with program requirements. Thank you.

Mr. McCLINTOCK. Thank you very much. Next is Mr. Fabbri-
catore.

STATEMENT OF JOHN FABBRICATORE

Mr. FABBRICATORE. Chair McClintock, Ranking Member Jayapal, and distinguished Members of the Subcommittee, thank you for the opportunity to present testimony on the current State of immigration enforcement. After decades service at ICE, I feel compelled to testify today about the erosion of immigration enforcement and lack of respect for the rule of law.

Every American should be concerned about what the Biden Administration is doing. Their current policies are putting our communities at risk and negatively affecting public safety and national security. Right out the gate, Secretary Mayorkas began to gut interior immigration enforcement with extremely narrow enforcement priorities for ICE.

He justified it on the false premise that ICE couldn't effectively enforce the law due to a lack of resources. ICE statistics paint a grim picture of the effects of these priorities. If you compare ICE arrests from 2018–2020, civil arrests are down 69 percent.

Convicted criminal arrests are down 65 percent. Everything from homicide to assaults to weapons offenses are down as high as 61 percent. There are fewer criminals being arrested, plain and simple.

I would further note that there are hundreds of thousands of criminal aliens at large in the United States. The Biden Administration has stated that there are over 400,000 convicted criminals on the non-detain docket. Why aren't they a priority?

Furthermore, recidivist rates have shown from prior Fiscal Year reports that most criminal aliens have additional criminal convictions. In 2020, the 93,000 criminal aliens arrested by ERO with criminal histories accounted for 374,000 criminal charges and convictions, about four per alien. Even with the paltry number of arrests made in 2022, the 46,000 aliens arrested with criminal histories accounted for nearly 200,000 convictions and charges.

If the Biden Administration conducted interior enforcement against criminal illegal aliens in the same manner as was always done in the prior Republican and Democrat Administrations I served in, there would have been another 90,000 aliens arrested who would've accounted for approximately another 300,000 convictions and charges. As an ICE field office director, I witnessed the deterioration of relationships with local law enforcement agencies because of sanctuary policies. Nationwide, we see a growing separation between ICE and local law enforcement.

The belief that partnership between ICE and other law enforcement entities breeds distrust in immigrant communities is false. Prior to the rise of sanctuary policies, detainers were a useful tool. A detainer is placed on an alien who's been arrested by State or local law enforcement.

Instead of releasing the alien back to the streets, the detainer requires law enforcement agencies to hold the alien so ICE may make an administrative arrest. Law enforcement used to honor detainers more widely until policies were implemented prohibiting

the practice. In 2016, I was part of an operation designed to target alien heroin traffickers.

When the mayor and city council members found out that ICE was working with Denver police on this operation, Denver police commanders were told to stop the operation and remove ICE from the building. Denver police shut down the operation after only two weeks when operationally 54 illegal aliens were arrested for heroin-related crimes. Regardless of the results, Denver refused to work with ICE, claiming that it disrupted their ability to work with the immigrant community.

This argument is invalid as it allows citizens to die from heroin overdoses rather than having local law enforcement and ICE work together to save lives. In 2020, an illegal alien who previously had DACA was arrested for murder for giving fentanyl and cocaine to a 16-year-old girl at a party. While the girl lay dying of an overdose, the alien was too busy raping a 14-year-old who was under the influence of drugs to call an ambulance.

On arrest, ICE filed a detainer. Local law enforcement was prohibited from honoring it and a drug dealer and sexual predator with admitted gang ties was allowed to walk out of the jail as locals choose to ignore ICE's request. ICE can only remain an effective enforcer of immigration laws through collaboration with local law enforcement.

Such cooperation is proven to prevent illegal aliens convicted of criminal activity from victimizing our communities. Instead, sanctuary policies are utilized by the gangs and other criminal aliens who rely on this sanctuary to commit crimes in every U.S. community. In the fight against opioids, fentanyl increased gang activity, this cooperation is critical.

In 2015, I included Denver Sheriff's Department gang intelligence deputies on a national task force operating against transnational gangs. Due to great teamwork, we identified numerous cases and arrested over a dozen gang members with criminal backgrounds. The State sanctuary policy ended that collaboration between ICE and the Denver Sheriff's Department.

Refusing to cooperate with ICE, sanctuary cities are sending a message that they don't value the lives of citizens or the safety of our communities. Robust immigration enforcement strategies must be developed to protect our country from the risk of criminal illegal aliens. The first step must be returning to the rule of law and through the enforcement of immigration laws mandated by the INA.

Criminal aliens should be detained and expeditiously removed from the country. ICE should be directed to address the millions of final removal orders that have been issued by immigration judges yet ignored for years. Congress must help ICE by invalidating departmental policies that handcuff the agency and prioritize slim and ambiguous categories of cases. Thank you, and I look forward to your questions.

[The prepared statement of Mr. Fabbriatore follows:]

The Consequences of Criminal Aliens on U.S. Communities

Testimony Before

House Judiciary Subcommittee on Immigration Integrity, Security, and Enforcement

U.S. House of Representatives

July 13, 2023

John Fabbriatore, Former ICE Field Office Director

Chairman McClintock, Ranking Member Jayapal, and distinguished members of this subcommittee, thank you for the opportunity to present testimony on the state of immigration enforcement in this country.

I am a retired law enforcement officer with over 23 years of experience at both the legacy Immigration and Naturalization Service (INS) and in senior roles at U.S. Immigration and Customs Enforcement (ICE).

A few years into my career, I was impacted by a case in which an illegal alien with multiple prior convictions crashed into an ice cream shop, killing two adults and a three-year-old child. Every field office, including mine, has countless examples of similar tragedies at the hands of illegal aliens and poor policymaking – that is why I'm here.

Every American – including myself – is concerned about the state of enforcement of our immigration laws by ICE. Current Biden Administration policies are putting our communities at risk and negatively affecting public safety and national security.

In Secretary Mayorkas' *Guidelines for the Enforcement of Civil Immigration Law*, he established all new immigration enforcement priorities for the Department of Homeland Security (DHS). After the issuance of this dangerous policy, and in innumerable public statements in media, testimony before Congress, court filings, etc. the Secretary and his Department indicated the reason for this policy was that ICE had limited resources and as such, had to prioritize cases based on the threat an individual posed, particularly as it came to criminals and the public safety risk they presented. He justified this policy on the false premise that ICE couldn't effectively enforce the immigration laws against criminal aliens and immigration violators alike, as it had done for decades beforehand, even during the Obama administration, which he should've known full well since he was the Deputy Secretary at the time. But regardless, let's compare FY 2021 and 2022 numbers to FY 2018 and FY 2019 (FY 2020 is excluded due to the unique COVID environment).

	FY22	FY21	FY19	FY18	Decline between FY22 and FY18
Overall Civil ICE Arrests	49,396 ¹	74,082	143,099	158,581	(-69%)
Convicted Criminals	36,322	36,300 ²	92,108	105,140	(-65%)
Homicide Related	1,501	1,506	1,923	2,028	(-26%)
Weapons Offenses	5,554	Not Reported	10,278	11,766	(-53%)
Sexual Offenses/Sex Assault	8,164	3,415 ³	11,711	12,238	(-33%)
Assaults	21,531	19,549	45,804	50,753	(-58%)
Robbery	2,348	2,717	4,736	5,562	(-50%)
Kidnapping	1,114	1,063	1,833	2,085	(-47%)
Family Offense	2,360	Not Reported	5,435	5,991	(-61%)
Gang Members	Not Reported	Not reported	5,497	5,872	Unknown

Based on these statistics, is there any conclusion that can be drawn by a logical, reasonable person, other than that the real goal of these priorities is to limit immigration enforcement in the interior of the United States, regardless of the risk to public safety and national security that the illegal alien poses? In fact, the entire premise put forth by Secretary Mayorkas is false. The statistics show the exact opposite result that he swore his policies were going to produce. These aren't my words – these are his own statistics! There are fewer arrests and fewer serious criminals being arrested. Plain and simple. And we're into the third year of these policies – if he was really concerned about getting criminals off the street and out of the country, and he's seen two-plus years of the opposite result, wouldn't he change them?

It is also worth noting that there are hundreds of thousands – if not millions – of criminal aliens at large in the United States. President Biden's own FY 2024 Budget Justification clearly stated that there were over 400,000 convicted criminals on the non-detained docket. Why are these criminal aliens not detained and removed? At the same time, funded detention beds remain empty, with average daily populations at record lows (19,461 in FY 2021 and 22,360 in FY 2022). So not only did the agency have the resources to arrest more criminals, but they also had the resources to detain them. Yet they failed to do so and continue to ask for less funding for detention, and no meaningful increase in ERO officers, as evidenced by their FY 2024 Budget Request, which only asks for funding for 25,000 beds – 9,000 fewer than the current total, many of which remain unused.

Furthermore, recidivist rates have shown from prior ICE fiscal year reports that most criminal aliens have additional criminal convictions. In FY 2019, ERO arrested 123,128 people with criminal histories, with these individuals accounting for 489,063 convictions and charges, about 4 crimes per alien. In 2020, the 93,000 criminal aliens who were arrested by ERO with criminal

histories accounted for 374,000 criminal charges and convictions, again, about 4 per alien. And even with the paltry number of arrests made by ERO in 2022 as a result of Mayorkas' disastrous policies, in which only 46,000 aliens with criminal histories were arrested, there were nearly 200,000 convictions and charges between them, and again, the average is about 4 per alien. Just think about that – if the Biden Administration conducted interior enforcement against criminal illegal aliens in the same manner as was always done in prior administrations in which I served – Republican and Democrat alike – there would have been another 90,000 aliens arrested who would've accounted for approximately another 300,000 convictions and charges.

It should go without saying that there are real victims on the end of the crimes – innocent people, many from the same immigrant communities, who are suffering at the hands of criminal aliens who the Biden Administration refuses to enforce the law against. And these are violent, dangerous people, and the victims, if not killed or severely physically injured, have suffered mental anguish from which they may never recover. And many of them are children. How in good conscience can Secretary Mayorkas, who runs the Cabinet agency with the largest number of law enforcement officers in the federal government, create a policy that leads to this kind of victimization and destabilization of our communities?

Speaking of communities, during my time in Colorado as an ICE Field Office Director, I personally witnessed the deterioration of former outstanding relationships with numerous local law enforcement agencies because of the sanctuary policies and the effects of these policies. Nationwide, we are seeing a growing separation between ICE and local law enforcement. The belief that any partnership between ICE and other law enforcement entities breeds distrust in immigrant communities is false. It is imperative that ICE remain an effective enforcer of immigration law by working in collaboration with local law enforcement rather than by itself to ensure public safety and national security. This is nowhere more critical than in the fight against opioids and fentanyl.

Let me give you an example. I worked on a case in which a young male illegally entered the United States and later applied for benefits under the Deferred Action for Childhood Arrivals (DACA) amnesty program in 2014 and was granted status. However, his DACA status was revoked when he failed to apply for renewal in 2016. In 2020, he was dealing drugs, including fentanyl. He gave fentanyl and cocaine to a 16-year-old girl at a party, causing her to overdose and die. He did not call an ambulance as she lay dying and instead went into a back bedroom and raped a 14 yr. old girl who was inebriated from the drugs, he had given her earlier. ICE had filed a detainer on this illegal alien, who had admitted to gang ties in the past after he was arrested on the current drug charges. Still, that detainer was not honored due to the state's sanctuary law.

Throughout much of my federal career, we used a litany of tools to arrest and remove illegal aliens. Prior to the rise of sanctuary policies, detainers were one of the most useful. A detainer is placed on an alien who has been arrested by state or local law enforcement. Instead of releasing the alien back on to the streets, the detainer requires the law enforcement agency to hold the alien so that ICE may make an administrative arrest. States and localities used to more widely honor detainers until new policies were implemented prohibiting the practice. It is still federal law, but local law enforcement simply ignores the request if a sanctuary policy is in place. Detainers are an effective tool to ensure that illegal aliens – often criminals – are securely transferred from

state or local to federal custody. It obviates the need for federal agents to make risky street arrests and begins a more timely and expeditious immigration enforcement strategy. Sanctuary policies like the one in my home state are often aimed at refusals to comply with detainers, and we have seen a severe uptick in states and localities not honoring them. The illegal alien is released back onto the street, which endangers both public and officer safety.

I personally witnessed a case in 2020 in which a detainer was ignored on a criminal alien with assault and burglary charges. This person then violently assaulted and seriously injured a female jogger on the High Line Canal in Aurora, Colorado, on the same day he was released by the local jurisdiction that refused to honor the detainer.

In 2016, I was part of a Heroin Operation called Operation Denver Heroin Crosscheck (ODHC); this three-month operation was designed to target alien heroin trafficking. This operation aimed to apply an organized, systematic approach to locating and arresting ICE fugitive aliens, previously removed aliens, removable criminal aliens, and otherwise dangerous aliens at large who were involved in transnational gangs and heroin trafficking organizations in Denver. The three-month operation began on May 31, 2016, and was supposed to conclude on Sept. 2, 2016. When the Mayor and city council members found out that ICE was working with Denver Police on this operation, Denver Police commanders were told to stop the operation and remove ICE from the building. Denver Police shut down the operation on Jul. 8 after only two weeks. During this period, 54 illegal aliens were arrested for heroin-related crimes. Denver refused to work with ICE claiming that it disrupted their ability to work with the "immigrant" community. This argument is invalid for me as it allows citizens to die from heroin overdoses rather than having local law enforcement and ICE work together to save lives.

Such cooperation can help prevent illegal aliens convicted of criminal activity from victimizing our communities after unlawfully entering the U.S. Instead, sanctuary policies are utilized by the gangs and other criminal aliens who rely on this sanctuary to commit crimes in every U.S. community, including legal immigrant communities. Gang activity by illegal aliens remains a threat, and ICE has tried to manage the problem. In 2015 I included Denver Sheriff's Department Gang Intelligence Deputies on our criminal fugitive task force as part of Project Wildfire, a national operation targeting transnational gangs. Because of the great teamwork, we were able to identify numerous cases and arrest over a dozen gang members with criminal backgrounds throughout Colorado. The state sanctuary policy ended that collaboration between ICE and the Denver Sheriff's Department.

It is also critically important that ICE remains a visible presence to deter future violators of immigration laws. A robust enforcement strategy must be implemented to protect our country, our citizens, and all persons within our borders from the potential risks of criminal illegal aliens. Local jurisdictions must understand how partnering with ICE can benefit their communities. By working together with federal authorities, local police can gain access to federal resources and intelligence that would otherwise be unavailable. This can help them better protect their citizens from dangerous criminals, drug traffickers, and terrorists. Additionally, local jurisdictions can gain access to specialized training and technology that is only available through ICE. These resources can make a big difference in helping local police departments keep their communities safe.

By refusing to cooperate with ICE, sanctuary cities are sending a message that they don't value the lives of citizens over illegal aliens. If we want to keep our communities safe, we must work together. Increased collaboration between law enforcement and ICE would allow us to target dangerous criminal aliens and drug traffickers who are causing harm in our communities. We must ensure that local jurisdictions work with ICE to arrest and remove criminals, drug dealers, and those threatening public safety. This is the only way to ensure our cities remain safe from drugs and crime.

One thing is clear – a new, robust immigration enforcement strategy must be developed to protect our country, citizens, and all persons within our borders from the potential risks of criminal illegal aliens. The first step must be returning to the rule of law and enforcing all immigration laws. ICE must be allowed to act as mandated by the Immigration and Nationality Act (INA). Criminal aliens should be detained and expeditiously removed from the country. ICE should be directed to address the millions of final removal orders that have been issued by Immigration Judges yet ignored for years. Congress must help ICE by invalidating departmental policies that handcuff the agency and prioritize only the worst cases, which allow many other crimes to continue to be committed.

Public safety and national security are far too important and should be the utmost concern of this committee. The continuation of lax enforcement and non-enforcement policies, the increase in sanctuary jurisdictions, and a refusal to truly end a historic border crisis is allowing illegal aliens and drugs to flood into American communities. This has created the perfect breeding ground for criminal aliens and, specifically, gang members, who do not discriminate when looking for their next victim. It is time to act.

Mr. McCLINTOCK. Thank you for your testimony. Our next witness is Mr. Batista.

STATEMENT OF RAMON BATISTA

Mr. BATISTA. Before I begin, Mr. Rosenberg, we just met. I just want to express my sincere thoughts and my heart goes out to you for the loss of your son deeply. Chair McClintock, Ranking Member Jayapal, and other distinguished Members of the Subcommittee, thank you for the opportunity to testify.

My name is Ramon Batista, and I'm the Chief of Police for the city of Santa Monica, California. I was born in Los Angeles and raised in Tucson, Arizona where I spent the bulk of my policing career in the city about 60 miles from the U.S.-Mexico border. My approach to law enforcement is evidence-based and community oriented with the goal of improving public safety for all.

As a member of the law enforcement immigration task force, I also benefit from the collected knowledge of a nonpartisan network of thought leaders who are attentive to unique challenges and opportunities that arise while serving immigrant communities. First, I want to affirm the generally positive effect of immigration on the United States. Most of the immigrants I have encountered firsthand are hard workers who are eager to build a better life here, provide for their families, and pursue the American dream.

They fill critical labor shortages in key industries that Americans rely on. As our friends, fellow parishioners, neighbors, and loved ones, they often influence our lives for the better. That said, I also understand that immigrants are people, and all people are capable of doing bad things.

However, I disagree with the premise that immigrants are more prone to criminality than native born Americans. My experience and the existing evidence overwhelmingly suggest that immigrants including undocumented immigrants pose no greater threat to public safety than anyone else. In fact, their presence may help reduce crime in certain areas.

As a law enforcement officer, my job is to stop perpetrators of crime no matter their immigration status. Ultimately, I work in policing because of all the law abiding residents whom I feel lucky to call part of my community. Undocumented immigrants who live and work with dignity in Santa Monica are a part of my community.

I take seriously my duty to keep them safe just as I do for any U.S. citizen. During my career that has spanned 37 years and two border states, one of the most critical lessons I have learned is the importance of trust. Trust is the life blood of community-oriented policing, and it is especially essential among marginalized groups who might otherwise be afraid to come forward.

There is a myriad of reasons why immigrants in particular may hesitate to cooperate with police. Perhaps the greatest fear they face is that of going to law enforcement for help. They could inadvertently expose themselves or their loved ones to immigration consequences.

When law enforcement is able to overcome these concerns through trust-building, it can save lives. Before I moved to Santa Monica, I served as a police chief in Arizona where I knew I needed

to prioritize connecting with the local immigrant community, so they felt safe and comfortable. That concerted effort paid off when a father came to us worried.

His teenage son who was experiencing mental illness had started making alarming comments and had bought an assault weapon, raising fears that he might soon resort to violence. The father was undocumented and felt nervous to come forward. His love for his son and his community prevailed.

The outreach we had done throughout the city fostered a mutual understanding that we would not only treat him fairly, but also take care of his child. This, to me, is the purpose of the State and local law enforcement, to neutralize real threats to public safety in our communities and to empower civilians under our jurisdiction in their pursuit of justice. Meanwhile, the enforcement of immigration laws has always primarily been a Federal responsibility.

Local police departments like mine should use our limited resources to catch people who are actively doing harm instead of helping to remove residents with no criminal background beyond minor immigration violations. On that note, it is not secret that our Federal immigration system is broken and that immigrants who hope to come to the U.S. for safety and opportunity often find few, if any, lines to legally do so. Immigrants who commit crimes of violence or otherwise impair public safety should face consequences.

For the vast majority who are law abiding and want to contribute positively to our communities, we should expand opportunities to live and work legally in the U.S. Many of these individuals are people of faith who care deeply about their families and embody core American values. When we embrace them, they're not only willing but they're eager to stand for the guiding principles of our Nation.

They stand firm in their belief of democracy, liberty, and freedom. For this reason, I am honored and humbled to sit here today so that I can testify to the urgency for Republicans and Democrats to work together and fix our immigration laws. As much pride as I take in the hard-won victories like the one in Arizona, I wrestle with the knowledge that other tragedies across the country could be prevented where people not afraid to come forward with vital information.

Immigration reform that would provide security for law abiding U.S. residents would not only help them and their families, but it would also help me and other law enforcement professionals do our jobs. I welcome this dialog and hope to be a resource for your Subcommittee as you work toward fixing our immigration system. Thank you.

[The prepared statement of Mr. Batista follows:]

Testimony of

**Ramon Batista
Chief of Police
Santa Monica (California) Police Department**

**Hearing on
“The Consequences of Criminal Aliens on U.S. Communities”**

**Before the
Committee on the Judiciary
Subcommittee on Immigration Integrity, Security, and Enforcement**

**U.S. House of Representatives
Washington, D.C.**

July 13, 2023

Chair McClintock, Ranking Member Jayapal, and other distinguished members of the Subcommittee on Immigration Integrity, Security, and Enforcement, thank you for the opportunity to testify.

My name is Ramon Batista, and I am the Chief of Police for the city of Santa Monica, California. I was born in Los Angeles and raised in Tucson, Arizona, where I joined the local police force at 22 years old and spent the bulk of my career in a city about 60 miles from the United States-Mexico border. My approach to law enforcement is evidence-based and community-oriented, with the goal of improving public safety for all. As a member of the Law Enforcement Immigration Task Force (LEITF), I also benefit from the collective knowledge of a nonpartisan network of thought leaders who are attentive to the unique challenges and opportunities that arise while serving immigrant communities across the nation.

After a career that has spanned about 37 years and two border states, I first want to affirm the generally positive effect of immigration on our towns and cities. Whether authorized or undocumented, most of the immigrants I have encountered firsthand are hard workers who are eager to build a better life in the U.S., provide for their families, and pursue the American dream. They park cars, work in agriculture, wait tables, and fill critical labor shortages in key industries that Americans rely on. As friends, fellow parishioners, neighbors, and loved ones, immigrants often influence our lives for the better.

That said, as a veteran law enforcement leader, I also understand that immigrants are people, and all people are capable of doing bad things regardless of their shape, size, ethnicity, citizenship status, or any other identifying feature. However, I disagree with the premise that immigrants are more prone to criminality than native-born Americans. My experience and the existing evidence overwhelmingly suggest that immigrants — including undocumented immigrants — pose no greater threat to public safety than anyone else, and in fact, their presence may help to reduce crime in certain areas.¹

As a law enforcement officer, my job is to stop perpetrators of crime no matter their immigration status. But ultimately, I do not work in policing because of a small subset of bad actors. I work in policing because of all the law-abiding residents whom I feel lucky to call part of my community. Undocumented immigrants who live and work with dignity in Santa Monica are a part of my community, and I take seriously my duty to keep them safe, just as I do for U.S. citizens and lawful residents.

During the nearly four decades that I have worked in law enforcement, one of the most critical lessons I have learned is the importance of trust to effectively perform my responsibilities. Trust is the lifeblood of community-oriented, 21st-century policing, and it is especially essential among marginalized groups who might otherwise be afraid to come forward to law enforcement with information. There are myriad reasons why immigrants in particular may hesitate to cooperate with police. For one, many people who come to the U.S. have fled countries with corrupt authority figures, where they may have faced persecution at the hands of law enforcement. Language barriers can also play a role, reinforcing the need for multilingual officers. But perhaps the greatest fear faced by witnesses and victims from immigrant communities is the concern that going to the police for help could inadvertently expose them and/or their loved ones to immigration consequences such as deportation.

When law enforcement is able to overcome these concerns through culturally sensitive community outreach and trust-building, it can save lives. Before I moved to Santa Monica, I served as a police chief in Arizona, where I knew I needed to prioritize connecting with the local immigrant community so they felt safe and comfortable under my leadership. That concerted effort paid off when a father came to my department, worried. His teenage son who was experiencing mental illness had started making alarming comments and had bought an assault weapon, raising fears that he might soon resort to violence. The father was undocumented and felt nervous to come forward. But his love for his son and his community prevailed, and the trust we had imbued throughout the city fostered a mutual understanding that we would not only treat him fairly but also take care of his child.

¹ “Fact Sheet: Immigrants and Crime,” Law Enforcement Immigration Task Force, June 26, 2018, <https://leitf.org/2018/06/fact-sheet-immigrants-crime/>, 4.

Our outreach and care had laid the groundwork for this father to be able to do the right thing, and I believe that together, we likely prevented a mass-casualty event. The incident remains one of my greatest wins and proudest achievements from my time in Arizona, serving as a testament to what thoughtful, evidence-based community policing can do.

This, to me, is the purpose of state and local law enforcement: to neutralize real threats to public safety in our communities, and to empower all civilians under our jurisdiction in their pursuit of justice. When law enforcement agencies are able to build trust within our communities, including immigrant communities, we are more likely to get cooperation from victims and witnesses of all backgrounds, improving public safety for everyone.

Enforcement of immigration laws has always primarily been a federal responsibility. Meanwhile, local police departments like mine should use our limited resources to catch people who are actively doing harm, instead of apprehending and helping to remove residents with no criminal background beyond minor immigration violations. It is no secret that our federal immigration system is broken and has been for years now. Immigrants who want to follow the law and come to the U.S. in search of safety and opportunity often find few if any lines to legally do so.² Some arrive fleeing persecution, only to join an asylum backlog of over 1.5 million people.³ Others are simply trying to reunite with family or make a decent living. Whatever their rationales, people migrating today face a far more restrictive immigration landscape than did our ancestors who made us Americans, and for many of those who are already in the U.S. without authorization, there is no viable way to get right by the law.

Immigrants who commit crimes of violence or otherwise imperil public safety should face consequences. But for the vast majority who are law-abiding and want to contribute positively to our communities, we should expand opportunities to live and work legally in the U.S., both for people who are trying to immigrate and for those already here.

In my view, the U.S.'s broken immigration system represents a missed opportunity, given that many of the immigrants who are caught in legal limbo otherwise embody core American values. They are often people of faith, who care deeply about their families and communities. And, when we embrace them, they are not only willing but eager to

² "Why Don't Immigrants Apply for Citizenship?" American Immigration Council, October 9, 2021, <https://www.americanimmigrationcouncil.org/research/why-don%E2%80%99t-they-just-get-line>.

³ "A Sober Assessment of the Growing U.S. Asylum Backlog," Transactional Records Access Clearinghouse, December 22, 2022, <https://trac.syr.edu/whatsnew/email.221222.html>.

stand up for the guiding principles of our nation, including democracy, liberty, and freedom.

For this reason, I am particularly honored and humbled to sit here today, so that I can testify to the urgency for Republicans and Democrats on this subcommittee to work together and fix our immigration laws. We need serious solutions that pair border security with a pathway to lawful status for members of our communities who contribute to our social fabric and economy every day. Congress has the power to deliver those changes, by recognizing the generally positive influence of immigrants, prioritizing public safety, and bringing our immigration laws into the 21st century.

As a police chief, I have a vested interest in this conversation. As much pride as I take in hard-won victories like the one in Arizona, I also wrestle with the knowledge that other tragedies across the country could be prevented were people not afraid to come forward with vital information. Immigration reform that would provide security and certainty to long-time, law-abiding U.S. residents would not only help them and their families — it would also help me and other law enforcement professionals do our jobs, improving public safety.

I welcome this dialogue and hope to be a resource for your subcommittee as you work toward fixing our immigration system.

Mr. McCLINTOCK. Thank you for your testimony. Finally, we'll hear from Mr. Rosenberg.

STATEMENT OF DONALD ROSENBERG

Mr. ROSENBERG. Chair McClintock, Ranking Member Jayapal, Ranking Member Nadler, and Committee Members, thank you for the opportunity to testify before the House Judiciary Subcommittee on Immigration Integrity, Security, and Enforcement. If only we had immigration integrity, security, and enforcement, I wouldn't be here today. My son and tens of thousands of others would be alive.

I am the President of Advocates for Victims of Illegal Alien Crime. Let me be clear. We are not against immigration, asylum, or refugee programs. We are against criminality.

My son, Drew, on his way home from law school was killed by a criminal illegal alien over 12 years ago. The illegal alien who ran him over drove back and forth over his body three times attempting to flee. On the third time, he stopped when a man stood in front of his car.

His rear tire was resting on my son's abdomen. Five men had to lift the car off his lifeless body. Surely that is a consequence of illegal immigration.

The AVIAC board members have all lost a loved one to illegal alien crime. Maureen Maloney's 23-year-old son was killed by a drunk driver in 2011. The illegal alien ran a stop sign, collided with Matthew, and dragged his body a quarter of a mile.

The killer was released from prison two months ago. Brian McCann's brother, Denny, was a hit and run victim in 2011. The killer was caught, but Cook County, Illinois board crafted a sanctuary policy that allowed the killer to post bond. He was released and fled to Mexico. After 12 years, he was finally extradited and will stand trial.

Maureen Laquerre's brother, Richard, was killed in 2009 when a woman who overstayed her visa ran a red light and t-boned his car. She was charged with vehicular homicide but never went to trial. Almost a year after Richard's death, she was allowed to return to Portugal without spending a day in jail.

All these deaths were preventable. There are no annual statistics on criminal alien crime. There is a report compiled by the GAO using data from the State Criminal Alien Assistance Program, SCAAP, that studied the crimes committed by criminal aliens in Federal and State prisons between 2011 and 2016.

Those inmates were responsible for over 33,000 murders, homicides, and manslaughters. How many other preventable deaths by criminal aliens before 2011 and after 2016? Ten thousand, 20 thousand or more, we don't know.

Even those numbers are small. They're small portion of all the crimes committed by illegal aliens as the report mentions three different times. These are minimum numbers as not all jurisdictions participate in SCAAP.

The numbers are also understated because there are minimum requirements to be counted. During 2011–2016, those same inmates were responsible for over two million other crimes. What will these numbers look like going forward?

So far, over two million more asylum seekers have been released into the country in just the first two years of the Biden Administration. These two million have received little to no vetting, only checking if they had been in the country and then prior deported. Less than 15 percent will be granted asylum.

The rest will be ordered deported. Less than five percent will ever leave. What is now probably two million got-aways that have not been vetted at all are roaming the country freely and more likely to have criminal intent.

None of them will be deported until they have committed some heinous crime, if even then. Furthermore, sanctuary policy thwarts ICE from deporting convicted criminal aliens. This past May, San Mateo County in California passed an ordinance that no county employees can cooperate with the Federal government, even if the crimes committed were child molestation, rape, or murder.

These people are not a threat to public safety? I have watched these hearings for a decade as victims pour their heart out obviously to no avail. Some of you will tell me you are sorry for my loss.

How many of you will be sincere? We don't need sympathy. Nothing you do will bring back our loved ones. I've had enough sympathy to last me for the rest of my life.

What we need is some sanity. DHS' first priority must be removing all criminal aliens, not some but all. The same time, the border must be secured. Only those people we fully vet should be allowed in.

For the past 12 years, I have worked daily to reduce and eliminate the consequences of criminal aliens on U.S. communities. I wish I felt our government was doing the same thing. I hope I don't get a call one day that your loved one is the latest victim. Thank you. I look forward to answering your questions and I'm available to meet with you at any time.

[The prepared statement of Mr. Rosenberg follows:]

HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE ON IMMIGRATION INTEGRITY,
SECURITY, AND ENFORCEMENT

THE CONSEQUENCES OF CRIMINAL ALIENS
ON U.S. COMMUNITIES

JULY 13, 2023

WRITTEN TESTIMONY OF DONALD ROSENBERG
PRESIDENT, ADVOCATES FOR VICTIMS OF ILLEGAL ALIEN CRIME
FATHER, DREW ROSENBERG JANUARY 9, 1985 – NOVEMBER 16, 2010

Chairman McClintock and Ranking Member Jayapal:

Thank you for the opportunity to testify before the House Judiciary's Subcommittee on Immigration Integrity, Security, and Enforcement.

If only we had any immigration integrity, security, and enforcement, I wouldn't be here today, and my son and tens of thousands of others would be alive.

"No one is Above the law." How often have we heard that said, particularly over the past six years?

As president of Advocates for Victims of Illegal Alien Crime, we agree wholeheartedly. In fact, if the 12-15 million illegal aliens weren't above the law, our organization would have no reason to exist.

I know you get to ask me questions but let me ask you, why are illegal aliens not held to that standard? Or, for that matter, Homeland Security Secretary Alejandro Mayorkas or even President Biden?

Today's hearing is titled "The Consequences of Criminal Aliens on US Communities." Remember that every alien who enters the country illegally or makes a claim for asylum and refuses to leave when that claim is denied or makes an asylum claim but never even files the asylum papers is a criminal alien.

My son, Drew, was killed by a criminal illegal alien twelve years ago on his way home from law school. The illegal alien who ran him over drove back and forth over his body three times, attempting to flee. On the third time, he stopped when a man stood in front of his car. His rear tire was resting on my son's abdomen, and five men had to lift the car off his lifeless body. Surely that is a consequence of illegal immigration.

The Government Accountability Office has produced three reports on criminal alien crime. The last report was released in 2018, covering 2010-2015. Unfortunately, there are no annual statistics available.

- Those incarcerated between 2010-2015 were responsible for over 33,000 murders, homicides, or manslaughters. How many were killed prior, and how many have been killed since?

- By 2015, twenty-one (21) percent of the federal immigration population were criminal aliens. (This data includes legal immigrants)
- In FY 2015, there were 169,300 illegal aliens in state prisons and local jails. (These numbers are based on those requesting SCAAP reimbursement. Not all states and localities request funds. Additionally, there are conviction and length of stay requirements to be reimbursed. The report mentioned three times that these are minimum numbers. And, of course, these numbers don't reflect that according to FBI statistics, less than 25% of crimes are ever solved, many criminals are given probation, and in the case of illegal aliens, many flee the country before they are arrested or after they are arrested and released.)
- The cost to the five states with the largest incarcerated population was \$1.6 billion. California represented over \$1 billion of that amount, with Los Angeles County's share at \$87 million.

More currently, let's look at a few charges and convictions for ERO arrests in 2018.

These numbers include all pending criminal charges and convictions by category for those aliens administratively arrested in FY2018 and list those categories with at least 1,000 combined charges and convictions in this population. These figures represent the criminal history entered in the ICE record system for individuals administratively arrested. Each administrative arrest may represent multiple criminal charges and convictions, as many of the aliens arrested by ERO are recidivist criminals. Listed is a small sample of the categories. The total number of crimes is over 535,000.

- Driving while intoxicated – 80,730.
- Dangerous Drugs – 76,585
- Assault – 50,753
- Kidnapping – 2,085
- Homicides – 2028

DHS Secretary Mayorkas claims he is creating a safe and humane process for asylum seekers. How about safe and humane communities for American citizens and legal permanent residents? He keeps referencing the mission but obviously has no clue as to what the mission is. He says he doesn't have the resources to

deport more illegal aliens. Could that be because he is spending most of his funds to process more of them into the United States?

Since Joe Biden became president, we have released over 2 million illegal aliens into the country with little or no vetting of who they are, where they came from, what they did before they got here, and what their intentions are now that they are here.

On top of that, at least 1.5 million got-aways are freely roaming the country, and we know nothing about them except they do everything possible to avoid detection.

Is the country safer now than it was two and a half years ago?

What are the consequences of this utter madness?

How did it happen that people who have been victims of illegal alien crime, be it burglary, rape, or the loss of a loved one, and speak out are now considered racist, bigots, white supremacists, and anti-immigrant (even though none of these people qualify as immigrants) and privileged. While those committing these crimes, including entering the country illegally, are now the victims?

Almost all the deaths caused by illegal aliens were preventable. In the past 12 years, I have reviewed hundreds, maybe over a thousand, cases that resulted in a fatality. I can't remember one where the killer didn't have prior convictions or, at the very least contact with law enforcement. Why were these people still here?

The 2018 GAO study analyzed California illegal alien criminals and found that the average recidivism rate was six convictions. What would you expect with sanctuary policy and now sanctuary law hiding these people from ICE? Sanctuary only benefits those illegal aliens who have committed additional crimes since entering the United States. What is the consequence to communities when criminals are released back onto the street?

California's sanctuary law has a few exceptions for some heinous crimes, yet that wasn't good enough for San Mateo County. In May, the County Council passed an ordinance that prohibits county departments from using any resources or personnel to assist or cooperate with requests from the United States Immigration

and Customs Enforcement or any other immigration authorities even in the case of child molestation, rape, and murder.

A familiar refrain is that illegal aliens commit less crimes than the native-born. Although thoroughly debunked by the Center for Immigration Studies, it's irrelevant. They shouldn't be committing any crimes. Do the millions of crimes they commit have positive consequences on our communities?

A question raised is why does the public know so little about illegal immigration?

One must only look at how most of the media covers illegal immigration.

Two weeks ago, Gerson Fuentes, 28, was sentenced to a life sentence for raping and impregnating an Ohio 9-year-old who traveled to Indiana for an abortion. The story's headline, written by the associated press and reported by ABC News, read "Man" gets life sentence. No mention that the "Man" was an illegal alien. While most papers didn't even cover the story of those that did, like the NY Times, Washington Post, and USA Today, neglected to mention that Fuentes was an illegal alien, that he was the boyfriend of the girl's mother and living in the same apartment. The three largest papers in California, the state with the most illegal aliens, didn't cover the story. Of course, had our immigration laws been enforced, this tragic event would have never happened.

When Mollie Tibbetts's killer was arrested, despite constant front-page coverage of her disappearance, most papers relegated the story to deep inside the newspaper. Most failed to mention that the killer was illegal, and the story quickly disappeared. When the killer was convicted, most stories' headlines were "Man" convicted in Tibbetts's murder. Again, his immigration status was missing or buried deep into the story.

But most crimes committed by illegal aliens are never covered at all.

A Harvard-Harris Survey conducted in December 2022 asked respondents, "How many border crossings by illegal immigrants do you think are occurring each year?" Over 75 percent of the respondents were off by over 100 percent. Thirty-seven percent responded less than 250,000; of that, sixteen percent said less than 100,000.

Also, in December, the Los Angeles Times and YouGov surveyed a national sample of adult American citizens on asylum. Of those identifying as Democrats, nearly half said: "most or all asylum seekers had valid claims." According to government statistics, the actual number is less than fifteen percent.

Where are these people getting their information on illegal immigration? It sure isn't Fox.

Polling people on issues they have either been misinformed or flat-out lied to is not a valid way to form public policy.

Now we hear that these people aren't illegal aliens but asylum seekers fleeing certain death. However, they have already committed a crime by entering between ports of entry. According to a report covering thirteen years of data from the Executive Office of Immigration Review, over 47% never even pursue an asylum claim once released into the country. More than 85% will be denied asylum and receive a deportation order, yet less than five percent ever leave the country. Anyone requesting asylum must be detained or made to remain in Mexico until their hearing is adjudicated. These numbers prove they can't be trusted to be released.

Not all illegal aliens enter the country with the intent to harm anyone. Many come here to make their lives better. But some do commit crimes like the man who killed my son; many have already committed crimes before they came here and have no intention to stop.

AVIAC is not against immigration. We are not against refugees; we are not against asylum seekers. We are against illegal immigration.

Even when they don't commit a crime, there are negative consequences to our communities.

Illegal entry is not a victimless crime. According to a study released by F.A.I.R, Illegal aliens cost taxpayers over \$150 billion dollars a year while paying less than 10% of that in taxes. What was my son's life worth or the hundreds of thousands of other rape and murder victims' lives worth? That number is not part of the \$150 billion calculation.

The California Department of Education says there are approximately 1.4 million K-12 students (pre-covid) with at least one illegal alien parent. The state now provides over \$20,000 per year per student. Just to educate these students costs California Taxpayers over \$28 billion. California Governor Gavin Newsom boasts that illegal aliens pay \$2.5 billion yearly in taxes.

As outlined above, the consequences to U.S. Communities are catastrophic. It is not just the victims of crimes or the pure cost in dollars. Many of our cities have housing crises, both in available housing and the high rental costs, and are suffering from massive homelessness, all exacerbated by the millions of illegal aliens, most concentrated in urban areas.

The school systems are failing all the children, particularly immigrant and Black children. Some of this is due to overcrowding, but much is the unavailable resources needed to teach so many children that can't speak English, are unprepared for the grade level they are assigned, and frequently don't have parents who can help them because they can't speak English either and often are poorly educated themselves.

Hospital emergency rooms in these communities are overcrowded, understaffed, and often in financial distress serving patients that contribute little or nothing to the costs of the services provided.

Advocates for illegal aliens claim that "immigration reform" is needed, but what they propose is not much different than what was tried in the Immigration Reform and Control Act of 1986. Can anyone think of a piece of legislation that failed more miserably? Why would we even think of doing anything similar?

What communities are better today because of illegal immigration?

Granting amnesty to 12-15 million illegal aliens is the worst solution. Those working the jobs that supposedly Americans won't do and being paid below minimum wage, and working under terrible conditions won't want to do them either once they have a green card. Companies currently hiring illegal aliens because they can exploit them both by paying miserly wages and offering little to no benefits will not be able to increase their labor costs, often by over 100 percent. They will fire these employees and bring in the next batch of illegal aliens. And so, the cycle repeats.

Immigration law was established to protect American workers and protect American citizens. Those necessities still exist today, even more so.

If we need more immigrants, so be it, but we must begin to deport those who have broken our laws. Rewarding bad behavior only begets more bad behavior.

Thank you. I look forward to answering your questions and am available to meet with you at any time.

Mr. McCLINTOCK. I want to thank all of you for your testimony, and we'll now proceed under the five-minute rule of questions. We'll begin with Mr. Biggs of Arizona.

Mr. BIGGS. Thank you. Thanks, Mr. Chair. Thank you all for being here today. Mr. Schoenleben, it seems to me that the core American value is the rule of law. Would you agree with that?

Mr. SCHOENLEBEN. Yes.

Mr. BIGGS. How about you, Mr. Fabbriatore?

Mr. FABBRICATORE. Yes, absolutely, sir.

Mr. BIGGS. Mr. Batista, the rule of law, core, right?

Mr. BATISTA. Yes, yes.

Mr. BIGGS. Mr. Rosenberg, you'd agree with that as well?

Mr. ROSENBERG. As we hear, no one is above the law.

Mr. BIGGS. Mr. Fabbriatore, am I saying that right, Fabbriatore?

Mr. FABBRICATORE. Fabbriatore, yes, sir.

Mr. BIGGS. Fabbriatore. Here's my question for you and that is how many people who enter between the ports of entry without legal documents have violated U.S. law?

Mr. FABBRICATORE. They violate the law the minute that they enter the country by crossing around the ports of entry.

Mr. BIGGS. Everyone?

Mr. FABBRICATORE. Yes.

Mr. BIGGS. Everyone?

Mr. FABBRICATORE. Every single one.

Mr. BIGGS. Every one of those two million got-aways that Mr. Rosenberg told us about, is that consistent with the rule of law?

Mr. FABBRICATORE. No, sir. It is not.

Mr. BIGGS. So, here's another question. Mr. Rosenberg touched on it, and you touched on it a little bit. So, it's really critical here. People who are in this country illegally, who commit an additional crime against a citizen or someone who is here legally. If they were not in this country illegally, would they have been able to commit that crime?

Mr. FABBRICATORE. No, they would not have been.

Mr. BIGGS. So, a crime prevention strategy would be to enforce the law and secure the border, would it not?

Mr. FABBRICATORE. Yes, sir, it would be.

Mr. BIGGS. Do you know whether Secretary Mayorkas has told members of ICE and limited their authority on executing removal orders on the more than 1.4 million people who already have a removal order in this country?

Mr. FABBRICATORE. Yes, through his priorities, he has limited that.

Mr. BIGGS. Tell me how so.

Mr. FABBRICATORE. Well, the priorities State that we're not go to after just final orders that don't have recent criminal backgrounds or criminal backgrounds at all. So, you're just allowing that to keep growing and growing.

Mr. BIGGS. So, we passed H.R. 2 out of this body. It languishes in the Senate. Doesn't fix every problem with border security, but it makes a start.

We have a Secretary of Homeland Security that has told ICE to stand down. We have a Secretary of Homeland Security who's en-

gaged in a catch and release program. Do you know what he has said is his priorities?

Any one of these. Do you know what he said one of his priorities is? He has said it's to make illegal immigration more humane, to expedite those who enter our country illegally. Does that sound like the rule of law to you, Mr. Rosenberg?

Mr. ROSENBERG. Not at all.

Mr. BIGGS. How about you, Mr. Batista? Does that sound like the rule of law?

Mr. BATISTA. Not in following the letter of the law, no.

Mr. BIGGS. Mr. Schoenleben?

Mr. SCHOENLEBEN. No, sir.

Mr. BIGGS. Mr. Fabbricatore?

Mr. FABBRICATORE. Absolutely not, sir.

Mr. BIGGS. So, we're left when the Chief Law Enforcement Officer, the head of the DHS in this country says, stand down, don't enforce the law, I trouble accepting the notion that those who come into this country illegally, enter this country illegally regardless of motivation understand and accept our adherence to the rule of law. I'll tell you what. If you have people who don't understand the rule of law and its importance, you cannot have freedom because it facilitates what every one of you know.

The really bad guys will be able to go free. They'll be undeterred, and they will go after and cause havoc and mayhem. I'm not saying everybody who comes in this country illegally is going to commit an additional crime.

They are born under crime entering this country illegally. I want to mention really quick, Mary Anne Mendoza whose son Brandon Mendoza, police officer, killed by—and I know Mr. Batista knows the Phoenix area. On Valley Freeway illegally entered the country drunk, driving for literally miles and miles, runs into Mr. Mendoza.

Brandon—or excuse me, Mr. Ronnebeck, Steve Ronnebeck's son Grant who was killed by an illegal alien who put a gun to his head because he didn't provide him change fast enough at the convenience store. No, they don't share our core values.

Mr. MCCLINTOCK. The gentleman yields back. Ms. Jayapal?

Ms. JAYAPAL. Thank you, Mr. Chair. I want to start by getting some of the facts out there. There is no data to suggest that localities with community trust policies have more criminal activities than others. In fact, hundreds of local law enforcement agencies throughout the United States have adopted community trust policies.

Across the country, these local police departments, the ones that my Republican colleagues are so quick to claim that they support report that trust policies actually reduce crime. Recent comprehensive studies have supported those claims statistically showing that community trust jurisdictions are demonstrably safer than their counterparts. Mr. Chair, I ask unanimous consent to submit a sampling of those different studies for the record.

Mr. MCCLINTOCK. Without objection.

Ms. JAYAPAL. We know that victims and witnesses are much more likely to report crime and cooperate with investigations and prosecutions when they believe that there is little or no risk of deportation if they reach out. Moreover, we know that abusers will

use an individual's immigrant status to intimidate them into staying silent. Local law enforcement relies heavily on these victims and witnesses to prevent and punish criminal activity.

So, Chief Batista, let me turn to you. I don't want my colleagues to take my word for it. Can you help us understand why jurisdictions with community trust policies in place experience less crime and why their residents feel safer?

Mr. BATISTA. Yes, ma'am. Chair McClintock, Ranking Member Jayapal, what I've seen in my history is that time and again in our communities when we embrace immigrants and make them feel and be a part of our normal life that they behave in those same manners in that they cooperate with law enforcement and that they no longer are victims that live in the shadows. One of the greatest concerns I have in that situation is that a victim that does not come forward just makes a perfect victim. I don't think anyone in this room and certainly no one in law enforcement ever supports that occurring to anyone in our country.

Ms. JAYAPAL. One of the studies that I submitted into the record found that jurisdictions that adopted sanctuary policies experienced a 52–62 percent reduction in the domestic homicide rate for Hispanic women. Chief Batista, does that statistic track with your experience as a law enforcement officer in jurisdictions that have those kinds of policies?

Mr. BATISTA. Yes, it does.

Ms. JAYAPAL. Domestic violence accounts for approximately 15 percent of all violent crimes. It often goes unreported. How do community trust policies help domestic violence victims feel more comfortable coming forward?

Mr. BATISTA. In the same way, ma'am, in that when we respond on a call for assistance from a victim of domestic violence, we want them to know that their status in the United States is not our primary concern. Our concern at that point is their safety and their welfare. That has been our guiding principle since I was in Arizona and certainly in California. I have seen that it works.

Ms. JAYAPAL. I really appreciate that. Chief Batista, you've worked in law enforcement for nearly four decades, both in Arizona, most recently in California. Have you seen a difference in how welcoming those States are toward immigrants?

Mr. BATISTA. Yes.

Ms. JAYAPAL. Can you compare your engagement with communities of color in Santa Monica and in Mesa?

Mr. BATISTA. I'll tell you that as a whole in Arizona, it was much more challenging in that the State's immigration laws made it difficult for local law enforcement to build a relationship in those circumstances. I'd attended many meetings with immigrant communities. It felt as though in those meetings folks were just trying to get by, trying to survive.

The difference that I've experienced in Santa Monica and in Los Angeles is that their immigrant communities are forthright and willing to come out and engage and be a part of the social fabric of neighborhoods. Their kids and the encouragement that they receive is not just to be able to get through high school, but to be thinking about what college, what university they're going to go to and what profession are they going to pursue. It just feels as

though folks are more welcoming and understanding and wanting to achieve the American dream just like everyone else.

Ms. JAYAPAL. Just like everyone else. Can you discuss how passing immigration reform which brings undocumented individuals out of the shadows and regularizes their immigration status would actually improve the job you're trying to do around local policing and national security?

Mr. BATISTA. Community policing is—foundational precept is trust I mentioned earlier. So, having them come out of the shadows, like I said, normalizes their behaviors in our neighborhoods and our cities. It makes it so that this communication, that ability to understand what's going on at the neighborhood level is improved. I can't say enough about how it will improve our ability to mitigate threats at even the national level.

Ms. JAYAPAL. Thank you, Chief Batista, for getting those facts out there. I think it's clear our words matter. It's important that we discuss these issues carefully. I yield back, Mr. Chair.

Mr. MCCLINTOCK. Mr. Tiffany?

Mr. TIFFANY. Thank you, Mr. Chair. Yes, words do matter. Mr. Orwell would be highly interested in the discussion that's being had here. Community trust equals a sanctuary city.

They've renamed sanctuary cities now right here in the Judiciary Committee of the House of Representatives. Saying that there's less crime in a community that is a sanctuary city which a sanctuary city almost certainly has a Soros prosecutor. You're going to tell us that there is not as much crime?

Those prosecutors in the big cities are not prosecuting crime in many instances. We saw it firsthand up in New York City. Mr. Rosenberg, is crime up in California over the last couple decades?

Mr. ROSENBERG. Yes, tremendously up.

Mr. TIFFANY. Mr. Batista?

Mr. BATISTA. Chair McClintock, Mr. Tiffany, I didn't catch the question.

Mr. TIFFANY. Is crime up in California over the last couple decades?

Mr. BATISTA. I can't tell you off the top of my head. I can tell you that in our jurisdiction locally, we're about seven percent higher than we were last year.

Mr. TIFFANY. Mr. F?

Mr. FABBRICATORE. Yes, sir. It's up in Colorado.

Mr. TIFFANY. Mr. Schoenleben?

Mr. SCHOENLEBEN. It's up in Orange County, California for sure.

Mr. TIFFANY. Significantly?

Mr. SCHOENLEBEN. Yes. In fact—yes, sir. I can actually tell you just as a quick example for residential burglaries, in 2022, our office filed 542 residential burglaries for the entire year. This year to date, we're already at 414. We're projected 828 for 2023. So, yes.

Mr. TIFFANY. In California, is crime down in the sanctuary cities?

Mr. SCHOENLEBEN. I'm sorry?

Mr. TIFFANY. Is crime down in the sanctuary cities in California?

Mr. SCHOENLEBEN. Not to my knowledge. No, sir.

Mr. TIFFANY. Mr. F, is the Biden Administration following the law? Is the Biden Administration following Federal law?

Mr. FABBRICATORE. They're not following the Immigration Nationality Act, no.

Mr. TIFFANY. Have you read or become familiar with the secure the border bill that we just passed?

Mr. FABBRICATORE. I've read some of it, sir.

Mr. TIFFANY. Is it an improvement on what we have now?

Mr. FABBRICATORE. It would be an improvement. It would be actually enforcing the law.

Mr. TIFFANY. Would you recommend to all Congressional Representatives before you today to vote for that secure the border bill?

Mr. FABBRICATORE. Yes, sir.

Mr. TIFFANY. We hear about fentanyl bills that are kind of chipping away at the edges, Mr. F. I keep saying (1) we can do to reduce fentanyl and by far and (2) is way down the line, is to secure the border. Is that accurate?

Mr. FABBRICATORE. Yes. It's very accurate. Securing the border would actually help keep the fentanyl out. That's the cartels that are moving the fentanyl.

Mr. TIFFANY. In fact, it's rather interesting. When we made the trip down to just a couple years ago that my colleague, Mr. Biggs, took us down to the county, Cochise County. The sheriff said things were getting under control down there as the wall was being built.

They were able to put crime control measures in place. They were telling a very positive story. We just had them before us a couple months ago and he said things are out of control and that fentanyl, there's a reason why it's gone up by 80 percent or whatever the number is. That's coming into America. It's primarily because the border is open. Do you believe that to be true?

Mr. FABBRICATORE. I do believe it to be true. As the border gets open and more people are just rushing in, the border patrol is being kept from actually being on the line, on the border. So, it's harder for them to stop any fentanyl that may be coming in.

Mr. TIFFANY. Mr. Schoenleben, when I was down in Panama about two years ago, I heard that many Haitians that were coming through had actually resettled in places like Brazil and Chile. Have you seen any Haitians that came via the ESTA visa program that you referred to in Chile?

Mr. SCHOENLEBEN. So, we don't breakdown the actual national birthplace of each defendant. What we've been looking at is trying to figure out who our criminals are and where they are coming from and how they're getting in. When we've done that, we found that wherever their birthplace, whether it be from Argentina, Puerto Rico, and so on, they'd been utilizing the Chilean ESTA program to get into the country and then commit crime.

Mr. TIFFANY. Have you or anyone in your office asked Secretary Mayorkas to change this program to protect Americans?

Mr. SCHOENLEBEN. We have not spoken directly with Secretary Mayorkas. We've worked with Department of Homeland Security. We've worked with the FBI.

In every briefing that we've done, we've been a part of no less than half a dozen briefings between those two agencies. The Homeland Security has been aware of this issue for at least four years, same with the FBI. So, then we've started reaching out. We were told it would take an act of Congress to fix this. So here we are.

Mr. TIFFANY. So, they haven't done anything?

Mr. SCHOENLEBEN. Not to my knowledge. I do know that there's been a meeting. There's a meeting planned. The concern from our office is there's routine questions—or routine promises that things will happen. Our concern is we'd like them to actually happen.

Mr. MCCLINTOCK. The gentleman's time has expired. Mr. Nadler?

Mr. NADLER. Thank you, Mr. Chair. Chief Batista, as I mentioned in my opening statement, next month is the anniversary of the El Paso shooting. In that tragic incident, a domestic terrorist murdered 23 people. He posted a racist manifesto espousing White nationalist theories and claiming that there was a Hispanic invasion, even telling investigators later that he was targeting Mexicans. Can you discuss the impact that this type of rhetoric has on minority communities?

Mr. BATISTA. Chair McClintock, Ranking Member Nadler, yes, it has a devastating effect on migrant and minority communities in that it forces them to go underground and communicate and cooperate. Much less it forces them into the shadows. It doesn't help the work of public safety if segments—large segments of our community are cast away in that manner.

Mr. NADLER. How does it impact you as a Hispanic man yourself?

Mr. BATISTA. As a Police Chief of nearly 40 years, and certainly when I am wearing the uniform or this, there is a level of respect that I see, I feel. Certainly, when I take all this off I experience the same challenges that other ethnic minorities in this country experience. It informs me, it informs my leadership, and my views on how things have to improve.

Mr. NADLER. Thank you. The Major Cities Chiefs Association, a professional organization of police executives representing the largest cities in the United States and Canada, has previously stated that if law enforcement officers are viewed by members of the immigrant community as colluding with or working with immigration law enforcement officers, this would,

Result in increased crime against immigrants in the broader community, create a class of silent victims, and eliminate the potential for assistance from immigrants in solving crimes or preventing future terroristic acts.

Do you agree with this statement?

Mr. BATISTA. Yes, sir.

Mr. NADLER. Do you think if minority communities and specifically immigrant communities feel unsafe that it makes everyone in that jurisdiction less safe?

Mr. BATISTA. Yes, sir.

Mr. NADLER. If so, can you explain why?

Mr. BATISTA. The level of cooperation that we need to be successful encompasses the same things that we expect and the way that we do and the way that we are successful in communities across the country. If we have ethnic minority communities, immigrant communities, where we can't penetrate, where we can't get information, that affects our national security through and through.

It is not just people coming from across the border. It is in an immigrant community in this country where we need to understand and better understand what it is that is occurring. Without

that information, we are at a deficit and it makes our country less safe.

Mr. NADLER. Thank you. In your opening statement, you told a compelling story about how an undocumented individual was willing to come forward and express concerns about his own son to law enforcement because of the outreach you did and the trust you built. Is that kind of story indicative of the positive results we have seen from implementing community trust policies?

Mr. BATISTA. Chair Nadler—Ranking Member Nadler, that is but one of the many examples and wins that I remember from my time in Arizona. I spent the bulk of my time as an officer in the Tucson Police Department, and there we worked very hard to work on the relationship with our immigrant communities.

That story that I told stays with me simply because of the significance of how difficult it must have been for that man to come forward. Yes, at the end those stories ring true for me.

Mr. NADLER. Thank you. I yield back.

Mr. MCCLINTOCK. The gentleman yields back.

Mr. Roy.

Mr. ROY. I thank the Chair. I thank all the witnesses for being here.

Mr. Rosenberg, you explained the tragic loss of your son. If I remember correctly, there were obstacles to the removal of the criminal alien who unfortunately killed your son, and was not the current secretary at that point—Secretary Mayorkas at that point in the Obama Administration—and can you characterize his help or lack of help in ensuring that both prosecution and/or deportation of the individual in question?

Mr. ROSENBERG. Well, I didn't know of his involvement at the time. After the trial and Roberto Galo was sentenced to six months in jail, I met with my Congressman, Henry Waxman at the time, and said I want to make sure this guy is detained and deported.

He had somebody write a letter to USCIS, of which Mayorkas was the head of at the time, and he got back a letter that said that Galo would not be detained or deported because—and this is an exact quote, “he has only committed one crime of moral turpitude.”

As I learned later on, and as we see today, that is Mayorkas' policy. Killing somebody doesn't necessarily reach the level to be deported.

Mr. ROY. So, the current Secretary of Homeland Security felt that it was not something that merited deportation, because he had “only had one crime of moral turpitude.”

Mr. ROSENBERG. Yes.

Mr. ROY. One crime.

Mr. ROSENBERG. Yes.

Mr. ROY. Does that “one crime” mean a lot to your family, sir?

Mr. ROSENBERG. Means everything to my family.

Mr. ROY. Do you think such a statement and a position is befitting of someone who swears an oath to uphold the laws of the United States, whether it was in a position in USCIS under President Obama or now as secretary of a department charged with securing the homeland of the United States?

Mr. ROSENBERG. Well, our group and I was against his even being appointed. I did get to meet him in 2014. At the time, I still

didn't know that he was part of what happened in my son's case, and he lied to me constantly.

I mean, the one thing you learn when you are in publishing is ask somebody questions that you know the answer to. If they lie, you will know they are lying.

Mr. ROY. So, I am interested in that perspective, because the Secretary of Homeland Security lied to me in this very room when he said under oath that, "We have operational control of the border." He then went on to testify in the U.S. Senate that, well, we can't have operational control of the border under that definition in the Secure Fence Act. At the same time, Raul Ortiz testified that, in fact, we do not have operational control of the border.

Do you think it is a problem for the Secretary of Homeland Security to come into this room, into the House of Representatives Judiciary Committee, and lie about maintaining operational control of the border?

Mr. ROSENBERG. Not only do I think it is a problem, but I certainly think that he should no longer be in office.

Mr. ROY. I think countless Americans share that view, and I appreciate it, and I appreciate your testimony.

Mr. Fabbriatore, we first got to know each other when I was in Denver, Colorado, around the time that the ICE facility was being, unfortunately, ransacked and a flag being turned upside—the American flag being turned upside down. I appreciate your service in ICE.

Do these numbers sound correct to you, that between Fiscal Year 2018 and Fiscal Year 2022 that for ICE there has been a 69 percent decline in overall civil ICE arrests, 65 percent decline in convicted criminals, 26 percent homicide-related, 53 percent reduction in weapons offenses, 33 percent reduction in sexual offenses, sexual assault, 58 percent reduction in assault, 50 percent robbery, 40 percent kidnapping, and 61 percent family offense? Is ICE able to do its job under the Biden Administration's—

Mr. FABBRICATORE. No, they are not able to do their job, and the statistics bear that out.

Mr. ROY. Can you explain to the United States—people of the United States why?

Mr. FABBRICATORE. It is the priorities that this administration has put forth. It is limiting what ICE officers can do. It is limiting the Border Patrol agents. Right now, we have so many people entering that they are just showing up at the ICE offices, and ICE officers are just basically processing. They are not out on the street making arrests. So, these arrest numbers are going to be down. Under these priorities, it is only going to get worse.

Mr. ROY. The consequence is dead Americans, the consequence is dead migrants, the consequence is tons of fentanyl pouring into the United States, and it is a direct consequence of the policies chosen to be enacted by the President of the United States and his Secretary of Homeland Security. Do you agree, sir?

Mr. FABBRICATORE. I agree, sir.

Mr. ROY. Thank you. I yield back.

Mr. MCCLINTOCK. The gentleman yields back.

Mr. Correa.

Mr. CORREA. Thank you, Mr. Chair. First, I want to welcome the witnesses. Mr. Rosenberg, please accept my condolences for your loss. I am also a father, and no father should ever have to attend their child's funeral. Every day I pray that my children come home safely. Every day, please. I pray for you and your family.

When it comes to crime, victims of crimes, criminals, in my opinion, with or without documents, there is no room for you in our society. Period.

I wanted to, if I can, turn to the issue of trust that we have kind of touched on or not. Mr. Schoenleben, you are from Orange County. Mr. Spitzer, your boss, Sheriff Barnes, his predecessor, we often worked in our communities to earn the trust of our communities. We have a high percentage of workers who are undocumented that are actually employed in the Disney area, the hotel industry.

Trust is very important when it comes to crime fighting. I will give you an example. A few years ago, I came home from work, helicopters, police cars everywhere. Drive up to my driveway, my wife says, what is going on in the neighborhood? So, I said, Honey, let me make some phone calls.

Local police chief tells me a rapist has been caught in the act. I tell my wife, it is OK, I think they are about to catch him. She freaked out, locked the doors, locked the window, there is a rapist in our community. She was right.

Later, we found out what had happened. A young man got caught raping a woman in the local laundry room of the apartments right across the street from my house. Found out later on that he had raped no less than 20 undocumented women, minimum of 20, because we don't know how many others never reported the crime. This guy is gone forever.

If these women had not stepped up and reported the crime, he would have never been arrested. If he had not been caught in the act, he would have kept going. This is why trust in our communities is so important when it comes to reporting crimes. All of us are part of the same community.

I want to talk—I am glad you are here to talk about the Chilean issue. As you know, your boss called me late last year to address this very specific issue. I have been working with your office, the Chilean Embassy, with the Department of Homeland Security, as well as the State Department, to figure out what is going on with this visa program. By the way, I believe Chile is the only country in Latin America that has this program in place. No other country.

Now, if I can, Mr. Chair, without objection, I would like to submit for the record some of the correspondence, some of the letters we have been writing back and forth, and I believe some as well to Mr. Spitzer. One dated June 15th, from Congress Members Kim, Levin, and Correa to Mr. Mayorkas on this specific issue. June 15th from Levin and Correa on Child again to the Ambassador of Chile. One dated June 6th from Correa to DHS and the State Department on this issue. From the Ambassador of Chile to Mr. Todd Spitzer dated June 14th. The embassy of Chile to yours truly dated June 16th.

So, these I think—

Mr. MCCLINTOCK. Without objection.

Mr. CORREA. If you could please submit those. These are some of the issues that we have been dealing with, and I thank you for being here. I thank Mr. Spitzer for bringing this up, because the first step in solving a case is to know that the crime is actually happening.

The issues here—and I only have 44 seconds—is, as you have kind of alluded, are the data bases, the criminal data bases that are not quite connected over there, and we are in the middle of working with that.

The bottom line, all the gobbledygook put aside, is this thing either gets fixed or that visa program is revoked, as it should be, because any criminal, whether it is in Orange County, in Mr. Spitzer's backyard, or in my backyard, is a crime that is unacceptable. By the way, it is not just Chileans. There is a number of European gangs that are also involved in these kinds of programs that we need to shut down immediately.

So, I want to say thank you for being here. Thank you for your testimony. We want to make sure we continue to work with your office and others to make sure our communities, our citizens are safe.

Thank you very much, Mr. Chair. I yield.

Mr. MCCLINTOCK. The gentleman yields back.

Mr. Van Drew.

Mr. VAN DREW. Thank you, Mr. Chair.

Mr. Rosenberg, I am not going to offer you condolences, because you need a lot more than that. You have heard thousands and thousands of people are saying how sad and how sorry they are. The only time you are going to feel good in your heart is when we have the right laws, and we have a safe country.

So, I will say this to you. I promise—and there is many people on this Committee—that we will work our hardest and do our best to achieve that goal.

Mr. ROSENBERG. Thank you. That is all I can ask for.

Mr. VAN DREW. Mr. Batista, I have prepared remarks, and hopefully I will get to some of them. I don't know. You really fascinate me, for real. You have been in law enforcement most of your adult life, correct?

Mr. BATISTA. Chair McClintock, Mr. Van Drew, yes, sir.

Mr. VAN DREW. OK. You expressed today basically that communities are safer and better with undocumented, with illegal residents coming in, and that literally it can be very good for the community, correct?

Mr. BATISTA. Yes, sir. When undocumented folks come out of the shadows and they are normalized as normal neighborhoods across the country, we are safer.

Mr. VAN DREW. So, the communities are better for that.

Mr. BATISTA. Our communities are better for that, yes.

Mr. VAN DREW. OK. So, there are actually almost many—a significant number of the countries in our world have many people who are suffering under dictatorships, under poverty, under all kinds of issues around the world.

If it is so good for us—and I am—it is a sincere question—why don't we just open the country up completely? Why don't we open up the Northern border more? Why don't we bring people from the

Eastern Bloc? Why don't we bring—illegally, we don't even call it illegal anymore.

Why don't we just say—and if you think this is good, tell me. Why don't we just say our country is open to anybody who shows up and wants to come in, not legally, but there is no more legal process, because, by the way, people who immigrate legally, the right way, I feel so bad for them because the system doesn't work well enough. Good people who have worked hard and they are waiting year after year to get into the United States of America and do it the right way, and they refuse to do it the wrong way.

Mr. Batista, are they kind of foolish to do that, to wait those years and go through the process?

Mr. BATISTA. Mr. Van Drew, my role and my life's work has been about protecting those folks that can't protect themselves. I take great pride in the work that our profession does—

Mr. VAN DREW. Respectfully, Mr. Batista, I would like you to answer my question.

Mr. BATISTA. So, I would say that the role of determining—

Mr. VAN DREW. I am asking you as a person, as a human being, sitting next to Mr. Rosenberg, is it good, should we—or is it a waste of time when all these people who wait for years, good, hard-working people that want the dream of the shining city on the hill—America—is it good, or are they wasting their time, and should they just come in illegally?

Mr. BATISTA. Mr. Van Drew, I think that the work of—

Mr. VAN DREW. Please answer my question specifically.

Mr. BATISTA. The work of determining how that is going to work is really on the shoulders of Republicans and Democrats. My role is to—

Mr. VAN DREW. So, you are not going to answer my question. I am asking you as a person. You vote. You care. I am asking you what you think. How do you feel for those people that wait for all those years and could have done it a whole different way, but believe in the rule of law? It is kind of hard on them, don't you think? Those folks don't like what is happening in our country right now. Talk to good people who came here legally, and they waited, and they worked, and then they pledged their allegiance to the flag and to the United States of America.

So, I would ask you if it was a good thing—and this is a question. I want to know. If you answer no, it wouldn't be a good thing, I want to know why not. If this has been a good thing, why don't we open—Asian people are good people; are they not? Black people are good people, from Africa. People from the Eastern Bloc countries, many of them suffer a great deal. People from Russia that could get over from—all over the world there are people that want to come to America. So, why don't we just open it up? Because it makes us better according to you.

Mr. BATISTA. Mr. Van Drew, it has been my life's work to—

Mr. VAN DREW. Please answer that question.

Mr. BATISTA. —adhere to the rule of law, and so I would say that the determination of improving our country's immigration laws really rests with Republicans and Democrats.

Mr. VAN DREW. I know where it rests. I understand the process. I am asking you what you feel as a human being, as a law enforce-

ment officer who has been involved for most of your adult life. You told us this is a good thing, people should come out, and it improves communities. I want to have an answer from you as a human being, is that good for America? Has this helped America?

Mr. BATISTA. Again, I will say that I believe in the rule of law, and our job is immigration laws.

Mr. VAN DREW. You are saying nothing, Mr. Batista. I am sorry. I respect you in law enforcement, but I don't respect what you are saying.

I yield back.

Mr. MCCLINTOCK. Ms. Escobar.

Ms. ESCOBAR. Thank you, Mr. Chair. To our witnesses, thank you all for being here.

Mr. Rosenberg, I want to add my own condolences to you. I am a mother of two, and I can't imagine anything happening to either of my children. So, I stand with my colleagues who have provided their condolences to you.

I do want to say for people watching this hearing, this is my fifth year in Congress, and I have seen a really alarming trend that has become increasingly more alarming every year that I have been in Congress. That trend is the desire and effort to paint immigrants as criminals.

The reason for that is to essentially dehumanize immigrants, and that allows for a furthering of xenophobic rhetoric and xenophobic policies and anti-immigrant policies as well. There is a serious consequence to engaging that way. There is a serious consequence to painting immigrants as dangerous or threatening and making the country feel fearful of them. That is there is a promotion of hate of immigrants.

I represent El Paso, Texas. Last week a killer who drove 10 hours from East Texas to El Paso—El Paso, which is a border community that has a quarter of our population that is immigrant-born and is also one of the safest communities in the United States of America, an individual, a domestic terrorist, a White nationalist, drove over 10 hours to my community and he confessed that he did that to slaughter Mexicans and immigrants because of the invasion.

That is a word that is frequently used by my colleagues on the other side of the aisle and by politicians all across this country who want to promote that xenophobia.

He came to my community, walked into a busy Walmart where there were families shopping for school supplies, where there were kids raising money for their sports teams, where there were senior citizens waiting to buy their prescription medication, and he walked in with an assault-style weapon, and he slaughtered 23 people. He left dozens injured, and years later we are about to—next month will be another terrible anniversary. My community still lives with deep trauma and profound pain.

He was not an undocumented immigrant. He was a U.S. citizen. U.S. citizens are carrying out massacres across the country with automatic-style weapons. I don't see the same urgency to have that conversation from my colleagues on the other side of the aisle.

I will say, representing the border, and living on the border, and being a third-generation border resident, having raised both my

children—both of whom are fourth-generation border residents—on the border, there is nobody who wants a well-managed, safe border more than those of us who live there.

But the only way to do it is if Republicans work with Democrats in a bipartisan manner to update laws that haven't been updated in almost 40 years.

Mr. Batista, one of my colleagues decided to try to badger you into trying to get you to acknowledge I don't know what, and, unfortunately, this is the same deflection I see over and over again from colleagues who love to point the finger at other people about immigration laws, but colleagues who refuse to look in the mirror to say, "It is my job and my obligation to update outdated immigration laws."

So, I will tell all of you here, it is our job to address the situation. A key way to address this and to create safer communities is by opening up legal pathways. Unfortunately, we are not going to see that from our colleagues, by and large, on the other side of the aisle, and instead we are going to see the same thing, which is a shrinking of legal pathways, a refusal to modernize outdated laws, and that is precisely what creates a deeply broken system.

With that, Mr. Chair, I yield back.

Mr. MCCLINTOCK. Ms. Spartz.

Ms. SPARTZ. Thank you, Mr. Chair. I actually disagree with the concept that unless laws change we are not going to be enforcing them. The law is the law, and we have to have the rule of law. We have laws on the books. They might need to change. If they change, they change. Refusing to enforce the laws that exist on the books, I think it is dereliction of duty, and I truly believe it puts a significant national security risk.

I have been at the border many times since I became Congresswoman, and I am shocked, and I think it is not just national security risk, it is actually huge security risk for a lot of desperate people that come here and become pretty much puppets and control and slaves to cartels that make enormous amount of money.

So, this is very concerning. As illegal immigrant to this country, I understand how hard it is—and many other people—to try to immigrate here. We have the law, and we have the rule of law. If we have to look at the laws—but no excuse not enforcing the law because a lot of lives are going to be destroyed because of that.

Mr. FABBRICATORE—and I apologize if I say your name wrong—would you be surprised to know that 10 months into Fiscal Year 2023, ICE Denver has only removed 429 aliens with final orders of removal pursuant to INA Section 240, and has only removed 256 aliens whose final orders were reinstated? Do these low interior removal numbers surprise you?

Mr. FABBRICATORE. Yes, ma'am. Those are low.

Ms. SPARTZ. Do they surprise you? Was it something different when you actually were in office?

Mr. FABBRICATORE. No, it doesn't surprise me because of the enforcement priorities right now. So, I am not surprised that those numbers would be low.

Ms. SPARTZ. So, do you believe—because when I observed when I was at the border, I was very surprised to see how selective enforcement is, and laws. When you go in processing centers, it was

during COVID pandemic, there are people on top of each other, and no one enforcing it.

Then you go to ICE facility, there has to be isolations, and everyone has to be there at a distance, which actually decreased capacity. A lot of border patrol just have to pretty much let people go, sometimes with the NTA, sometimes were with that, then in shelters where they need to move along kids and stop even do proper checking who they send them kids because they are were found there. So, very strange to me because it seems like that is the places where we should have really start looking at what is going on and put danger on these people.

Do you believe this law actually puts real people, real lives in danger, including people at the border?

Mr. FABBRICATORE. Absolutely it puts lives at danger.

Ms. SPARTZ. I think you know what Mr. Rosenberg—you see what that has to do in the community. I have quickly to ask, Mr. Batista, do you believe in the rule of law?

Mr. BATISTA. Chair McClintock, Ms. Spartz, do I believe in the rule of law?

Ms. SPARTZ. Yes.

Mr. BATISTA. Yes.

Ms. SPARTZ. So, you believe we have the rule of law at our Southern border? Does it function ineffectively? The rule of law and the legal system is actually functioning in our border, do you believe is a fact, what is happening in our border?

Mr. BATISTA. Ms. Spartz, I support the strengthening of our—

Ms. SPARTZ. No. I am just asking, do you—on your assessment—you are professional, you are a district attorney, you are—what do you believe? Do we have—you actually the functioning—the rule of law at the border?

Mr. BATISTA. Ms. Spartz, could you repeat the question specifically?

Ms. SPARTZ. So, at now current situation at the border, at our current situation at the border, do you think we have the rule of law at our Southern border?

Mr. BATISTA. What we need to make sure is that the border is secure, ma'am.

Ms. SPARTZ. I am just saying, do we have it or not, in your assessment as a professional?

Mr. BATISTA. That is the part that I leave to Federal immigration authorities, ma'am.

Ms. SPARTZ. So, you cannot assess the situation on the border.

Mr. BATISTA. No, ma'am.

Ms. SPARTZ. OK. What about you, Mr.—I am not sure if I say your name right—Mr. Schoenleben.

Mr. SCHOENLEBEN. Yes, ma'am.

Ms. SPARTZ. Do you believe we have the rule of law function at the border?

Mr. SCHOENLEBEN. Ma'am, I wouldn't begin to testify about what is going on at the border. What I can tell you is, and what I am here to say for our office, is there are current loopholes through the ESTA Visa Program as well as with the border, through sanctuary—or, excuse me, through individuals claiming status at the

border. So, those flaws at the border, and through the ESTA Program, are creating criminals.

One of those issues with ESTA Program can be fixed tonight, and there will be less victims tomorrow, if that—

Ms. SPARTZ. So, you believe there are problems at the border. You live in the State of California. No matter which district you represent this is your State. You should know what is happening at your border.

Mr. SCHOENLEBEN. If your question is, do I think there are problems at the border, yes.

Ms. SPARTZ. Yes. Well, what about Mr. Batista? Do you believe you don't have problems at the border? Are you not familiar what is happening at your border? This is—California has a border.

Mr. BATISTA. Ma'am, again, my responsibility is with the city of Santa Monica, and I—

Ms. SPARTZ. So, you don't go to the border at all. You don't even know what is happening at the border.

Mr. BATISTA. Our partners with Federal immigration and protection of the border, I certainly support that. Yes, ma'am.

Ms. SPARTZ. OK. Well, it is unfortunate, because I think we need to find common ground, but I think we need to enforce the law because a lot of lives are going to be destroyed.

I yield back.

Mr. MCCLINTOCK. Ms. Jackson Lee.

Ms. SPARTZ. Mr. Chair, I ask unanimous consent to insert into the record Fiscal Year 2023 removal numbers from ICE enforcement and removal operations.

Mr. MCCLINTOCK. Without objection.

Ms. JAYAPAL. Mr. Chair, I also have an unanimous consent request to enter into the record statements from the following organizations that have concerns about the conflation of crime and immigration. Asian Pacific Institute on Gender-Based Violence, ASISTA Immigration Assistance, Church World Service, Detention Watch Network, Esperanza United, National Network to End Domestic Violence, Tahirih Justice Center, and ValorUS.

Mr. MCCLINTOCK. Without objection.

Mr. MCCLINTOCK. Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you very much, Mr. Chair.

Whether I agree with all of you or none of you, let me express my appreciation for your presence here today.

With a little level of seniority, I have been through this for 28 years on this Committee, and actually worked on any number of comprehensive immigration reform initiatives that just couldn't find common ground.

We are now at a point where common ground couldn't be found with a microscope. We were far closer to common ground on this issue in 2008, 2010, with Senator McCain and the Gang of eight. I wish America had taken up that opportunity, because if we look at our history, this is a land of immigrants and a land of laws. All of us came here. Mine was dastardly. Others struggled and died coming. Others migrated, immigrated, fleeing famine and persecution, and so we all have come here strangers other than our friends who are Native Americans.

It gives me pause when people want to demonize immigrants, migrants, and they want the same opportunities all of us do.

Unlike my friend, Mr. Rosenberg, I am going to offer sympathy. I am sorry that the laws did not, I believe, fittingly respond to your pain and to your loss. We need to realize that any form of crime is addressed to appropriately for the level of crime that it is.

I do want to say that witnesses who offer themselves before us do not need to be battered, do not need to be challenged for the distinctiveness of their views. They need to be probed.

So, let me, first, quickly say that statistics have shown that the end of Title 42, or the thought was by Republicans that it results in a flood of migrants. The border numbers have fallen over 70 percent of migrants in the past few months. It also finds that trust cities, that both property and violent crime decreased more in those counties than in nontrust counties after 2014.

In fact, they found that on average there are 35.5 fewer crimes per 10,000 people in these “trust counties.” Reinforcing this, the effect is even more pronounced in large urban areas which have been condemned by my Republican friends. I happen to live in a city that is enormously diverse, and that is Houston, Texas, and we are proudly so.

Houston has—more than 26 percent of our Houston metro area GDP is contributed to by immigrants, five billion to Social Security, and 1.4 billion to Medicare. Immigrants make up over 30 percent of the employed labor force. They fill labor shortages in the Houston market.

Yes, if you have done the crime, I want ICE to be able to do its job. I see nothing that has prevented them from doing so. The poverty levels are not as high in trust counties.

So, let me ask, Sheriff Batista, if I have not gotten your title right, forgive me, because I appreciate you coming here. Is the title right, Sheriff? Chief. Excuse me. Let me ask you if I might, we have sheriffs and chiefs in Texas. I know you do as well.

Let me ask you this. First, we have accusatory commentary of Soros DAs. Let’s not put an individual that is not here, a contributing American, and jeopardize his life, for always throwing his name out in the most ugliest of ways. I am offended by that. Mr. Soros does not deserve that. He is an American and a patriot, and he also comes from a minority community, one might say, and you create a dangerous situation. That is unfortunate.

Chief, how should the Federal government help support these jurisdictions while also ensuring the immigration law is enforced? When I say “these jurisdictions,” I am suggesting jurisdictions who may be more prone for immigrants, in some instances migrants, how can we work with you better? Chief?

Mr. BATISTA. Chair McClintock, Ms. Jackson Lee, thank you for the question. I would say that the division of labor, the fact that Federal government is charged with the responsibilities of Federal immigration should continue to be that way. We can work alongside Federal immigration in situations where we are dealing with violent felons, certainly, for the safety of our Nation and our community.

The work of ensuring public safety in our neighborhoods and our cities day to day, that is our responsibility, and we can’t be drawn

into the daily issues of low-level immigration cases, where we are more responsible to the primary public safety needs of our communities.

The work of Federal immigration and immigration enforcement lies with them, and it should stay with them.

Ms. JACKSON LEE. If you build trust in your community with citizen/noncitizen, migrant/nonmigrant, immigrant/nonimmigrant, can you help solve crimes? Can your community be safer if people are willing to come and tell you where the criminal is?

Mr. BATISTA. Without a doubt, ma'am.

Ms. JACKSON LEE. That is how crime goes down.

Mr. BATISTA. Absolutely.

Ms. JACKSON LEE. I yield back.

Mr. MCCLINTOCK. Thank you.

Mr. Nehls.

Mr. NEHLS. Thank you, Chair. Thank you all for being here.

Mr. Rosenberg, you have heard just about every Member here express their condolences for the loss of your son back in 2010. I feel your pain here. I just want you to know that tomorrow—this week—I will be reintroducing the Justice for Angel Families Act, and that legislation would amend the Crime Victims Fund to expand funds to angel families who are victims of homicide by an illegal immigrant.

I think Ms. Jackson Lee just expressed her sorrow to you, so I am hoping that I can get some bipartisan support on that to help victims, individuals that have been murdered, as a result of activities from illegal aliens. So, hopefully we can get some bipartisan support on that.

Mr. ROSENBERG. Thank you.

Mr. NEHLS. Mr. Fabbriatore, thank you for being here. The shocking decline in enforcement activity, my friend at our Southern border must be sickening to a guy like you an ICE enforcement removal officer like yourself. I can't imagine how you feel, having dedicated your entire career to enforcement of U.S. immigration laws, and then seeing what is happening today.

I want to talk about some of the arrest numbers that we see behind me on this chart. They were pulled from ICE's own data. Before we get into that, I just want to let you know we talked to—you talked about detainers, ICE detainers. I was a sheriff for eight years. I was in it for almost 30. As a sheriff, I complied with every single ICE detainer that ever came through my office.

Now, we had a few that didn't, and Texas created a law that stated that if a sheriff does not comply with the detainer from ICE that they could potentially be removed from office, and I support that. So, hopefully sheriffs have straightened themselves out a little bit, and they comply with every single ICE detainer.

Can you explain why the number in arrests have dropped so drastically over the last couple of years?

Mr. FABBRICATORE. Well, I think there are definitely a lot of different reasons. One, the priorities for sure, but also, because of what is happening at the border moves into the interior, so every single State is now a border State. ICE officers are now having to process those cases from the border at their ICE offices. So, instead

of being on the street and making these arrests, they are forced to stay in the office and just process cases.

Mr. NEHLS. Got it. Got it. My time as sheriff, I ran for Congress because I was just disgusted what took place at the Southern border. I am going to highlight a few of the cases that I had. I had six undocumented immigrants burglarize 70 homes; six of them they were undocumented. They were in Fort Bend County. They were in Brazoria County. We arrested six of them. All of them had entered the U.S. illegally. They were from Honduras and Mexico.

What is interesting is that when they burglarized a home, you know who they targeted? They targeted Indian, Asian, and Middle Eastern communities. Think about that now. They targeted the minority migrant communities. They stole hides and jewelry. They stole money.

January 26, 2017, we arrested 17 individuals. They were from Colombia. One hundred 20 break-ins, again, stole jewelry, purses, working with HPD—Sheila, we were working with HPD—worked very, very hard. One of the individuals, this bad hombre, he was actually deported in 2014 and had ties to terrorism. He had terrorist ties to the FARC, which is a terrorist group coming out of Colombia.

A lot of these guys have been deported more than one time, yet they continue to find their way back here to commit more crime. Three of them had been previously deported, and this guy I have highlighted him before. This gentleman killed a senior lady in my county, and he is from Honduras, and he—just a second.

So, he has been deported six previous times. So, we talked earlier, that we are going to talk about what is happening inside the country, right? When you are in the country and you commit a crime and you are deported, how do you get back here so quickly? This guy came back December 2001 and 2012–2015. They are back within several months, this guy, and he killed. So, we have serious, serious issues.

Mr. Batista, I just want to kind of talk—I know Representative Nadler brought up to you about this White supremacist or nationalist or something, the domestic terrorist, that killed individuals, shot and killed. It is horrible, horrible, what happened, and he asked you, how has that affected the Mexican community? What was your answer? Did you say they are kind of going underground, do you believe? They are scared as a result.

Mr. BATISTA. Chair McClintock, Mr. Nehls, that is correct.

Mr. NEHLS. OK. How do you think the communities—the Asians and the Pakistanis and the Middle Eastern communities feel when their homes are being burglarized, they steal all their family heirlooms, right, they are here trying to live and try to come here legally, and then they are victims of crime by these illegal alien criminals. How do you think they feel? What should they feel? You are a sheriff or a lawman.

Mr. BATISTA. Mr. Nehls, I think we should all be outraged by any criminal activity.

Mr. NEHLS. Mr. Batista, they are madder than hell. They are madder than hell. It requires guys like me and others to put these individuals—and it is the Federal government's responsibility to keep them out of our country.

Mr. McCLINTOCK. The gentleman's—

Mr. NEHLS. With that, I yield back.

Mr. McCLINTOCK. Thank you.

Ms. Ross.

Ms. ROSS. Thank you very much, Mr. Chair.

Mr. Rosenberg, I, too, want to express my sympathy for you and for your loss, and my heart goes out to you. We should all endeavor to crack down on people who commit serious violent crime, no matter who they are or where they come from. So, I am very sorry for your loss.

This hearing—and I am toward the end, so I have gotten to listen to the whole thing—is yet another attempt to scare the public about immigration and immigrants. We have seen with my colleague's chart, and heard today, that crime rates among immigrants, both legal and undocumented, are lower than those among native-born Americans. That doesn't excuse the crime. It is just a fact.

Today I want to do something a little upbeat. I want to highlight an all-American city in my district in North Carolina. It is called Morrisville, an all-American city that was awarded in 2021 and recognized Morrisville for its inclusive civic engagement to build equity and create stronger connections among residents, businesses, nonprofits, and government leaders.

Morrisville was one of only 10 cities selected for this award in 2021, and it is also home to a thriving immigrant community. More than 35 percent of Morrisville's residents are immigrants, four times greater than the immigrant population rate of North Carolina.

Despite what Republicans would have you believe about towns and cities with large immigrant populations, Morrisville doesn't experience high crime rates. In fact, both violent crime and property crime rates fall below the State as well as the national averages in Morrisville.

Additionally, Morrisville's poverty rate is $\frac{1}{3}$ of the rate in North Carolina. Not only is Morrisville a safe place to live, but its residents are also highly educated. The high school graduation rate is 10 percent higher than North Carolina State average, and the town population with a bachelor's degree or higher is more than double the State average.

Morrisville is moving North Carolina forward and is home to some of the brightest minds in the Nation, and it has become a tech hub for the Research Triangle.

There is a sad thing about Morrisville and all of these immigrants there. Because of our broken immigration system, many of the people who brought their children here have children who are aging out of the visa process, and their children will be what my colleagues on the other side of the aisle call illegal aliens, kids who came here documented, but because of our broken immigration system, and the long lines for getting a visa, at age 21 they have to self-deport.

It is about time that we stop vilifying all immigrants, claiming that they are not making our country better. I am here to tell you that I am so proud to represent Morrisville and the immigrants in my community. We need to focus on violent crime wherever it

comes from, and we need to celebrate industry and family however it is celebrated.

Now, I do have a question for Chief Batista. You have served in law enforcement for 37 years across two border states. Would you agree that the vast majority of undocumented immigrants that you have encountered are otherwise law-abiding individuals who want nothing more than the American dream?

Mr. BATISTA. Chair McClintock, Ms. Ross, that is correct.

Ms. ROSS. Do you think that it makes sense to try to deport every one of these undocumented immigrants, or would it make more sense to focus enforcement efforts on serious criminals, whether those folks are undocumented or documented?

Mr. BATISTA. Yes, ma'am. I would agree.

Ms. ROSS. Finally, could you just very briefly—we only have a couple minutes—discuss how reforming our immigration system by creating additional legal pathways will make our communities safer?

Mr. BATISTA. My experience, nearly 40 years, and certainly the data has shown that, yes, improving and legally documenting our immigrant communities will make our country safer.

Ms. ROSS. Thank you. I yield back.

Mr. MCCLINTOCK. Thank you.

Mr. Batista, Chief Batista, I assume that the policies that you have advocated here today are the policies that you have practiced as Chief of the Santa Monica Police Department since you took that position in October 2021?

Mr. BATISTA. Chair McClintock, yes, sir. That is correct.

Mr. MCCLINTOCK. Well, forgive me, but according to a CBS report from April 2022, Santa Monica was one of the most unsafe cities in California. In fact, according to the city's first quarter 2023 crime statistics, crime is getting worse overall.

Part 1 offenses, the most serious offenses, have increased 14 percent in the first quarter of 2023 when compared with the same timeframe in 2022 when Santa Monica was already rated one of the most unsafe cities in California, 224th I believe. So, the policies you have advocated don't seem to be working.

Mr. BATISTA. Those statistics are correct as you have enumerated them, Chair McClintock.

Mr. MCCLINTOCK. Thank you. Mr. Fabbriatore, we have heard the discredited Cato study hold out once again using the Texas DPS numbers. It is discredited because they didn't include certain visa holders, DPS beneficiaries, doctor recipients among the others, which means that they got a cut of the population of illegal aliens who were arrested rather dramatically.

What we have heard today from the Democrats is the same tactic they use repeatedly in these discussions. They love to confuse legal immigrants, who are the very epitome of law-abiding individuals, they have obeyed all our laws, they have waited patiently in line, they have done everything our country has asked of them, and they love to equate them, these model people, with illegal immigrants whose very first act entering this country through the Southern border is to break our laws.

Would you elaborate on that?

Mr. FABBRICATORE. Yes, sir. As a Field Office Director, my favorite thing to do would be to go to naturalization ceremonies and see people raise their right hand and swear allegiance to this country and become citizens. We are a country of immigrants, and we should do it legally like many people have.

When we allow people to just continuously come in and break our immigration laws, it is constantly getting worse. We can no longer get a hold on it. The border is not operationally safe. The interior of the United States, more and more crime is starting to be committed, and we need to do something about it. We need to figure out what that is going to be.

Congress can change the laws, if they choose to. We really need to get a hold on this because it is getting out of hand.

Mr. MCCLINTOCK. Mr. Rosenberg, did you want to add anything?

Mr. ROSENBERG. Well, I actually had made some notes, and the one thing that I was going to add is conflating immigrants with illegal immigrants—with illegal aliens—

Mr. MCCLINTOCK. The Democrats do this all the time. It is so unfair and insulting to every legal immigrant in this country. I find it infuriating and insulting.

Mr. ROSENBERG. Well, it is. I just wanted to—I know Ms. Escobar left the room, but she made a comment about painting immigrants with crime. What I think—the correct statement is that—“you” being the Democratic party—you can’t paint immigrant as crime by painting illegal aliens as immigrants. So, let’s stop. I haven’t heard anybody here today talk about immigrants in a negative way.

Mr. MCCLINTOCK. Mr. Fabbricatore—

Mr. ROSENBERG. You guys keep saying it.

Mr. MCCLINTOCK. I wanted to emphasize something to be sure that I understood you correctly. You said that if the deportations had simply continued as under the previous administration, there would have been 90,000 more criminal illegal aliens removed from this country?

Mr. FABBRICATORE. Yes. If we looked at previous numbers, if it would have just been—we would have been going in the same direction—

Mr. MCCLINTOCK. Ninety-thousand criminals.

Mr. FABBRICATORE. Ninety-thousand criminals, yes.

Mr. MCCLINTOCK. You also said 300,000 crimes?

Mr. FABBRICATORE. Yes. Because the recidivist rate—what we are seeing with statistics is there is a recidivism rate with criminal illegal aliens, and that is about four per alien.

Mr. MCCLINTOCK. Are you saying that there are 300,000 more American families who have suffered acts of crime as a result of this administration’s policies?

Mr. FABBRICATORE. Yes, sir.

Mr. MCCLINTOCK. Mr. Schoenleben, could you explain California’s sanctuary laws and policies and how they affect overall crime in your jurisdiction?

Mr. SCHOENLEBEN. Yes. Mr. Chair, what we have seen in our State already is we have individuals of the criminal element coming to our State to commit our crimes. What I want to be very clear for our office, we are not talking about immigrants as a whole.

We are talking about the criminal element that is exploiting our border and our policies such as the ESTA Program. It is those individuals that our office is here representing on behalf of victims today. It is because those individuals are exploiting those loopholes and committing mass amounts of crimes.

As a quick example, per the FBI, the Chilean nationals that are committing the vast majority of crime in Southern California, 85 percent of those individuals have criminal histories back in Chile. Those are individuals that never should have been granted an ESTA visa in the first place. They are individuals that never should have been here. Nor should the Colombian nationals who claim—falsely claim asylum to only get into this country to commit crime. It is the criminal organizations and the transnational criminal crews that we are talking about today, not immigrants as a whole, and they are flocking to California.

Mr. MCCLINTOCK. All right. Thanks very much.

I believe that concludes the panel. Mr. Moore.

Mr. MOORE. Thank you, Mr. McClintock. Thanks to all the witnesses for being here today. We had Sheriff Dannels before this Committee a few weeks ago, gentlemen, and he testified that the border had never been more secure than it was in 2018. He had never seen it more broken than it is currently.

Mr. Fabbriatore, why would people South of the border throw their IDs down before getting to the border?

Mr. FABBRICATORE. They don't want people to know who they are. That is the exact reason they try to lose their ID.

Mr. MOORE. So, you are saying, they throw their ID down. Nobody knows who they are. They come in the country. In Prattville a few months ago, I had a 14-year-old girl, it is alleged that an illegal drug her into a rest room and raped her in a restaurant there in Prattville, Alabama in my district, a 29-year-old, identified as an unaccompanied minor. He didn't have any ID and it was found out later he was from Honduras, and he actually had a criminal record, so you think they throw their IDs down, so we just don't know who they are?

Mr. FABBRICATORE. Exactly.

Mr. MOORE. Got you. Mr. Schoenleben, that is a Southern way of pronouncing your name. You mentioned earlier in your testimony that Chilean nationals are actually turning themselves in. Are they turning themselves in to the CBP? Is that what is going on?

Mr. SCHOENLEBEN. No, Your Honor—

Mr. MOORE. That is close enough.

Mr. SCHOENLEBEN. No, sir. Colombians are turning themselves in and claiming asylum at the border. Once they get into the border, they wait a few days in detention and then they are released with a promise to appear in court which they never do. So, criminal organizations are targeting that method of entry on purpose. Once they are into the country, then they can commit crime at will and they are doing so in a fairly sophisticated manner.

Mr. MOORE. So, that explains the increase in break-ins we are seeing. Is that Colombians you think who are doing that or is it—

Mr. SCHOENLEBEN. It is, in general, it is everyone. Crime is going through the roof on all scales, both domestic and international, but

that is part of our problem. We keep talking about the different groups that are committing crime. There is no question that domestic criminals are committing crime here. That is part of the problem. When we start importing criminals who are already criminals in their country and then you add that to law enforcement which is already at a breaking point, that is a problem.

A great example, Irvine, California, which is considered one of the safest cities in the country, recently for 6 months straight had to deploy detectives in overtime capacity to try to combat this very problem. While they had streets flooded with detectives, they were still hit by transnational organized crews committing crimes such as residential burglaries. So, these law enforcement agencies are already stretched thin and then you add that element of exploitation. It is a breaking point.

Mr. MOORE. We had a hearing in Yuma, Arizona, and the law enforcement agents there testified or told us, actually, during testimony, that they had 109 different countries come through that one small town. The interesting thing I think was that the border agents have almost become concierge guys. They are not doing the job anymore of what we want, law enforcement going out actually patrolling the border. They have become concierge and they are in-processing people. Here is an interesting thing, under this administration, they actually can apply for asylum. So, they get a cell phone. Then they get taxpayer subsidies up to about \$900 a month. The thing is they take our phones, but they don't take our calls when it is time to show up to court. So, doing away with the remaining Mexico policies, they are throwing their IDs down, they are pouring across the Southern border.

Mr. Batista, I want to mention this to you. Mr. Wray, the Director of FBI testified in here yesterday, that he was having a very difficult time controlling crime, especially concerning fentanyl because it is pouring across. Do you think the open border, Mr. Batista is causing—making your job more difficult? Is that why we are seeing statistics go up in your neighborhoods with the increased crime?

Mr. BATISTA. Chair McClintock, Mr. Moore, I believe that we need to have strong border security without a doubt, and I do believe that the influx of fentanyl that is coming from different parts of the world and definitely afflicting our community.

Mr. MOORE. Interesting testimony we also heard, you may have heard this, but what is happening, the cartel is actually allowing these people to become drug dealers. So, they are coming in just South of the border, you are four or five grand if you are coming from Mexico to come into our country. You are going to pay about seven or eight thousand if you are coming from the triangle Nations. Last I heard, Russians were paying \$19,000 and Syrians were paying \$20,000 to the cartel.

Here is the deal. If you don't have the money, gentlemen, you can backpack heroin and cocaine or fentanyl across that U.S. Southern border, so you are not an indentured servant or a slave to the cartel, you are actually now a drug dealer. So, the border policies with the Biden Administration are creating two things in this country. Either drug mills or indentured slaves to the cartel. So, they are making those installment payments back.

So, Mr. Rosenberg, how many years have you been coming here hoping to get some resolve for the loss of your son and that is why I didn't offer condolences because you said you have gotten more condolences than you can count and you need actually some kind of commitment. How long have you been fighting this battle?

Mr. ROSENBERG. Well, I started in early 2011, mostly working in California, and ironically, mostly working on people driving without licenses, not an immigration issue. The guy who killed my son probably fit the description of someone who came here to better their life. Other than driving the wrong way on a one-way street, driving without a license, we couldn't find any crimes he had committed in 12 years.

Mr. MOORE. Just that once.

Mr. ROSENBERG. The problem is, he wasn't a threat to public safety until he killed my son, that if he hadn't been here, it wouldn't have happened. I come pretty much once or twice a year.

Mr. MOORE. I am running out of time. So, with that, Mr. Chair, I will yield back.

Mr. MCCLINTOCK. Mr. Hunt.

Mr. HUNT. Thank you all for being here today. Sir, my condolences to your son. I am very sorry for your loss.

Mr. ROSENBERG. Thank you.

Mr. HUNT. We are talking about the consequences of criminal aliens in United States' communities. Take a walk around any large city in America and you will see the devastating effects of these open-border policies that we have seen ravage our communities over the course of the past few years. Crime, gang activity, drugs, just to name a few, but there is a far more sinister of criminal activity that is not as visible as drug trafficking, gang activity, or just the general degradation of our cities. It is far worse, actually or worse to me. It is human trafficking.

I love my city of Houston. Houston is known as the energy capital of the world. It is known as a lot of great things, great food as well, but unfortunately, we are also known as the human trafficking capital of the world as well. That has to change.

I could tell you I am very proud to cosponsor a bill introduced by my colleague, Sheila Jackson Lee. It is called the Stop Human Trafficking in School Zones Act. This bipartisan effort is necessary because that is how bad the problem is. This bill will increase the prison time up to five years for certain human trafficking offenses and sex offenses involving minors that occur within a thousand feet of schools, within a hundred feet of certain other places where children gather, like youth centers and swimming pools.

As a father of three children under the age of five, these people belong in a special place in hell if you ask me. Five years, not enough, is a start.

One thing that I do know is that if President Biden and the Democrat Governors and mayors were serious about human trafficking, they would stop their destructive sanctuary city policies. You gentlemen have addressed this pretty clearly to me.

Mr. Fabbriatore, thank you for being here, sir. I met you earlier in the hallway. I have a question for you, sir. In your 23 years of experience working at INS and ICE, what can you tell me about the seriousness of child trafficking and what you personally experi-

enced as a result of the issue that we have seen with our open border policies?

Mr. FABBRICATORE. Well, No. 1, I mean they stopped the DNA testing at the border, so we were testing adults to see if they had a DNA match with children. That policy has stopped, and I cannot figure out for the life of me why you would not want to figure out if a child that is being brought into the United States actually belongs to the adult that they are traveling with. Now, we have stopped that, so now we are allowing these people to bring these children into the interior and we have no idea who they belong to. We have no idea if there is a familial connection. This is wrong. It needs to stop.

We have children being brought in and we have children missing right now. We don't even know where they are because they have been brought in and they have either absconded, they have gone off. They are being used to traffick drugs. Myself, in my career, I have arrested juveniles dealing heroin on jogging paths. So, these juveniles are being used by the cartels to deal drugs and they are being brought into this country and the fact that we have stopped the DNA program, this administration stopped it, it is unfathomable to me.

Mr. HUNT. Do you agree that child sex trafficking as a result of this crisis at our Southern border has increased?

Mr. FABBRICATORE. Yes, sir. I do.

Mr. HUNT. Without equivocation?

Mr. FABBRICATORE. Yes, I agree.

Mr. HUNT. Biden's policies, they have resulted in countless numbers of minors being abused and bussed across our border and sold into sex slavery. Under the guise of protecting illegal aliens, the Biden Administration is, in fact, protecting human traffickers and harming God's children, our children.

Now, many of my colleagues on the left may say that we are unfairly targeting illegal aliens and that American citizens commit crimes, too. I have also heard racism being blamed and xenophobia being blamed, and I can tell you as a Black man for a very long time, I am not racist nor xenophobic, I just want us to enforce our laws and I expect them to be abided by so that we can save our children.

I have also heard some of my colleagues on the left say that the global sex trafficking of children is a QAnon conspiracy. According to *The New York Times*, 85,000 migrant children that have our country have been lost. They have vanished and where do you think they went? Exactly where they went and what is happening is grotesque. It is wrong. If we can't protect our children, if we can't protect the world's children, then we absolutely have no future.

I cannot thank you enough for being here. I cannot thank you enough for your hard work and your sacrifice.

Sir, we will do better because we have to. Thank you for all your efforts and I am sorry for the loss of your son. God bless you and thank you.

I yield back the rest of my time.

Mr. FABBRICATORE. Thank you.

Mr. MCCLINTOCK. Does that now conclude our questions? I believe it does. Very well. Well timed, too. I see two bells on the board. Thank you all for being here today. Without objection, all Members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record. With that, again, our sincere thanks to all of you for making the trip here today. With that, the hearing is adjourned.

[Whereupon, at 5:04 p.m., the Subcommittee was adjourned.]

All materials submitted for the record by Members of the Subcommittee on Immigration Integrity, Security, and Enforcement can be found at the following links: <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=116200>.



**OPENING THE FLOOD GATES:
BIDEN'S BROKEN BORDER BARRIER**

JOINT HEARING
BEFORE THE
**SUBCOMMITTEE ON
BORDER SECURITY AND ENFORCEMENT**
AND THE
**SUBCOMMITTEE ON
OVERSIGHT, INVESTIGATIONS, AND
ACCOUNTABILITY**
OF THE
**COMMITTEE ON HOMELAND SECURITY
HOUSE OF REPRESENTATIVES**
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OPENING THE FLOOD GATES: BIDEN'S BROKEN BORDER BARRIER

Tuesday, July 18, 2023

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON BORDER SECURITY AND
ENFORCEMENT, AND THE
SUBCOMMITTEE ON OVERSIGHT, INVESTIGATIONS,
AND ACCOUNTABILITY,
Washington, DC.

The subcommittees met, pursuant to notice, at 2:02 p.m., in room 310, Cannon House Office Building, Hon. Clay Higgins [Chairman of the Subcommittee on Border Security and Enforcement] presiding.

Present from the Subcommittee on Border Security and Enforcement: Representatives Higgins, Guest, Greene, Luttrell, Breechen, Correa, Thanedar, Garcia, and Ramirez.

Present from the Subcommittee on Oversight, Investigations, and Accountability: Representatives Bishop, Greene, Ezell, Strong, Crane, Ivey, Thanedar, and Clarke.

Also present: Representatives Green, Pfluger, Thompson, and Jackson Lee.

Chairman HIGGINS. The Subcommittee on Border Security and Enforcement and the Subcommittee on Oversight, Investigations, and Accountability will come to order.

Without objection, the Chair is authorized to declare the committee in recess at any point.

Without objection, the gentleman from Texas, Mr. Pfluger, is permitted to sit on the dais and questions of both panels and witnesses will be allowed.

The purpose of this hearing is to investigate the Biden administration decision to cancel border barrier contracts and the negative impacts on local contractors and communities. Cancelling border contracts has led to a substantial waste of resources, taxpayer funds, and time. Today, our subcommittee will investigate this decision and its effects on the American communities and businesses that have been impacted.

I now recognize myself for an opening statement.

Well, welcome to the Subcommittee on Border Security and Enforcement and Subcommittee on Oversight. The two subcommittees that are joined to address this important matter and we will have two panels before us today. This joint hearing is to examine the effectiveness of the border barrier system and the effects of the Biden administration's cancellation of border wall contracts on the safety

and security of the American people. I would like to thank our witnesses for being here today, some of which traveled extensively to join us to discuss this important topic.

Simply put, physical barriers work to deter and delay any form of criminal intent. In areas along the Southwest Border where there is some kind of physical barrier, illegal border crossings have decreased by up to 87 percent. From fiscal year 2017 to fiscal year 2020, during the construction of the border barrier system we will be discussing today, the Department of Homeland security never reported more than 1 million yearly encounters of illegal aliens at the Southwest Border. The border barrier system also allows Customs and Border Protection agents to respond and to detect threats or breaches using surveillance technology in places along the barrier instead of relying on manned patrol and other limited surveillance efforts. This is why earlier this year I introduced the Finish the Wall Act, requiring the Biden administration to resume construction of the border barrier system.

In the 2½ years since President Biden was inaugurated, there have been more than 5 million illegal border crossings and over 1.5 million gotaways, criminal runner gotaways. If this trend continues, the Biden administration is expected to reach nearly 2.5 million alien encounters at the Southern Border by the end of September for this year alone. The truth of the matter is that my colleagues and friends across the aisle find it difficult to deny that walls work. In fact, there is a long history of bipartisan Congressional support in securing the border using physical barriers, such as fencing, innovative technologies, all-weather access roads, and lighting. Many of my colleagues across the aisle, including some members currently on this committee, voted in favor of the Secure Defense Act of 2006. This has long been a bipartisan understanding that physical barriers work and they are integral to effective security of any perimeter. So certainly our Southern Border is no exception to that simple fact.

Until recent years, it has been clearly understood and accepted beyond the political divisions that we face, that physical barriers work. Unfortunately, when President Biden paused and eventually canceled all border wall construction projects in 2021, he demonstrated to the American people that he would prefer to engage in partisan politics over prioritizing our Nation's sovereignty and our national security and deterring those who break our laws by conducting illegal activity at our Southern Border. Fencing and border wall construction has ceased to be a bipartisan security tool and the American people are suffering for the sake of this political posturing.

In addition to the human cost of these cancellations, it is apparent this administration did not stop and think about the consequences and the impacts that cancellation of border barrier projects would have on American small businesses who had a contract for and had completed work on the border wall system. One of our witnesses here today, Jim De Sotle, his company was hired in 2019 by the Federal Government to conduct work on the border barrier system. To this day, Jim's company, LoneStar Pipes, has yet to receive any payment or reimbursement for the work that they did. Another witness with us today, Mr. Russell Johnson, is

a former Border Patrol agent, returned to ranching along the New Mexico border. As border wall construction expanded, he and his family saw illegal traffic pushed to other sections of the border without a wall, showing that the border wall system is a force multiplier so that the United States Border Patrol can focus agents in areas where a wall might not be logical or possible. Border Patrol agents and the recently-retired chief of Border Patrol, Raul Ortiz, have repeatedly stressed the importance of the border wall for the Border Patrol to do its job.

The border wall system should not and did not, prior to the recent years, was not used as a partisan issue. But over the past few years every detail of border security has become a political playground, including paying our contractors for work that has already been done. These are American citizens, American companies that engaged in good faith in contractual agreements with the U.S. Government and performed their work and have not been paid. It is shameful.

Completing the border wall system is critical to our Nation's safety, security, and sovereignty. We, the people, demand a resolution to this crisis. Order must be restored, and this is the first step.

[The statement of Chairman Higgins follows:]

STATEMENT OF CHAIRMAN CLAY HIGGINS

Good afternoon and welcome to the Subcommittee on Border Security and Enforcement and Subcommittee on Oversight, Investigations, and Accountability joint hearing to examine the effectiveness of the border barrier system and the effects of the Biden administration's cancellation of border wall contracts on the safety and security of the American people. I would like to thank our witnesses, especially those who traveled from New Mexico and New Jersey, for being here today.

The simple fact is that physical barriers work to deter and delay any form of criminal intent. That is why earlier this year, I introduced the "Finish the Wall Act" which required the Biden administration to resume construction of the border barrier system.

When I first introduced this bill in the 115th Congress during the Trump administration, the border was more secure than ever. From fiscal year 2017 to fiscal year 2020, during construction of the border barrier system, the Department of Homeland Security never reported more than one million encounters of illegal aliens at the Southwest Border.

Since Biden was inaugurated in January 2021, we have lost all operational control of our Southern Border. In just 2½ years, we've had more than 5 million illegal border crossers, and over 1.5 million gotaways—and if current trends continue, the Biden administration is expected to reach nearly 2.5 million alien encounters at the Southern Border by the end of fiscal year 2023.

Who could forget that there is a long history of bipartisan Congressional support in securing the border using physical barriers, such as fencing, innovative technologies, access roads, and lighting.

In fact, this committee introduced and led the bipartisan "Secure Fence Act of 2006" (Pub. L. 109-367) which authorized the Department of Homeland Security to achieve and maintain operational control over the border and authorized construction of 700 additional miles of fencing along the United States and Mexico border. Sixty-four Democrats voted for the measure in the House, and 26 Democrats voted for the passage of the bill in the Senate. In 2013, House Democrats also supported a measure that would have authorized \$8 billion to repair and reinforce certain sections of the border barrier.

The truth of the matter is that my colleagues and friends across the aisle cannot deny that walls work. In areas along the Southwest Border where there is some kind of physical barrier, illegal border crossings have decreased by XX percent. The border barrier system allows Customs and Border Protection agents to not only gain effective control of the border, but agents are able to respond to and detect threats or breaches using surveillance technology.

Unfortunately, when President Biden paused and eventually canceled all border wall construction projects in 2021, he showed the America people he would rather

engage in partisan politics over prioritizing our Nation's national security and stopping those who break our laws by conducting in illegal activity at our Southern Border.

It is apparently, he did not stop and think about the consequences of his Presidential proclamation and the impacts the cancellation of border barrier projects will have on American small businesses who had a contract and completed work on the border wall system.

One of our witnesses here today, Jim De Sotle, his company was hired in 2019 by the Federal Government to conduct work on the border barrier system. To this day, Jim's company, LoneStar Pipelines, has yet to receive a single reimbursement for any of the work they did.

Another witness with us today, Mr. Russell Johnson, was a former Border Patrol agent turned rancher.

The most serious consequence of Biden's Executive Order is the gaps that were left when the administration abruptly canceled border barrier projects. On Mr. Johnson's ranch for example, there is a gap—this gap has been exploited by illegal border crossers and transnational criminal organizations.

This is why completing the wall is critical to our Nation's safety.

America demands and deserves border effective border security and House Republicans will hold the Biden administration accountable for failing to defend our Nation's sovereignty at the Southern Border.

Chairman HIGGINS. I now recognize the Ranking Member, my colleague, Mr. Correa, the gentleman from California, for his opening statement.

Mr. CORREA. Chairman Higgins and Chairman Bishop, I want to thank you both for holding this most important hearing.

I am glad that we all agree here today that we need to secure our borders. I don't however believe that building a wall is the best way to achieve that. The wall is a Clinton-era, Bill Clinton-era project from 30 years ago. The challenges today look very different than they did 30 years ago. I think the question before us is, what we have to be asking ourselves is, does a border wall fit into the challenges that we are seeing today? Our world has changed since Bill Clinton and since post-COVID-19. Many here in this room actually voted to end a COVID-19 public health emergency, thereby ending Title 42. These same individuals predicted the demise, a chaos at the border, which is yet to materialize. Because the reality is, after Title 42 went out, Title 8 has been imposed, and Title 8 has with it severe criminal sanctions against immigrants who cross between ports of entry. This administration has in place a policy that does deter people from crossing between ports of entry. Let me be clear, I don't agree with that policy. But it is hard to argue with the facts and the numbers. The numbers are challenges at the border have dropped. Those numbers have dropped since the ending of Title 42. It didn't take building a wall to make that happen.

Bottom line, the world today is experiencing a migratory crisis, a refugee crisis like we have never seen in the history of this world. I have to reiterate, the challenges that we face today require worldwide solutions, not regional solutions. Let's be clear as well, the wall is not preventing migrants from coming to the United States, but rather the wall is directing migrants to cross in more remote and dangerous areas of the border. It is no surprise then that the Border Patrol has seen more deaths and assisted in more rescues as a result of this policy. We have also seen more injuries, traumatizing families and costing our hospitals millions of dollars. As we will hear today from our witnesses, a local hospital in the San Diego sector has witnessed an unprecedented increase in traumatic brain injuries and spinal injuries from border wall falls since 2019.

To address border security, we need to address the push factors that are driving people to move north. No one wants to pick up and leave their homes and families. I ask you, if thousands of families are willing to trek through the dangerous Darién Gap to get to the United States, like the little girl in this photo behind me, you really think that a wall is going to stop a family from going north? Of course it won't. That is why we need partnerships with Mexico and countries in Latin America and Central America.

This following chart shows the magnitude of the refugee challenge we are facing just in this region alone. Countries south of the border are stepping up to help us. Colombia, for example, has taken in 2.5 million refugees. Others, like Guatemala, are allowing new migrant processing centers to be established in Guatemala. Mexico is also hosting thousands of refugees in Mexico.

The wall never helped with cooperation in the region. Refugees are not just our problem or their problem, refugees are our collective challenge and opportunity. Today we are seeing the full integration of the North American markets. Let me repeat, today we are seeing the full integration of the North American markets. Some of my colleagues will argue that the wall is an important deterrent for smugglers and criminals unlawfully entering the United States. But you can't fix a problem using a 30-year-old solution.

We heard last week during the hearings that transnational criminal organizations are exploiting legitimate private-sector trade to move fentanyl precursors and fentanyl presses and fentanyl across China, Mexico, and the United States. Now we are seeing precursors coming into the United States through our seaports. A border wall does not address this kind of a challenge. Cartels today are smuggling the overwhelming majority of drugs through our ports of entry, using very creative ways to smuggle. Just last month, CBP officers seized 900,000—900,000 fentanyl pills concealed in a porcelain sink at the Otay Mesa port of entry—at the port of entry. I really don't see how a border wall will help us tackle the drugs coming through our ports of entry. In addition, we heard last week on how cartels are now using drones, some drones that cost \$200, with a payload of \$1 million value of fentanyl to cross the border. How is a border wall gonna stop a drone?

The fact that my colleagues continue to focus on the wall again and again and again puts this committee and this Congress out of touch with what we really need to secure our country. Instead of spending taxpayer dollars, or like previous administration did, shifting money from drug-countermeasures missions, let's invest in ports of entry, additional CBP personnel, and the root causes of why refugees continue to move north.

Again, today we are seeing tremendous integration of trade between Canada, the United States, and Mexico. The trade across our borders is unbelievable. We have to invest in the technology to make sure that we stop drugs from coming into this country and make sure we continue to preserve the free flow of goods and services that help American consumers on a daily basis. Between ports of entry we can deploy innovative technologies like sensors, autonomous towers to detect and identify threats. Some of these technologies are actually being manufactured in my district today.

Let me conclude by saying that the Biden-Harris administration has engaged in these solutions. I am sad to say that my colleagues across the aisle voted against funding these initiatives to combat modern threats against proven solutions that are working today. Just ask the folks at the border. I hope that going forward, this committee can work together with others to combat not only the threats of today, but also the threats of tomorrow, and that we move beyond the solutions that were put in place 30 years ago.

Thank you, Mr. Chairman, and I yield back.

[The statement of Ranking Member Correa follows:]

STATEMENT OF RANKING MEMBER J. LUIS CORREA

JULY 18, 2023

I am glad that we all agree on the need to effectively secure our border. I don't, however, believe that a border wall is the best way to achieve that. The wall is a Clinton-era project from 30 years ago. But the challenges of today look very different than they did 30 years ago. I think the question we should all be asking ourselves is how the border wall fits into the challenges we are seeing today. Our world has changed since the Clinton era, particularly with the COVID-19 pandemic.

Many in this room voted to end the COVID-19 public health emergency, thereby ending Title 42. They also predicted border chaos, which has yet to materialize. Now many seem disappointed that numbers have dropped. That our border is under control. Because the reality is that Title 8 imposes criminal consequences on migrants who cross between ports of entry. This administration has in place a policy to deter people from crossing between ports of entry.

To be clear I don't agree with that policy. But it's hard to argue with the fact that numbers have dropped since the end of Title 42. It didn't take building a wall to make that happen. The world is experiencing an unprecedented migratory crisis like no other since World War II. As I have reiterated in the past, the challenge we face is a world-wide issue that requires worldwide solutions.

Let's be clear—the wall is not preventing migrants from coming to the United States, but rather directing migrants to cross in more remote and dangerous areas of the border. It's no surprise then that Border Patrol has seen more deaths and assisted in more rescues as a result. We've also seen more injuries, traumatizing families, and costing our hospitals millions of dollars.

As we will hear today, a local hospital in the San Diego Sector witnessed an unprecedented increase in traumatic brain injuries and spinal injuries from border wall falls in 2019. This is neither humane nor effective.

To address border security, we need to address the push factors driving people to migrate. No one wants to pick up and leave their homes and families. If thousands of families are willing to trek through the dangerous Darién Gap to get to the United States, like the little girl in this photo, do we really think that a wall is going to stop them?

It won't. That's why we need partnerships with Mexico and countries in Latin America and Central America.

This chart shows the magnitude of the refugee challenge we are facing just in this region. That countries are stepping up. Colombia, for example, is accepting millions of Venezuelans. Others, like Guatemala, are allowing new migrant processing centers to be established in their countries. The wall never helped with cooperation in the region. Refugees are not just our problem or their problem.

Refugees are our collective challenge and opportunity. Today, we are seeing the full integration of the North American markets.

Some of my colleagues will argue that the wall is an important deterrent for smugglers and criminals unlawfully entering the country. But can we solve a 21st-Century problem with a Bill Clinton solution? As we heard during last week's hearing, transnational criminal organizations are exploiting legitimate private-sector trade to move fentanyl precursors and pill presses between China, Mexico, and the United States. And, we're now seeing precursors move through our seaports. A border wall doesn't address this trade.

Cartels are smuggling the overwhelming majority of drugs through our ports of entry, using creative methods of concealment. For example, just last month, CBP officers seized 900,000 fentanyl pills concealed in porcelain sinks at the Otay Mesa port of entry. I don't see how a border wall helps us tackle the drugs coming through our ports of entry. In addition, we heard last week how cartels are using

drones that cost \$200 to send million-dollar payloads of drugs high over any border barrier. The fact that my colleagues continue to focus on the border wall again and again makes our committee look out-of-touch with reality.

Instead of spending taxpayer dollars—or in the previous administration’s case—shifting money from countering drug missions—let’s invest in our ports of entry, in our CBP personnel, and, importantly, in addressing the root causes to migration with our international partners.

In a time of exponential growth in cross-border trade, let’s dedicate resources to inspection technology to interdict dangerous drugs like fentanyl. Let’s keep the bad stuff out, and let the good things in. Between the ports of entry, we can deploy innovative technologies like sensors and autonomous towers to detect and identify threats. Some of these technologies are even being made in my district.

The Biden-Harris administration has engaged in these solutions. I’m sad to say that my colleagues across the aisle voted against funding these initiatives to combat modern threats against proven solutions that are working. I hope that going forward, this committee can work together to combat not only the threats of today, but also those of tomorrow.

Chairman HIGGINS. Thank you, Ranking Member Correa.

I now recognize the Chairman for the Subcommittee on Oversight Investigations and Accountability, the gentleman from North Carolina, Mr. Bishop, for his opening statement.

Mr. BISHOP. Thank you, Mr. Chairman, and I am glad to extend my welcome also to those who are attending today’s hearing.

I have to take a point of departure from the opening statement of the Ranking Member just articulated. Barriers are not some old technology. They aren’t from some long-ago thing from the Clinton administration. The Secure Fence Act was 2005, 2006. The progress that was made was interrupted by the Obama administration first and then, of course, all know that in 2019, President Trump declared a national emergency in recognition of the security and humanitarian crises at our Southern Border, but on the very first day in office, President Biden terminated President Trump’s proclamation and halted construction of the border wall. While this purely political decision appeases a radical-left open-borders advocacy, it does nothing to enhance the security of Americans.

The numbers do not lie. Since the 2018 election and the year following, border encounter numbers reached 20-year highs, broke records for encounters of aliens from countries other than Mexico, and more than doubled in every sector along the U.S.-Mexico border. Today, our crisis is at a boiling point. We just heard that the numbers have fallen. A boiling point with over 200,000 encounters in the month of May alone. Who is out of touch? Yet President Biden refuses to budge on restarting construction of a border barrier, wasting taxpayer dollars, encouraging illegal traffic at gaps at our border, and endangering the safety and security of Americans.

A physical border barrier slows down those seeking to illegally cross the border and enhances Border Patrol agents’ ability to apprehend those individuals. It is simply common sense and any Border Patrol agent you find will tell you that. President Biden’s failure to complete the border barrier system unquestionably hinders Border Patrol’s efforts to control the border.

As then-Chief Patrol Agent for the Del Rio sector, now chief of Border Patrol, Jason Owens, testified to this committee in a transcribed interview, a “physical barrier extends the amount of time that I and my team have to respond to and interdict, and it increases the certainty of arrest.” Another sector chief logically explained in his transcribed interview that the presence of a border

wall leads individuals to cross at areas without a barrier, which allows Border Patrol to focus resources in response. Since President Biden halted border wall construction, Border Patrol recorded more than 1.5 million gotaways who crossed illegally into the United States without being apprehended. Not being apprehended because they weren't diverted to the places where they could be apprehended or deterred or slowed. We don't know who the gotaways are. We don't know what they are doing and what they are bringing across the border. To speak of fentanyl, they catch it at the port of entry in the sink, but we don't even have any idea. It is the same small quantities that can poison hundreds of thousands or millions of Americans and we don't even know. We don't know their intentions. But we do know that cartels traffic fentanyl across the Southern Border and Americans are dying of fentanyl overdoses at historic levels.

These are among the reasons Congress acted to enhance physical infrastructure along the Southern Border. For example, Section 3 of the 2006 Secure Fence Act requires, "At least two layers of reinforced fencing, installation of additional physical barriers, roads, lighting, cameras, and sensors." Since 2006, Congress appropriated funding explicitly to construct the barrier system on the Southern Border. In fact, just 1 month before President Biden halted border wall construction, Congress included almost \$1.4 billion for the border barrier system in the Consolidated Appropriations Act for Fiscal Year 2021. It makes a mockery of the duty faithfully to execute the law.

Notwithstanding legal requirements and Congressional appropriations to build a barrier system, President Biden's Department of Homeland Security is instead spending tax dollars on environmental remediation projects. President Biden's irresponsible decision left stacks of unused construction materials exposed to the elements to rust away at project sites along the border. Reckless cost to the Federal Government, reckless waste of resources. Private citizens on the border found themselves left with the inconvenience, hazard, and expense of these materials remaining abandoned on their properties for now over 2 years. No resolution, just abandoned. That is the policy of the administration. We bought materials, we signed the contracts, but now we are getting nothing for it, just unprecedented levels of illegal immigration.

The suspension and termination of contracts also placed contractors in an untenable position. Contractors made business plans and took on expenses to fulfill their contracts. They were then forced to wait on hold for months without any clear decision while the Biden administration decided whether to honor contractual obligations. When that became something that even the Biden administration couldn't contend that they were doing any longer, they terminated contracts and contractors now, 2 years later, are saddled with the need to attempt to at least recover some of their costs. This is some madness.

With the on-going border crisis of historic proportions, we need to equip our Border Patrol agents with all tools possible to secure our border. Congress has spoken and passed laws, but the Biden administration has wasted hundreds of millions of American taxpayer dollars in canceling contracts that would finish the job. In-

stead of getting what Americans paid for, we are left with wall panels to bake in the desert and a wide open border. President Biden's unconscionable decision compromises national security.

Thanks to all for joining this hearing. I look forward to the testimony from our witnesses.

I yield back.

Chairman HIGGINS. Thank you, Chairman Bishop.

I now recognize the Ranking Member for the Subcommittee on Oversight, Investigations, and Accountability, gentleman from Maryland, Mr. Ivey, for his opening statement.

Mr. IVEY. Thank you, Mr. Chairman.

In 2015, former President Trump vowed to build a wall. He said, and I quote: "We're going to build a wall and it's going to be impenetrable. It will be a real wall." That same year, he also said, and by the way, Mexico will pay for it. It is going to be a great wall because I do, I know how to build. Absolutely none of that turned out to be true.

The border wall never even got close to being impenetrable, even the parts that had been built. I think it has been pointed out lately, because the Republican Presidential campaign has kicked off, that during President Trump's 4 years in office, only about 50 miles of the wall got built. The rest of what was done was repairing the wall that, yes, the Obama administration had put up. I also need to point out too that during that time period, the Government spent \$2.6 million to repair border wall breaches from years 2019 to 2021. The maintenance records show wide-spread damage demonstrating the wall's limitation as an impediment to illegal crossing. It didn't even stand up to winds. Sometimes it was knocked over by flooding and the like. The CBP discovered 40 tunnels from 2017 through 2021, with the greatest number being discovered in 2020. So not only were the cartels going over the wall, as Mr. Correa pointed out, and they are doing that in increasing amounts with the drones that they are now using, and they were driving around the walls. We went down to look, the walls don't do anything to block off traffic going up and down the streets, and they are certainly going under the walls as well. Don't forget the cheap ladders used to climb over the wall. We had photographs that I have seen about this. Even though they raised the height of the walls, people were still able to go over the walls or sometimes just buy, you know, Home Depot kind of saws and cut through it.

So to build his wall, since Mexico didn't pay for it, between 2017 and 2020, Congress appropriated \$4.5 billion for the construction of the new and replacement barriers along the Southwest Border. Then former President Trump pulled \$10.5 billion, diverted it, \$6.3 billion from the Department of Defense for its counter-drug programs, \$3.6 billion from military construction projects, including schools and day care centers for military families, and \$600 million from the Department of Treasury's forfeiture of funds. As I mentioned, that led to the building 52 miles over the years. That amount of money, the result at the end of the Trump administration was 52 miles of new wall.

When President Biden got into office, the remaining funds he sent back to where they were supposed to have gone to start with. But it is clear, and the GAO reported in 2021, that Mr. Trump's

desire led to a great deal of waste. One of the issues—and we will be able to talk about the contracting issue later on, but rather than doing competitive contract bids, because they had declared an emergency, were moving quickly, they did sole-source and direct-let contracts, which led to, in some instances, contracts that weren't competitively bid and didn't necessarily get the best results for dollars and cents for the American people. Because the way the Federal contracting system is structured, you want to have competition whenever you can so that you can get the best price. But the way President Trump ran these programs, it bypassed those and other issues too, like environmental protections, in order to “address the emergency” that he needed to do to build the wall.

I think along the lines—and I will shorten it up because Mr. Correa said a lot of the things that I wanted to hit on too. I think it is pretty clear at this point that building the wall, and I believe H.R. 2, which is passed by my Republican colleagues, I believe it came out of this committee with no Democratic support, calls for the construction of 900 more miles of wall. Now, at the rate that President Trump was going, I guess it will take like 45 years to do that. The cost would be astronomical. I think it is clear at this point that because the cartel is already, just from a technological standpoint, bypassed the type of protections that a wall could have provided maybe 20 or 30 years ago, putting that kind of money into those programs, as opposed to the things that meet head-on what they are doing in the cartels to get fentanyl into the United States, since 92 percent of it comes through the ports of entry, not where the walls are or even in between the ports of entry. I think we need to focus on that.

I did want to make one last point, though, to Mr. Jefferis of the Army Corps of Engineers. In reading the testimony, I did have concerns about what had happened with LoneStar Pipeline contractors. So I do want to have a chance to ask you about that. I think he raised—he sent a letter, he didn't send testimony, but that is fine. The point is the same. I do want to make sure that to the extent innocent contractors got caught up in the changes of the politics that come out of Washington, DC, they don't suffer for it.

So with that, Mr. Chairman—oh, and I did have two articles I wanted to offer to the record. We will come back to this in a minute. “Southern Border Eerily Quiet After Policy Shift on Asylum Seekers”, this is out of the *Washington Post* on July 12, and also from the *Post*, an opinion piece on “Biden's Border Policy Critics, Both Left and Right Were Wrong.”

Chairman HIGGINS. Without objection.

[The information follows:]

SOUTHERN BORDER 'EERILY QUIET' AFTER POLICY SHIFT ON ASYLUM SEEKERS

By Nick Miroff and Toluse Olorunnippa, The Washington Post

July 12, 2023 at 6 o'clock a.m. EDT

EL PASO—On the border bridge from Mexico, about 200 asylum seekers lined up on a recent morning with their phones open to a Customs and Border Protection mobile app, ready for appointments at a reception hall on the U.S. side.

Thirty miles north, the Biden administration provided a different reception for those attempting to enter the United States illegally, bringing them to a massive tent complex in the desert for migrants facing deportation. The new 360,000-square-foot facility's shelves were stocked with diapers, snacks and baby formula, signs of

the administration's efforts to meet the changing demands of U.S. immigration enforcement.

The two locations illustrate the extent to which Biden administration officials have begun transforming the way asylum seekers and migrants are processed along the southern border since May 11, when the White House lifted the pandemic policy known as Title 42. The policy had allowed quick expulsions of migrants who entered the United States illegally but no penalty for those who tried to get in again and again.

Now the administration is allowing tens of thousands of migrants to enter the United States legally each month through the mobile app CBP One, while those who don't follow the rules face ramped-up deportations and tougher penalties.

The preliminary result is a nearly 70 percent drop in illegal entries since early May, according to the latest U.S. Customs and Border Protection data. After 2 years of record crossings and crisis-level strains, the Biden administration appears to have better control over the southern border than at any point since early 2021.

The president's critics continue to depict his border policies as too permissive—geared more toward accommodating mass migration than deterrence. But the decline in illegal crossings undermines a key line of attack for President Biden's Republican critics and bolsters Democrats' argument that the pandemic expulsion policy was partly to blame for record numbers of border arrests.

Administration officials acknowledge it is too soon to tell whether their new approach can achieve lasting effects. Republican State officials are suing in Federal court to block Biden's policies expanding legal entries through CBP One. At the same time, immigrant advocacy groups have filed challenges in Federal court to Biden's new border restrictions on asylum seekers who cross illegally.

The recent drop in illegal crossings does not mean fewer than half as many migrants are coming to the United States. President Biden is allowing roughly 43,000 migrants and asylum seekers per month to enter through CBP One appointments and accepting an additional 30,000 through a process called parole. The new legal channels appear to be absorbing many of the border crossers who for years have entered unlawfully to surrender in large groups, overwhelming U.S. border agents.

U.S. agents made about 100,000 arrests along the Mexico border in June, the first full month that Biden's new measures were in effect, down from 204,561 in May, according to the latest CBP data. It was the largest 1-month decline since Biden took office.

Imelda Maynard, the legal director of Diocesan Migrant & Refugee Services in El Paso, which aids migrants, described the past several weeks in the city as "eerily quiet." The number of migrants released by CBP onto the streets of El Paso dropped to zero in recent days, according to the city.

"We've been so used to putting out fire after fire, we're like: Where are all the people?" Maynard said.

'We're so close'

On the outskirts of El Paso, where for much of the past 2 years migrants have attempted to enter illegally each day through the steep canyons of Mount Cristo Rey, a CBP helicopter and a team of agents gave chase one recent morning to a single border-crosser. He turned back south.

With CBP using more contractors at its facilities to help perform tasks such as data entry, medical screening and child care, Biden officials say more U.S. agents can return to patrol duties. That appears to be making it harder for border-crossers to sneak through.

The factors that have fueled migration to the United States remain largely unchanged, but for the first time since Biden took office, the President's team is testing a new border-management strategy, one it considers a more humane and effective alternative to the Trump administration's approach. At the heart of the strategy is a belief that reducing the chaos and illegality of migration is more feasible than trying to stop it.

Legislative proposals to overhaul the U.S. asylum process continue to face steep odds in a polarized U.S. Congress, which hasn't passed significant immigration legislation in nearly two decades.

Blas Nuñez-Neto, the top border policy official at the Department of Homeland Security, said the Administration's measures remain vulnerable to adverse court rulings because they rely on executive actions rather than congressional fixes, which remain stalled.

The fact that the new Biden system is working as intended is encouraging, Nuñez-Neto said in an interview. "But it's still too early to draw any definitive conclusions about what we're going to see in the coming weeks and months."

For migrants in Mexican border cities trying to secure a CBP One appointment, the wait can be harrowing.

Jose Ricardo Pimentel, a 33-year-old Venezuelan, stood on the bridge on a recent morning. Lowering his voice to a whisper, he acknowledged that he'd slipped into the line without an appointment that day because he was so desperate to leave Mexico.

"I was kidnapped along the highway to Ciudad Juárez and held for 22 days," he said. "I'm scared."

Pimentel reached the front of the line to plead his case, but U.S. officers saw his name wasn't on their list. They turned him back.

Pimentel fell in behind other families who lacked appointments but were clinging to faint hopes the CBP officers would allow them to enter anyway.

Leidimar Muñoz; her husband, Alexander Gonzalez; and their 7-year-old daughter, Yefreannys, waited there, too, but they gave up after 5 hours in the 100-degree heat.

"My daughter couldn't stand it any longer," said Muñoz, also from Venezuela. "She was hungry and asking to use the bathroom."

The family walked back down the bridge into Ciudad Juárez, then laid out a blanket under the bridge's shade, sharing a plate of chicken and fried rice from a foam container. Yefreannys took out Play-Doh and Barbie dolls from a dusty backpack with a cat face.

Muñoz had registered the family for a CBP One appointment 8 days earlier. The average wait for an appointment was 4 to 6 weeks, but she didn't want to move into a shelter farther away from the border bridge. They were spending nights under the bridge, sleeping outdoors on the patio of a Mexican migrant services center.

Downtown El Paso seemed within grasp, its skyline visible past the border wall and the spools of concertina wire.

"We're so close," Muñoz said.

Before May 11, the family could have joined the tens of thousands of other Venezuelans crossing illegally and surrendering to border agents with an expectation they'd be quickly released into the United States. Now doing so would risk deportation back to Mexico and ineligibility for asylum. Muñoz had to wait, glued to the mobile app.

Criticism from all sides

The drop in illegal crossings has given Biden a reprieve on one of his most vulnerable issues ahead of next year's Presidential election. White House officials expressed a sense of validation at seeing the border numbers fall after the expiration of the pandemic restrictions—noting how Republican politicians had been warning of impending chaos after May 11.

But even as Biden's aides expressed relief, the president himself has largely refrained from calling out his detractors over the issue. The challenges with border enforcement have vexed his administration since its earliest days, with fast-changing migration patterns, court orders that kept Title 42 in place and criticism from both liberals and conservatives.

The issue is bound to remain a sticking point during the 2024 campaign. Former president Donald Trump—who initiated the Title 42 policy and predicted that its end would lead to record migration—has accused Biden of deliberately undermining border security by lifting the restrictions.

Recent polling indicates that immigration is one of Biden's biggest political liabilities, with 6 in 10 adults saying they disapprove of his handling of the border, according to a recent AP-NO RC poll. In the aftermath of Title 42's lifting, several Republican candidates have announced Presidential bids—and almost all of them have used their campaign launches to attack Biden on immigration.

In some cases, the disapproval is coming from Biden's side of the aisle—with Democrats criticizing him as being too harsh toward migrants.

Crystal Sandoval, director of strategic initiatives for Las Americas, an advocacy group working on both sides of the border, said Biden's restrictions have effectively "ended" access to asylum. Though the administration is allowing tens of thousands to enter with CBP One appointments to live in the United States while their protection claims are pending in U.S. courts, asylum seekers who might be fleeing immediate danger face new hurdles if they cross the border illegally.

"Is it really due process?" said Sandoval, whose organization has been helping migrants in Ciudad Juárez fix errors to their CBP One registrations.

"I expected more," she said. "We can and should do better."

A floating city

The deceased man lay facedown in a sandy berm about five miles north of the border wall and 100 yards from a highway.

A CBP helicopter first spotted him, sending agents on horseback. They estimated he'd been there about a week. Pieces of sponge were glued to his boot soles, a tactic used to mask footprints. The sun had left his limbs the color of charcoal.

He was one of two deceased migrants recovered in the Santa Teresa, N.M., area, just outside El Paso, on a recent morning.

Crossings have historically dipped during the peak summer months when temperatures along the border soar past 100 degrees. But as migrants trying to evade capture face tougher odds to sneak through, they often resort to more remote areas with greater risk. They may be U.S. deportees, or have criminal records, making them ineligible for CBP One.

Border agents in CBP's El Paso sector are still averaging 400 to 500 arrests per day, bringing detainees to the sprawling new detention facility comprising brightly lit, climate-controlled tents that resemble puffy clouds. The size of six football fields, it is the largest and perhaps least harsh CBP facility ever built, with capacity for more than 2,500.

The Border Patrol supervisor running the facility likened it to a cruise ship—a small self-contained city floating on the desert. With hot showers, onsite laundry and scores of private booths where migrants can videoconference with attorneys, asylum officers and immigration judges, the facility's operating costs exceed more than \$1 million per day.

Border Patrol officials said the facility allows them to manage detainees using far fewer agents. They can reserve the more austere, jail-like detention cells at Border Patrol stations for migrants considered security risks. Family groups, unaccompanied minors and others deemed lower risk can be held at the tent complex, where contractors perform administrative and custodial tasks that have long grated on agents.

Rep. Tony Gonzales (R-Tex.), a border-district lawmaker who criticized the new facility's price tag after a recent tour, said 100,000 illegal crossings a month still add up to more than a million annually, near historic highs. Asylum seekers who are released into the United States while their claims are pending rarely end up deported, even though the majority of their cases are rejected in U.S. immigration court, he said.

"If this is what the administration thinks is a win, they're on the complete wrong path," Gonzales said.

He said he is concerned that the arrival of tens of thousands of migrants through CBP One has effectively "streamlined and normalized illegal immigration."

"So they won't be deported, but they'll be living in the shadows all their lives," Gonzales said. "It's wrong to funnel them down a dead end."

Under CBP policy, 72 hours is the maximum amount of time migrants should remain in the agency's custody before they are released or transferred to another agency such as Immigration and Customs Enforcement for longer-term detention. The 3-day window is generally too short to resolve asylum seekers' claims of persecution in their home countries.

The Biden administration appears to be using the new tent complex to hold detainees longer, allowing more time for the government to apply the new asylum restrictions and deport those who disregard the CBP One route.

Border Patrol officials providing a tour of the facility did not allow interviews with detainees. But one man lining up for a shower said he'd been there 18 days.

Olorunnipa reported from Washington.

OPINION: ON BIDEN'S BORDER POLICY, CRITICS BOTH LEFT AND RIGHT ARE WRONG

By the Editorial Board, The Washington Post

July 14, 2023 at 7:30 a.m. EDT

Uncontrolled migration across the U.S.-Mexico border is not in anyone's interest except, perhaps, for the smugglers who profit by charging people to make the difficult and dangerous trek. After much hesitation, during which unauthorized attempted border crossings reached an all-time high of 2.76 million in fiscal 2022, the Biden Administration acted to stem the flow and redirect it into lawful, more manageable channels. Initial data from the Department of Homeland Security shows progress: Daily Border Patrol encounters with migrants fell from 10,000-plus just before May 11, when the policy went into effect, to 3,400 in early June. Set forth

in regulations finalized May 10, the plan seems to be preventing the border chaos many had feared would follow expiration of emergency powers under Title 42, a public health law that had allowed Federal authorities to expel migrants summarily during the pandemic.

There's a catch, though: President Biden's policy has to be consistent with Federal law. And critics from both ends of the political spectrum have gone to Federal court arguing that it's not. On July 19, a judge in Oakland, Calif., is set to hear a coalition of immigrants' rights advocates, headed by the American Civil Liberties Union, who claim, in effect, that the Biden plan unlawfully truncates the right to asylum. Meanwhile, red States, headed by Texas, accuse the administration of the opposite: letting in hundreds of thousands of migrants without sufficient legal authority.

The courts should let the administration's approach, which includes a 2-year time limit, run its course. Some of the legal arguments against it are serious. Yet, so is the Biden administration's case: that the President is trying to address a major problem through a pragmatic exercise of his existing authority.

Essentially, the new policy offers migrants incentives and disincentives—carrots and sticks—the net effect of which is to discourage irregular border-crossing. The disincentive, framed as a “rebuttable presumption” against entry, is swift expulsion and a 5-year bar on reentry for those who cross between ports of entry without first seeking asylum in a third country en route. The incentive is that these tough conditions do not apply to migrants who first make appointments using a cellphone app to apply for asylum at ports of entry and wait in Mexico for their turn. The rule contemplates advance processing for asylum in a third country as well. Separately, it offers 30,000 people per month from Venezuela, Nicaragua, Cuba, and Haiti—main sources of the 2022 border surge—direct access to the United States via 2-year humanitarian parole, provided they have a U.S. sponsor.

Mr. IVEY. Thank you, Mr. Chairman.

With that, I yield back.

Chairman HIGGINS. The gentleman yields.

Other Members of the committee are reminded that opening statements may be submitted for the record.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JULY 18, 2023

We are here today to focus on a policy that has little to do with border security, and that's Donald Trump's border wall. Trump's wall has not only been ineffective in providing security at the border, but it's also had a devastating financial and humanitarian cost. Financially, this wall has been a disaster for the American people.

Former President Trump promised Mexico would pay for this wall. Mexico has not paid one penny toward the wall. Instead, former President Trump and Republicans have left American taxpayers to foot the bill.

Let's remember, the strategy to build the border wall had so little support that the Trump administration had to divert billions of dollars away from the Department of Defense to build a small part of the ineffective border wall. This ill-conceived plan resulted in the previous administration building only 52 miles of new border wall when the regional plan called for 1,000 new miles.

These 52 miles of new wall cost taxpayers billions of dollars. In fact, some segments cost the American taxpayers up to \$46 million per mile. The billions of dollars spent on this wall have not made the border more secure or stopped migrants from coming to our border.

Numerous reports suggest individuals are using \$100 power tools to breach the wall. CBP reports the border wall was breached over 4,000 times in just fiscal year 2022. As a result, CBP spent \$2.6 million from fiscal years 2019 to 2021 to repair damages to parts of the wall that were breached by individuals. Again, at the expense of American taxpayers.

Costly repairs also occurred due to weather damage. High winds and flooding have caused parts of the wall to fall or separate, creating huge openings in the barrier. It's clear the border wall has serious flaws and limitations as a deterrent. The financial cost to build and maintain Trump's wall is exorbitant, but nowhere near as damaging as the humanitarian cost it has created.

A record number of people world-wide are being forcibly displaced. People are fleeing war-torn countries, persecution, and human rights abuses. Individuals fleeing these terrible situations come to America in their most desperate hour. When we

only have restrictive border policies, and no realistic pathway to legal immigration, migrants cross illegally out of desperation.

These are families willing to brave the Darién Gap and the treacherous journey to the border to seek help and opportunity. It should be no surprise that they are also willing to climb a 30-foot wall and risk injury or death to get to America. Tragically, we are seeing more injuries and deaths. There have been at least 28 deaths as a result of falls from border walls and fences from 2019 to 2022. The wall indirectly causes injuries and deaths by pushing individuals even further out into remote areas and treacherous conditions to cross. Clearly, the 30-foot border wall is inhumane, in addition to being ineffective.

In addition, it's ironic that the Republicans titled this hearing "Opening the Flood Gates: Biden's Broken Border Barrier" when a storm in Arizona blew the flood gates in Trump's wall off their hinges. And when flooding in Nogales, Mexico has been tied to the border wall. If we want to be serious about securing our border, let's look at things that actually work like providing better technology and more personnel.

I urge my Republican colleagues to join Democrats in finding effective and humane measures to secure our border.

Chairman HIGGINS. I am pleased to welcome our first panel of witnesses.

Let the record reflect that the witnesses have answered in the affirmative. Thank you. Please be seated.

[Witnesses sworn.]

Chairman HIGGINS. I would like to now formally introduce our witnesses.

Ms. Ntina Cooper serves as the acting deputy executive assistant commissioner for enterprise services at the United States Customs and Border Protection, Colonel Jason Jefferis graduated from West Point Military Academy in 1996 and currently serves as the head of contracting activities for the United States Army Corps of Engineers. Ms. Rebecca Gambler is the director of the U.S. Government of Accountability Office's Homeland Security and Justice Team, where she leads projects concerning border security, immigration, and election issues.

I thank the witnesses for being here today. The witnesses' full statements will appear in the record.

I now recognize Ms. Cooper for 5 minutes to summarize her opening statement.

STATEMENT OF NTINA K. COOPER, ACTING DEPUTY EXECUTIVE ASSISTANT COMMISSIONER FOR ENTERPRISE SERVICES, UNITED STATES CUSTOMS AND BORDER PROTECTION

Ms. COOPER. Thank you. Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and distinguished Members of the subcommittee, thank you for the opportunity to testify today about CBP's use of physical barriers as part of the U.S. Border Patrol's critical role in securing the Southwest Border between the ports of entry.

As these committees know, the Southwest Border environment in which CBP works is complex and requires continual adaptation to respond to dynamic threats and changing operational environments. CBP's multifaceted approach to border security not only prioritizes investments in personnel, modern technology, and infrastructure, but also non-materiel capabilities including domestic and foreign partnerships, as well as intelligence and information sharing. Additionally, the immense diversity of terrain, threats, and operational conditions across each Border Patrol sector along the Southwest Border requires that CBP acquire and deploy the right

combination of resources, including physical barriers and related attributes, tailored to address specific operational requirements, and enhance our detection and interdiction of unlawful cross-border activities.

Today I would first highlight how CBP uses border barriers along the Southwest Border, then describe our requirements and acquisition process for deciding where and what type of barrier and attributes to use, and finally, share the status of current barrier and system attribute-related projects.

First, CBP uses barriers to impede unlawful entries into the United States and to provide agents additional time to effectively and safely respond to incidents that require a law enforcement resolution. Barriers are most effective when used as part of a border barrier system that incorporates other critical attributes, including surveillance and detection technology to provide domain awareness, and roads and lighting to provide Border Patrol agents with improved access, mobility, and visibility. The Border Patrol evaluates each unique operating environment and utilizes a rigorous requirements management process, including the capability gap analysis process that we refer to as CGAP. This larger process engages Border Patrol field personnel at all levels, soliciting input that is used to identify capability gaps, generate operational requirements, and ultimately inform the identification of effective and efficient solutions, such as technology or the deployment of physical barrier system to meet those requirements.

USBP uses its requirements development process, including a complementary decision support tool, to prioritize investments in border barrier solutions. The tool takes into account quantitative and qualitative operational factors, everything from vanishing times, total known flow, narcotic seizure information, and agent assaults, to the ability to contain and deny entries, and many other factors. The scoring created by this tool supports the prioritization and decision making process. Through an established governance structure, USBP layers the latest intelligence on changing operational conditions over the raw scoring of the tool to finalize a prioritized list. Once the prioritized list is established, CBP applies land acquisition, engineering feasibility, environmental factors, and cost considerations in developing its border barrier system acquisition approach. The comprehensive approach is critical for ensuring CBP makes informed decisions relating to acquiring the most effective system solutions tailored to specific locations along the Southwest Border.

Consistent with the guiding principles in the Department of Homeland Security Border Wall Plan, which provides for the use of prior year border barrier funding, CBP is currently moving forward with several border barrier projects across the Southwest Border, including actions to construct border barriers and system attributes in the Rio Grande Valley sector, and complete fence replacement in the Yuma and El Centro sectors. These projects are designed to ensure that the previously-installed border infrastructure functions as it was intended, address enforcement vulnerabilities, and improve operational conditions for Border Patrol agents, make the project areas safe for agents, migrants, and

adjacent communities, and prevent further environmental degradation in areas impacted by border barrier construction.

As with all major acquisition programs, CBP's border barrier system requirements development process is continuous, meaning we conduct assessments of new acquisitions and perform periodic assessments of deployed materiel and non-materiel solutions to evaluate how well a deployed solution meets and continues to meet technical parameters and identified requirements. While Border Barrier is a valuable tool, it is one of many investments in personnel, technology, and partnerships that all work together to create the right combination of resources in the right locations to help Border Patrol agents gain operational advantage while supporting the daily enforcement of immigration laws and counteracting illegal activity along the Southwest Border.

I thank you for the opportunity to testify today and look forward to your questions.

[The prepared statement of Ms. Cooper follows:]

PREPARED STATEMENT OF NTINA K. COOPER

JULY 18, 2023

INTRODUCTION

Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and Members of the subcommittee, thank you for the opportunity to discuss U.S. Customs and Border Protection's (CBP) use of physical barriers as part of the U.S. Border Patrol's (USBP) critical role in securing our borders between the ports of entry along the Southwest Border.

The border environment in which CBP works is dynamic and requires continual adaptation to respond to emerging threats and changing conditions. CBP's multifaceted border security approach along the Southwest Border not only prioritizes investments in personnel, modern technology, and infrastructure, but also non-material capabilities such as domestic and foreign partnerships, and efficient intelligence and information sharing, critical to addressing the complex border environment and enhancing our detection and interdiction of unlawful cross-border activities. These investments increase CBP's ability to detect illegal activity along the border, increase our operational capabilities, and improve the safety of frontline law enforcement personnel.

Each USBP sector along the Southwest Border is different, with different terrain, natural barriers, egress routes from the immediate border area, and varying threats and operational conditions. While some sectors may be better served by more personnel, others might benefit from increased technology, such as Autonomous Surveillance Towers, that could monitor remote areas more easily, or counter-unmanned aerial system (C-UAS) technologies to detect and mitigate the illicit use of drones. When placed in strategic areas, physical barriers work in conjunction with detection technology and other attributes to support USBP's ability to protect the border against unlawful entries into the United States, often providing agents additional time to carry out law enforcement resolutions. USBP evaluates each unique operating environment and consults with field commanders on what is necessary in their particular area of responsibility to allow for the best mix of resources in any given sector.

BORDER BARRIER SYSTEM

As part of an integrated "border barrier system," physical barriers, whether in the form of a steel bollard, levee fencing, or other designs, are typically complemented by attributes such as a tailored array of surveillance and detection technology, and all-weather roads and lighting. These system components work together to increase USBP's domain awareness, access and mobility, and ability to impede and/or deny unlawful entries.

Border Barrier Requirements and Acquisition Process

USBP leverages a robust requirements management process, including the Capability Gap Analysis Process (CGAP), to identify areas of the border where gaps in

capability create vulnerabilities or risks to border security or border security operations. The process engages USBP field personnel at all levels, soliciting input that is used to generate operational requirements and, ultimately, inform the development of effective, efficient, material, and/or nonmaterial border security solutions. USBP continues to mature its requirements management capability, which began with CGAP in 2014, to identify capability gaps, generate requirements to address those gaps and ultimately identify solutions, such as technology and/or the deployment of border barrier system, to meet those requirements.

Assessments of new attributes as well as periodic assessments of deployed material and nonmaterial solutions help CBP better evaluate how well a deployed solution meets technical parameters and addresses identified requirements. This process is critical for ensuring CBP makes informed decisions related to acquiring the most effective and best value technology and barrier solutions and attributes tailored to specific locations along the Southwest Border.

CBP has also implemented a complementary Decision Support Tool 2 (DST2) to prioritize investments in border barrier system solutions to address identified vulnerabilities across the Southwest Border. The tool applies several weighted categories that address operational needs and takes into account the current infrastructure laydown as well as metrics of known flows of unlawful cross-border activity. The tool is comprehensive considering both quantitative and qualitative operational factors, everything from vanishing times,¹ total known flow, narcotics seizure information, agent assaults, to ability to contain and deny entries and many other factors. The scoring created by this tool supports the prioritization and decision making process through an established governance structure that layers the appropriate strategy and latest intelligence on changing operational conditions over the raw scoring of the tool. Once the prioritized list is established, CBP considers land acquisition, engineering feasibility, environmental factors, and cost/affordability in developing its acquisition approach.

Using the identified and prioritized border barrier system requirements, CBP executes a deliberative acquisition program in accordance with DHS's acquisition management directives and processes.² The process also breaks down the acquisition program into stages allowing for approval (or disapproval, as appropriate) of procurement recommendations and close oversight of the execution of contracts and the deployment of infrastructure and technology by the Acquisition Decision Authority.

BORDER WALL PLAN

On January 20, 2021, President Biden issued Presidential Proclamation 10142, Termination of Emergency with Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction. Since that time, DHS issued its Border Wall Plan Pursuant to Presidential Proclamation 10142 (the Plan)³ and has authorized CBP to resume several barrier projects necessary to address life, safety, environmental or other remediation measures in accordance with the Plan.

DHS approved an amendment⁴ to the Plan on July 11, 2022, that allows for additional uses of fiscal year 2018–2021 appropriations to prioritize environmental remediation and mitigation, as well as to install system attributes such as lighting, cameras, and detection technology in places where barrier was constructed but the planned system attributes were left incomplete at the time of the pause. Procurement actions and construction projects are under way across 7 of USBP's Southwest Border sectors to support this work. As of July 1, 2023, CBP has closed 68 gates and gaps in the border barrier, and we are working to close an additional 61 gates and gaps along with life, safety, environmental, and other remediation activities at incomplete border barrier construction sites.

Furthermore, CBP has been able to use some of the previously-procured construction materials for current projects. For example, CBP has been able to utilize previously procured steel bollards for projects such as the Yuma Hill Gap Closure Project. CBP is also using other materials such as rip-rap (rock/aggregate), gate hardware and operators, and some concrete culvert pipes for make-safe projects at

¹The amount of time an individual who has unlawfully crossed the border generally has before they have access to shelter and/or transport. Depending on the operational environment, this could vary from minutes to hours.

²DHS Directive 102–01, https://www.dhs.gov/sites/default/files/2022-03/22_0321_cio_acquisition-management-directive.pdf.

³<https://www.dhs.gov/publication/department-homeland-security-border-wall-plan-pursuant-presidential-proclamation-10142>.

⁴<https://www.dhs.gov/publication/amendment-dhs-border-wall-plan-pursuant-presidential-proclamation-10142>.

incomplete former Department of Defense project sites. In accordance with the Plan, CBP will continue to evaluate if remaining materials from former projects will be disposed of or used for any possible future projects.

Consistent with the guiding principles in the Plan, on June 30, 2023, DHS announced that it had authorized CBP to move forward with the planning and execution of up to approximately 20 miles of border barrier system in the USBP Rio Grande Valley (RGV) Sector, as mandated by the DHS fiscal year 2019 border barrier appropriation.⁵

As required by DHS's fiscal year 2019 appropriation, CBP will be using 18-foot steel bollard fence panels placed in removable concrete jersey barriers, as the steel bollard design remains the most operationally effective design and has been tested and evaluated over the last several years. This project will also include the installation of system attributes, such as detection technology, lighting, and access roads. The proposed project, which does not involve the use of U.S. Fish and Wildlife refuge tracts, is located within Starr County, Texas, which is USBP's highest-priority location within the RGV Sector.

In addition, DHS authorized CBP to move forward with the Yuma Andrade and El Centro Calexico Fence Replacement Projects. Both projects will replace dilapidated segments of legacy fencing that presently create potential safety and security concerns for USBP agents, migrants, and the surrounding community. The decision to proceed with these replacement projects, similar to previously-approved projects, prioritizes the completion of activities and projects needed to address life, safety, and operational risks—including the safety and security of individuals, Border Patrol agents, migrants, and nearby communities.

Environmental and Community Impact

As set forth in the Plan, CBP has prioritized efforts to address safety hazards and remediate and mitigate environmental damage from incomplete construction at border barrier project sites. Activities include, but are not limited to, remediating temporary use areas such as staging areas, haul roads, and project areas impacted by construction, completing erosion control measures, repairing drainage gates to prevent flooding, and addressing other environmental requirements, such as installing small wildlife passages. The remediation work is intended to ensure that the previously-installed border infrastructure functions as it was intended, improve operational conditions for USBP, make the project areas safe, and prevent further environmental degradation in areas impacted by prior border barrier construction.

CBP and the Department of the Interior (DOI) have developed a plan and are implementing mitigation projects to address impacts to cultural and natural resources associated with past barrier construction projects. Mitigation projects may include actions to address impacts to Tribal cultural resources, restoring or replacing habitat, offsetting damaged cultural sites and studies to assess impacts of barrier construction on threatened or engaged species. These activities are intended to identify and address long-term impacts from the barrier on cultural and natural resources.

As part of environmental planning efforts for new construction projects, CBP consults with Federal, State, local, and other relevant stakeholders to identify potential resources that may be present within a planned project area to avoid these resources or develop measures to offset or mitigate potential impacts, to the greatest extent possible, while still meeting operational requirements. CBP is committed to limiting the impacts of border barrier construction on sensitive lands and wildlife along the Southwest Border including in national wildlife refuges, national forests, national monuments, wilderness areas, and on imperiled species.

CBP works diligently to integrate responsible environmental practices, including incorporating sustainable practices, into all aspects of its decision making and operations.⁶ Working closely with the U.S. Fish and Wildlife Service, the Bureau of Land Management, the U.S. Forest Service, and the National Park Service, CBP implements best management practices that are designed to minimize or avoid impacts to sensitive biological, cultural, and natural resources during construction, to the greatest extent possible, while still meeting operational requirements. Where avoid-

⁵ <https://www.cbp.gov/newsroom/local-media-release/cbp-moves-forward-rgv-barrier-and-yuma-andrade-and-el-centro-calexico>.

⁶ CBP's environmental planning includes the preparation of an Environmental Assessment or Environmental Impact Statement, in compliance with the National Environmental Policy Act (NEPA). For some projects, the DHS Secretary may determine it is necessary to exercise authority in Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to waive certain environmental laws, including NEPA, to expedite construction of border infrastructure. In this case, CBP seeks to accomplish responsible environmental planning within a managed time frame to meet operational needs and prepares and implements an Environmental Stewardship Plan.

ance is not possible, CBP consistently demonstrates our strong commitment to environmental stewardship by evaluating and identifying possible mitigation measures for implementation to offset impacts.

Throughout the planning, design, and construction process, CBP completes project, budget, real estate, and environmental planning to maximize transparency and accountability and to ensure the most effective and efficient solutions are deployed to meet requirements. CBP is committed to ensuring that all stakeholder communities, including Federal partners, State, local, and Tribal officials, and impacted communities, are kept informed and engaged throughout this process.

CBP continues to review border barrier projects presenting life, safety, environmental, or other remediation needs and will continue to conduct environmental planning activities for planned projects. Any future construction will be conducted in accordance with enacted appropriations and in line with the intent to utilize a range of tools including smart border technology to enhance security along the border as warranted by requirements in specific areas.

CONCLUSION

Infrastructure is just one piece of the border security enterprise. While infrastructure acts as a tool that allows our agents time to respond to activity, it is not the only operational resource. Investments in personnel, technology, and partnerships all work together to help CBP gain situational awareness, mitigate the flow of irregular migration, and protect our borders between the ports of entry along the Southwest Border.

All of these improvements and investments have helped CBP provide a greater response to border incursions, while supporting the daily enforcement of immigration laws and counteracting other illegal activity along the Southwest Border.

Thank you for the opportunity to testify today. I look forward to your questions.

Chairman HIGGINS. Thank you, Ms. Cooper.

I now recognize Colonel Jefferis for 5 minutes to summarize his opening statement.

STATEMENT OF COLONEL JASON K. JEFFERIS, HEAD OF CONTRACTING ACTIVITIES, UNITED STATES ARMY CORPS OF ENGINEERS

Colonel JEFFERIS. Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and distinguished Members of the subcommittees, thank you for this opportunity. My name is Colonel Jason Jefferis.

I'm here today in my capacity as the head of contracting for the U.S. Army Corps of Engineers. As an organization entrusted with the responsibility of managing a large, complex portfolio of infrastructure projects to include those with border security, we truly appreciate the significance of an efficient and transparent contracting process and ensuring the successful execution of our Nation's priorities. We take this responsibility seriously.

The Corps has a long-standing relationship with Customs and Border Protection. From 2003 to 2018, the Corps partnered with CBP under various authorities, to include the Secure Fence Act of 2006. During this time, we completed approximately 650 miles of border barrier consisting of approximately 350 miles of pedestrian and another 300 miles of vehicular. Since that time, three distinct authorities have guided USACE's involvement in border wall construction. Support to Homeland Security under the Economy Act and then later support to DoD under 10 U.S. Code Sections 284 and 2808. Regardless of the authorities and the appropriations used, the Corps has acted as the design and construction agent for all three programs, including the requisite acquisition support. In performance of these duties, USACE prioritized competition to the extent practical, while ensuring the contracting process is con-

ducted fairly and transparently. In recent years, there has been significant interest in these contracts, including from the U.S. Government Accountability Office, who found that the Corps conducted these acquisitions consistent with applicable laws and regulations.

On January 25, 2017, the President of the United States issued Executive Order 13767 titled “Border Security and Immigration Enforcement Improvements”, requiring Secretary of Homeland Security to take all the appropriate steps to immediately plan, design, and construct a physical wall along the Southern Border. USACE received this mission to support these efforts under the Economy Act. On 15 February 2019, the President declared a national emergency on the Southern Border, making certain emergency authorities available to the Department of Defense, including 10 U.S. Code 2808 and Section 284. On February 25, Homeland Security requested DoD assistance in securing the Southern Border. On March 25, USACE received formal designation as the construction agent for these programs with the direction for the construction to begin at the end of that fiscal year. In response, we immediately proceeded with the development and award of contracts under the 284 program while simultaneously continuing the execution of contracts under the DHS annual appropriations.

On September 3 of that year, the Secretary of Defense provided specific guidance on the undertaking of emergency military construction projects pursuant to 10 U.S. Code 2808. USACE awarded contracts in response to this guidance beginning in November 2019.

On January 20, 2021, the President terminated the National Emergency Declaration with respect to the Southern Border and directed the secretaries of both departments to pause construction and obligation of funds and to create respective implementation plans.

On January 23, the deputy secretary of Defense directed the immediate pause of all construction and on April 30 the Secretary of the Army directed the Corps to cancel all construction undertaken with DoD authority. The Corps terminated those contracts the next day pursuant to Federal Acquisition Regulation Clause for termination for convenience to the government. This termination process has numerous steps, including a receipt of termination settlement proposal from each prime contractor, followed by an audit of these proposals by the Defense Contract Audit agency. Only then can the contracting officer begin negotiating final contract settlement amounts. This is a lengthy process and is still on-going and projected to continue into 2024 for some contracts.

DHS directed the Corps to begin the process for partially canceling some of the border wall program on September 17 of 2021 with the continuation of certain life safety activities for certain levy and non-levy projects. The Corps began the partial termination convenience process for the affected contracts in October 2021.

Again, I want to thank you for the opportunity to be here today and thank you for your continued support for the soldiers and civilians of the Army Corps of Engineers.

I look forward to your questions.

[The prepared statement of Colonel Jefferis follows:]

PREPARED STATEMENT OF COLONEL JASON K. JEFFERIS

JULY 18, 2023

Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and distinguished Members of the subcommittees, thank you for the opportunity to address you today on behalf of the U.S. Army Corps of Engineers (USACE).

The Contracting Activity for USACE is entrusted with executing contracts to manage complex infrastructure projects. We understand the significance of an efficient and transparent contracting process to ensure the successful execution of our Nation's priorities, and take this responsibility seriously.

USACE has a proud history of delivering critical infrastructure projects with the highest standards of quality, cost-effectiveness, and integrity. We recognize that the border wall project has garnered substantial attention, both in terms of its nationally-prominent mission and the associated challenges it presented.

USACE plays a critical role in the planning, design, and construction of various infrastructure projects across the United States, including those related to border security. In the context of the border wall, USACE has a long-standing relationship with the Department of Homeland Security (DHS), Customs and Border Protection (CBP). From 2003 until 2018, USACE partnered with CBP to complete approximately 653 miles of border barrier, which included approximately 353 miles of pedestrian barrier and 300 miles of vehicular barrier. Our efforts associated with this work included real estate planning, environmental mitigation, and design and construction. These efforts were under various authorities including the Secure Fence Act of 2006. In 2017, USACE assisted CBP by providing engineering subject-matter expertise to assist with the solicitation of prototype border barriers and the evaluation of prototype construction methods proposed by CBP contractors. In relation to border wall construction, three distinct authorities guided USACE's involvement; support under the Economy Act to CBP utilizing CBP appropriations, and later, USACE's support to the Department of Defense (DoD) under 10 U.S.C. § 284 and § 2808. Regardless of the authorities and appropriations used, USACE acted solely as the design and construction agent for CPB and DoD/Army, meaning USACE provided design and construction services, to include contract award and oversight and acceptance of the contracted work. In performing duties under these authorities, USACE ensured that the contracting process was conducted fairly, transparently, and in accordance with applicable laws and regulations.

Transparency and accountability are fundamental principles within the Federal Acquisition system and guide USACE's contracting practices. Throughout the procurement process, we prioritized open competition to the maximum extent practicable given program requirements.

Over the past several years, there has been significant interest in our border barrier procurements, including from the U.S. Government Accountability Office (GAO). The GAO found that USACE conducted its acquisitions consistent with applicable laws and regulations.

On January 25, 2017, the President of the United States issued Executive Order 13767, titled, "Border Security and Immigration Enforcement Improvements," requiring the Secretary of DHS to take all appropriate steps to immediately plan, design, and construct a physical wall along the Southern Border. USACE received the mission to support DHS's Border Infrastructure Program under the Economy Act. The program anticipated approximately \$20 billion of border infrastructure construction to be executed over a 10-year period, using both Design-Build and Design-Bid-Build delivery methods to execute various requirements such as fence, wall, patrol roads, access roads, lights, gates for access to border monuments, maintenance, and for Border Patrol operational use, drainage improvements, levee walls, and other miscellaneous improvements, repairs, and alterations. USACE used a mix of existing contracting tools to execute immediate and near-term actions, while completing the acquisition planning process to create two to four separate Design Build Multiple Award Task Order Contracts targeted for award in 2019.

On February 15, 2019, the President of the United States declared a national emergency on the Southern Border making available certain emergency authorities to include 10 U.S.C. § 284 and § 2808.

On February 25, 2019, pursuant to 10 U.S.C. § 284, DHS, through CBP, requested that DoD assist DHS in its efforts to secure the Southern Border.

On March 25, 2019, the Acting Secretary of Defense designated USACE as the Construction Agent for these programs and directed that construction begin by the end of the fiscal year. In response, USACE immediately proceeded with the development, solicitation, evaluation, and award of contracts for construction under the

§ 284 program, while simultaneously continuing execution of contracts under DHS annual appropriations. On September 3, 2019, the Secretary of Defense provided guidance for undertaking Military Construction Projects pursuant to 10 U.S.C. § 2808. USACE awarded contracts in response to this guidance beginning in November 2019.

On January 20, 2021, the President of the United States terminated the national emergency declaration with respect to the Southern Border of the United States and directed the Secretaries of DHS and DoD to create an implementation plan for redirecting funding and repurposing contracts.

On January 23, 2021, the deputy secretary of defense directed implementation of the pause of construction pursuant to the Presidential proclamation. USACE subsequently issued suspension of work letters to pause all construction until USACE received applicable implementation plans.

On April 30, 2021, the Secretary of the Army directed USACE to take immediate action to cancel all construction undertaken pursuant to 10 U.S.C. § 284 and § 2808. USACE then terminated those contracts pursuant to Federal Acquisition Regulation Clause 52.249-2, Termination for Convenience of the Government, by May 1, 2021. The termination for convenience process has numerous steps including, making work sites safe, disposing of excess materials, receiving a termination settlement proposal from affected contractors, auditing proposals by the Defense Contract Audit Agency, and negotiating final contract settlement amounts. This process is on-going and is projected to continue through 2024.

On September 17, 2021, DHS directed USACE to begin the process for partially canceling the DHS border wall program while completing certain life safety activities for levee and non-levee projects as directed in the DHS Secretary's exception memo dated April 30, 2021, and the subsequent Decision Memo signed July 24, 2021. In October 2021, USACE began the Termination for Convenience process for the affected contracts under the DHS program. USACE follows all applicable laws, regulations, policies throughout the contract termination process.

Thank you for the opportunity to present this testimony about USACE's contracting support to border wall construction operations before your combined subcommittees, and for your continued support for the soldiers and civilians of USACE.

Chairman HIGGINS. Thank you, Colonel Jefferis.

I now recognize Ms. Gambler for 5 minutes to summarize her opening statement.

STATEMENT OF REBECCA GAMBLER, DIRECTOR, HOMELAND SECURITY AND JUSTICE, UNITED STATES GOVERNMENT OF ACCOUNTABILITY OFFICE

Ms. GAMBLER. Good afternoon Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, Members of the subcommittees. I appreciate the opportunity to testify at today's hearing to discuss GAO's work on Federal agencies' efforts to contract for and deploy barriers along the Southwest Border.

In recent years, Federal agencies have obligated billions of dollars to construct border barriers. Within the Department of Homeland Security, U.S. Customs and Border Protection, or CBP, is responsible for the overall management of border barriers. Within the Department of Defense, the U.S. Army Corps of Engineers has served as the design and construction agent for border barriers.

GAO has issued numerous reports over the years addressing the deployment of barriers to the Southwest Border. Today I'm going to summarize GAO's most recent reports on the contracting and procurement process for border barrier construction. I'm going to focus my remarks on the key areas.

First, the Army Corps' contract obligations and awards in fiscal years 2018 through 2020; second, the factors that drove the Army Corps' acquisition approach; and third, the status of barrier completion as of January 2021 and subsequent DHS planning efforts.

First, the Army Corps obligated more than \$10 billion in both DHS and DoD funding for construction contracts from fiscal years 2018 through 2020. The Army Corps obligated funds for specific construction projects under 13 contract awards.

Second, expediency drove the Army Corps' approach to border construction contracts. In particular, the Army Corps' approach was shaped by senior DoD leadership direction, the time frame for obligating funds before they expired, and the prior administration's goal to complete at least 450 miles of border barriers by the end of 2020. Under this approach, the Army Corps, for example, used non-competitive awards to a greater extent than initially planned. In some instances, it authorized or expanded work without full and open competition and authorized contractors to begin work before defining key requirements. In addition, contracts awarded with DoD funds were used for border barrier construction projects on Federal lands. This allowed the Army Corps to proceed without acquiring real estate from private landowners, a process that can take years.

Based on our reporting, we recommended that the Army Corps conduct an assessment of the approaches it used to build the border barriers and as appropriate reassess its acquisition strategy going forward. Such an assessment would provide, among other things, an opportunity for the Army Corps to determine how best to reduce the use of contracting approaches that limit competition. The Army Corps agreed with this recommendation and implemented it by conducting an after-action review of the contracting process.

Finally, with regard to the status of barrier construction, from fiscal years 2018 through 2020, the Army Corps contracted for more than 600 miles of border barriers. Approximately 32 percent of the miles to be built under these contracts were new barriers in areas where no barriers had previously existed, while about 68 percent of the miles were to replace existing barriers. As of January 2021, when the new administration issued a proclamation pausing on-going construction for the border contracts, the Army Corps had approximately 450 miles of barriers. However, about 85 percent of the miles constructed represented the installation of barrier panels rather than the completion of the full barrier system, which includes technology, lighting, and roads for maintenance and patrolling. This was because the Army Corps had structured many of its DoD-funded awards to prioritize the construction of barrier panels rather than the full barrier system.

Following the January 2021 pause, DHS suspended performance on border barrier contracts and construction activities, with the exception of activities related to ensuring project sites were safe and secure. DHS also developed a plan for the use of border barrier funds as called for in the Presidential proclamation. Under this plan, DHS noted its intent to use funds to continue addressing safety hazards, identify actions to address environmental damage from past barrier construction, and install system attributes.

Thank you again for the opportunity to testify at today's hearing. This concludes my prepared statement and I would be happy to answer any questions members may have.

[The prepared statement of Ms. Gambler follows:]

PREPARED STATEMENT OF REBECCA GAMBLER

JULY 18, 2023

GAO HIGHLIGHTS

Highlights of GAO–23–106893, a testimony before the Subcommittees on Border Security and Enforcement, and Oversight, Investigations and Accountability, Committee on Homeland Security, House of Representatives

Why GAO Did This Study

A January 2017 Executive Order directed the Secretary of Homeland Security to immediately plan, design, and construct a wall or other physical barriers along the Southwest Border. From fiscal years 2017 through 2021 DHS received funding to construct border barriers. A 2019 Presidential Declaration of National Emergency directed DOD to support barrier construction and USACE awarded billions of dollars in construction contracts. In January 2021, a Presidential Proclamation paused border barrier construction to the extent permitted by law.

This testimony discusses: (1) USACE's contract obligations and awards in fiscal years 2018 through 2020 to support barrier construction on the Southwest Border, (2) the factors that drove USACE's acquisition approach, and (3) the status of barrier completion as of January 2021 and subsequent DHS planning efforts.

This statement is based on 7 reports GAO issued between 2017 and 2023. For that work, GAO analyzed DHS and USACE documents and data and interviewed agency officials. GAO also conducted selected updates.

What GAO Recommends

GAO made 5 recommendations in prior reports related to the deployment and contracting process for border barrier construction. DHS and DOD concurred and fully addressed 4. For the recommendation related to analyzing costs associated with future barrier segments, DHS noted that it conducts cost estimates as part of the acquisitions process.

SOUTHWEST BORDER.—AWARD AND MANAGEMENT OF BARRIER CONSTRUCTION
CONTRACTS*What GAO Found*

GAO's past work has highlighted the increased investment associated with construction and deployment of barriers on the Southwest Border. For example, in June 2021 GAO reported that the U.S. Army Corps of Engineers (USACE)—the construction agent—obligated \$10.7 billion to support the border barrier efforts from fiscal years 2018 through 2020, almost all of which was obligated on construction contracts. More than 70 percent of the funds obligated on construction contracts during this time were Department of Defense (DOD) funds made available following the President's 2019 National Emergency Declaration. During this time period, USACE awarded 39 construction contracts, primarily DOD-funded, to build more than 600 miles of border barriers. Approximately 32 percent of the miles to be built under these contracts were new barriers in areas where no barriers had previously existed, while about 68 percent of the miles were to replace existing barriers.

In June 2021, GAO also reported that USACE's acquisition approach, among other things, was driven by the need to obligate DOD funding before it expired. In response to the 2019 National Emergency Declaration and with the influx of DOD funds, USACE changed its planned acquisition approach to expedite construction. For example, USACE used noncompetitive awards to a greater extent than originally planned. In addition, USACE structured many of its DOD awards to prioritize the construction of barrier panels, rather than the full barrier system (which included panels and supporting attributes, such as technology).

Border Barrier Construction in South Texas


Source: GAO photo taken in February 2020. | GAO-23-106893

As of January 2021, when the new administration directed the Department of Homeland Security (DHS) and DOD to pause on-going construction for the border contracts to the extent permitted by law, USACE reported that it had completed approximately 450 miles of barriers. Most of these miles represented the installation of panels, rather than the completion of the full barrier system. Less than 69 of these miles—or about 15 percent—were for completed barrier system as of January 2021. Since that time, DHS issued and updated a plan for use of border barrier funds. DHS intends to use its funding to continue addressing safety hazards, identify actions to address environmental damage from past barrier construction, and install system attributes for DHS- and DOD-funded projects, such as lighting and technology.

Chairmen Higgins and Bishop, Ranking Members Correa and Ivey, and Members of the subcommittees, thank you for the opportunity to discuss our work covering Federal agencies' efforts to deploy border barriers along the nearly 2,000-mile Southwest Border. Within the Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) is responsible for securing the border from illicit activity while facilitating legitimate travel and trade. As part of its border security mission, as of fiscal year 2015, CBP had built more than 650 miles of barriers along the Southwest Border of the United States.¹ In addition, within the Department of Defense (DOD), the U.S. Army Corps of Engineers (USACE) has a long-standing role in supporting DHS along the Southwest Border, including providing project and contract management support. USACE's role was expanded in 2019 when it was tasked to help expedite the construction of border barriers using billions of dollars in DOD funding made available following a 2019 Presidential National Emergency Declaration.

My statement today focuses on the contracting and procurement process for border barrier construction. Specifically, it discusses: (1) USACE's contract obligations and awards in fiscal years 2018 through 2020 to support barrier construction on the Southwest Border, (2) the factors that drove USACE's acquisition approach, and (3) the status of barrier completion as of January 2021 and subsequent DHS planning efforts.

This statement is primarily based on 7 reports we issued between February 2017 and April 2023 on the increased investment in barriers and the acquisition approach for construction and deployment of barriers on the Southwest Border. For these products, we analyzed DHS and USACE documents and data, conducted site visits to locations along the Southwest Border, and interviewed agency officials. We also conducted selected updates to those reports regarding DHS and USACE efforts to address our previous recommendations.²

¹ For the purposes of this testimony, we generally use the term "barrier" to refer to a physical structure, such as a pedestrian fence, vehicle barrier, or wall, or any combination of these structures intended to impede the movement of people or vehicles.

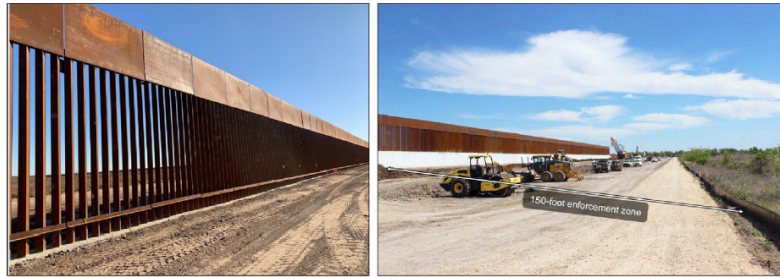
² We made a total of 5 recommendations to DHS and USACE related to the deployment and contracting process for border barrier construction. The agencies concurred with the recommendations and fully addressed 4. For the remaining recommendation for CBP to analyze the costs associated with future barrier segments and include cost as a factor in its prioritization strategy, CBP noted that it conducts detailed cost estimates as part of the acquisitions process. For more information on this recommendation and its status, see <https://www.gao.gov/products/gao-18-614>.

More detailed information on the objectives, scope, and methodology for our work can be found in the issued reports listed in Related GAO Products at the conclusion of this statement. We conducted the work upon which this statement is based in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

BACKGROUND

In January 2017, an Executive Order directed the Secretary of Homeland Security to immediately plan, design, and construct a contiguous wall or other impassable physical barrier at the Southwest Border.³ In response, CBP initiated the Border Wall System Program to replace and construct new barriers along the Southwest Border.⁴ CBP uses the term “wall system,” or barrier system, to describe the combination of physical barriers, technology, and other infrastructure used at the Southwest Border. Physical barriers and other elements of the system vary, in part, based on the terrain. For example, pedestrian barrier fencing may consist of steel bollard panels, ranging from 18 to 30 feet, constructed at ground-level. CBP uses supporting attributes such as technology (e.g., surveillance cameras), lighting, and roads for maintenance and patrolling to establish varying enforcement zones as part of the barrier system. Figure 1 shows an example of bollard panels and barrier construction in south Texas, constructed atop levee walls, and a 150-foot wide border enforcement zone on the river side of the barrier.

Figure 1: Border Barrier Featuring Steel Bollards in Starr County, Texas (Left), and Border Barrier and Enforcement Zone under Construction in South Texas (Right)



Source: GAO photos taken in February 2020. | GAO-23-106863

From fiscal years 2017 through 2021, DHS’s CBP received a total of \$5.9 billion in appropriations to construct border barriers.⁵ Beginning in 2019, the Department of Defense (DOD) also provided funding for barrier construction. In particular, in February 2019, the President issued a Declaration of National Emergency regarding the border security and humanitarian crisis at the Southern Border, and provided

³Border Security and Immigration Enforcement Improvements, Exec. Order No. 13767, § 4, 82 Fed. Reg. 8793, 8794 (Jan. 30, 2017) (issued Jan. 25). Executive Order 13767 defines “wall” as a “contiguous, physical wall or other similarly secure, contiguous, and impassable physical barrier.” See id. § 3, 82 Fed. Reg. at 8794. In February 2021, this Executive Order was revoked by the President. See 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, Exec. Order No. 14010, 86 Fed. Reg. 8267 (Feb. 5, 2021) (issued Feb. 2).

⁴We have regularly reported on DHS’s Border Wall System Program as part of our annual assessment of DHS acquisition programs. For the most recent report, see GAO, *DHS Annual Assessment: Major Acquisition Programs Are Generally Meeting Goals, but Cybersecurity Policy Needs Clarification*, GAO-23-106701 (Washington, DC: Apr. 20, 2023).

⁵As we noted in November 2020, the funds provided through each year’s DHS appropriations acts came with various provisos, including certain restrictions. For example, funds could not be used for the construction of barriers in the Santa Ana National Wildlife Refuge in Texas. See GAO, *Southwest Border: Information on Federal Agencies’ Process for Acquiring Private Land for Barriers*, GAO-21-114 (Washington, DC: Nov. 17, 2020). In fiscal year 2021, DHS received \$1.375 billion in appropriations for construction of barrier system along the Southwest Border. In April 2023, we reported that DHS had not identified the scope of work for those funds. See GAO-23-106701. DHS’s CBP received no new funding for border barrier construction in fiscal years 2022 or 2023.

additional authority to DOD to support the Federal Government's response to the emergency.⁶ Following the 2019 Declaration, the administration identified additional funding sources for border barrier construction, including under the following DOD statutes:

- *Drug Interdiction and Counterdrug Activities (counterdrug) funds.*—Under 10 U.S.C. § 284, DOD is authorized to support the counterdrug activities of other Federal agencies, if requested. DHS requested DOD's counterdrug assistance in the form of construction of fences and roads and installation of lighting to block drug smuggling corridors.⁷ DHS selected the barrier projects to support with counterdrug funds. The funding was available to DOD for obligation for 1 year, after which the funding expired and could no longer be used for new obligations.⁸
- *Military construction funds.*—Under 10 U.S.C. § 2808, the Secretary of Defense is authorized to undertake military construction projects in certain circumstances, including a National Emergency Declaration.⁹ DOD selected the barrier projects that it undertook with military construction funds from a DHS-provided list.¹⁰

For most contracts, USACE served as the design and construction agent supporting border barrier activities.¹¹ Between fiscal years 2017 and 2020, USACE awarded contracts to construct the border barrier system using several types of contracting vehicles and approaches. These included stand-alone contracts, which USACE can use when the exact quantities and timing of delivery are known at the time of award.¹² USACE also used multiple-award, indefinite-delivery, indefinite-quantity contracts, which it may award to one or more contractors when the exact quantities and timing of products and services are not known at the time of award.

In January 2021, after a change in administrations, a Presidential proclamation terminated the emergency at the Southwest Border and paused border barrier construction to the extent permitted by law.¹³ The proclamation also directed the Secretaries of Defense and Homeland Security, consulting with the director of the Office of Management and Budget and other agencies, to develop a plan within 60 days for redirecting border barrier funding, as appropriate and consistent with applicable law. After developing this plan, DHS and DOD were to take appropriate steps to resume, modify, or terminate projects and to implement the plan, as discussed later in this statement.¹⁴

⁶Declaring a National Emergency Concerning the Southern Border of the United States, Pres. Proclamation No. 9844, 84 Fed. Reg. 4949 (Feb. 20, 2019) (issued Feb. 15). The National Emergency Declaration required the use of the armed forces and invoked various statutes to address the border security and humanitarian situation at the border.

⁷See 10 U.S.C. § 284(b)(7). While the President's National Emergency Declaration on February 15, 2019, did not expressly invoke section 284, following a February 25 request from DHS to DOD for assistance under section 284, the Acting Secretary of Defense authorized the U.S. Army Corps of Engineers to begin planning and executing support to DHS pursuant to section 284. DOD's authority under section 284 is not dependent on a National Emergency Declaration.

⁸In September 2019, GAO concluded that DOD's transfer of funds into its Drug Interdiction and Counterdrug Activities, Defense, account for border fence construction was consistent with DOD's statutorily-enacted transfer authority, and that use of these amounts for the purpose of border fence construction was permissible under various statutory provisions. GAO B-330862, Sept. 5, 2019.

⁹10 U.S.C. § 2808.

¹⁰See GAO, *Southwest Border: Schedule Considerations Drove Army Corps of Engineers' Approaches to Awarding Construction Contracts through 2020*, GAO-21-372 (Washington, DC: Jun. 17, 2021).

¹¹USACE has a long-standing role in supporting DHS along the Southwest Border, including providing project and contract management support.

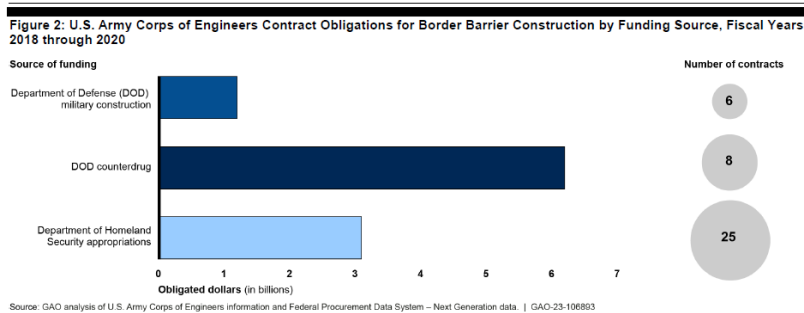
¹²Stand-alone contracts, also called "definitive contracts," are contracts other than an indefinite delivery vehicle that must be reported to the Government-wide database used to report data on Government procurements. Federal Acquisition Regulation 4.601.

¹³Termination of Emergency With Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction, Pres. Proclamation No. 10142, 86 Fed. Reg. 7225 (Jan. 27, 2021) (issued Jan. 20). The Presidential proclamation paused all border barrier construction pending development of a plan by the Secretaries of Defense and Homeland Security that, among other things, was to address the potential redirection of border barrier funds while ensuring funds Congress explicitly appropriated for barrier construction were expended.

¹⁴We separately reviewed the pause in border barrier construction and obligations of funds as a result of the January 20, 2021 proclamation and determined that it did not violate the Congressional Budget and Impoundment Control Act of 1974. GAO B-333110, June 15, 2021.

USACE OBLIGATED MORE THAN \$10 BILLION TO SUPPORT BORDER BARRIER
CONSTRUCTION FROM FISCAL YEARS 2018 THROUGH 2020

Following the President's February 2019 National Emergency Declaration, the White House announced that military construction and counterdrug activities funds would be used for border construction. In June 2021, we found that USACE obligated \$10.7 billion to support the border barrier efforts from fiscal years 2018 through 2020, almost all of which—\$10.6 billion—was obligated on construction contracts.¹⁵ More than 70 percent of the funds obligated on construction contracts during this time—\$7.5 billion of the \$10.6 billion—were DOD counterdrug and military construction funds. In total, USACE awarded 119 construction contracts and orders during this time frame, and obligated funds for specific construction projects under 39 of these awards.¹⁶ Figure 2 shows the number of USACE contracts and obligated amounts in fiscal years 2018 through 2020 for barrier construction broken down by DOD military construction, DOD counterdrug, and DHS (CBP barrier construction) funding.



EXPEDIENCY DROVE USACE'S APPROACH TO BORDER CONSTRUCTION CONTRACTS AFTER
THE 2019 NATIONAL EMERGENCY DECLARATION

In June 2021, we found that USACE's ultimate acquisition approach was driven by senior DOD leadership direction, the time frame for obligating funds before they expired, and the prior administration's goal to complete at least 450 miles of border barriers by the end of 2020.¹⁷ In response to the 2019 National Emergency Declaration and with the influx of DOD funds, we found that USACE changed its planned acquisition approach to expedite construction. In particular, USACE had initially planned for a three-phase acquisition approach for border barrier construction to support CBP's 5-year border security investment plan. In the first phase, USACE planned to use existing or planned indefinite-delivery, indefinite-quantity contracts to award certain projects. In the second phase, USACE intended on using a prequalified source list to make additional awards, and in the third phase, planned on establishing new indefinite-delivery, indefinite-quantity contracts.¹⁸

Following the declaration, USACE changed this acquisition approach to move more expeditiously. For example, USACE used noncompetitive awards to a greater extent than originally planned. Federal law and acquisition regulations generally require that contracts be awarded on the basis of full and open competition. However,

¹⁵ USACE obligated the remaining \$102 million to provide services related to border barrier efforts—primarily architecture and engineering services. See GAO-21-372. For that report we selected fiscal year 2018 to start our data collection so as to capture changes in contract data associated with the 2019 emergency declaration, and ended our data collection at fiscal year 2020 as it was the most recent year for which we could obtain a full year of data at the time of our review.

¹⁶ The other 80 were a combination of base indefinite-delivery, indefinite-quantity contracts and orders. The orders reported in the Government-wide database used to report data on Government procurements were for \$2,500 or less and were not for specific construction projects, so we did not focus on these in our June 2021 report. For purposes of our report, we focused on the 39 construction contracts and orders awarded for specific border barrier construction projects, unless otherwise noted. All 39 were firm-fixed price awards, meaning a contractor has full responsibility for the costs of performance and the resulting profit or loss.

¹⁷ GAO-21-372.

¹⁸ For use of a prequalified source list, defense and USACE acquisition regulations allow potential vendors, with proven competence, to prequalify for work on specific construction contracts when necessary to ensure timely and efficient performance.

contracts may be awarded without full and open competition under certain circumstances, such as an unusual and compelling urgency where a delay in contract award would seriously injure the Government.¹⁹ USACE also used various contracting authorities to start construction quickly. In particular, we found that USACE authorized or expanded work without full and open competition and authorized contractors to begin work before defining key requirements. Using these flexibilities, USACE awarded four counterdrug-funded contracts valued at more than \$4 billion without full and open competition.

USACE also used another flexibility—DHS’s February 2020 waiver of procurement competition requirements—to help expedite construction efforts.²⁰ Specifically, USACE obligated an additional \$1.6 billion for new projects, totaling about 60 more miles of construction using fiscal year 2020 counterdrug funds. Generally, modifying an existing contract could be considered out of scope and, if so, the new requirement would need to be competed. However, the USACE determination to use the waiver stated that the new projects were located relatively close to where the contractors were already working, and were in line with the Secretary of Defense’s directive to begin construction on these projects as quickly as possible.

We also found that USACE structured many of its DOD-funded awards to prioritize the construction of barrier panels, rather than the full barrier system. All 13 DOD-funded contracts were required to complete some or all of the barrier panel construction by the end of 2020.²¹ For example, in some cases, these contracts were awarded or modified to extend deadlines so that contractors could prioritize barrier panel construction, resulting in longer time frames to produce a complete barrier system.

We also found that the projects’ location on Federal lands facilitated USACE’s approach for DOD construction, allowing construction to begin quickly. Contracts awarded using DOD counterdrug and military construction funds were used for border barrier construction projects on Federal lands. This allowed USACE to proceed without acquiring real estate from private landowners—a process that CBP said could take years, as we reported in November 2020.²² However, because CBP and DOD focused on building on Federal lands to facilitate beginning construction quickly during the national emergency, DOD border barrier construction projects did not consistently align with the projects CBP had originally prioritized for construction.

In our June 2021 report, we recommended that USACE conduct an assessment of the approaches used to build the border barriers and, as appropriate, reassess its acquisition strategy going forward.²³ We noted that such an assessment would provide, among other things, an opportunity for USACE to determine how best to reduce the use of contracting approaches that limit competition. Without doing so, USACE would miss opportunities to strengthen its future acquisition approaches in furtherance of its long-standing support for CBP on the Southwest Border.

USACE concurred with our recommendation and stated that it would conduct after-action reviews to identify lessons learned from its approaches to respond to the national emergency. USACE noted it would also consider additional tools it could create to respond to similar, less-predictable emergencies in the future. In December 2021, USACE officials conducted an after-action review of the contracting response. As part of this review, USACE considered actions required to improve contracting methods for future national emergency declarations, such as having comprehensive contracting tools in place prior to emergencies. In doing so, USACE should be better-positioned to support future national emergencies.

¹⁹Office of Federal Procurement Policy guidance has stated that competition is the cornerstone of the Government’s acquisition system and can obtain the best return on the Government’s investment. Office of Federal Procurement Policy, Memorandum for Chief Acquisition Officers and Senior Procurement Executives: Enhancing Competition in Federal Acquisition (Washington, DC: May 31, 2007).

²⁰In February 2020, the Acting Secretary of Homeland Security issued a waiver determination pursuant to a 2005 law that allows the Secretary to waive legal requirements to ensure the expeditious construction of barriers and roads along the Southwest Border. See 85 Fed. Reg. 9794, 9796 (Feb. 20, 2020). The REAL ID Act of 2005 amended the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 by expanding the authority of the Secretary of Homeland Security to waive all legal requirements, as determined to be necessary, in the Secretary’s sole discretion, to ensure expeditious construction of barriers and roads along the border. Pub. L. No. 104–208, div. C, tit. I, subtit. A, § 102(c), 110 Stat. 3009, 3009–555, as amended by Pub. L. No. 109–13, div. B, tit. I, § 102, 119 Stat. 231, 306 (classified, as amended, at 8 U.S.C. § 1103 note).

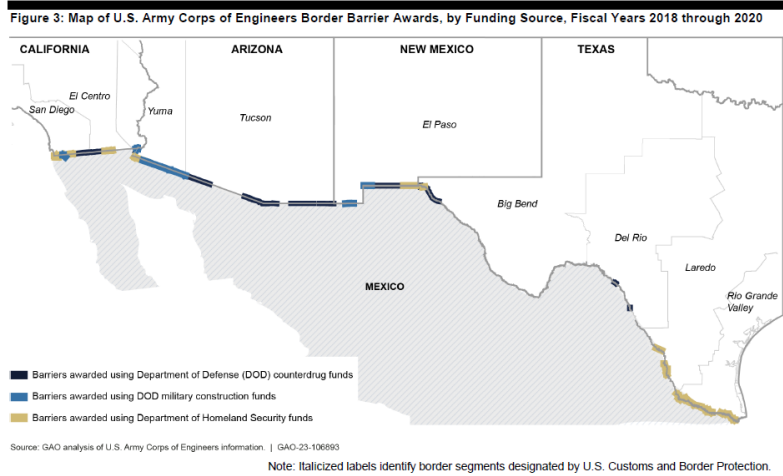
²¹USACE terminated one of the DOD-funded contracts at the Government’s convenience shortly after award. Officials said it was terminated due to an administrative error and that they later awarded a new contract for the same work.

²²GAO–21–114.

²³GAO–21–372.

USACE COMPLETED BARRIER PANELS AND DHS DEVELOPED PLANS FOR THE USE OF FUNDS

In June 2021, we found that USACE met the goal of completing approximately 450 miles of border barriers, and, in March 2022 and April 2023, we reported that DHS developed plans for the use of border barrier funds.²⁴ From October 1, 2017, through September 30, 2020, USACE contracted for more than 600 miles of primary and secondary border barriers—primarily through DOD-funded contracts (see fig. 3).²⁵ Approximately 32 percent of the miles to be built under these contracts were new barriers in areas where no barriers had previously existed, while about 68 percent of the miles were to replace existing barriers.



As of January 2021, when the new administration issued a proclamation pausing on-going construction for the border contracts, to the extent permitted by law, USACE reported that it had built approximately 450 miles of barriers. Most of the 450 miles constructed represented the installation of barrier panels, rather than the completion of the full barrier system. In addition, slightly less than 69 of these miles—or about 15 percent—were for completed barrier systems, as shown in table 1.

Table 1: Completion Status for Selected U.S. Army Corps of Engineers Construction Contracts, as of January 2021

Funding source	Contracts awarded ^a	Miles under contract	Barrier panels complete	Barrier system complete (contract complete)	Funds obligated	Funds disbursed
Department of Defense (DOD) counterdrug	7	295 miles	258 miles	0 miles	\$6.3 billion	\$4.0 billion
DOD military construction	6	96 miles	87 miles	0 miles	\$1.2 billion	\$0.9 billion
Department of Homeland Security	18	240 miles	112 miles	69 miles	\$3.0 billion	\$1.8 billion
Total	31	631 miles	458 miles	69 miles	\$10.5 billion	\$6.6 billion

Source: GAO analysis of U.S. Army Corps of Engineers (USACE) documentation and data from the Federal Procurement Data System – Next Generation. | GAO-23-106893

Note: Numbers may not sum due to rounding.

^aThis includes 31 of the 39 contracts we reviewed. Six of the remaining contracts were exclusively for roads or gates, and therefore do not count toward the total miles of border barrier constructed. The two remaining contracts were terminated shortly after award.

²⁴See GAO, *DHS Annual Assessment: Most Acquisition Programs Are Meeting Goals Even with Some Management Issues and COVID-19 Delays*, GAO-22-104684 (Washington, DC: Mar. 8, 2022); and GAO-23-106701. Department of Homeland Security, *Border Wall Plan Pursuant to Presidential Proclamation 10142* (June 9, 2021); and *Amendment to DHS Border Wall Plan Pursuant to Presidential Proclamation 10142* (July 11, 2022).

²⁵The primary barrier is the first barrier encountered when moving into the United States from the border and the secondary barrier is located behind the primary barrier on the U.S. side of the border.

As noted above, the January 2021 Presidential Proclamation required development of a plan for redirecting border barrier funding, as appropriate and consistent with applicable law. In June 2021, DHS announced its plan for the use of border barrier funds in response to the Presidential proclamation.²⁶ As we reported in March 2022, this plan outlined how DHS intended to use funds the previous administration was planning to use for border barrier construction.²⁷ DHS suspended performance on border barrier contracts and construction activities, with the exception of activities related to ensuring project sites are safe and secure.

The January 2021 Presidential Proclamation also states that the Secretaries of Defense and Homeland Security may make an exception to the border barrier construction pause for urgent measures needed to avert immediate physical dangers, or where an exception is required by Congressional appropriation. In June 2021, DHS reinitiated activity on two projects under the exception for urgent measures, as we reported in March 2022.²⁸ One project was to construct or remediate approximately 13 miles of compromised levee in south Texas, and the other was to address erosion control in the San Diego segment.

In July 2022, DHS issued an amendment to its June 2021 plan, stating its intention to prioritize expenditure of appropriations received for the barrier system, as we reported in April 2023.²⁹ Specifically, DHS intends to use fiscal year 2018 and 2019 appropriations to continue addressing safety hazards, identify actions to address environmental damage from past barrier construction, and install system attributes. According to the amended plan, DHS plans to use fiscal year 2020 and 2021 appropriations to close out the projects funded by DOD by, for example, completing construction of roads; installing system attributes; and addressing environmental damage caused by past barrier construction. We have on-going work reviewing the effects of border barrier construction on natural and cultural resources, and we plan to report on the results of that work later this year.

Chairmen Higgins and Bishop, Ranking Members Correa and Ivey, and Members of the subcommittees, this concludes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

Chairman HIGGINS. Thank you Ms. Gambler.

Members will be recognized by order of seniority for their 5 minutes of questioning. An additional round of questioning may be called after all Members have been recognized.

I now recognize myself for 5 minutes of questioning.

The Ranking Member, my friend, Representative Correa, who is my friend, and he and I have spoken for, I would say, cumulatively, scores of hours about our endeavor to—

Mr. CORREA. Conservatively, yes.

Chairman HIGGINS [continuing]. Work together over the course of the last 7 years to seek resolutions for the challenges of our country within the parameters of this committee's jurisdiction. We are each frustrated regarding some of the political barriers that have been well-established that we have to cross in order to confront the true issues. So I am going to effort today, as somehow during the course of my 62 years of life the Lord has illuminated this path for me and here I sit. So I am going to ask Members on both sides of the aisle to let's truly listen to the expertise of the witnesses today, Majority and Minority witnesses. None of us should claim to know greater than the witnesses that we call before our committees when they are specifically chosen for their history and their area of expertise.

Physical barriers have worked to deter criminal action since the dawn of man. They continue to work. It is not reflective of intellec-

²⁶ Department of Homeland Security, *Border Wall Plan Pursuant to Presidential Proclamation 10142* (June 9, 2021).

²⁷ GAO-22-104684.

²⁸ GAO-22-104684.

²⁹ See GAO-23-106701 and Department of Homeland Security, *Amendment to DHS Border Wall Plan Pursuant to Presidential Proclamation 10142* (July 11, 2022).

tual soundness to just deny the fact that physical barriers work to restrict criminal activities. The systems we had designed in 21st Century technology, some of which we cannot even discuss, but the technologies that were built into the physical barrier systems that were planned during the Trump administration would most certainly have allowed us to view up to 5 miles into the Mexican territory, our Southern Border. It is a great deterrence for intended criminal crossings.

I ask Ms. Cooper, CBP has been on record affirming the effectiveness of barriers. You have made that clear. Yet the policy decision was made to cancel construction of the barriers on the President's first day in office. Does CBP believe this is an effective policy decision?

Ms. COOPER. With respect to the policy decision, I will have to defer to my DHS colleagues. However, I am more than able to speak to the efficacy of border barrier system in the places where it makes sense for our operation.

Chairman HIGGINS. Yes ma'am. So none of us are suggesting that we put a 30-foot wall on top of a 200-foot cliff. Are we? God already put a 200-foot wall there. So where barriers are effective. But regarding the policy, this committee had endeavored very hard to ask the Biden administration to provide a witness from the Department of Homeland Security Office of Strategy, Policy, and Plans. I want all of us to grasp where we are here. It is really so indefensible that the Biden administration has put this policy in place from Day 1 to stop construction of a border barrier system that had proven to be incredibly effective with embedded technologies that would enhance that effectiveness. This is their response. This is an actual email redacted to protect the innocent, as we used to say, thanks for the phone call on Friday to discuss the scope of the proposed hearing and for your engagement throughout the development of this hearing. After careful consideration, DHS is unable to provide a headquarters witness for this hearing. It would not provide a witness to speak to the policy that was established by the administration. CBP is unable to respond to policy questions because it is not their area.

We have further questions for the witnesses, and I intend to go into a second round if my colleagues will participate.

My time has expired for this round and I recognize my colleague Mr. Correa for questioning.

Mr. CORREA. Thank you Mr. Chairman. I want to thank you also for framing this debate as it should be framed, which is our common interests and protection of our country, protection of our citizens. Although we may disagree in a lot of ways of doing it, the bottom line is we have the same objectives.

My issue, sir, if I may call you, my good friend, Mr. Higgins, is not with national security, it is with the way to approach it. I have lived most of my life near the border, native Californian. I have seen things change, re-change. When I mentioned a border wall security concept that is 30 years old, I didn't mean that we had stop working on it 30 years ago, but rather questioning its effectiveness moving forward.

Post-COVID, China is no longer our top trading partner, Mexico is now our trading partner at the top. Canada tells me that the

flow of goods and services into this country is unbelievable. That is just based on yesterday's statistics from a month or 2 ago or 3 months ago. God knows what those statistics are going to be today.

We are going to continue to trade with our partners. If we think about our border, border to stop refugees, border to stop illegal drugs, we are forgetting about the other borders in this continent. Mexico's Southern Border, Guatemala's border, the Darién Gap in Panama, where Panama's beginning to engage with us, is engaging with us, in addressing that refugee flow in that very dangerous area. I mentioned Colombia, many other countries that are working with us. I would argue that border security is not our Southern Border. As General Kelly, the former Secretary of Homeland Security would say, our border security does not start and end at our border. That is just the refugee challenge. Again, record number of refugees in the world as well as this hemisphere.

Shifting to fentanyl issue, I have gone to the border numerous times since I discovered that I would be the Ranking Member on this committee to educate myself on the facts. Go back and kick the tires to make sure that the policies that we are engaged in are going after the right elements. Talk to those border agents. I have gone to those ports of entry. Only 2 percent, 2 to 4 percent of the vehicles, passenger vehicles, are inspected, looked at, when they go north. Something like 15 percent of the huge semis coming across the border are actually inspected as well. If you really want to put a dent on the illegal drug trade on fentanyl, go where that gusher is. It is our ports of entry. We can talk about gotaways all you want to talk about. When you look at the record seizures by our good men and women at the border, it is at the ports of entry.

We all have priorities. We all have a limited number of dollars to spend. We can prioritize.

Ms. Cooper, you have said a lot of things in your testimony—I have about a minute left here—but given the nature of the ever-evolving environment, how important is it that the United States engage—and I would call them now our allies south of the border because their interest is like ours, commerce. Anything that slows down commerce, they don't want to see happen. So how would you say the new environment of integration of these markets, how does that factor into how we address refugees, illegal drug business?

Thank you.

Ms. COOPER. Ranking Member Correa, I believe you're flagging an important point with respect to the larger security strategy that CBP is engaged in.

With respect to our relationships with many of our foreign partners, continued engagement with many of the countries you named, and certainly with others, are a critical part of our larger strategy. As you said, and we've said within CBP for many years, border security is not simply at the border, it begins far outside of that. Our continued collaboration at multiple levels of leadership with offices across many foreign partners is a critical layer of our strategy.

Chairman HIGGINS. The gentleman yields.

I now recognize my colleague, Chairman Bishop, for his questioning.

Mr. BISHOP. Thank you, Mr. Chairman.

Colonel Jefferis, I have an understanding that the administration since January 2021, since late I guess in 2022 or maybe even this year, agreed to permit some progress on some border wall construction to fill in gaps or something of the kind. Do you administer that process? Am I correct first of all and do you administer that process?

Colonel JEFFERIS. Sir, thank you for the question.

Regarding whether the administration has opened up additional construction for the fill in the gaps, as you say, I would have to go back to the program office, but the Corps of Engineers does provide oversight as the design construction agent for those contracts or those projects they've been designated whether it's been through DoD or DHS. When they're designated, they do provide that oversight, yes, sir.

Mr. BISHOP. All right. Are you able to quantify what portion of construction activity that represents in relationship to the contracts that had been let and were pending at the time the Biden administration took office and stopped them?

Colonel JEFFERIS. Again, Chairman, based on the number of miles that you're referring to, not having that specific knowledge, I cannot answer specifically what percentage you're referring to. We can take that back for the record.

Mr. BISHOP. Well, that regardless, you can answer specifically. It is my understanding that it was just a relatively—just a very small percentage. Isn't that correct?

Colonel JEFFERIS. That is my understanding, but I don't have enough qualification.

Mr. BISHOP. Yes. Are you able to say what border materials are in possession of any of the contracting Government agencies under these contracts that have been suspended then canceled?

Colonel JEFFERIS. Yes, Chairman, we've got—you know, started off with \$262 million worth of materials left over from these various contracts. We've currently gotten it down through the disposition process to where we've got the border bollard panels still on the ground out there in some locations. We do have some of the other materials, whether it be electrical equipment for the fiber optic cabling or lighting, that is in the disposition process, but that's not on the ground with the contractors in my understanding at this—

Mr. BISHOP. How are you disposing of it?

Colonel JEFFERIS. At this point, Chairman, there's two different processes, one for the DoD, one for the DHS, both of which are similar, but it goes through a defined process through which it is inventoried at the contract level and the Government validates that inventory and then reviews it to determine whether it can be reusable or must be thrown to scrap. Then through that process, if it's DoD, the Defense Logistics Agency will manage that process from start to finish all the way through and it'll go through multiple entities of can DLA use it, can another DoD entity use it before it'll go to Federal or State agencies, and then finally out for sale. If none of that works, then it goes to scrap.

On the DHS side, GSA will facilitate that and it will go first to another agency if there's a requirement and then we work that

with GSA by notifying them. Then if not, then GSA will help facilitate the process of advertising and then final disposition.

Mr. BISHOP. What value of American-taxpayer-paid-for supplies has been disposed of as scrap?

Colonel JEFFERIS. I am sorry, Chairman. I don't have that exact number on me right now.

Mr. BISHOP. Does any of the witnesses know the answer to that, whether precisely or roughly?

Ms. COOPER. I do not, sir.

Mr. BISHOP. So none of the witnesses here can tell us how much of the American taxpayers' precious dollars spent on first quality goods have been disposed of as scrap, is that correct?

How many unused border wall panels are in the possession of DoD?

Colonel JEFFERIS. Currently in possession of DoD, we have 20,822 at various storage locations.

Mr. BISHOP. What is the cost to DoD to store and secure unused border materials per day?

Colonel JEFFERIS. So that's a very interesting question in the fact that we don't get in—we don't incur the cost by day. Those contracted storage rates are valued inside their termination proposals because the contractors are required for that. So that—

Mr. BISHOP. Are you able to provide any stat here about cost of storage?

Colonel JEFFERIS. Yes, sir. At this point in time, we've run a running point-in-time estimate. It constantly changes based on what we've turned in. We currently believe that based on the amount of disposition or the disposition that's been conducted and the amount of materials still on the ground, we're looking at about \$160,000 a month for the storage of the material on the DoD process at this time.

Mr. BISHOP. How much did DoD spend on storing unused border materials in fiscal years 2021 and 2022?

Colonel JEFFERIS. Sir, again, that would be wrapped inside the fixed-price contracts and I can't provide that cost.

Mr. BISHOP. All right.

Ms. Gambler, I don't know if you can speak to this. I understand that that GAO at one point said this was a mere programmatic delay, didn't violate the Impoundment Control Act, but that was in 2021. What about 30 months later? Is that still the contention of GAO, that this doesn't violate the Impoundment Control Act for the Biden administration unilaterally to disregard Congress' appropriation?

Ms. GAMBLER. Yes, thank you for the question, Chairman.

As you noted, that was GAO's legal decision at the time in the summer of 2021. We have not done an additional review of the facts and circumstances at this point. If that's something that the committee is interested in, we'd be happy to talk with you about that going forward, Chairman.

Mr. BISHOP. It might be interesting, but I don't really care. I know what the violation of law looks like.

I yield back, Mr. Chairman. My time has expired.

Chairman HIGGINS. The gentleman yields.

I now recognize Ranking Member Ivey for his line of questioning.

Mr. IVEY. Thank you, Mr. Chairman, and I appreciate your comments a moment ago about how we approach this hearing. I certainly agree that we want to be careful about stepping on the opinions of our witnesses here. We want to make sure we take it all in.

I did want to raise some data, though, today. I mean, I think one of the points that has been made in two of the articles that I mentioned earlier and wanted to make a part of the record is the drop-off in these encounters since the Title 42 regime was taken out of play. I understand we have got differences of views about how impactful a wall might be, but I think it is clear that the wall isn't there now, but we are seeing tremendous drop-offs and encounters almost immediately, based on some policy changes and some strategic changes. So I don't necessarily want to say that a wall could never be a barrier to people coming, I am just saying that 900 miles of wall at—I think the estimate was \$24 million per mile last I saw, and that is a total of \$22 billion, I think the money could be better spent.

I think we can show by some of the—in fact, from hearings in this room, some of which that you led, that there are other ways that we could go about reducing some of the challenges we face there. In fact, I think it was your hearing last, where there was testimony about China, and that one of the major reasons we had such a big spike in fentanyl was because the foreign policy relationship between the United States and China with respect to suppressing the precursors coming from China had fallen off. Therefore people were sending the precursors out of China into Mexico at an accelerated rate. That one of the ways we could address that problem is to see if we could reestablish the relationship with China in addressing those concerns. I think that would be a great step forward.

I also wanted to say, too, Ms. Gambler, I appreciated the testimony from GAO about, well, frankly, the waste to some extent in the way the contracting was done. It was rushed, we will say expedited, but that doesn't keep in place the protections of competitive bidding and the like that ought to make sense here.

I will say this too—I want to get to the LoneStar issue—but before I move off of that, I do want to say this. I mean, I think I appreciate the comments about wanting to have open hearts and minds as we approach this issue and see if we can just do it based on the evidence and the facts that come before us. I will say this, before I even got to Congress to become a Member of this committee, we had Members of this committee talking about—well, frankly, calling for the impeachment of Secretary Mayorkas. That kind-of puts things in a different context, I think, than if we were just sitting here and talking about the best ways to try and address this issue. We got the 55-page document in support of that effort, which we hadn't seen in advance on the Minority side and so we didn't really have a chance to respond to it. But I appreciate your comments and as we move forward hopefully we can do it in a spirit of bipartisanship that you expressed here today.

Colonel, I want to ask you quickly about LoneStar. I took a quick look. I am not a Government contracting expert, but if I understood the gentleman's letter correctly, who is the interim CEO, LoneStar

is a subcontractor for a prime. The Government decided to terminate the prime contract for convenience. Then LoneStar began its efforts to get compensation back and filed the documents to do so. But before that was completed and they could have been compensated, there was a decision made, according to his testimony, to in some way reinstate the prime contractor. So that left LoneStar in a position where they couldn't get compensation for termination of the contract because the contract had been reinstated. So even though they weren't actually doing any work and getting paid, they weren't able to get compensated either. That doesn't sound right to me. What am I missing here?

Colonel JEFFERIS. Thank you, Congressman Ivey, for the question.

Without having the insight into the specifics of that one subcontractor—I didn't have the chance to deep dive into that. I can speak to subcontracting relationships in general.

The Government's contract is with the prime. The prime is who we interface with and they're responsible for all their subs. In this particular case, what I was able to determine is that LoneStar is on the DHS side, so some of those contracts are partially terminated for the border wall construction while other efforts were ongoing. Again, not being able to speak to what they could do specifically, but the process is laid out in Part 49, 112 when it comes to partial payments and those types of things. When the prime contractor is ready for an interim termination settlement, they can submit their interim proposal, we will review it, analyze it, and then provide payment accordingly if it is in league with what's going on. In this particular case, because I don't have or the Government does not have privity of contract into the relationship between the prime and LoneStar, the Government does not pay subcontractors directly. We highly encourage our primes, we hold them accountable for not doing what they're supposed to, but we still can't force them to use the money that we pay for them. It's their business arrangement back down to the subcontractor.

Mr. IVEY. Could I do just a—I know I am over, but just a quick follow-up on that? It has been 30 years since I have done Government contracting, but I thought there was a flow-through, flow-down provision so that if a prime got paid, the Federal Government could require them to pay the sub. So, you know, I don't want to cross any ethics lines here, this isn't a company that has asked for my assistance, they are not in my district, and I am certainly not trying to leverage an adjudication of this in a hearing room where I don't know all the details, but it does seem to me that companies in this scenario, we ought to be able to find a way to try and make them, if not whole, at least find some degree of compensation, because they have gone, apparently, a couple of years without being able to do the work that they could get paid for, even though they legitimately relied, reasonably relied, on the fact that the prime had gotten the contract and they had been given a subcontract to perform certain work.

So if you could follow up, perhaps, with the committee on the status of that to the extent you can, we would appreciate it.

Colonel JEFFERIS. Absolutely. Yes, sir.

Mr. IVEY. Thank you, Mr. Chairman.

Chairman HIGGINS. The gentleman yields.

We have all witnessed 2 minutes and 8 seconds of bipartisan cooperation.

I recognize my colleague, the gentleman from Mississippi, Mr. Ezell—

Mr. EZELL. Thank you, Mr. Chairman.

Chairman HIGGINS [continuing]. For 5 minutes of questioning.

Mr. EZELL. Thank you.

The evidence is clear that a wall at our Southern Border will deter illegal immigration and stop the flow of drugs into this country. It is frustrating to see that the Biden administration end policies that would protect American citizens. On top of this, the cancellation of border wall construction has cost the taxpayer millions of dollars and has harmed many small businesses.

Ms. Gambler, it is well-known that the termination of the border wall system has wasted millions of taxpayers' dollars. Specifically, the halted contracts caused construction materials to go unused, costing the taxpayers \$6 million a day. Has GAO estimated the Federal Government's stated cost of storing these unused materials?

Ms. GAMBLER. We have not, but I would just note, as we've been discussing, Federal agencies are required to compensate or to pay contractors for goods and services rendered and any costs associated with terminating contracts. So while we haven't estimated some of the costs associated with storing goods or termination of contracts, Government agencies are required to pay those costs to contractors.

Mr. EZELL. Thank you.

We have talked about some options that the Federal Government has to dispose of these unused construction materials. Are there any avenues for CBP or the Army Corps of Engineers to transfer materials to State or local governments?

Ms. GAMBLER. That is something that GAO has not looked at, and I would defer to my co-witnesses on the panel to give more insight to that question, sir.

Mr. EZELL. Sir.

Colonel JEFFERIS. Yes, sir. Thank you for that question.

The disposition process I had defined a little bit earlier is unique to the system that we're talking about, whether it's DHS or DoD, but yes, throughout the process, if it goes into the DoD—ultimately after DLA, DoD, and other Federal agencies, the State or another municipality would be one of the potential receipt of that—those panels, if it made it that far. Yes, sir.

Mr. EZELL. Thank you.

Do you believe it is more expensive for the Federal Government to cancel existing border wall contracts or is it more expensive to resume the construction?

Ms. GAMBLER. Again, that is not an area that GAO has looked at. Again, I would defer to the witnesses on the panel with me in case they have more detailed information on costs.

Mr. EZELL. Anybody.

Colonel JEFFERIS. Sir, that's a question that gets into the eaches of depending on which contract and which area we're talking about,

so it's a tough one to answer. I can't give you a definitive yes or no.

Mr. EZELL. OK.

Ms. Cooper, what is the cost to the Government of canceling the contracts and re-competing them to undertake their current activities, including adding attributes and addressing environmental damage?

Ms. COOPER. Thank you for that question.

With respect to the cancellation of the contracts, I have to defer to my colleague at the Army Corps. As we've discussed with respect to the companies that were bid for that work, making sure that the negotiation for termination is conducted appropriately so that they can be compensated is a process that the Corps manages on behalf of U.S. Customs and Border Protection.

Mr. EZELL. Colonel, anything?

Colonel JEFFERIS. Sir, can I ask you to repeat the question real quick?

Mr. EZELL. Anything you could add to that? The cost to the Government—what is the cost of the Government canceling contracts and re-competing them to undertake their current activities, including adding attributes and addressing environmental damage?

Colonel JEFFERIS. Again, Congressman, that's a tough one to answer because we have to have individual contracts that we're referring to before we can get into the estimation, but I can't really give you a specific on that one.

Mr. EZELL. Thank you, Mr. Chairman. I yield back.

Chairman HIGGINS. The gentleman yields.

I recognize Mr. Thanedar for 5 minutes for questioning.

Mr. THANEDAR. Thank you, Chairman Higgins. I appreciate it.

Well, here is another quote from President Trump in 2016. The President said we will use the best technology, above- and below-ground sensors, towers, aerial surveillance, and manpower to dislocate tunnels and keep out criminal cartels. One of the first trips I took after joining this committee was to go to the Southern Border and look at the wall with my own eyes. Looks like the reality is, despite replacing 250 miles and building 50 new miles of wall in 2020, nearly one new tunnel per month was discovered by CBP that year. In fact, Trump administration had the highest number of tunnels. I believe there were 40 tunnels, including one touted as the longest ever discovered.

As clear as day, the wall falls short when it comes to tackling illegal crossings.

Ms. Cooper, can you provide more details on the discovery of tunnels during the Trump administration years?

Ms. COOPER. Congressman, with respect to the tunnel program, unfortunately, I am not an expert and would be happy to take that question back.

What I can tell you is that the application of border security technology, the application of barrier system in those locations where it makes sense, allows our agents—it frankly, delivers capability to our agents that then allows them to be responsive to new threats as our transnational criminal organizations continue to adapt. That's applicable in the context of cross-border tunnels, and

that's certainly applicable in other contexts we see in our enforcement environment.

Mr. THANEDAR. Thank you, Ms. Cooper.

Also, how would you respond to the argument that using taxpayer funds to construct the wall is a more effective approach than implementing comprehensive border security measures, including enhanced intelligence interdiction efforts to combat illegal activities, such as drug smuggling and human trafficking through the tunnels?

Ms. COOPER. As I'm certain you've heard from my colleagues in Green, including former Chief Ortiz and others, there is no single solution for the border security challenges that we face. The implementation of infrastructure and the associated attributes provides capability, the continued partnership with foreign governments to do what we can to reduce the global migration that we are seeing, the information sharing again with those governments and certainly internal to our own Government, all play a role in continuing to deliver capability for our agents and our officers at the ports of entry.

Mr. THANEDAR. All right. Thank you, Ms. Cooper.

Chairman, I yield back.

Chairman HIGGINS. The gentleman yields.

I recognize the gentlewoman from Georgia, Ms. Greene, for questioning.

Ms. GREENE. Thank you, Mr. Chairman.

In looking at the wall situation, the headline speaks for itself. DHS announces steps to protect border communities from wall construction. Yes, I will read that again. DHS announces steps to protect border communities from wall construction. I don't know who wrote this, but they probably should have been fired for writing that headline. That is pretty bad.

Let's talk about walls. Walls are very important for most countries. There are many countries with walls. I have one article here that comes from earlier this month that says—talking about 65 countries have erected fences on their borders, also talking about walls, talking about security fears, wide-spread refusal to help refugees, have fueled a new spate of wall building around the world. They include Israel's apartheid wall, India's 2,500-mile fence around Bangladesh, and Morocco's huge sand berm. So many countries around the world agree that walls are important in protecting the people within the country, protecting their national security interests.

I would also like to really praise President Trump's administration that the contractors completed most of the DoD-funded border barrier bollards by the end of December 2020 as scheduled. I am impressed with that because I own a construction company and I love to see a project completed on time. They truly did a remarkable job and it is unfortunate it is unfinished.

In my district alone, we have fentanyl deaths and that is what really upsets me. We have had many fentanyl deaths, but the El Paso sector, with the border—El Paso sector has experienced a significant reduction in drug and smuggling activities in areas where the border wall system was built. Most notably, in two separate zones, apprehensions decreased by 60 percent and 81 percent from

the beginning of fiscal year 2020 to the end of it. So, walls work and they protect people. We have 300 Americans dying a day, so I think having a wall to protect people from deadly fentanyl is the greatest thing we can do.

Ms. Cooper, CBP has been on record affirming that the border barrier has been effective and allowed CBP to readjust their agents to more pressing areas. If CBP said that the border barrier system is effective, why did DHS cancel the border wall contracts on the first day of this administration?

Ms. COOPER. I certainly can't speak to the policy decisions. However, I can certainly speak to those locations in which border barrier has been deployed historically and the success with which our agents have seen a growth in capability. As you mentioned, the El Paso sector, currently there's a GAP project, a gaps and gates project, that was approved by Secretary Mayorkas that has completed 68 of those gaps and gates. An additional 61 are on-going, some of which are in the El Paso sector. In addition, with the fiscal year 2020 and fiscal year 2021 appropriations that Congress provided, CBP will be able to go back and add the system attributes to the barrier that was previously constructed by DoD in locations again, such as El Paso, that will provide for protection—

Ms. GREENE. OK.

Ms. Cooper, can you tell me—I have got the Biden administration plans here—does any of this include—these were many of the categories of things that they—they used the money that was supposed to go for the wall. They turned it into things like habitat fragmentation and wildlife impacts, restoration of disturbed areas, invasive species control and monitoring, erosion concerns, low-water crossing, lighting and light pollution, border burial removal or completion—not sure what that means—impact to cultural resources. This is a list of projects that the Biden administration decided to take wall money that was set aside and contract money, and they canceled the contracts to build the wall and they canceled building the wall and they took this money and moved it to things like erosion control and invasive species control. So with the new wall building or project that you are talking about, are they still going to be addressing invasive species to protect our States and protect our border towns and communities? Or are they actually interested in building a legitimate wall that will stop the invasion into the United States?

Ms. COOPER. As part of barrier construction, for as long as I've been working on barrier programs, which is about 15 years, we have had a long-running relationship with the Department of Interior to ensure that environmental resources are considered as a part of that barrier construction. Those types of projects that you just referenced are not new to this type of work and in fact, have been on-going with every border project that I've been involved in.

Ms. GREENE. Well, protecting the land from invasive species, will that save the 300 Americans that are dying from fentanyl at all? I don't think so.

I yield back, Mr. Chairman.

Chairman HIGGINS. The gentlewoman yields.

The gentleman from California, Mr. Garcia, is recognized for questioning.

Mr. GARCIA. Thank you, Mr. Chairman.

I know we are talking a lot about walls today and I definitely have some comments and questions about the border wall, but I just want to just kind-of just restate a few facts for the record.

First, just as a reminder, and for this subcommittee and for a greater committee, when all the kind-of cheering went about, folks trying to really, I think, encourage chaos during the end of Title 42, I just want to really note that there was no chaos happening. The administration has actually done a fairly good job of this transition. I also want to confirm that Border Patrol chiefs have confirmed for Congress that the present situation is actually manageable. We have heard this time and time again. They have said in many of their own words, there is no crisis at the border. DHS has never been given any kind of stand-down order as well, as has been stated by some in the Majority. We have a shared mission of a secure and orderly border.

Third thing I want to say is that Democrats have been saying for years legal pathways have been critical to providing order at the border, especially after Title 42. I just also want to note that Donald Trump's border wall has always been, in I think my opinion and many others, an anti-American monument and not a real solution to actually any of our issues at the border.

Now, we know as has been stated by our Ranking Member and others, walls can be climbed, they can be jumped, they don't meaningfully disrupt the flow of fentanyl in this country. Know that fentanyl is coming in from legal ports of entry. While walls can't solve our problems, they actually do create serious concerns in many cases. I want to bring up one in particular.

I want to raise a case that has been deeply troubling back in California, certainly to me and many of my colleagues. Recently, the *San Diego Union Tribune* reported a nearly week-long incident in which approximately 150 asylum seekers were trapped between the layers of border wall near the San Ysidro port of entry adjacent to San Diego. Now, according to eyewitness reports from the *Union Tribune*, reporter on the ground, that migrants tried to leave, but Border Patrol herded them back into spaces between the fences, and migrants at the time believed that they were in custody. Now, CBP detention standards require people in custody must be supplied with basic hygiene items, food at regular intervals, and that water must always be available. But migrants did not receive any of these things. In fact, it was just one plastic water cooler for around 150 people between these two fences. Now, this does not appear to be an isolated incident. My office and other offices have received reports that migrants are frequently stranded between border walls for extended periods of time. Many of them, of course, are suffering from hunger and dehydration. An article in the *New York Times* confirmed that this situation has actually played out in other sectors of the border as well.

To the committee and to our Chairman, to our witnesses, now I wrote the Border Patrol to ask what policies guided Border Patrol response in situations when migrants may be trapped in portions of the wall. We received a reply just last week. Border Patrol told me and my colleagues, and I quote, "The individuals in question had not made contact with U.S. Border Patrol and were not con-

strained from further movement.” This is actually from the letter. But now I want show you actually a photograph and you can see for yourself, absolutely there is contact being made and the *San Diego Union Tribune*, the editorial board themselves, said that Border Patrol claims that the incident was a collective hallucination and that this was absolutely not the case.

So I hope that there is some better communication from Border Patrol to Members of this committee on exactly what happened and what is continuing to happen along this incident. CBP’s response, it is not even touching on the questions we raised about the conditions, guidance, and protocols that exist in this situation and others.

Now, Ms. Cooper, as a leader within CBP and certainly someone that is involved, I know that you necessarily don’t oversee this exact sector, but I would like to ask you to please take these concerns back to your leadership and CBP leadership. We have been given no adequate response so far. Is that something that you would be willing to do?

Ms. COOPER. Thank you for the opportunity to respond, Congressman.

I can assure you that our U.S. Border Patrol agents take the safety and security of those who come into our custody with great seriousness and I’m happy to take that question back.

Mr. GARCIA. Thank you.

Because right now Border Patrol leadership is telling us that they are not interacting with these migrants but there are reporters on the ground that are reporting that this is actually happening. So it is actually a grave concern.

I just want to just close, you know, this is an incredible country. I am proud to have migrated here myself as a young child. This is a country that does not leave women and children in the desert without food and water. We have to do better as a country. Certainly as we discuss things like walls, we should also understand what the impacts are to people that are trying to seek asylum that is actually legal in our country.

So with that, Mr. Chairman, I yield back.

Chairman HIGGINS. The gentleman yields.

The Chair recognizes my colleague from Alabama, Mr. Strong, for questioning.

Mr. STRONG. Thank you, Chairman Higgins.

Colonel Jefferis, Texas acquired 1,700 used border wall panels from the Federal Government in 2021 to build the border wall. However, the Federal Government continues to store a significant amount of border wall material that will not be used as a result of President Biden’s decision to halt the border wall. Have any State governments contacted the Corps to express interest in acquiring the unused border wall material?

Colonel JEFFERIS. Representative, thank you for the question.

I cannot answer whether any other States have reached out to us specifically. As I mentioned earlier, the disposition process is managed by the Defense Logistics Agency. So once we receive disposition instructions, DLA would be the ones that would manage that coordination on the DoD-specific contracts.

Mr. STRONG. Thank you.

I know earlier you mentioned that you are paying about \$160,000 per month to store some 20,822 panels. With this in mind, I know that I have received information from the DoD that says that \$130,000 a day, or \$47 million annually, is being spent to store material and wall panels. Have you heard of these numbers? Your numbers are absolutely different than DoD's. How much is it costing to store 20,822 panels along with the material to do that?

Colonel JEFFERIS. Congressman, thank you for the opportunity to address the question of storage costs or estimates in that case.

As I mentioned earlier, the costs of storing those are still currently with the contractor. So we had an estimate at a point in time when we terminated these contracts and the full amount of the material for the DoD side, \$262 million worth of equipment and material. That was what the first estimate was, was a point in time when we had all of that. As one would suspect through the disposition process, the inventory and the number of locations goes down. So it's much closer and continues to drop. That's where the \$160,000 a month comes from. That's current estimate.

Mr. STRONG. Thank you.

There is a big discrepancy in \$130,000 a day and \$160,000 a month. But no matter what it is, is this responsible? You think this is responsible to pay this kind of money to store this border fence? Is that responsible when the taxpayers of America have a \$32 trillion dollar debt?

Colonel JEFFERIS. Again sir, thank you for the question.

At this point without disposition instructions, it is responsible for us to pay for the storage of those. At this point those are estimated costs, so we won't know the finalized costs until later.

Mr. STRONG. Thank you.

Has the Army Corps of Engineers decided a strategic plan to use the remaining construction material? If so, can the Army Corps of Engineers commit to sharing that plan with the Members on this committee?

Colonel JEFFERIS. Again sir, as the design and construction agent, the Corps of Engineers has not come up with the plan to re-utilize that equipment. We have a requirement owner that supports that. At this point in time, I'm not aware of any decision yet to re-utilize that material.

Mr. STRONG. Thank you.

What is the cost to the Government of canceling the contracts and re-competing them under their current activities?

Colonel JEFFERIS. That is one of those questions that it's very challenging to answer because we're talking about a unique process and each contract would be different depending on what the requirement is. So I cannot provide a specific answer.

Mr. STRONG. Thank you.

I know that it was also mentioned about, I think, in some of our testimony that we are looking at about 17-to-1 drones. I know that the other side of the aisle mentioned the cartel and the 17-to-1 drones.

I can tell you this, my hometown of Huntsville, Alabama could neutralize this in a matter of days. In a matter of days, they could neutralize these drones that are flying in U.S. air space. I commit

to both sides of this aisle, let's get to work. We are willing to do it. They are dropping fentanyl across the U.S. border and they are destroying a generation of Americans.

Mr. CORREA. Will you yield?

Mr. STRONG. I yield to Mr. Correa.

Mr. CORREA. Thank you, sir.

I think you might have heard my statement that we actually have a firm in my district that is actually working to implement that technology. Should they win a contract with Homeland Security, they will be implementing that technology.

Mr. STRONG. I can tell you I witnessed it first-hand with SAIC and multiple companies in Huntsville, Alabama. I will promise you this right here, it is a cost-effective way to neutralize it. We can jam them, we can drop them, whichever way it is, but it is unacceptable to have drones coming into U.S. air space to destroy the children of our country. I will tell you this right here, I will work with anybody, I will work with the President, I will work with Democrats, I will work with Republicans, because it is time to address it. They are fixed to destroy a generation of our children.

Mr. CORREA. Mr. Strong, I welcome you to my districts and take a tour of this contract that is doing a great job and concur with you to stop these drones wherever possible.

Thank you.

Mr. STRONG. Thank you.

I yield back.

Chairman HIGGINS. The gentleman yields.

The gentlewoman from New York, Ms. Clarke, is recognized for 5 minutes for questioning.

Ms. CLARKE. I thank you, Mr. Chairman. I thank both Chairman Bishop and Higgins and Ranking Members Ivey and Correa for convening this today's hearing.

I would like to thank our panel of expert witnesses for joining us on this very important subject matter.

Speaking up on Mr. Strong, it is very clear that we have reached a technological age where we can address a number of the issues on our border. I am just thinking that the—I understand the concerns and the way folks are wedded to this idea of a wall, but it seems a bit antiquated at this stage, given where we are with respect to technology and our ability to manage affairs with a lot more expertise, a lot more technology on our border. Besides, I thought Mexico was supposed to pay for it. But that is beside the point.

As you may know, I represent a district that has long served as a safe haven for migrants. As the daughter of immigrants myself, I am deeply vested in protecting our immigrants and seeking accountability for those without a voice.

It is crystal clear that after over 30 years that we have to assert an urgent need for comprehensive immigration reform. Our immigration system has proven to be woefully inadequate and the consequences are dire. Let me be clear, no individual seeking safety, freedom, and the pursuit of a better life should be compelled to endanger their own lives or the lives of their loved ones.

Customs and Border Protection personnel regularly engage with Americans who live and work around the Southwest Border to

monitor migration trends and how they affect local communities. While my colleagues on the other side of the aisle often try to paint the picture of dangerous lawlessness in these communities, it is just simply not the case. Most frequently, community leaders work closely with CBP and Immigration and Customs Enforcement to welcome migrants while keeping communities safe, clean, and prosperous. Many landowners along the border are against the construction of a new border wall.

So I want to ask, Ms. Cooper, can you describe some of the feedback that you have heard from border communities about why they are not excited about supporting the construction of new border barriers?

Ms. COOPER. Thank you for the opportunity to speak a little bit about the work that we do to collaborate with communities across the board.

As laid out in the plan that DHS issued in June 2021, we have been engaged in robust community engagement with respect to the border barrier projects that were planned. That community engagement begins with consultation letters that go to—in fact, in the last 2 years, more than 2,000 consultation letters have been sent out. We’ve engaged in more than 1,700 meetings with community members. We hear a variety of feedback. We hear support, we hear concern. One of the things that we are able to do through that consultation process is understand what affects each community and to the degree that we can, make adjustments to be able to address those things, whether that is with respect to previously-constructed barrier system, adjust alignments, in some cases with respect to environmental concerns, create gaps. We’ve done everything from lizard gaps that allow for migratory species and a variety of other things to be able to address community concerns.

Ms. CLARKE. Very well. I think that is a very good approach, and if we dial down the rhetoric a bit, perhaps we can get to a solution that we can all agree to.

With that, Mr. Chairman, I yield back the balance of my time. Chairman HIGGINS. The gentlewoman yields.

The gentleman from Oklahoma, Mr. Brecheen, is recognized.

Mr. BREECHEN. Thank you, Mr. Chairman.

I appreciate you all taking the time to be with us today.

For years, United States citizens have been clamoring to find a solution for the border. It is not just about the fentanyl, which is the leading cause of death, we know from 18- to 45-year-olds. It is absolutely heavily correlated to what is being allowed at that Southern Border, but it is also weapons and human trafficking. There is a movie, a little-known movie being out right now that you may have heard about called the *Sound of Freedom*. I think the American people know what a tragedy we have.

President Trump’s administration, they responded. They built physical barriers. It has been cited that there were many people, some on this committee, on the other side of the aisle that voted for the 2006 Secure Fence Act. President Biden voted for the Secure Fence Act. But yet, as President, he took office and said, not another foot, shut down the \$15 billion that was to be allocated as mandated by Congress, appropriated under the rule of law, and he, with the stroke of his pen, said, not another foot.

In the context of 2021, I am in the construction business, I have a little small business, I found myself in Washington, DC, and I found myself outside of a physical barrier in the fall of 2021. That physical barrier had been put in place by Speaker Pelosi. Quite a contrast that months before the President had said physical barriers, they don't work, Nancy Pelosi employed them.

So, Ms. Cooper, here is what I would ask you is, if physical barriers, as my Democrat colleague a minute ago said, are 30-year-old outdated systems, why did Nancy Pelosi employ them at the same time we are canceling contracts on the Southern Border around the Capitol building?

Ms. COOPER. Respectfully, Congressman, I can't speak to the decision to employ barriers in that context.

Mr. BREECHEN. Do you see a conflict, I mean, in terms of ideology to say on one side we don't think physical barriers work, 65 countries, to my colleague's point a minute ago, 1/3 of all countries, the United States have physical barriers on their borders. There is this floating thought pattern out there that physical barriers don't work, they are outdated. Do you see the hypocrisy when they are used to surround the Capitol building by Speaker Pelosi at the same time we are canceling contracts to stop the flow of drugs coming into our country?

Ms. COOPER. Again, with respect, Congressman, I can't speak to that.

Mr. BREECHEN. Let me pivot.

Two hundred sixty-two million dollars, Mr. Jefferis, you cited, was the amount of total expense of the material out of the \$15 billion that was laying dormant after President Biden said not another foot, \$262 million, 20,000 panels. Someone that comes from the heavy equipment world, there is kind-of a few things you can do with big pieces of metal. I find it astounding that we don't know if there are some States that wanted those materials when the disposition process is to include either Fed or State entities first, prior to scrap. It is astounding to me that between GAO and the Corps of Engineers that we don't know, especially with the Texas LoneStar Program. They are spending \$4 billion a year in Texas, they are putting rent-a-fence up. They are actually putting up physical barriers called rent-a-fence. Why are we not diving in with the State of Texas that has the largest mileage that is lacking physical barriers and asking these strong questions? Hey, we have got material, 20,000 panels. Instead of us looking at scrap, would you be interested in erecting physical barriers? Because they will all tell you that they work. Is that not something that we need to become more insightful about?

Colonel JEFFERIS. Congressman, thank you for your question and your concern about the barrier material.

Your numbers are correct. We have 20,000 panels in the storage facility process right now, but we have not received disposition instructions. As the head of contracting, as part of the design and construction agent, we're not part of that decision making. I can't speak to who's having those conversations or where but I can just speak to the amount of material we currently still have.

Mr. BREECHEN. Well, I just—look, I want to end with this. I have got 23 seconds.

Senator Langford from my home State, United States Senator Langford, he has information come out, \$6 million a day was wasted because of this situation of contracts and place that we are having to lease to put material. That number then——

Mr. CORREA. The gentlemen yield for a second?

Mr. BREECHEN. Well, can I finish the thought?

Then there was \$3 million a day, then it became \$130,000 every day, and now it is \$160,000 a month. It is just a moving target. Regardless, it is such waste. I think the taxpayers are so disheartened by the waste.

I would yield for the extra 18 seconds that I have gone over.

Chairman HIGGINS. The gentleman yields and the gentleman's time has expired.

The Chair recognizes the gentlewoman from Texas, Miss Jackson Lee, for a questioning.

Ms. JACKSON LEE. Did you need some seconds, Mr. Correa?

Mr. CORREA. Thank you.

Just trying to figure out your comment about comparing the fence around the Capitol and border wall, to work or not. I think there is a lot more order now that that fence around the Capitol is gone, right?

Ms. JACKSON LEE. Reclaiming my time.

Mr. CORREA. Thank you.

Ms. JACKSON LEE. Thank you.

Let me thank Mr. Higgins, Mr. Correa, Mr. Ivey, Mr. Bishop for their courtesies on this committee that I have been the Ranking Member of on this full committee.

I think this idea, Mr. Correa, of technology is being ignored. I think it is important that the obligated funds are not wasted. They are either in DHS or they are either in DoD, waiting for Congress to do its job of re-appropriations. But I think that the technology is worthy. Some of what the administration has done with some of the funds has helped the State of Alaska with missile field expansion and 2nd Radio Battalion in North Carolina, an Elementary School for U.S. military children, firecrafts, rescue station, etc. So it is not wasted.

I think we have a general disagreement on the value of the wall. I will say to the gentleman that spoke about fentanyl, I don't think there is one person on this committee, on this panel that would not join you in a major effort. I for one, I have introduced a fentanyl bill. I know that the House had one. It wasn't quite my cup of tea, but I am ready for the fight. So I hope that we will have an opportunity to do some of the things that might be within our democratic principles, when I say democracy, and within the justice principles, let's try to do some things together.

But I quickly want to just ask a question of Ms. Cooper. What is the current state of the Southern Border in terms of migrant numbers? Have those numbers gone down? Do you have knowledge of that?

Ms. COOPER. I do not have the most recent numbers in front of me. We have seen, in fact, as of the end of the fiscal year, we have seen approximately 1 million encounters. That is a——

Ms. JACKSON LEE. OK, you don't have the current.

What about you, Ms. Gambler, GSA? Do you have some information about numbers going down or not?

Ms. GAMBLER. We can follow up and provide specific numbers for your office.

Ms. JACKSON LEE. OK, let's do that.

But let me ask both Ms. Cooper, because you are Government right before me, DHS, and Ms. Gambler, I don't think because we do not have a wall that this kind of behavior that I am about ready to report is appropriate. I think we can find ways of dealing with this as we have done before and certainly we should not be in the category of doing inhumane items.

The Department of Public Safety trooper sent an email because he was very concerned about actions happening at the Texas border, where the Governor has placed wire and buoys in water that brought about a pregnant woman having a miscarriage, was found late last month, caught in the wire, doubled over in pain, a 4-year-old girl passed out from heat exhaustion as she tried to go through it and was pushed back by Texas National Guard, a teenager broke his leg trying to navigate the water around it. Then the incident of a pregnant woman—excuse me, on a series of previously-reported drownings in the river during 1-week stretch earlier this month, including a mother and at least one of her two children who Federal Border Patrol agents spotted struggling to cross the Rio Grande, and my understanding is—and given medical care before being transferred to EMF or later declared deceased in the hospital, the second child was never found.

This is a DPS trooper providing an email because of his concern of what is happening in forcing people with the buoys and the wire to go into deeper water and therefore drowning. Yes, they are illegally crossing. This is a country of immigrants, but it is a country of laws, and I do understand that. But we have to—the question is that immigration is a Federal issue, and it needs to be investigated as to the appropriateness of this kind of action and whether this action is truly left to the States where you wind up with this continued loss of life. So, I would like this—Ms. Cooper, you have a comment?

Ms. COOPER. While I can't speak to the policies or actions of the State of Texas, I would like to reassure the Congresswoman and the committee that our Border Patrol agents, as they meet migrants in those locations, take their safety and security as they come into our custody very seriously and ensure to the greatest extent possible that they are taken care of at that moment.

Ms. JACKSON LEE. I would expect to do so. I have seen them and I know they do, but I am asking that you carry this request for an investigation from me regarding the actions that this DPS agent—trooper, excuse me, has suggested. We can provide you additional information. I would ask Ms. Gambler, I know that you are in GAO, that we provide you with information. I have only cited what the trooper has cited in terms of maybe Border Patrol agents being forced to try and help these people. I think that is what I indicated. They were trying to help someone drowning in the middle of buoys and wires, but I would like to have an investigation in that.

Ms. GAMBLER. Congresswoman, thank you.

Well, we would be happy to talk with your office after this hearing.

Let me also just note that GAO has done prior work looking at CBP's provision of care for individuals in its custody and we've made recommendations to CBP in those areas. We'd be happy to brief your office on that work as well.

Ms. JACKSON LEE. Let me just finish one sentence, Mr. Chairman. Thank you for your indulgence.

I think I was specifically making the point of how difficult it makes—whether CBP or in essence Border Patrol, which is at the border, make their job difficult when State actions like this cause what this trooper has suggested has occurred. Loss of life, miscarriage, 4-year-old broken leg, and a mother and her two children, one missing, mother and child dead.

So I think that we have established that immigration and border security is a Federal issue. Whether we agree or disagree with the wall, it is a Federal issue, and this should be investigated whether a State is intrusively, wrongly engaging in immigration responses.

I yield back. Thank you.

Chairman HIGGINS. The gentlewoman yields.

With respect to her request, I feel compelled to state that the State's actions—the State is not here today to speak on their behalf. I would ask that the gentlewoman's questions regarding State law enforcement actions be appropriately directed whereby she may receive the answers she seeks. This committee does not have a witness here today from the State of Texas.

The Chair recognizes the gentleman from Arizona, Mr. Crane, for questioning for 5 minutes.

Mr. CRANE. Thank you, Mr. Chairman.

Today in this committee hearing I have heard that walls will not stop the immigration crisis that we see today. I have heard that walls also will not stop a drone. I have also heard that people are tunneling under walls, and let's not forget the ladders that people are using to climb over the walls.

I want to remind this committee that this committee is called the Homeland Security Committee. It is not called the Homeland wall construction committee. Why do I point this out? Because real security, whether at your house or on the Southern Border or in a prison or at a military base overseas, has always been and will always be protected by overlapping deterrents. I will say it again, real Homeland Security is supported by overlapping deterrents. Now a wall is simply just one of those deterrents that overlaps and works in conjunction with well-trained agents, technology, intelligence, and more. Because you can't just say that one security element is going to keep you safe in any of those environments that I pointed out. It is kind-of like saying, I am not going to use a lock on my front door because it is antiquated and people can go through the window, they can climb the backyard. It would be the same to say I am going to use a lock on my front door, I am going to use an alarm system, and I am also going to use a camera system. That is overlapping deterrence at your own home. Any professional that came in and gave you a site security assessment on your home would advise you to use overlapping deterrents.

I think it is sad that we are still talking about very rudimentary, basic, simplistic, common-knowledge security measures when we know what we are trying to protect. We are trying to protect our citizens, our constituents from all over the country who vote different ways, who think different things, but we know that they are being harmed by everything that we have been discussing in this chamber for months. They are harmed by the fentanyl, they are harmed by the MS-13 gang members, they are harmed by sex trafficking and everything that comes over that Southern Border. I will acknowledge again, we all know that there are people that come over that Southern Border who just want a taste of the American dream and to work hard and to raise a family. We can all acknowledge that. But if we are ever going to get serious about security, we have to quit pointing out that a wall isn't by itself security. We all know that. Real security is always, always, always contingent on whether you have overlapping security elements and every Border Patrol agent will tell you that.

I want to turn now to Mr. Jefferis.

Mr. Jefferis, in your professional opinion, just because something is antiquated like a lock or a wall, do you believe that we should discard it in trying to secure what we want to protect?

Colonel JEFFERIS. With respect to your question, Congressman, I believe that we should look at all opportunities that are out there without giving a definitive answer for my position as a contracting agent.

Mr. CRANE. Thank you.

What about you, Ms. Cooper?

Ms. COOPER. It's been my privilege to support the U.S. Border Patrol for the last 5 years. And in my role, one of my chief responsibilities has been working with each sector to identify their full suite of gaps and requirements. Those come in the form of a dozen different master capabilities, including some of the things you mentioned, additional communications capability—I should say requirements that ultimately lead to solutions such as additional communications capability, additional technology, additional roadways, partnerships, and in certain contexts, barriers, intelligence and information sharing. All of those, when appropriately combined, the right mix in the right place, can add value to our border security enterprise.

Mr. CRANE. Thank you, Ms. Cooper.

I guess what I am trying to say is this, this situation at our Southern Border will not change until my colleagues on the other side, and even those of us on this side, start implementing overlapping deterrents at our Southern Border just like we would at our own homes.

Thank you so much, Mr. Chairman. I yield back.

Chairman HIGGINS. The gentleman yields.

The first series of questions having been completed, we are going to forego a second round of questions for this panel. I very much appreciate the dedication of time that this panel has given the committee today.

The Members of the committee may have some additional questions for these witnesses and we ask that the witnesses respond to

those questions in writing. They will be properly submitted. The witnesses are dismissed.

Mr. IVEY. Mr. Chairman, if I might, before you dismiss the witnesses?

Chairman HIGGINS. The gentleman is recognized.

Mr. IVEY. Thank you, sir.

Colonel, if you could send the responses to the questions we raised to the Chair and Ranking Member as opposed to me or someone else, that would be appreciated.

Is that fine, Mr. Chairman?

Chairman HIGGINS. The gentleman's comment is appropriate.

Mr. IVEY. Thank you, Mr. Chairman.

Chairman HIGGINS. So we are going to recess for 5 minutes and I will gavel in in 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, just a small moment.

Chairman HIGGINS. Another bipartisan moment.

The gentlewoman is recognized.

Ms. JACKSON LEE. Mr. Chairman, with respect, you assessed the witnesses in front of us. I accept that. But for whatever witnesses that might be able to respond to my inquiries, I would like them not to be hindered and to be able to get back with me on that, Mr. Chairman.

Chairman HIGGINS. Noted.

Ms. JACKSON LEE. Thank you so very much.

Chairman HIGGINS. Noted and agreed, good lady.

Ms. JACKSON LEE. Thank you.

Chairman HIGGINS. The witnesses are greatly appreciated and are dismissed.

The committee will be in recess for 5 minutes and I will gavel in in 5 minutes.

[Recess.]

Chairman HIGGINS. The Subcommittee on Border Security and Enforcement and Subcommittee on Oversight, Investigations, and Accountability will come to order.

I am pleased to welcome a compelling panel of witnesses before us today to provide insight on this important topic.

[Witnesses sworn.]

Chairman HIGGINS. Let the record reflect that the witnesses have answered in the affirmative.

Thank you and please be seated.

I would like to now formally introduce our second panel of witnesses.

Mr. Ron Vitiello, in his over 30 years of public service, has served as chief of the United States Border Patrol, acting deputy commissioner of Customs and Border Protection, and director of Immigration and Customs Enforcement. Mr. Jim De Sotle, currently serves as the chief executive officer of LoneStar Pipeline contractors, a Texas-based pipeline and facility company contracted to assist in the construction of the border barrier system. Mr. De Sotle has substantial experience in infrastructure, construction, and technology. Mr. Russell Johnson is a fourth-generation cattle rancher from New Mexico who has experienced first-hand the impact of an unsecure border and the repercussions of the decision to cancel construction of the border barrier system. Mr. Johnson also previously

served as a United States Border Patrol agent. I have Mr. Tenorio. I thank you for being here, Mr. Tenorio. I do not have a summary of your background.

I will recognize the Ranking Member to introduce his witness.

Mr. CORREA. Thank you, Mr. Chairman, for the honor.

Let me introduce neurosurgeon at UC San Diego, Dr. Alexander Tenorio. Dr. Tenorio has been on the front lines treating traumatic brain injuries caused by border wall falls. Mr. Tenorio has published multiple studies documenting the tragic increase in the number of traumatic injuries and mortality caused by the decision to increase the border walls height to 30 feet. Dr. Tenorio has also focused on the economic burden that the increase in traumatic injuries falls have created for hospitals in the San Diego area. Sir, Dr. Tenorio, thank you for being here today with the subcommittee and look forward to hearing your testimony.

Thank you, sir.

Chairman HIGGINS. I thank Ranking Member Correa.

I thank all the witnesses for being here today.

I now recognize Mr. Vitiello for 5 minutes to summarize his opening statement.

**STATEMENT OF RONALD D. VITIELLO, PRIVATE CITIZEN,
FORMER CHIEF OF THE UNITED STATES BORDER PATROL**

Mr. VITIELLO. Good afternoon Chairman Higgins, Chairman Bishop, Ranking Members Correa and Ivey. I'm glad to be with you today and look forward to discussing my experience in border and national security and all things related to my 34 years as a public servant.

I entered on duty in the Border Patrol in Laredo, Texas. I first took the oath in 1985 and reaffirmed it in action, as I worked my way up the chain of command, serving in Texas, Arizona, Vermont, and holding leadership positions as chief patrol agent, the chief at headquarters, I served at CBP's acting deputy commissioner for over a year and served as the acting ICE director while seeking confirmation, being nominated by President Trump. In 2019, I chose to retire from Federal service and now I'm happily in the private sector.

While in headquarters as a chief and as the chief in Rio Grande Valley sector, I was responsible for evaluating and setting requirements for border wall in the front line and served at headquarters during the implementation of the 2006 Secure Fence Act, which deployed 700 miles of border barrier. As the deputy at CBP, I also oversaw the team that set requirements and estimates for the border wall system in 2017 and 2019. The team at CBP and I delivered several prototypes in 2017, giving the operators and builders more knowledge of the best kinds of wall attributes, including anti-breach and anti-climb features. Wall is not the full solution. Wall must be augmented with sensors and all weather access roads and a sufficient number of agents to safely patrol and apprehend smugglers and contraband and criminals that will still cross the border illegally. By combining physical barriers with state-of-the-art—sorry—technology works until it doesn't.

Chairman HIGGINS. Take your time, good sir.

Mr. VITIELLO. The construction of wall and the augmentation of advanced technology in our Southern Border would significantly enhance our national security, control immigration flows, combat criminal activities, ensure public safety, and promote fiscal responsibility by combining physical barriers with cutting-edge surveillance and detection systems. We can effectively address the challenges posed by unauthorized border crossings while maintaining the integrity and sovereignty of our Nation.

Border wall system works, front-line agents know it, and the data shows it. Walls provide agents and operators with an anchor to place technology and patrol assets which can operate more safely and effectively. Securing the homeland is the responsibility of the Executive branch policies. By combining physical barriers with cutting-edge surveillance, border wall systems work, front-line agents know it and the data show it. Walls provide agents and operators with an anchor to place technology and patrol assets which can operate more safely and effectively. When we talk about border wall system, I was implementing on the front line for Secure Fence Act in the Rio Grande Valley sector. I was at headquarters during the Trump administration when we did the combined wall requests that he made to Congress and eventually got funded and accessed funding for. This is an important distinction. Wall by itself isn't going to help the Border Patrol agents, the men and women that are out there on the front lines each and every day. It's a system. Cameras, sensors, all weather access roads, and a sufficient number of agents to do the work that we ask them to do each and every day. It keeps them safe, it keeps the community that they live in safe, and it protects us all. Border security is national security.

I thank you and look forward to your questions.

[The prepared statement of Mr. Vitiello follows:]

PREPARED STATEMENT OF RONALD D. VITIELLO

JUNE 18, 2023

Good afternoon Chairmans Higgins, Bishop, Ranking Members Correa and Ivey. I'm glad to be with you today and look forward to discussing my experience in border security, homeland security, and all things related to my 34 years as a public servant. I entered on duty in the Border Patrol in Laredo, Texas. I first took the oath in 1985 and reaffirmed it in action as I worked my way up the chain of command serving in Texas, Arizona, Vermont, and holding leadership positions as a chief patrol agent, the chief at headquarters. I served as CBP's acting deputy commissioner for over a year and served as acting ICE director while seeking confirmation, being nominated by President Trump. In 2019 I chose to retire from Federal Service, and now I'm happily in the private sector.

While in headquarters and as chief in the Rio Grande Sector I was responsible for evaluating and setting requirements for border wall on the front line, and served at headquarters during the implementation of the 2006 Secure Fence Act which deployed 700 miles of border barrier. As the deputy at CBP I also oversaw the team that set requirements and estimates for the border wall system in 2017–2019. The team at CBP and I delivered several prototypes in 2017, giving the operators and builders more knowledge of the best kinds of wall attributes including anti-breach and anti-climb features. Wall is not the full solution. Wall must be augmented with sensors and all-weather access roads and a sufficient number of agents to safely patrol and apprehend smugglers and contraband that criminals will still cross illegally. By combining physical barriers with state-of-the-art surveillance and detection systems, we can effectively mitigate risks, enhance law enforcement capabilities, and protect the sovereignty of our Nation.

1. Enhancing Border Security.—The construction of a wall provides a tangible physical barrier that deters unauthorized border crossings. It limits the ease of entry for individuals attempting to cross our border illegally, reducing the bur-

den on law enforcement agencies and enhancing the overall security of our Nation. By physically impeding illegal border crossings, we create a first line of defense that allows Border Patrol agents to focus their efforts on detecting and apprehending those who pose a genuine threat.

2. Regulating Immigration.—A secure border is essential for ensuring an orderly and legal immigration process. By deterring illegal border crossings, we can better allocate resources toward processing and vetting individuals who seek lawful entry into our country.

3. Combatting Criminal Activities.—Our Southern Border is unfortunately susceptible to criminal activities such as drug smuggling, human trafficking, and illegal firearms trade. By implementing a wall and advanced technology, we can significantly impede the operations of criminal organizations. Enhanced surveillance systems, such as drones, cameras, and ground sensors, would provide real-time situational awareness to law enforcement, enabling them to respond quickly and effectively to potential threats.

4. Public Safety.—A secure border is synonymous with public safety. By strengthening border security, we can prevent the entry of individuals with criminal backgrounds, thereby reducing the potential for crime within our communities. Furthermore, an increase in technological infrastructure would allow for swift detection and interdiction of potential security threats, ensuring the safety of both our citizens and those seeking legal entry.

5. Fiscal Responsibility.—Contrary to misconceptions, investing in border security measures can lead to long-term cost savings. By reducing illegal border crossings, we alleviate the strain on our immigration enforcement agencies, reduce the burden on the judicial system, and limit the costs associated with detention and deportation. Additionally, technological advancements provide efficient and cost-effective surveillance and detection mechanisms, optimizing resource allocation and reducing operational costs over time.

The construction of a wall and the augmentation of advanced technology on our Southern Border would significantly enhance our national security, control immigration flows, combat criminal activities, ensure public safety, and promote fiscal responsibility. By combining physical barriers with cutting-edge surveillance and detection systems, we can effectively address the challenges posed by unauthorized border crossings while maintaining the integrity of our Nation.

Border Wall System works; front-line agents know it and the data shows it. Walls provide agents and operators with an anchor to place technology, and patrol assets which can operate more safely and effectively.

Securing the homeland is the responsibility of the Executive branch. Policies that promote large-scale illegal migration puts everyone at risk. Those in the pipeline are trafficked and abused, our cities and towns are burdened with large numbers of low-skilled workers who may have health issues. It overcrowded schools and stresses public health and law enforcement resources. You must get the border controlled physically but if there is no consequence to entering illegally and not following requirements to claim asylum or go to immigration proceedings, we'll continue the lawlessness and significant illegal flow we see today.

Chairman HIGGINS. Thank you, Mr. Vitiello.

I now recognize Mr. De Sotle for 5 minutes to summarize his opening statement and also to correct our pronunciation of your name, good sir, if I haven't gotten it right thus far.

Mr. De Sotle, you are recognized.

STATEMENT OF JAMES DE SOTLE, INTERIM CHIEF EXECUTIVE OFFICER, LONESTAR PIPELINE

Mr. DE SOTLE. Thank you.

Well, it depends on which side of the family. It is either De Sotle or De Sotle. So, De Sotle is what I pronounce it as.

So, Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and distinguished Members of the subcommittee, I want to thank you for allowing me to testify in front of your subcommittee today regarding our experiences as a subcontractor on the Southern Border wall.

So as an overview, in July 2019, Posillico Contractors of Long Island, New York, contracted PLC Group, D/B/A LoneStar, regarding

potential work on the border wall that was being constructed along the U.S.-Mexico border. LoneStar immediately engaged in discussions with Posillico and ultimately signed a subcontract with Southern Border contractors to provide loose concrete, aggregate, and aggregate for Sections 08 and 09 in McAllen, Texas. So SPC was a joint venture between Posillico and SPC.

So LoneStar was responsible for providing loose concrete for the footings of the border wall, as well as grout and necessary aggregate for temporary roads, drainage, and other applications. LoneStar purchased 2 mobile cement plants, 7 cement trucks and various other equipment necessary to fill the contract. So at this point in time we were just getting into heavy civil. We were a pipeline contractor in Midland, Texas. We chose this opportunity to actually get into heavy civil. So we went out and spent a lot of money on equipment in order to make that happen. We won the contract. We were very excited about it.

July 2020, LoneStar commences work on the border wall in sections 08 and 09 in McAllen, Texas. In January 2021, President Biden took office and issued a suspension of work order for the border wall construction. Contractors were actually required to stand by per our contract, so we had to keep our equipment and our labor on-site.

There was no indication of how long this was going to be taking place, so we were left in the dark. There was really no communication around how long we would have to have that equipment and that labor on-site. One other note, we were not able to submit any invoices during this period. So we're paying for labor, we're paying for equipment, no invoices will be submitted. The Army Corps of Engineers would not accept invoices.

I want to be clear, the Army Corps of Engineers was not the issue here. The Army Corps of Engineers was simply following their orders, OK. This went far higher than the Army Corps of Engineers. So I have no animus toward the Army Corps. This is something that I think the administration and Congress in general needs to look at when it comes to small contractors like ourselves, put in situations like this that ultimately put us into a position where we're nearly bankrupt.

May 2021, we sent a letter to the Army Corps of Engineers requesting guidance. To date, we've received no communication back on that letter. LoneStar retained in May 2021 Williams Mullen, a law firm actually out of Washington DC, Dixon, Hughes, Goodman, which are accountants. So we went and found proper lawyers and the proper accountants to actually deal with these Federal contracts. We knew as a subcontractor that we're limited in what we do with the Government. As Colonel Jefferis actually stated, as a subcontractor, I do not have the right that a prime has. I basically have no voice with the Federal Government, period, end of sentence. So we hired these law firms, we brought them in, they worked with our primes, law firms, and accounting firms in order to try to shepherd us through this process. So this is May 2021.

In September 2021, we sent a second letter to the Army Corps of Engineers requesting guidance on payments and monies owed. No response.

October 2021, the Army Corps officially canceled the border wall contract. As I spoke to Colonel Jefferis after his testimony, what ended up happening here, and I will speak further to Colonel Jefferis about this, is the contract was canceled and then it was reinstated and our law firm and our accounting firm both said the same thing, they've never seen this happen before. So now I'm in a position as a subcontractor, my primes contract is now put back into into operation, if you will. I cannot submit a termination settlement proposal because we still have an active contract. So now I'm stuck in a catch-22 in this lurch, and again, time is moving on.

October 2021, SPC's notified that the contract was reinstated for purposes. I just went through—they actually had to go back to the border to actually—they were contracted to go back and deal with safety issues. So when we stopped construction, there were many holes in the wall, there's ditches, there's all kinds of safety issues there. To prevent people from injuring themselves, they went back to actually cure these issues. So that's why they were actually—and they're still down there by the way, they're still working on this to this date.

November 2021 through July 2022, LoanStar works with SVCs, attorneys, Southern Border contractors, attorneys and accounting firms, as well as its own attorneys, to put together our TSP. So this is November 2021 through July 2022, so months and months go by, we're paying our attorneys, we're paying our accountants six figures to make this all happen. July 2022 on the advice of our attorneys, LoneStar finally submitted the TSP. So basically what we did is we went to our prime and we said we cannot wait any longer. We're going to submit. If the Army Corps throws it back at us, they throw it back. We're hopeful that they see the urgency here and they actually take it.

October 2022, so now we're almost 2 years into this. So January '21 to October '22, nearly 2 years, we finally get an official meeting with the Army Corps of Engineers and that started the audit process. So November 2022, the audit process officially started. July or June 2023, or actually today, we are still in that audit process, OK. So we are now 2 years, 7 months without payment from July 21st of 2021. So we're in 2 years, 7 months. We're a small construction company. This is \$3.6 million. That's a lot of money for a company of our size. That has had a substantial impact on our business. It's hurt us with our vendors, it's hurt us with potential contracts. The sad thing is we were literally trying to get into heavy civil. This actually killed it. So we were actually moving, we're trying to diversify, we were getting into renewables. This actually you know put a period on that sentence. We no longer can do that, so.

I thank you for your time. I thank you for listening to my testimony, and I look forward to your questions.

[The prepared statement of Mr. De Sotle follows:]

PREPARED STATEMENT OF JAMES DE SOTLE

JULY 13, 2023

OVERVIEW

In or around July 2019, Posillico contractors of Long Island NY contacted PLC Group ("LoneStar") regarding potential work pertaining to the border wall being constructed along the U.S./ Mexico border. LoneStar immediately engaged in discus-

sions with Posillico and ultimately signed a sub-contract with Southern Border Constructors, (SBC) to provide loose concrete and aggregate for sections 08 and 09 in McAllen TX. SBC is a joint venture that Posillico has ownership in.

LoneStar was responsible for providing the loose concrete for the footings of the border wall as well as the grout and necessary aggregate for temporary roads, drainage, and other applications. LoneStar purchased 2 mobile cement plants, 7 cement trucks and various other equipment necessary for fulfillment of our contract.

July 2020.—LoneStar commences work on border wall sections 08/09 in McAllen TX for SBC.

January 2021.—Biden administration issues a suspension order for work pertaining to the border wall construction. Contractors are required to “Stand By”. This required our company to continue to maintain a presence onsite and incur daily labor and equipment costs without the ability to invoice. We had NO indication of when or how this suspension would be resolved.

May 2021.—LoneStar sends a letter to the ACoE requesting guidance. To date we have received NO communication from the ACoE.

May 2021.—LoneStar retains William and Mullen law firm and Dixon, Hughes, and Goodman accountants.

September 2021.—LoneStar send a second letter to ACoE requesting guidance on payments of monies owed.

October 2021.—The ACoE officially cancels the border wall contracts.

October 2021.—SBC is notified that its contract is reinstated for the purposes of addressing “Safety” issues as a result of construction being halted. Because our prime had its contract reinstated, we were not able to file our termination settlement proposal (TSP) which further delayed our ability to recoup our losses. Our attorney noted that he had never seen a Federal contract canceled and subsequently reinstated. This put us in an untenable situation.

November 2021–July 2022.—LoneStar works with SBC’s attorneys/accounting firm as well as its own attorneys and accounting firm to complete our TSP. During this time we are being advised that the TSP cannot be submitted because SBC is still under contract.

July 2022.—On the advice of our attorneys, LoneStar submits our TSP to the ACoE for \$3.6 million.

October 2022.—LoneStar begins the audit process with the ACoE on its TSP.

November 2022–June 2023.—ACoE is in contact with LoneStar throughout the audit process.

June 2023.—ACoE completes its audit and proposes paying LoneStar 50 percent of the submitted costs.

July 2023.—LoneStar is awaiting a date for the “Exit” interview from the ACoE.

Two years and seven months after the suspension of the border wall project, LoneStar has not received a single payment for services rendered.

Impact on PLC Group

The border wall cancellation has had a significant impact on PLC Group. COVID-19 caused a severe downturn in our industry. This downturn was exacerbated by the current administration’s policy toward domestic oil and gas production. The combination led to almost 30 months of limited work in the industry. During this downturn our company was subjected to \$100 thousand in attorney and accounting fees, and over \$1.8 million in capital outlays for the border wall project including startup costs and carrying costs during the suspension, (January–September 2021).

The overall cost to our company is \$3.6 million. Construction companies require a significant amount of capital to start and complete a project. Having our capital tied up within this project for 3 years has reduced the number of opportunities our company could pursue. Most recently, in March 2023, we lost a \$24 million opportunity with a large producer due to a lack of funding. We were forced to sell our assets in order to keep operations going and as a result, were not able to pursue further civil work. This effectively shut down the civil division.

Chairman HIGGINS. Thank you Mr. De Sotle.

I now recognize Mr. Johnson for 5 minutes to summarize his opening statement.

STATEMENT OF RUSSELL A. JOHNSON, PRIVATE CITIZEN, FORMER AGENT, UNITED STATES BORDER PATROL

Mr. JOHNSON. Chairman Higgins, Chairman Bishop, Ranking Member Correa, and Ranking Member Ivey, and distinguished

Members of the subcommittees, thank you for the opportunity to testify today on the Biden administration's decision to stop border wall construction and the effect that it has had on Americans like me who live and work on or near the Southern Border. It is an honor to share my story with you all today, but also disappointing that this issue still exists.

I'd like to speak briefly about my background and my relationship with the border. I was born and raised in southern New Mexico on a cattle ranch that borders Mexico for approximately 8½ miles. This ranch has been in my family since 1918. Border issues are nothing new to me or my family. For example, my dad and my uncle had a pickup stolen from them at gunpoint by young men who had been guarding a drug field in Mexico. Cattle thieves have crossed into the United States to steal our cattle and illegal immigrants have caused property damage, left trash, and broken into the homes of several of my family members.

I also served 5 years in the United States Border Patrol as a patrol agent in El Paso, Texas. During my service, I worked along the Rio Grande River as well as spent 2 years with Air and Marine Operations. I resigned from the agency in 2016 in order to return to the family business.

This experience has given me a unique perspective on the border as I have seen it through the eyes of a stakeholder as well as a law enforcement officer. For over 100 years, our entire section of border was no more than a five-strand barbed wire fence that my family and I maintained at our own expense. This fence was constantly damaged by illegal traffic, and no Government agency would accept responsibility for this international boundary.

In 2008, a Normandy-style vehicle barrier was installed along roughly half of our border. Though an improvement, it did not solve the problem. The remaining border was still barbed-wire fence and this left us vulnerable to illegal foot traffic and vehicle drive-throughs. In April 2020, wall construction had begun on our neighbor's ranch. Finally, a sense of security and relief from an open border was being provided. Normandy barrier and barbed wire fence was going to be replaced by a 30-foot-tall concrete reinforced steel barrier with stadium-style lighting and sensor technology that provide agents real-time data on attempted crossings. This project came hot on the heels of the surge of traffic we had seen in 2019. As construction began on our ranch, illegal traffic was pushed to areas without the wall. The wall system was going to be the force multiplier that Border Patrol needed to gain operational control of the Southern Border.

When President Biden signed the Executive Order to halt border wall construction, we were left with a ¾-mile gap, one border monument access gate that hadn't been installed, and a few miles of wall that had not been filled with concrete or welded together. Contractors were told to stand down, leaving their equipment, material, and debris scattered along the border.

It's important to note that in New Mexico the wall was built on the Roosevelt Reservation. For this reason, my family and I were never approached by the Federal Government nor given any information regarding wall construction. All information I received was from talking to contractors or the United States Army Corps of En-

gineers. Contractors were eventually told to just make things safe. In doing so, wall panels were consolidated into two different areas, one on our ranch and the other on our neighbor. We were also left with two areas of massive piles of gravel and rock left over from the construction in the mountains. The above-mentioned locations on our ranch are on Bureau of Land Management land and my family owns a grazing lease on said land.

This material has been sitting on the border for over 2 years. Taxpayer dollars are being stockpiled rather than being utilized for their intended purpose. Contractors are now telling my family that these wall panels are going to be hauled off for scrap. If anyone ran their business as inefficiently as the Federal Government has handled this project since the shutdown, they would all be broke.

In the months leading up to January 2021, there was little illegal traffic through our area. When the project was shut down, we saw an immediate increase in traffic. We continued to see this upward trend until Title 42 was lifted. Border Patrol agents tell me that the traffic in my area is slow, but remains steady.

In closing, our Government does not have operational control over our Southern Border. I rarely see an agent on the border in our area. If you do see an agent, they're further north chasing groups of people that have already made it several miles into the United States. I've traveled over 2,000 miles and left my family and business to be here today. Every time I leave, I fear for what my wife and kids may encounter because of our open border. These are fears I shouldn't have as an American living on American soil. My Government is failing to protect this country, and the fiscal irresponsibility is appalling.

I'd like to thank the committee for allowing me to testify today and look forward to answering any questions.

[The prepared statement of Mr. Johnson follows:]

PREPARED STATEMENT OF RUSSELL A. JOHNSON

JULY 18, 2023

Chairman Higgins, Chairman Bishop, Ranking Member Correa, and Ranking Member Ivy, and distinguished Members of the subcommittees, thank you for the opportunity to testify today on the Biden administration's decision to stop border wall construction and the effect it has had on Americans like me who live and work on or near the Southern Border. It is an honor to share my story with you all today, but also disappointing that this issue still exists.

I would like to speak briefly about my background and my relationship with the border. I was born and raised in southern New Mexico on a cattle ranch that runs along the U.S./Mexico border for approximately 8.5 miles. This cattle ranch has been in my family since 1918. I am very familiar with all that happens along the border. My family has experienced very little good, but just about all the bad one can wish to experience regarding the border. My dad and uncle had a pickup stolen from them at gunpoint by young men who had been guarding a drug field in Mexico. We have had cattle thieves cross into the United States to steal our cattle and drive them into Mexico. My parents, uncles and cousins have all had their homes broken into by illegal immigrants. Property damage and trash left behind by illegal immigrants are also things that my family and I deal with.

I served 5 years in the United States Border Patrol as a Border Patrol Agent in El Paso, Texas. In my 5 years of service, I worked along the Rio Grande River as well as spent 2 years as a Supplemental Aircrew Member with Air and Marine Operations. I resigned from the agency in 2016 in order to return to the family business, which was more conducive to raising a family. All my experience from where I grew up to my time served in the United States Border Patrol has given me a

unique perspective on the border as I have seen it through the eyes of a stakeholder as well as a law enforcement officer.

Prior to 2008, our entire 8.5-mile section of border was nothing more than a 5-strand barbed wire fence that my family and I maintained at our expense. This fence was constantly damaged by illegal traffic crossing into the United States. My family and I maintained the fence at our own expense because no Government agency would accept responsibility for it. In 2008, Normandy-style vehicle barrier was constructed and installed along roughly half of that 8.5 miles. This was an improvement over barbed wire, but did not deter vehicle drive-throughs, or human foot traffic. The remaining border was still barbed wire through the mountainous portion of our ranch. This left us vulnerable to illegal traffic, vehicle drive-throughs, not to mention the fact we still had to maintain the barbed wire fence which was serving as the international boundary line.

Fast forward to April 2020. I had been back on the family ranch for a little over 3 years after having resigned from my position with the United States Border Patrol. Border wall construction had begun on our neighbor's ranch and was coming east in our direction. Finally, a sense of security and relief from an open border was being provided. A large, 30-foot-tall concrete reinforced steel barrier, stadium-style lighting and sensor technology that would provide Border Patrol agents real-time data on attempted crossings was going to be erected in place of the barbed wire fence my family had been maintaining for over 100 years. This project came hot on the heels of the surge of traffic we had seen in 2019 when caravans had formed, and groups of illegal immigrants were giving themselves up en masse at Antelope Wells, New Mexico and other ports of entry.

As construction began on our family ranch, illegal traffic was pushed off our ranch and to areas without a border wall. No longer did we have to worry about vehicle drive-throughs and car chases through our ranch. Cattle theft by individuals from Mexico would be a thing of the past. The border wall system was going to be the force multiplier that Border Patrol needed to gain operational control of the southern border. All of that ended January 20, 2021.

As you know, when President Biden took office, one of his many Executive Orders was to halt border wall construction. Construction sure enough stopped on a dime. Not a screw was turning on the border. On our ranch unfortunately, the contractors hadn't finished installing all of the wall. We were left with a $\frac{3}{4}$ -mile gap, one border monument access gate hadn't been installed and a few miles worth of wall had not been filled with concrete or the wall panels welded together.

Contractors working on the wall did not know what was going on, they were just told to stand down. This went on for several weeks with little to no information on what was going to happen. Construction equipment, materials and debris were scattered up and down the border through our ranch and on our neighbor's ranch. This is a good opportunity to explain how the United States Government did not communicate with my family regarding wall construction.

The Roosevelt Reservation gives the Federal Government a 60-foot easement along the Southern Border in New Mexico, Arizona, and California. This easement was established to keep public lands in the respective States free from obstruction for the purpose of border security. For this reason, my family and I were never approached by the Federal Government, nor given any information regarding wall construction. All information I received was from me reaching out to contractors or the United States Army Corps of Engineers working in our area.

Eventually, all the contractors were told to "make things safe" and remove all of their equipment. In doing so, wall panels were consolidated into two different areas, one on our ranch and the other on our neighbor's ranch. Along with the wall panels, we were left with two different areas where rock crushers had been set up to crush gravel from pilings left over from wall construction in the mountains. Massive piles of gravel and rock remain in these two locations on our ranch. All of the above-mentioned locations on our ranch are on Bureau of Land Management land and my family owns the grazing lease on said land.

I mentioned earlier that I was disappointed that this was even an issue. What I have just mentioned regarding the material left behind is nothing new. This material has been sitting on pastureland all over the Southern Border for over 2 years. Taxpayer dollars are rusting away in stockpiles rather than being utilized for their intended use. Contractors are now telling my family that these wall panels are going to be hauled off for scrap. Brand-new, American steel with all of the costs in getting that wall panel fabricated and it's going to scrap. If anyone ran their business as inefficiently as the Federal Government has handled this wall project after the shutdown, they would be broke.

I have yet to mention the effect shutting the wall project down has had on illegal immigrant traffic. In the months leading up to January 2021, there was very little

illegal traffic through our area. As soon as the wall was shut down, we immediately saw an increase in traffic. We continued to see this upward trend until Title 42 was taken away in May of this year. Though we did not see the surge of traffic like we expected to, Border Patrol agents tell me that the traffic in my area is slow, but steady. Our Government does not have operational control over the Southern Border. With very few Border Patrol agents in the field, you will rarely see an agent on the border in our area. If you see an agent, they are further north chasing groups that have already made it several miles into the United States.

I have travelled over 2,000 miles to be here today. I left behind my wife, two young children, my parents, and my business. Ranching on the U.S./Mexico border is not for the faint of heart. Every time I must leave, I fear what my wife and kids may encounter because of our open border, and I'm not there to protect them. I often get asked, "Why don't you just move?" or "If it's so bad, I'd just pack up and leave." Maybe I'm crazy for not entertaining those two ideas, but the way I see it, I am an American. The last time I checked, I still live in the United States and therefore entitled to life, liberty, and the pursuit of happiness. All of which should be protected by my Government who at this time is failing to do so.

In closing, I want to thank the committee for allowing me this opportunity to testify today and I look forward to answering any questions you might have.



Barbed Wire Fence serving as US/Mexico Boundary



Normandy Style Vehicle Barrier



$\frac{3}{4}$ mile gap over the mountain



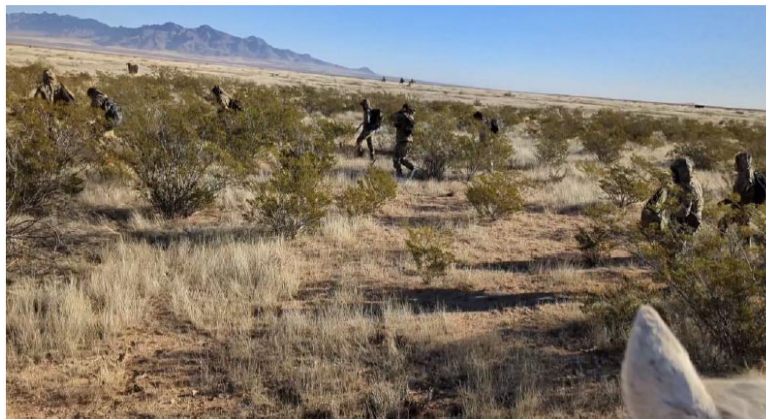
Wall panels left behind near $\frac{3}{4}$ mile gap



Wall panels left behind on neighboring ranch



Large pile of rock to be crushed for gravel



Large group of illegal immigrants encountered while horseback

Chairman HIGGINS. Thank you, Mr. Johnson.
I now recognize Dr. Tenorio for 5 minutes to summarize his opening statement.

**STATEMENT OF ALEXANDER TENORIO, M.D., RESIDENT
PHYSICIAN, NEUROLOGICAL SURGERY, UC SAN DIEGO**

Dr. TENORIO. Good afternoon, Chairmen Higgins and Bishop, Ranking Members Correa and Ivey, and Members of the subcommittee. It is an honor to testify before you today about the humanitarian toll and the economic burden imposed by increasing the border wall heights across the Southern region.

I am a fourth-year neurological surgery resident physician at UC San Diego Health. As part of my duties, I treat patients with devastating neurological conditions, including injuries to the brain and spinal cord. This often requires emergent and life-saving treatment of injuries that also includes traumatic injuries after border falls. I have been at the front lines and witness to the devastation that these raised border walls have caused every single day.

During my tenure at UC San Diego, my trauma colleagues and I have observed an unrelenting increase in traumatic injuries after these falls. We're the first institution to describe this phenomenon and have published several peer-reviewed articles detailing this emergent public health crisis. Our research shows that since the U.S.-Mexico border wall was raised up to 30 feet in 2019, there have been a record number of traumatic injuries from border falls. Hospital admissions from border falls at our two major trauma centers have increased almost ten times when comparing 2021 to 2016. Not only has the frequency increased, but the severity and mortality have risen significantly. There have been 16 deaths after the border wall was raised compared to 0 prior. We are also now seeing record number of severe injuries to the spine, the brain, and even the brain's blood vessels, which otherwise can only happen with high-impact trauma. Research from our colleagues in Texas also shows significant increases in border trauma admissions, indicating to us that this is widespread.

In addition to the profound human cost, there has been increased economic burden to our health care system. At our hospital, charges for each patient suffering a spine injury after a border fall increased 70 percent since the border wall was raised. At our two major trauma hospitals, total hospital costs due to all traumatic injuries after border falls increased by 636 percent, from \$11 million during the 2016 to 2019 period, compared to \$72 million during the 2020 to mid-2022 period.

Now, these are individuals with families, escaping violent threats, untenable economic conditions, and political upheaval. I am reminded of a young patient of mine who had suffered a severe spinal injury and would require surgery. He was a farm laborer back home who had lost his job and his home. He had a young daughter and a young wife and he was now unemployed living in the streets. He came to the United States to escape extreme poverty and feed his family. Now, as I attended to him at our trauma bay and described the extent of his injury, his response wasn't whether he would be able to walk again, but rather he responded, [Speaking foreign language]—when will I leave the hospital to see my family?

Now, I ask the subcommittees to consider the following. Do you believe this individual left his family, risked his life, and climbed that 30-foot barrier due to trivial circumstances? As the son of a

father who escaped violent threats in his hometown, and now a witness to these stories, I can assure you that these people I care for are searching for the same things we all do, safety, security, and a chance for a better life for their family.

Ultimately, these raised border walls have resulted in a record number of traumatic injuries, increased severity and mortality, and increased economic burden to our hospital systems. As a neurosurgeon, I must reveal this untold human suffering and strain on financially-strapped hospital systems to our Nation. I fear this trend will only get worse until we further study the full extent of the humanitarian and economic costs from our current border infrastructure. Only then can we determine sensible alternative solutions.

Thank you to both subcommittees for inviting me to testify today and I hope you do all within your power to recognize the harms of the raised border wall.

I look forward to your questions.

[The prepared statement of Dr. Tenorio follows:]

PREPARED STATEMENT OF ALEXANDER TENORIO

JULY 18, 2023

INTRODUCTION

Good afternoon Chairmen Higgins and Bishop, Ranking Members Correa and Ivey, and Members of the subcommittees. It is an honor to testify before you today about the humanitarian toll and economic burden imposed by increasing border wall heights across the southern region.

My name is Alexander Tenorio and I am a 4th-year neurological surgery resident at UC San Diego Health. As part of my duties, I treat patients with neurological conditions. This involves injury to the brain and spinal cord, which often require emergent and life-saving treatment of devastating injuries. This includes traumatic injuries that occur after border falls. I have been at the front lines, and witness to the devastation that the raised border wall causes every single day.

During my tenure at UC San Diego, my trauma colleagues and I have observed an unrelenting increase in traumatic injuries as a result of border falls. We were the first institution to describe this phenomenon and have published several peer-reviewed articles in academic journals detailing this emerging public health crisis.

SIGNIFICANT FINDINGS

Our research shows that since the U.S.-Mexico border wall was raised up to 30 feet, there have been a record number of traumatic injuries from border falls. Hospital admissions from border falls in California have increased almost 10 times compared to 2016.

Not only has the frequency increased, but the severity of injuries and mortality have risen significantly, with 16 deaths after the border wall was raised compared to 0 deaths prior. We are also now seeing more severe injuries to the spine, brain, and even the brain's blood vessels, which are otherwise uncommon and can only result from high-impact trauma. These are injuries that will leave people unable to work and care for their families. Research from colleagues in Texas also shows significant increases in border trauma hospital admissions, indicating that this issue can be seen across the Southern Border region where the border wall height has also been raised.

In addition to the profound human cost, there has been an increased economic burden to our health care system. Our hospital costs have increased by 636 percent from \$11 million prior to the border height increase to \$72 million afterwards.

These are young individuals with families escaping violent threats, untenable economic conditions, and political upheaval. I am reminded of one of my patients, a 25-year-old man who had suffered a severe fracture to the spine that would require surgery. He was a farm laborer who had lost his job and his home. He was unemployed, living in the streets with his wife and young daughter. He came to the United States to escape extreme poverty and to feed his family.

While he laid on a stretcher in our trauma bay, I could sense his fear and despair. He was now in another country being held in custody with a severe injury. As I described to him his injury and that he would need surgery, his response wasn't about whether he would be able to walk again. He responded, "Cuando voy a salir del hospital para ver a mi familia?" When will I leave the hospital to see my family?

Now, I ask the subcommittees to consider the following: Do you believe this individual risked his life, left his family, and climbed that 30-foot barrier due to trivial circumstances?

As the son of a father who escaped violent threats in his home town as a teenager and now a first-hand witness to these stories, I can assure you that these people that I care for are searching for the same things that my parents did and that we all do: safety, security and a chance for a better life for their children.

CONCLUSION

Ultimately, these raised border walls have resulted in a record number of traumatic injuries, increased severity and mortality, and increased economic burden to our hospital systems.

As a neurosurgeon, I must reveal this untold human suffering and strain on financially-strapped hospital systems to our Nation. I fear this trend will only get worse without any current system in place to analyze the full extent of the humanitarian and economic costs of border infrastructure policies to help determine sensible alternative solutions.

Thank you to both subcommittees for inviting me to testify today, and I hope the subcommittees do all within their power to recognize the harms of the border wall on human lives and our hospital systems.

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Chairman HIGGINS. Thank you, Dr. Tenorio.

Members will be recognized by order of seniority for 5 minutes of questioning. An additional round of questioning may be called after all Members have been recognized.

I now recognize myself for 5 minutes of questioning.

Mr. Johnson, you stated you had massive piles of rock and gravel and material. I am not talking about the steel, I am talking about massive piles. Describe what you mean by that.

Mr. JOHNSON. Thank you for the question, Chairman Higgins.

In a portion of the area where the border wall was constructed on our ranch was through a slightly mountainous area, and so the mountains had to be taken down to certain grades to accommodate the wall. In doing so, all that rock was taken and piled up, but rather than wasting that rock they were going to crush that rock

into using on the all-weather access roads that were to be constructed.

Chairman HIGGINS. Understood. It was byproduct of of the construction effort. Give us an idea, when you say massive, the size of a suburban or the size of this committee hearing room?

Mr. JOHNSON. Probably two to three times the size of this room, sir.

Chairman HIGGINS. OK. There you go. So America can get an idea. It is on a man's private land. It is left behind by the Government. You are not going to clear that with a shovel and a wheelbarrow.

Mr. JOHNSON. No, sir. Mr. Higgins, if I may, that is on Bureau of Land Management land, but we own the lease of that land.

Chairman HIGGINS. Oh, I understand.

Mr. JOHNSON. It's not private property.

Chairman HIGGINS. But certainly it is not usable.

Mr. JOHNSON. Correct.

Chairman HIGGINS. Right. Are you being compensated at all for the materials left behind, including the steel and anything else?

Mr. JOHNSON. No, sir, not compensated. Like I mentioned in my testimony, we've never been reached out to by any Government entity regarding this project. It's always been us reaching out to them.

Chairman HIGGINS. Have you invoiced the Government?

Mr. JOHNSON. No, sir.

Chairman HIGGINS. I suggest that you do. I would like to see us discuss that in appropriations.

Tell us about the steel, Mr. Johnson. When you say that you have—you described it in your opening statement, but tell us how much steel has been left behind.

Mr. JOHNSON. I haven't gone out and actually counted it, just because of the vast quantities of it. But in the pictures that were up here a minute ago was the section that is on our property. It's probably more than enough panels to fill that $\frac{3}{4}$ -mile gap. Then the storage yard on our neighbor's ranch has probably 3 to 4 times that in panels.

Chairman HIGGINS. By your observations, the steel, how would you grade the quality of that steel?

Mr. JOHNSON. This grade A top American made steel. When it was brought in for fabrication, it was brand new, hot off the presses.

Chairman HIGGINS. You were a border agent at one time, sir?

Mr. JOHNSON. Yes, sir.

Chairman HIGGINS. You recall the original wall construction, those sections made from surplus DoD panels from the Vietnam era?

Mr. JOHNSON. Yes, sir.

Chairman HIGGINS. So relative to that, what my colleagues have said, old technology and physical barriers as a concept for security shouldn't be quantified as old or new. It is a moving target. Would you describe this steel that is left behind as modern steel and robust steel as compared to the old steel that you that you witnessed and encountered when you were a border agent, the original wall?

Mr. JOHNSON. There's truly no comparison. Those bollard wall square tubings are half an inch thick with two joints of rebar and filled with concrete. There's absolutely no—

Chairman HIGGINS. Are you familiar with the concrete that we had anticipated filling those bollards with?

Mr. JOHNSON. In what sense, sir?

Chairman HIGGINS. The kind of sense I can't even explain to you right now.

So you have traveled a long way, and I want to acknowledge, Mr. Johnson, that you have dedicated a great deal of personal time to get here and we thank you for that.

I would like to close by just asking Mr. Vitiello, you had three significant leadership roles in the Department of Homeland Security. How do you think things are going down there?

Mr. VITIELLO. Well, we're in the middle of the worst border crisis than we've ever seen. This administration chose to make incredibly bad choices about the policies that exist at our border today versus what they inherited. Just as an example, illegal migration along the Southwest Border when this President took over was at 45-year lows. Now we're seeing the worst surge ever. Even at half as what it was before Title 42 ended, it overwhelms the system that exists.

Chairman HIGGINS. My time has expired.

I thank the panelists. I recognize the Ranking Member for a questioning.

Mr. CORREA. Thank you, Mr. Chairman. I also want to thank the panelists for traveling far to be with us today. It is important that we, as policy makers, are informed of what is going on out there. So thank you for being here today.

Start out with Dr. Tenorio, San Ysidro area. Last time I was out there, I believe I counted three walls. How many walls do you have out there?

Dr. TENORIO. From my understanding, currently there's an 18-foot barrier and there's a 30-foot barrier that was also constructed afterwards.

Mr. CORREA. Those have been there for a while and yet you still have these issues of people trying to cross, crossing and major injuries resulting?

Dr. TENORIO. Correct. So the border walls were—the construction was ended in the year 2019, at the end of 2019. So all of our studies and research shows that after that, meaning starting in 2020, we started seeing these record number of traumatic injuries. As a neurosurgeon I treat some of the most devastating injuries to the brain and the spinal cord and even the brain's blood vessels. A lot of these injuries, of course, we started seeing them after it was raised.

Mr. CORREA. Mr. Chairman, I would like to submit for the record, 20 minutes ago, CBP just released their June 2023 monthly update. I would like to submit that for the record.

Chairman HIGGINS. Without objection.

[The information follows:]

CBP RELEASES JUNE 2023 MONTHLY UPDATE

STATISTICS SHOW LOWEST SOUTHWEST BORDER ENCOUNTERS SINCE FEBRUARY 2021

WASHINGTON.—U.S. Customs and Border Protection (CBP) today released operational statistics for June 2023, which show a significant and continuing decline in migrant encounters along the Southwest border as well as successful drug interdiction efforts resulting from new enforcement initiatives. CBP's total encounters along the Southwest border in June were the lowest in over 2 years, dropping nearly a third from May.

"Our sustained efforts to enforce consequences under our longstanding Title 8 authorities, combined with expanding access to lawful pathways and processes, have driven the number of migrant encounters along the Southwest Border to their lowest levels in more than 2 years. We will remain vigilant," said Troy A. Miller, CBP Senior Official Performing the Duties of the Commissioner.

"As our June statistics show, CBP's mission is vast, and thanks to the dedication of our personnel and Federal partners, we are delivering results that keep the American people safe: ensuring border security, seizing drugs, stopping the flow of illicit weapons, rescuing people in distress, facilitating lawful travel and trade, and stopping the entry of harmful agricultural pests."

Below are key operational statistics for CBP's primary mission areas in June 2023.

Ensuring Border Security and Effectively Managing Migration

CBP is processing all migrants under Title 8 immigration authorities, and generally placing individuals who cross the border unlawfully into Expedited Removal or Section 240 Removal Proceedings. Noncitizens who cross between the ports of entry or who present at a port of entry without making a CBP One appointment, are subject to the lawful pathways rule, which places a condition on asylum eligibility for those who fail to use lawful processes, with certain exceptions.

In June—the first full month since the lifting of the Title 42 Public Health Order—the U.S. Border Patrol recorded 99,545 encounters between ports of entry along the Southwest Border: a 42 percent decrease from May 2023. Total Southwest Border encounters in June, including individuals who presented at ports of entry with or without a CBP One appointment, were 144,607, a 30 percent decrease from May 2023. These are the lowest monthly Southwest Border encounter numbers since February 2021.

People who made the dangerous journey to cross the Southwest Border unlawfully have died of dehydration, starvation, and heat stroke. Smuggling organizations abandon migrants in remote and dangerous areas. To prevent the loss of life, CBP initiated a Missing Migrant Program in 2017 that locates migrants reported missing, rescues individuals in distress, and reunifies decedents with their families in the border region. In June 2023, the U.S. Border Patrol conducted nearly 1,700 rescues, bringing the total number of rescues in fiscal year 2023 from 24,056 at the end of May to 25,735 at the end of June.

Safeguarding Communities by Interdicting Dangerous Drugs

CBP continues to interdict the flow of illicit narcotics across the border. CBP has significantly increased non-intrusive inspection scanning capabilities and forward-operating labs to swiftly identify suspected drugs and recognize trends. CBP has found packages of narcotics in roofs, floorboards, door panels, bumpers, tires, gas tanks, car batteries, seats, speaker boxes, false floors, drones, and more.

Nation-wide in June, seizures of cocaine, methamphetamine, heroin, fentanyl, and marijuana (combined, by weight) increased 7 percent from May. To date in fiscal year 2023, CBP has seized more than 22,000 pounds of fentanyl—compared with 8,300 pounds over the same period in fiscal year 2022.

To disrupt supply chains used in the development and movement of fentanyl, CBP launched two new interagency operations in June: Operations Artemis and Rolling Wave. A parallel intelligence and analysis operation, Operation Argus, is providing trade-focused analysis. These efforts build on the success of Operations Blue Lotus and Four Horsemen, which seized nearly 10,000 pounds of fentanyl.

Operation Artemis began on June 5 and has made over 130 seizures, which include:

- 21 pill presses and 54 pill molds
- More than 5,000 pounds of precursor chemicals
- More than 300 pounds of methamphetamine
- And over 5,000 pounds of other drugs.

The U.S. Border Patrol is concurrently running Operation Rolling Wave, surging inbound inspections at Southwest Border checkpoints. This operation has seized:

- More than 1,500 pounds of fentanyl
- More than 1,000 pounds of cocaine
- More than 8,000 pounds of marijuana
- More than 6,500 pounds of meth.

Under Operation Blue Lotus 2.0, which launched on June 12, CBP and HSI have also continued to surge resources to Ports of Entry, where 90 percent of fentanyl is trafficked primarily in cars and trucks. This operation has seized over 1,500 pounds of fentanyl and over 23,000 pounds of other narcotics like cocaine, methamphetamines, and heroin.

Facilitating Lawful Trade and Travel and Promoting Economic Security

To improve the traveler experience while maintaining the highest levels of security, CBP has increased the deployment of technology that provides a more seamless and faster entry into the United States by air, land, and sea. In June, CBP announced the deployment a new Electronic System for Travel Authorization mobile application. CBP continues to improve the travel experience and reduce wait times while enforcing over 400 laws for 40 other agencies and stopping thousands of violators of U.S. law.

Travel volumes continue to rebound globally from pandemic lows. Travelers arriving by air into the United States increased 20 percent from June 2022 to June 2023, and pedestrians arriving by land at ports of entry increased 12 percent over the same period. Passenger vehicles processed at ports of entry increased 11 percent and commercial trucks increased 2 percent from June 2022 to June 2023.

CBP works diligently with the trade community and port operators to ensure that merchandise is cleared as efficiently as possible, and to strengthen international supply chains and improve border security. In June 2023, CBP processed more than 3.1 million entry summaries valued at more than \$278 billion. CBP identified an estimated \$7 billion of duties to be collected by the U.S. Government. In June, trade via the ocean environment accounted for 39.5 percent of the total import value, followed by air, truck, and rail.

CBP One App

The CBP One mobile application remains a key component of DHS efforts to incentivize migrants to use lawful and orderly processes and disincentivize attempts at crossing between ports of entry. In June, more than 38,000 individuals who scheduled appointments through the CBP One app were processed at a POE.

Since the appointment scheduling function in CBP One was introduced in January through the end of June, more than 170,000 individuals have successfully scheduled appointments to present at a POE using CBP One. The top nationalities who have scheduled appointments are Haitian, Mexican, and Venezuelan. Beginning on July 1, CBP announced the expansion of available appointments for noncitizens through the CBP One app to from 1,250 to 1,450 per day.

Protecting Consumers and Eradicating Forced Labor from Supply Chains

CBP continues to lead U.S. Government efforts to eliminate goods from the supply chain made with forced labor from the Xinjiang Uyghur Autonomous Region of China.

In the year after the agency began implementing the Uyghur Forced Labor Prevention Act on June 21, 2022, CBP has reviewed a total of nearly 4,300 shipments valued at nearly \$1.4 billion. In June 2023, CBP stopped 405 shipments valued at more than \$239 million for further examination based on the suspected use of forced labor.

Intellectual property rights violations continue to put America's innovation economy at risk. Trade in counterfeit and pirated goods threaten the competitiveness of U.S. businesses, the livelihoods of American workers, and the health and safety of consumers. In June, CBP seized 1,709 shipments that contained counterfeit goods valued at more than \$120 million.

Defending our Nation's Agricultural System

Through targeting, detection, and interception, CBP agriculture specialists work to prevent threats from entering the United States.

In June 2023, CBP issued 5,400 emergency action notifications for restricted and prohibited plant and animal products entering the United States. CBP conducted 97,101 positive passenger inspections and issued 678 civil penalties and/or violations to the traveling public for failing to declare prohibited agriculture items.

CBP

U.S. Customs and Border Protection is the unified border agency within the Department of Homeland Security charged with the comprehensive management, con-

trol, and protection of our Nation's borders, combining customs, immigration, border security, and agricultural protection at and between official ports of entry.

Mr. CORREA. The number showed lowest Southwest Border encounters since 2021, February, 2021. In June, the first full month since the lifting of Title 42, the U.S. Border Patrol recorded 99,545 encounters between ports of entry along the Southwest Border. That is a 42 percent decrease from May 2023. Total Southwest Border encounters in June, including individuals who presented at ports of entry were 144,000, about a 30 percent decrease from May 2023. These are the lowest monthly Southwest Border encounters since 2021. I would like to present this for the record.

Mr. JOHNSON, if I can turn to you, sir. First of all, I want to say that you and your family should not be living in fear. You should not have those metal items left on your property, whether it is your private property or lease. Just unacceptable. How long did you say, Mr. JOHNSON, that you have been living there your family?

Mr. JOHNSON. I was born and raised there, but I've been back since 2016 when I left the Border Patrol.

Mr. CORREA. So generationally you have been there for—you were born there so you have been there how many—your family how many years?

Mr. JOHNSON. We've been there for 105 years this year. I'm the fourth generation.

Mr. CORREA. When you were in CBP in El Paso, you are green or blue uniform?

Mr. JOHNSON. Green.

Mr. CORREA. Green uniform, OK. I am trying to, in my mind, trying to figure out what is going on in that area. Was it this unsafe 100 years ago?

Mr. JOHNSON. That's kind-of a catch 20–20 on that question. The dynamic—

Mr. CORREA. Would you feel less safe today than your family did 50 years ago?

Mr. JOHNSON. The demographic of the people crossing today versus 20, 50 years ago is completely different. Twenty, 50 years ago, the people crossing were legitimately trying to look for a better way of life. That's not—

Mr. CORREA. Legitimate, undocumented, looking for a job.

Mr. JOHNSON. Right.

Mr. CORREA. Today you have those refugees, you have others that maybe are not?

Mr. JOHNSON. We don't have any refugees coming through in our area. These people are all wearing camouflage, concealing their footprints with booties. They do not want to be apprehended. They do not want to be part of the system. They're trying to slip through the cracks.

Mr. CORREA. I would probably say there are probably some there also that have been pushed in your area given other activities along the Southern Border. So I think you are kind-of bearing the brunt of a lot of things converging on your area of the country, I believe. Would you say that is possibly true?

Mr. JOHNSON. To the best of my knowledge, sir, we're the first gap in the wall coming west out of El Paso, Texas, which is about

90 miles from us. So I would say, yes, we're catching a lot of the extra activity that's being diverted around the wall.

Mr. CORREA. Thank you.

I don't have a lot of time left here, 25 seconds, but I just want to say that—I want to thank you for being here. Again, I just think our policies need to be designed to make sure that as we try to address these management issues at the border, people like you are not put in harm's way, so to speak. My earlier testimony was directed really at trying to make the point that we got to work with a whole lot of other factors, a lot of other solutions, a lot of other governments too, and try to make sure we are addressing these issues. I think that you are here, you made the trip to testify, and I bet you there are folks out there that are also in your situation that couldn't afford to be here today to tell us what is going on. A lot of those people are north of the border and south of the border. Public safety, I think, is an issue that is relevant to all of us, north and south of the border and other regions of the world. So, got to work together to make sure Johnson families, your challenges are addressed.

Thank you, Mr. Chairman, and I yield.

Chairman HIGGINS. The gentlemen yields.

I recognize Chairman Bishop for questioning for 5 minutes.

Mr. BISHOP. Mr. Johnson, since the Biden administration ordered a stop to the border wall construction that was in process, as you have described, what has the Biden administration done to protect you from the consequences that you have described?

Mr. JOHNSON. In our area, the only thing that has changed is there's been one of the fixed integrated camera towers put in and then they're also discussing putting in a rescue beacon on our ranch that will help migrants that they get lost and give up. They can push a button on this rescue beacon. But I'm not quite sure what that has to do with border security.

Mr. BISHOP. How has that helped you?

Mr. JOHNSON. It has not.

I was interested, would you elaborate a little bit more? You said the people who come across are in camo?

Mr. JOHNSON. Yes, sir. It literally looks like a military invasion in the sense that they're all wearing the same camouflage, the same boots, the same backpacks, the same booties to conceal their foot tracks. They do not want to be caught.

Mr. BISHOP. Is this something that has happened only once or twice, or is it a pattern?

Mr. JOHNSON. It's a pattern that started probably in the last, probably about 8 years.

Mr. BISHOP. Whose responsibility is it to protect you from that?

Mr. JOHNSON. Last I thought it was the U.S. Government.

Mr. BISHOP. Why should you be subjected to that kind of invasion across your private property simply because you live and own property at the border of the United States?

Mr. JOHNSON. I thought I should feel just as safe and secure 300 miles inland than where I'm at 3 miles off of the border where my house is located.

Mr. BISHOP. Folks have opined on this panel, these guys up here are all experts you know, that that border walls, barriers don't work.

Mr. Vitiello, do they work? You seem to have had a fair amount of experience with that.

Mr. VITIELLO. They absolutely work. Anybody that's been in the Border Patrol for more than 5 minutes knows that it's much easier to control an area when you have a barrier technology and a sufficient number of agents, plus access to the border to make it more secure. It provides an anchor for those agents to patrol and control area much more efficiently, much more effectively, and safer.

Mr. BISHOP. So how do these folks come up with this, or where is the expertise these folks are drawing on when they keep telling us border walls don't work?

Mr. VITIELLO. I'm here to tell you that they do work. Spent a lot of time setting requirements, watching how it works, talking to agents, did a lot of planning around how we were going to protect that border and they absolutely work.

Mr. BISHOP. So you have witnessed that they work to help interdict people who are crossing illegally. How about effects on communities adjacent to the border wall?

Mr. VITIELLO. So it's a good question.

So it's an anchor for all of the things you must do to control the border. You said earlier about overlapping deterrence. That's a good phrase for it. There is a particular community near San Ysidro, Chula Vista. Back in the 1990's, before the national strategy and what Border Patrol was trying to elaborate across the Southwest Border, that was a lawless area. They had a chain link fence. It has been described by reporters, it was so badly overrun that it looked like a hammock. Just north of that area of the border was a no man's land. It was a big open area where nobody wanted to be. When the sun went down, bad things happened inside of that small canyon.

After 1994, the initial fence that was talked about, the Vietnam landing mat, done by Border Patrol, very DIY project, but immediately after that barrier was installed, people started investing in that area just north of the border. Right now, if you go to that area, it has some of the best strip malls, outlet malls, restaurants, and homes that are worth multi-million dollars just north of the U.S.-Mexico border. Twenty-five years ago people would not go anywhere near that place when the lights were off, when the sun went down, and now it's one of the best neighborhoods in the region.

Mr. BISHOP. Mr. Johnson's family might be envious of that.

Mr. De Sotle, what are the consequences for your business, for your family, of the Federal Government's unbelievably reckless means of curtailing this construction, ending this construction?

Mr. DE SOTLE. Thank you.

The impacts have been primarily financial, stress-related as well. It's put a significant financial burden on our business. So we have, you know—

Mr. BISHOP. Are you going make it or are you going to fail?

Mr. DE SOTLE. Well, I never like to quit. I like to think that we will make it. It's not easy, though. But the reality is right now, it's fairly complicated. Our financial situation is fairly complicated. Ac-

tually involves the Federal Government and involves a Main Street loan, which is very difficult to deal with. The Main Street loan is not something I can go and renegotiate like I could have at a bank. So my debt is with the Federal Government, which does not allow me to renegotiate. So it's not going to be easy to make it to be quite honest. Yes that's the honest truth.

Mr. BISHOP. God bless you, sir.

Mr. Johnson your family as well. My sympathies are with you. My time has expired.

Chairman HIGGINS. The gentleman yields.

Ranking Member Ivey is recognized for 5 minutes.

Mr. IVEY. Thank you, Mr. Chairman.

I did want to follow up on Mr. Correa's point with respect to the new information that just came from CPB, that in the new numbers for June 2023, 144,607, looks like that is roughly—I guess in May 2019, the number was 144,116. So I guess it is comparable to where it was during that time in the Trump administration.

I also want to mention, just ironically, this morning I mentioned my appreciation for the Chair's comments and mentioned that, yes, working together is a good thing. let's see if we can do that. Then I stopped by my office a few minutes ago and I got an article from, looks like the *Daily Caller*, Jennifer Taer. It says, exclusive House GOP is about to drop a massive report alleging that Biden's DHS chief broke the law. I guess this is a build on to the 55-pager that we got. The morning it was released a few weeks ago, the Chairman, Chairman Green, the full committee Chairman, goes through and discusses what is in it and, you know, the dereliction of duty claims and the like. I guess this is more efforts at the trying to push this toward the effort to impeach the Secretary. I don't know who has filed which articles of impeachment for who over there, but this is kind-of the same thing I was talking about a few minutes ago.

So, Mr. Chairman, I appreciate the way you have run this hearing, I really do, but there is a context to this, and that is kind-of a disappointing piece.

Mr. Vitiello, I have got, what is this, NeoKlanist party? I guess this isn't new to you. I guess Senator Peters questioned you about this previously. Apparently, this is a statement that you made on a social media platform. Is that right?

Mr. VITIELLO. It was brought up during the confirmation hearing for the ICE director position before the vote at the committee in which I got bipartisan support. Yes, it was brought up then.

Mr. IVEY. OK, I mean, what does that even mean? What are you saying with a comment like that?

Mr. VITIELLO. My statement is on the record at the hearing. I thought I was making a private communication with an entertainment show. I was wrong about that. That was a public tweet. It was my novice ability of using Twitter back then. I apologized to the committee at the time and said I meant no offense to anyone, and we left it there.

Mr. IVEY. Well, look, I mean I appreciate the fact that you thought it was a private comment, although I can't say I find that particularly reassuring, the fact that you would—

Mr. VITIELLO. It was based on the context that was in the program.

Mr. IVEY. What program was that?

Mr. VITIELLO. It was the Mark Levin show.

Mr. IVEY. OK, I am not really familiar with that, so I guess I will leave it alone. But I will move on.

I want to say this to Mr. De Sotle. I apologize if I mispronounced your name. I was studiously saying LoneStar earlier in the hearing, so I wouldn't mess it up. But as I said earlier, I don't know if you were in the room or not, but I really think it is important—And I guess this would apply to you too, Mr. Johnson, that the Government takes steps to make sure that you are made whole as much as possible. I find your scenario particularly troubling because you are a business trying to act in good faith, contract with the Government through a prime contractor, but that really shouldn't expose you to the type of scenarios that you have described here today. So I do hope that steps will be taken to address that, and we should be getting a response from the Army Corps. That was promised to us.

Mr. Johnson, I am not as clear on what to do for you. I don't know if that is an Army Corps deal or not, but I do hope that we can try and take steps to address what has happened with you.

But, look, this is real people, real businesses getting caught in the crossfire, political disagreement in Washington, DC. That is unfortunate that you are in the middle of that. I don't agree with the desire to spend whatever that number was—I think it was \$22 billion to build 900 more miles of wall, because I think there are more effective and efficient ways to protect the border. My colleagues over here disagree. Let's shake it out. But I don't like having civilians get caught in the crossfire. So whatever we can do to try and correct this, I will work with whoever wants to do it to try and make it happen.

So with that, I yield back.

Chairman HIGGINS. The gentleman yields.

The gentlewoman from Georgia, Ms. Greene, is recognized for questioning.

Ms. GREENE. Thank you, Mr. Chairman.

Mr. Vitiello, I would like to thank you for your service as our former U.S. Border Patrol chief. I really appreciate the job you did there. I would like to apologize to you on behalf of the committee for the accusation that just came against you. You were confirmed in a bipartisan Senate, so just wanted to extend that to you.

Mr. VITIELLO. Thank you very much. I had a good run in Government. Got cleared through the committee and was very close to a full confirmation. So, thank you.

Ms. GREENE. Yes.

Also, I would like to point out, it was said on this committee earlier that the border wall was an anti-American movement. That was said by a Democrat Member earlier. I think that is an egregious thing to say. The border wall was being built to protect our country, protect our border, help our Border Patrol agents. I think the most anti-American moment in this country was when a giant fence was erected around the Capitol and left there for months. Our U.S. military was brought in and forced to sleep on the floor

in parking garages for months at a time. I think that is an anti-American moment. But I will move on.

The CBP One app—

Mr. IVEY. Will the gentlelady yield?

Ms. GREENE. No, she will not. I will not.

Mr. IVEY. All right.

Ms. GREENE. CBP One app is now allowing the orderly invasion of 1,500 illegal aliens per day into our country. This is a serious problem.

Mr. JOHNSON, as you live, you said, is it 3 miles from the border?

Mr. JOHNSON. Yes, ma'am.

Ms. GREENE. Has the CBP One app, with its orderly invasion, sending people to ports where they can make an appointment in their convenient time and choose a port of entry where they show up and then they are allowed to come into the United States at the expense of the United States taxpayer, has this slowed down or stopped people from crossing the border and coming onto your land?

Mr. JOHNSON. I can't speak to how the apps really helped because up until just a few months ago I wasn't even aware of this, but we still have traffic coming through. It has slowed since Title 42 was lifted, but it has never stopped completely.

Ms. GREENE. So it has never stopped. So people are still crossing the border illegally onto your land.

This headline, I read it on our earlier panel, DHS Announces Steps To Protect Border Communities From Wall Construction. This was an actual headline from 2021, April 30, 2021. Did the wall construction or the border wall, did you feel threatened? Was your safety threatened by the wall?

Mr. JOHNSON. It was quite the opposite. We were so glad to see it. It was, like I say, an answer to our prayers because that was going to be some safety and security we had never seen before.

Ms. GREENE. That is what I thought. It seems like it was a very good thing. It was actually helping.

We had a Democrat amendment on this committee to disarm Americans 200 miles into the United States, taking away their guns. That would be you, it would take away your guns if that were to make law. Do you think taking away your guns would help keep you and your family safe from the people that are constantly invading, coming across the border onto your land? Would taking away your guns help keep you safe?

Mr. JOHNSON. Absolutely not. In our area, we are so rural, the only law enforcement we have is Border Patrol. Sheriff's departments stretch thin, response times are well over an hour. You have to rely on yourself for your own safety.

Ms. GREENE. So the Second Amendment, your right to bear arms, is your first line of self-defense?

Mr. JOHNSON. It's not just a luxury, it's a necessity.

Ms. GREENE. Thank you, Mr. Johnson.

In my district, Georgia's 14th District, which is in northwest Georgia, this is far away from Texas, far away from the border, the fentanyl-involved deaths in Georgia alone, have increased by over 230 percent, but in my district, fentanyl-involved deaths have increased by over 350 percent. This looks to be—it has to be a direct

result of the Biden administration's policies. You can't help but to wonder what would it be like in my district? What would it be like in Georgia? What would it be like in the rest of the country if 300 Americans weren't dying every single day from fentanyl?

So Mr. Vitiello—I am sorry if I keep saying it wrong, I apologize—would it be fair to describe the border wall, had it been completed, or at least what we have, as a force multiplier for Border Patrol in areas where it was installed?

Mr. VITIELLO. One hundred percent. Where you have that barrier, you have an anchor for all of the technology and all of the operations that need to occur in that place in the world. So when you control that area, that gives agents more opportunity to find and rescue people that are in distress, to find and rescue people who are being trafficked, to stop fentanyl from coming into the United States. It's a terrible situation that we're in.

We talked a little bit about smuggling through these areas. All smuggling is organized, whether it's narcotics or people. These cartels are being enriched because the pipeline that was opened up at the beginning of this administration is still open, regardless of CBP One, regardless of the number of people, the reduced apprehensions, the reduced encounters. There's still thousands and thousands of people coming to the border every 24 hours. Having the right kind of infrastructure, having enough and sufficient agents, well-trained, and having the technology to support them is still important and always will be.

I did this work for a long time. The American people have demanded a secure border in—for the entirety of my career, most acutely after 9/11, but that desire still continues, and it hasn't been addressed in a sufficient way. There was a lot of progress made in the last administration. That's all been ripped down now.

Ms. GREENE. Thank you.

I yield, Mr. Chairman.

Chairman HIGGINS. The gentlewoman yields.

The gentlewoman from New York, Ms. Clarke, is recognized for 5 minutes.

Ms. CLARKE. Thank you, Mr. Chairman.

I want to yield some time to the Ranking Member of the O&I Subcommittee.

Mr. IVEY. Thank you, ma'am.

I just had two quick comments. One was it was surprising for me to hear that suggestion that putting up a fence around the Capitol after the invasion and raid that led to the deaths of several police officers was more dramatic or less dramatic than the actual invasion itself.

Ms. GREENE. Walls work, apparently.

Mr. IVEY. Hopefully we—

Ms. CLARKE. Reclaiming my time. The time is for Mr. Ivey, not Ms. Greene.

Mr. IVEY. Yes, hopefully we don't have Sinaloa trying to come into the Capitol. But what we had happen on January 6 was sufficiently bad. I appreciate the Department of Justice prosecuting the 700-plus that have done so, so far.

I yield back.

Ms. CLARKE. My question is actually for Dr. Tenorio. Migrants who cross the Southwest Border in search of a better life in the United States face a perilous journey across rocky and dangerous terrain. All too often, Border Patrol agents find migrants who have been injured, dehydrated, or even drowning in the rivers along the journey. But just as dangerous are attempts to climb and breach the border wall, particularly since the Trump administration increased its height. The walls, no matter the height, do not deter migrants, they simply make it more deadly in their attempts to cross.

So Dr. Tenorio, can you describe the nature of the injuries you have seen in your time at UC San Diego hospital and how increasing the height of the border will increase the number of fatal or near-fatal accidents?

Dr. TENORIO. Thank you for the question.

So as a neurosurgeon I see some of the most devastating neurological injuries to the spine and the brain, which as I mentioned often require life-saving treatment. Since the border wall is raised, from our research and what I've observed at the hospital, taking trauma call at this trauma center, there have been a record number of spine injuries. They've increased five-fold since the border wall was raised.

Now, more alarmingly, there has been an increase in the amount of brain injuries, and now we're seeing even injuries to the brain's blood vessels. Now, let me say that with these brain injuries and brain blood vessel injuries, we don't see these unless they're suffering from high-impact trauma. A lot of these patients, that doesn't get captured in the fatality rate or the mortality rate, are these are devastating injuries, so these patients often can't—you know, no longer interact with their family. So they're not counted as a fatality, but again, they're left without being able to interact with their families or unable to walk. You know, they can't support their families anymore.

Now, going to the mortality aspect, as I mentioned in my opening statement, there were zero instances of fatalities after border falls. Now, after the border wall was raised, there's been 16. Now, let me mention that this only captures a fraction of what's going on, because these are only fatalities that are recorded or captured, but I'm sure there's more that are happening that we don't know about either.

Ms. CLARKE. Well, I think, Doctor, we have really got to find a way to address what has become a challenge to our Nation and to those migrants who are seeking a better life. Certainly climbing a border wall only to drop to your death or to a brain injury is not what they had in mind. They just wanted some freedom.

With that, Mr. Chairman, I yield back.

Chairman HIGGINS. The gentlewoman yields.

The gentleman from Mississippi, Mr. Ezell, is recognized for 5 minutes.

Mr. EZELL. Thank you, Mr. Chairman.

Mr. Johnson, during my first few months in office I visited the border and saw first-hand the impacts of the Biden administration's refusal to resume border wall construction. In front of the mile-long gaps in our border system, there is steel that is literally

rusting away. You said the Federal Government is treating your land like a warehouse because of canceled border wall contracts. Have these abandoned construction materials impacted your ranching business?

Mr. JOHNSON. The areas where these materials are located are impacting us minimally in the sense of like cattle grazing, but it's more aesthetically displeasing. But it's more troublesome that it's sitting there on the ground instead of up in the air, serving its purpose as a wall.

Mr. EZELL. What is the Government telling you about the steel bollards they left on your ranch? What are they telling you about it?

Mr. JOHNSON. There's been zero contact about any plans for removal. What we've heard is just from contractors in passing saying that it's going to be hauled off for scrap.

Mr. EZELL. So the Government hadn't contacted you, said anything?

Mr. JOHNSON. No, sir.

Mr. EZELL. Mr. De Sotle, if that is how I pronounce your name, details surrounding the cancellation of contracts have not yet been disclosed. But it is our impression that the Government intends to continue the terminations for convenience. Can you talk about what the impact has been on your company while being on standby, waiting for the resolution? How did these additional costs add up?

Mr. DE SOTLE. So the additional costs were in excess of almost \$1.5 million dollars that we had to absorb as part of our business. So that was capital outlay at a time when—if you remember this is during COVID, so our industry was impacted fairly significantly and the border wall as I mentioned earlier was our first foray into heavy civil. So this was a line of business that we're looking to go into. We were actually excited when we got the contract because we assumed that this was actually going to help through COVID. It was something that was going to continue to be operational. So the impact has been significant. I'm not going to sit here and lie. It's not been the only impact. I'm not going to tell you that either. However, it has not helped at all.

The most concerning thing for me was the lack of communication. The Federal Government simply can ignore you. They can ignore me whenever—you know, I can't invoice them. I have no recourse whatsoever. Even my prime had no recourse with the Federal Government. So that was what was most concerning. The Federal Government simply would not communicate.

Mr. EZELL. No engagement, No help, no anything.

Mr. DE SOTLE. No. I mean other than, quite frankly, Congressman Pfluger's office, there was no communication from the Government. Congressman Pfluger's office actually helped us through a lot of the difficulty, but—I mean there was no payment, but they helped to shepherd us in the right direction on many occasions.

Mr. EZELL. Is there any way to renegotiate a settlement?

Mr. DE SOTLE. We are currently—we finally got the audit completed. They're offering 50 cents on the dollar for our submission. So that is where we stand right now. So we are actually literally next week probably going to negotiation with the Army Corps of

Engineers. Then from there we'll see how that goes. It's gonna be back and forth, I'm sure, for quite a while.

Mr. EZELL. Please stay in contact with our office so that we can try to help you with this.

Mr. DE SOTLE. I appreciate that.

Mr. EZELL. With that Mr. Chairman I yield back.

Mr. DE SOTLE. Yes, I do appreciate it.

Chairman HIGGINS. The gentleman yields.

The gentleman from California, Mr. Garcia, is recognized for 5 minutes.

Mr. GARCIA. Thank you Mr. Chairman and thank you to our witnesses that are here.

I just want to also be clear. I think we have not heard real solutions along our border. I don't believe that our colleagues on the other side of the aisle have proposed real solutions. What we have had and what I have heard over the last few months are some really out there and crazy ideas. We have heard everything from invading northern Mexico to the assertion that we should be sending missiles into Mexico. A member suggested we should maybe build an alligator moat to protect the border along the Mexican border. Of course, Donald Trump famously said that maybe we should even be shooting migrants in the legs to stop them from coming over the border. So these are actually all ideas that have been brought forward to address our border crisis, all of which are incredibly inhumane.

But today I want to address some horrific news that is coming out of Texas. This has been reported by the *Houston Chronicle* about the Governor. Now, the Governor's border security initiative, according to the *Houston Chronicle*, has ordered State troopers in the Department of Public Safety to push small children and nursing babies back into the Rio Grande River. They have been told not to give them water, to these asylum seekers, even in extreme heat.

So I want to submit this article for the record. This actually just came out. I know it is getting a lot of attention. If I can please submit this article into the record.

Chairman HIGGINS. Without objection.*

Mr. GARCIA. So State troopers on this detail have raised concerns that the policies were over the line and inhumane. These are accounts from the State troopers in Texas. The individual reports themselves are horrific. A pregnant woman having a miscarriage was found late last month caught in a wire doubled over in pain. A 4-year-old girl passed out from heat exhaustion after she tried to go through it and was pushed back by the Texas National Guard soldiers. A trooper suggested that Texas had set "traps of razor wire wrapped barrels in parts of the river with high water and low visibility". A trap as we know isn't something that deters migrants; it is something designed to hurt animals.

I want to quote from this article directly. "The trooper's email sheds new light on a series of previously-reported drownings in the river during a 1-week stretch earlier this month including a mother and at least one of her two children who Federal Border Patrol agents spotted struggling to cross the Rio Grande on July 1st." It

*The information was not available at the time of publication.

continues, “According to the email, a State police boat found the mother and one of the children who went under the water for a minute. They were pulled from the river and given medical care before being transferred to EMS, but were later declared dead at the hospital. The second child was never found, the email said.” Never found. Now, this is sickening, it is un-American, and Governor Abbott’s stunts have consequences.

On another shift, medics said they found about 120 people camping out, including nursing babies and other young children, exhausted, hungry, and tired after a day where the temperature reached 108 degrees. Now, the medics were ordered to push these people back into the river. The medics said that this was, “Not the correct thing to do” and that it could have led to a risk of drowning or great injury. They were told to leave the area.

Now, these aren’t reports, by the way, from activists or human rights groups, which could just be ignored by some, these are actually quotes and statements from front-line law enforcement officials that are working there along the border.

Another front-line law enforcement official said, and I quote: “I believe we have stepped over a line into the inhumane. We need to operate correctly in the eyes of God.”

Now, the United States, as far as I am concerned, should not be leaving babies to die in the desert or forcing pregnant women back into rivers. We don’t order our law enforcement officials to leave people to drown or die. We all want a secure and orderly border, but Governor Abbott’s brutal orders aren’t accomplishing that and that needs to be brought up today in this hearing. This conduct is disgusting and these issues around this incident should be brought forward into this committee to answer questions. That Governor needs to be held accountable.

I yield back.

Chairman HIGGINS. The gentleman yields.

The gentleman from Oklahoma, Mr. Brecheen, is recognized for 5 minutes.

Mr. BREECHEN. Thank you, Mr. Chairman.

So under the Trump administration, build a wall. Common theme, build a wall. Illegal immigration was at a 45-year low. Biden takes office. President Biden says, not another foot. We now have historic numbers of illegal immigration occurring at our Southern Border. It is not a coincidence. The thoughts on physical barriers go hand-in-hand with what we see as the consequence, the fruit of the decisions. Are you going to be serious about the rule of law, or are you not?

We talk about deaths. I think all of us, in our humanity, our heart goes out to people that undergo hardship, but where is the hardship coming from? What is causing people to drown as they cross the Rio Grande? It is because of a message that says our border is open, increases the number, increases those people that are drowning.

We talk about things that are happening, 18- to 45-year-olds, leading cause of death is fentanyl. That is happening now under the not-another-foot thought. What about human trafficking? What about the 85,000 children that we can’t account for in the last 2 years? “Sound of Freedom” is a movie that is getting a lot of atten-

tion. We know that people, those single adults, are using children and they are sending them back across to bring across another single adult. We don't have any idea how many of these children are being utilized for a sex trade. I mean, that is the real tragedy of this, is that we are, by our dereliction of enforcing the rule of law, we are compounding the problems.

So, Mr. Tenorio, as the Democrat-invited witness to come before us who is contending—just to make sure I am understanding this—your contention is because people have fallen off the wall and you have, as a doctor, have seen more accidents and incidents, you are contending that that is justification for bringing down the wall. Am I understanding that correctly?

Dr. TENORIO. Let me clarify that for you, Representative. So I'm here as a neurosurgeon speaking on my experience as a neurosurgeon at a level one trauma center near the border. What—

Mr. GARCIA. Reclaim my time. But your contention is because of the incidents of the accidents, the wall should come down, they are causing more injury. Yes or no?

Dr. TENORIO. That is not my contention, no.

Mr. GARCIA. So you believe we should continue the wall construction?

Dr. TENORIO. You know, I came here,—I'm not a border policy expert, and that's outside of my expertise.

Mr. GARCIA. But I have heard you imply that because of people falling off the wall we should tear down the wall. I mean I have heard that implication. Am I wrong in understanding you?

Dr. TENORIO. I did not make that statement.

Mr. GARCIA. Is that your thought?

Dr. TENORIO. As I mentioned I'm not a border policy expert.

Mr. GARCIA. I think you are—

Dr. TENORIO. I came here as a neurosurgeon to speak on what I've seen at the hospital.

Mr. GARCIA. I understand. I have heard the implication. I think it is pretty clear to those of us that you don't support walls because people are falling off walls and they are getting hurt.

Here is where I want to go with this. For all of us, just make a sound judgment call, OK. Mr. Johnson, I read from 1918 your family has had a ranch, fourth-generation rancher. Same situation, except I live in Oklahoma. Nineteen-eighteen, my great-grandfather moved in and started a family ranch. I don't have to deal with what you have to deal with. I don't have to go climbing in the deer woods and worry about if I am out there deer hunting if I could be the one that could be the prey because somebody that is running a cartel ring could shoot me deer hunting on my own place. That is the kind of—what I understood from what you described, you deal with that. That is a sad reality.

I want to go back to this thought though. I mean if somebody cuts the fence and is stealing your cattle, I mean given what you described, they are not having to cut the fence to steal your cattle, and they slice their hand, should you be responsible for their medical bills?

Mr. JOHNSON. No, sir.

Mr. GARCIA. OK, so same train of thought. Airport parking has barriers around it. If somebody climbs over that wall and breaks

the law, is it my responsibility to be liable because that business owner was trying to protect my property? I mean, if somebody is trying to break into my home, should I tear the door down to make it easier for them the next time so they can come inside my door? Because we are talking about lawlessness. Our heart goes out to people that are harmed, but we are talking about people who are breaking the law. Someone said a while ago, they are just trying to get freedom. Then do it legally. Go through a port of entry. There are many people who do that.

With that, I yield.

Chairman HIGGINS. The gentleman yields.

The gentleman from Arizona, Mr. Crane is recognized for 5 minutes.

Mr. CRANE. Thank you, Mr. Chairman. Thank you to all the witnesses on our panel for coming today and testifying.

I want to start with Mr. Vitiello real quick. Sir, you and I, we are talking about similar things. You called it a security system, I was talking about overlapping deterrence. Either way, it is really the same thing, right? It is just multiple overlapping deterrents that work in conjunction to create the most security possible for whatever institution we are talking about, whether it is a country, a prison, a school, right?

Mr. VITIELLO. I agree with you.

Mr. CRANE. How long were you in the Border Patrol, sir? Was it 33 years?

Mr. VITIELLO. I wore the uniform for 33 years and I was in ICE for almost the last year I was in Government.

Mr. CRANE. You were a chief, is that correct, Mr. Vitiello?

Mr. VITIELLO. I was a chief in two locations on our Northern Border and in the Rio Grande Valley in Texas, and then I was chief at headquarters for a time.

Mr. CRANE. Sir, knowing what you know about border security, what does it make you think when you sit in this chamber and you hear individuals attacking one part of that security system or one of those deterrents, like the wall?

Mr. VITIELLO. It's a little bit frustrating. We should be agnostic about whether walls work or not. It's not a partisan issue. Walls work. Everybody that's been in the Border Patrol for more than 5 minutes recognizes it's easier to control a territory on the border when you have infrastructure that goes along with it. Not just wall. We talked about the comprehensive nature of it. I was thinking through this just a couple of minutes ago. We often talk in this chamber and others in this building about comprehensive immigration reform. Let's talk about comprehensive border security, which talks about our foreign relations overseas, which talks about what Mexico and Canada can do for us to help secure our border. Let's talk about what the State and locals can do and what communities can be active and talk about. Then you have to have physical infrastructure if you want to be successful, especially in the urban areas.

Mr. CRANE. Thank you, sir.

I want to transfer real quick to Dr. Tenorio. Doctor, thank you for coming. I also want to say thank you for your service. I was listening to your testimony, it must be really hard to watch somebody

a young kid or even a mom or a dad come in to your emergency room or your hospital and see a leg broken or a stress fracture a spinal injury or a TBI. Is it pretty pretty tough to watch that, sir?

Dr. TENORIO. Yes, it is. Thank you for the comment.

Mr. CRANE. Yes, sir. Doctor, I wanted to ask you, because I noticed you were getting teared up. I can tell that witnessing these injuries really affect you. But I did want to know, Doctor, have you ever seen an American who has overdosed on fentanyl? Have you ever had to treat one of those?

Dr. TENORIO. I have not had to treat one of those as of today, no.

Mr. CRANE. How about any of your colleagues? Any of your colleagues ever have to treat anybody that has overdosed on fentanyl?

Dr. TENORIO. Yes, they have. I haven't spoken to them about the specifics and what the experience is like though.

Mr. CRANE. OK. Doctor, do you know how many Americans every day—or I should say every year, are dying of fentanyl in the United States?

Dr. TENORIO. No, I do not.

Mr. CRANE. OK. It is about 70,000 right now.

Mr. CORREA. Will the gentleman yield?

Mr. CRANE. Yes. Go ahead, sir.

Mr. CORREA. I just want to say, Mr. Crane, totally agree with you in the fentanyl challenge. That is why we are trying to figure out the priorities in my mind right now. If we want to keep fentanyl out, you go work on, make sure our ports of entry are much more secure because that is where 90 percent of the problem is.

Mr. CRANE. OK, thank you, sir. I appreciate it.

Mr. CORREA. Thank you.

Mr. CRANE. I yield back—take my time.

The reason I am pointing it out, Mr. Ranking Member, is because obviously you guys called him here to talk about the injuries that he has witnessed from the extended height of our walls, right? But I want to point out, again, this is the Homeland Security Committee. Our primary job in this committee is to make sure that our Homeland Security units have the necessary resources, funding, and equipment to make sure that Americans are safe. So the doctor was talking about 16 people that he knows of that have died because they fell off that wall. That is horrible. That is horrible, Doctor. But since the Biden administration took office, Doctor, do you have any idea how many Americans have died because of fentanyl? I just gave you the 1-year number. Any idea how many have died in the 3 years?

Dr. TENORIO. I cannot speak to that, no.

Mr. CRANE. Three hundred thousand, Doctor. How would you like to treat one of those individuals? How would you like to break the news to those family members that—and I know you—I know you are a man, you have a heart. I could see that. But I am asking, do we care about those individuals as well?

Dr. TENORIO. Absolutely. As a physician, I took an oath to take care of every patient that comes to our hospital and I treat every patient the same.

Mr. CRANE. I appreciate that, Doctor. I think that is great.

The last thing I want to say is, Mr. Johnson, how does it make you feel when you hear politicians that you know have camera systems, locked doors, walls, security system, and often armed personnel sit here and talk about how walls don't work? Do you think that they might change their tune a little bit, Mr. Johnson, if they lived at your ranch?

Mr. JOHNSON. I think that's a big issue is nobody truly knows what's going on on the border. Ports of entry, there's more assets allocated there than there are in between the ports. I know that from a professional career as a Border Patrol agent versus my point of view as a stakeholder now.

I would like to take this time to—opportunity to invite any Member of this committee to come down to my ranch and I will show you first-hand what we are dealing with.

Mr. CRANE. Thank you Mr. Johnson.

I yield back.

Chairman HIGGINS. The gentleman yields.

I thank the witnesses for their testimony today and Members for their questions.

The Members of the subcommittees may have additional questions for the witnesses, and we would ask that the witnesses respond to these in writing.

Pursuant to committee rule VII(D), the hearing record will be held open for 10 days.

Without objection, the subcommittees stand adjourned.

[Whereupon, at 5:25 p.m., the subcommittees were adjourned.]



**WHY EXPANDING MEDICAID
TO DACA RECIPIENTS WILL EXACERBATE
THE BORDER CRISIS**

HEARING

BEFORE THE
SUBCOMMITTEE ON HEALTH CARE
AND FINANCIAL SERVICES
OF THE
COMMITTEE ON OVERSIGHT
AND ACCOUNTABILITY
HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

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- * Statement for the Record, FAIR; submitted by Rep. McClain.
- * Statement for the Record, National Health Law Program; submitted by Rep. Porter.

Documents are available at: docs.house.gov.

WHY EXPANDING MEDICAID TO DACA RECIPIENTS WILL EXACERBATE THE BORDER CRISIS

Tuesday, July 18, 2023

HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY
SUBCOMMITTEE ON HEALTH CARE AND FINANCIAL SERVICES
Washington, D.C.

The Subcommittee met, pursuant to notice, at 2:11 p.m., in room 2154, Rayburn House Office Building, Hon. Lisa McClain [Chairwoman of the Subcommittee] presiding.

Present: Representatives McClain, Foxx, Grothman, Luna, Langworthy, Burlison, Porter, Ocasio-Cortez, Casar, Lee, and Crockett.

Mrs. MCCLAIN. The Subcommittee on Health Care and Financial Services will come to order. Welcome, everyone.

Without objection, the Chair may declare a recess at any time.

I recognize myself for the purpose of making an opening statement.

Today, we are, again, conducting oversight of yet another disastrous policy by the Biden Administration that will only exacerbate the crisis along the Southern border. The Centers for Medicare & Medicaid Services have proposed a rule to extend Medicaid, CHIP, and Obamacare eligibility, Deferred Action for Childhood Arrivals, or DACA, recipients in direct contradiction to congressional intent.

Once again, the Biden Administration officials are seeking to rewrite laws through agency rulemaking because they know their policies are not supported by the American people, and they would not be able to pass in the House nor the Senate. Instead, they are proposing a rule with dubious legal basis to provide taxpayer-funded Federal health benefits to individuals who have entered this country illegally.

Even President Obama understood this much when his Administration determined in 2012 that DACA recipients should not be eligible for Medicaid. A Federal judge has already deemed the entire DACA Program, which was unilaterally created through nothing more than an emergency memorandum, unlawful. DHS is currently prohibited from accepting further applications by a court order. Despite this, the Administration proceeds with a plan to spend hundreds of millions more of taxpayer dollars on healthcare benefits for DACA recipients.

CMS' own estimates show that the expansion will increase state expenditures for Medicaid and CHIP by \$40 million, and Federal expenditures would expand by another \$60 million per year, and that does not include the proposed Obamacare expansion, which is projected to cost another \$15 million per year. And you know who the Biden Administration expects to pay for it? The American taxpayers.

Further, the Biden Administration's proposal will incentivize further illegal immigration. The Biden Administration has chosen, unfortunately, to prioritize illegal immigrants over the American people. I simply do not understand it. These funds could be used to provide better healthcare to the American people, and that is why we must stop this Administration from rewarding illegal immigrants at the expense of American citizens. We must ensure that Americans are being put first.

By definition, DACA recipients are still and always were unlawfully present in the United States. The Biden Administration cannot simply alter that fact. In extending Federal benefits to illegal immigrants, President Biden is signaling to the rest of the world that not only will the U.S. not enforce laws preventing illegal immigration, but illegal immigrants will be rewarded with Federal benefits. We should not reward individuals unlawfully present in the United States with benefits that were created for American citizens and those who are lawfully present in the country.

The Biden Administration is responsible for one of the worst crises in the recent memory along our Southwest border. By extending Federal benefits to illegal immigrants, the Biden Administration is once again pouring gasoline on an out-of-control fire that will only incentivize more illegal immigration, but such reckless tone, tone-deaf policies have become the status quo for this Administration.

With that, I want to thank Dr. Montz for being here today. We look forward to your testimony.

Now I yield to the Ranking Member, Ms. Porter for her opening statement. Ms. Porter?

Ms. PORTER. Thank you, Chairwoman McClain. We have done some really good hearings together this year. We have come together on a bipartisan basis to uncover the root causes behind the infant formula shortage, we have pointed out how bank regulators need oversight, and we have dug into the role of Chinese money laundering organizations in making the drug cartels rich. What do all of these things have in common? We have tackled real problems: deaths from fentanyl, scared parents unable to feed their babies, risks to our financial system. We have shown we are willing on a bipartisan basis to hold powerful people to account. We identified places where we need guardrails to make our government, our economy, and our country work better. And though we did not agree on everything, we came together on the big picture to achieve progress. I am afraid that none of those things are true for today's hearing.

Today, we are here to discuss the proposed rule from the Biden and Harris Administration that would expand health coverage to everyone lawfully present in the United States. Medicaid and the Affordable Care Act plans are already available to people who are

lawfully present in the U.S., but under current Federal rules, Dreamers are left out of the definition of “lawfully present.” President Biden’s proposed rule changes that. Why would the President do that? Because, well, DACA recipients are, in fact, lawfully present in the United States. How? Because Congress passed the DACA law. There is not a whole lot else to unpack.

So, what are Republicans trying to do with this hearing? It is not oversight because the ability to go to the doctor is not an abuse of power or an evasion of the law. The title of this hearing gives a clue: “Why Expanding Medicaid to DACA Recipients Will Exacerbate the Border Crisis.” Let us look at the premise here. First, some facts. Many DACA recipients already have health coverage through their employers, just like other working-age Americans. Dreamers work hard, pay taxes, and they get employer-provided care. So, how many Dreamers would even get Medicaid under this new rule? About 13,000, about the size of one small town. And then the other Dreamers would be able to buy, using their own wages, healthcare on the exchange, just like anyone else who lives and works here in the United States, and do so in compliance with the law. Somehow letting people who legally live in the United States buy healthcare is going to create a border crisis?

It would be funny to watch this bad argument fall apart if it were not such a waste of time. This Subcommittee has had great hearings under Chairwoman McClain’s leadership, hearings that held powerful people accountable, identified missing guardrails, and improved the lives of the people we serve. This hearing does not meet those standards because what powerful people are we holding to account here?

The people who would get healthcare under this rule are not rich or well connected. These folks are not using their powerful positions to abuse the system. They are just regular workers trying to get insurance so they can stay healthy. OK then. So, what missing guardrails are we identifying? None. This hearing is not about putting up guardrails, it is about ripping away a safety net. It is telling people who have followed the rules of the DACA Program that they cannot access healthcare. OK, then. So, how does this hearing make life better for our constituents? All I can say is when you are making it harder for people to be healthy, you are going to have a tough sell that you are in it for the people. And honestly, I think that is why this hearing is framed to be about the border.

Most Americans want healthy communities. Most Americans want Dreamers to have a future in our country. But too many Republican lawmakers do not want either of these things, and they know they are not going to convince the people by arguing against popular policies, like accessible healthcare. So instead, they are bringing in buzzwords like “border crisis” to try to save the day. Republicans need to be able to defend the real reasons that they continue to oppose healthcare expansion if this is the hearing that they want to have. Otherwise, I hope we will go back to having serious oversight hearings. I have seen that the Republicans can do it, and the American people deserve no less. I yield back.

Mrs. MCCLAIN. Thank you, Ms. Porter.

Pursuant to Rule 9(g), the witness will please stand and raise her right hand.

Do you solemnly swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Ms. MONTZ. Aye.

Mrs. MCCLAIN. Let the record show the witness has answered in the affirmative.

We appreciate you being here today and look forward to your testimony. Let me remind the witness that we have read her written statement, and it will appear in full in the hearing record. Please limit your oral statements to 5 minutes.

As a reminder, please press the button on the microphone in front of you so that it is on, and the Members can hear you. When you begin to speak, the light in front of you will turn green. After 4 minutes the light will turn yellow. When the red light comes on, your 5 minutes has expired, and we would ask that you would please wrap up.

I recognize Ms. Montz to begin her opening statement.

**STATEMENT OF ELLEN MONTZ
DEPUTY ADMINISTRATOR AND DIRECTOR
CENTER FOR CONSUMER INFORMATION
AND INSURANCE OVERSIGHT
CENTERS FOR MEDICARE & MEDICAID SERVICES**

Ms. MONTZ. Good afternoon. Chairs Comer and McClain, Ranking Members Raskin and Porter, and Members of the Subcommittee, thank you for the opportunity to provide an update on the Centers for Medicare & Medicaid Services' work to expand access to healthcare by reducing barriers for Deferred Action for Childhood Arrival Recipients.

Over the last decade, DACA has provided peace of mind and work authorization to more than 800,000 Dreamers. In April 2023, the President announced his intention to expand health coverage for DACA recipients, and directed the Department of Health and Human Services to examine options that would allow DACA recipients to gain eligibility for coverage through health insurance marketplaces, the basic health program, and some Medicaid and Children's Health Insurance Programs. Accordingly, on April 24 of 2023, CMS released a proposed rule which, if finalized, would remove the current exclusion that treats DACA recipients differently from other individuals with deferred action. The proposed change to no longer exclude DACA recipients from CMS' definitions of lawfully present would align with the Department of Homeland Security's definition of "lawful presence" and DHS' explanation of this definition in their August 2022 final rule.

Deferred action recipients, including DACA recipients, have historically been considered lawfully present for purposes of Social Security benefits, pre-dating the DHS DACA final rule. Under CMS' proposed rule, DACA recipients would need to meet all other program eligibility requirements to qualify for coverage under CMS healthcare programs. As with all other enrollees, eligibility information, including an individual's U.S. citizenship or immigration status, would be verified electronically.

The Affordable Care Act generally requires that in order to enroll in a qualified health plan through an exchange, an individual must

either be a citizen or national of the United States or be lawfully present in the United States. The Children's Health Insurance Reauthorization Act of 2009 provided an option for states to cover additional non-citizen populations, including coverage of lawfully residing children and pregnant individuals in Medicaid and CHIP, commonly referred to as the CHIPRA 214 option.

Although HHS interpreted "lawfully present" to exclude DACA recipients in 2012, we now know how important ensuring access to health insurance coverage is to the well-being and productivity of DACA recipients. For example, a 2021 survey of DACA recipients found that although DACA may facilitate access to health insurance through employer-based plans, more than one-third of DACA recipients responded reported that they were not covered by health insurance. These findings suggest that without additional health coverage options, many DACA recipients could be left without access to affordable healthcare coverage. Individuals without health insurance are less likely to receive preventive or routine health screenings and may delay necessary medical care or receive uncompensated care in emergency rooms. The COVID-19 public health emergency further highlighted the need for individuals to have access to high-quality, affordable healthcare coverage.

According to a demographic estimate by the Centers for Migration Studies, over 200,000 DACA recipients served as essential health workers during the COVID-19 public health emergency, including healthcare and in social assistance occupations. During the height of the pandemic, essential workers were disproportionately likely to contract COVID-19. These factors emphasize how increasing access to affordable health insurance would improve the health and well-being of many DACA recipients who are currently uninsured. If the rule is finalized as proposed, it could lead to 129,000 previously uninsured DACA recipients receiving healthcare coverage. Including DACA recipients in the definition of "lawfully present" would align with the goals of ACA and CHIPRA, specifically to reduce the number of people who are uninsured in the United States and make affordable health insurance available to more people. Thank you for the opportunity to testify on this important issue.

Mrs. MCCLAIN. Thank you. The Chair now recognizes Mr. Grothman for 5 minutes, from Wisconsin.

Mr. GROTHMAN. All right. I guess President Biden did run on giving healthcare to people coming across the border. One of the arguments against DACA is the idea that once you grant it once, you are always going to continue granting it, and so far that is true. Do you feel that free healthcare for people who at least came here illegally will result in more illegal immigration, or do you have any study on that or consider whether that is going to be a factor?

Ms. MONTZ. This rule relates to our proposal to include DACA recipients and eligibility—

Mr. GROTHMAN. Right. I know. And by giving DACA recipients free healthcare, people who came across the border, albeit maybe with their parents, although not always, illegally, will this encourage people in the future to come across the border or bring their children across the border?

Ms. MONTZ. DACA recipients are a defined population of individuals who came to the United States as children and have been residing here since 2007.

Mr. GROTHMAN. Right, right, right. And I think the feeling in the past is when you give, say, even amnesty, it causes people abroad to think you are going to get amnesty again. When I have been at the Southern border, already the Border Patrol tells me that people are coming here for American healthcare because they know that America, being so generous, sure, will give you dialysis whenever if they come here. Do you think this sends a message, because I assume if it is OK for people to declare DACA if they came here in 2007, in the next few years, somebody will say, you know, you are DACA if you came here in 2017. In that regard, don't you feel that this promotes illegal immigration?

Ms. MONTZ. I can only speak to what is current law, and this proposed rule proposes to extend health coverage to DACA recipients and not other individuals.

Mr. GROTHMAN. Yes. What do you think is the annual cost of this program?

Ms. MONTZ. Our proposed rule has estimates included in the regulatory impact analysis. We estimate that about 129,000 individuals will gain coverage if this rule is finalized. That is about 13,000 individuals in the 35 states that have chosen the optional coverage in Medicaid and CHIP, and just over 110,000 in marketplace coverage. As for costs, there are roughly 35 states that have chosen the option to cover pregnant individuals and children lawfully present, pregnant individuals and children, we estimate that to be about \$100 million per year, and for marketplace coverage, we estimate that to be about \$300 million per year.

Mr. GROTHMAN. OK. One of the concerns I have with Medicaid across the board is it does affect the way people behave in order to get the benefit, OK? It both discourages work and discourages marriage. Does that bother you at all that we are adding another benefit to people who are not going to get it if they either arrange for their own healthcare through work, or, like I said, all these income transfer programs discourage marriage. Have you thought about that or done any analysis to see how this will affect people's behavior?

Ms. MONTZ. As I have said, CMS is committed to providing quality affordable healthcare coverage—

Mr. GROTHMAN. So, you do not care. That is not a concern to you?

Ms. MONTZ. What we have seen in the Medicaid Program and other programs as well is that health insurance allows people to be better productive in the work force.

Mr. GROTHMAN. Right. You must know. Maybe you do not know, maybe you do not talk to people. That already in America, people who want to get on Medicaid, adjust their income so they get the benefit, correct? Are you aware of that?

Ms. MONTZ. What I am aware of is that most working-age individuals who are enrolled in Medicaid are employed, and those who are not employed—

Mr. GROTHMAN. They may be employed, but they adjust their income to make sure that they are eligible for this benefit.

Ms. MONTZ. I am not aware of that.

Mr. GROTHMAN. Correct?

Ms. MONTZ. I am not aware of that.

Mr. GROTHMAN. OK. Would you agree to limit the program to a certain cost, or is it going to be the sky is the limit, however many people take advantage of the program?

Ms. MONTZ. In our proposed rule, we have proposed to extend eligibility through the definition of—

Mr. GROTHMAN. So, in other words, it is just changing the eligibility standards that could cost the government an unlimited amount of money and that you are not limiting the amount the taxpayer is going to have to pay?

Ms. MONTZ. As I said, we have estimated the cost of proposed changes under the rule.

Mr. GROTHMAN. OK. Thank you.

Mrs. MCCLAIN. Thank you, Mr. Grothman. The Chair now recognizes the gentlewoman from New York. I can never say your name. I apologize.

Ms. OCASIO-CORTEZ. Ocasio-Cortez.

Mrs. MCCLAIN. Ocasio-Cortez. Thank you—

Ms. OCASIO-CORTEZ. Thank you. Thank you very much. That is all right. Thank you so much, Dr. Montz, for joining us here today. I would be remiss, just for us to put into context what this hearing is about, we are having a hearing about why we should not proceed with healthcare coverage and Medicaid coverage to DACA recipients, people who are lawfully here in the United States. And we are having this hearing on the heels of Governor Abbott in Texas issuing an order to Texas troopers to push children and infants into the Rio Grande River. And now we are having a hearing today about why we should push people who were brought here as children off of healthcare coverage.

I cannot proceed without saying that denying healthcare to anyone, I believe, is morally repugnant, but moreover, I also want to highlight a little bit of the relationship here that the United States has with DACA recipients. Dr. Montz, are you aware of how much in Federal, or state, or local taxes that DACA recipients pay?

Ms. MONTZ. I am not.

Ms. OCASIO-CORTEZ. DACA recipients pay about \$6.2 billion in Federal taxes alone. They pay another \$3.3 billion in state and local taxes each year. And given that, I think it also further highlights the relationship that the United States has with DACA recipients, which is that we take, and we take, and we take. We take taxes. We take their employment. We have hundreds of thousands of—yes, 345,000 DACA recipients served as essential workers in 2021 during the COVID pandemic alone.

They serve in our healthcare systems, they serve our elderly, they are nursing home workers, and we are having a hearing today as to why people who are American—they are American—do not deserve healthcare. They are here lawfully. They pay more taxes than Facebook does. They pay more taxes than many of our Federal corporations do. DACA recipients pay for Members of Congress' healthcare more than Facebook does, and we are sitting here having a hearing and saying we are going to return that favor by stripping them of their ability to engage in Medicaid when they are

the ones that are changing our grandparents' sheets in a nursing home. I cannot believe this.

The idea that this would somehow act as an incentive when any DACA eligibility ended in 2007, over a dozen years ago, is laughable. As is, I believe, the premise that the American healthcare system is somehow some boon for working-class people and the best in the world. What in the American exceptionalism is going on here? I do not know a group of people that oftentimes are more patriotic to this country than DACA recipients. They give, and they give, and they give to a country that does not love them back in their actions. Yet 74 percent of Americans, Republican and Democrat, believe in a path to citizenship for DACA recipients, for children who were brought here and made this place their home.

These DACA recipients are emblematic of the American Dream, they are America's proof of concept, and to strip and undermine that is to undermine ourselves in this institution. If there is any individual that believes in stripping Medicaid from DACA recipients, I would like to know if they are willing to give the \$6.6 billion that DACA recipients pay in Federal taxes back to them. Are we willing to refund the \$3.3 billion in state and local taxes that they pay back to them so that they can afford their own healthcare? This should not even be a question right now, and with that, I yield back.

Mrs. McCLAIN. Thank you. The Chair now recognizes Mr. Burlison from Missouri.

Mr. BURLISON. Thank you, Madam Chair. Thanks for this hearing. Dr. Montz, is the U.S. Government in debt?

Ms. MONTZ. I believe we are.

Mr. BURLISON. Do you happen to know, off the top of your head, how much debt that we currently have?

Ms. MONTZ. I do not.

Mr. BURLISON. It is \$32.5 trillion. Do you know how much that is per citizen?

Ms. MONTZ. I do not.

Mr. BURLISON. It is nearly a \$100,000 per citizen. Per taxpayer, it is over \$250,000. If the bill came due today, every taxpaying citizen in the United States would have to fork up \$250,000 because this place blows money, and, you know, have you ever heard of the economist, Milton Friedman?

Ms. MONTZ. Yes.

Mr. BURLISON. OK. Milton Friedman is famous for quoting, and his quote about this issue was that he said, "It is just obvious, should be self-evident to anybody, that you cannot have free immigration and a welfare state." And why would he say that?

Ms. MONTZ. I am not sure.

Mr. BURLISON. Because it is basically a run on the institution. You have individuals who we are now opening up to be charitable to. You know, at the end of the day, when the government taxes someone and then takes that money and gives it to someone, is that charity? Pays for their services, their healthcare.

Ms. MONTZ. I believe we have taxes—

Mr. BURLISON. Yes, we are being benevolent, right? Benevolent. The question at hand is not that benevolence cannot exist in America. The government has a monopoly power on force. When they tax

you, they are forcing you to spend money on the things that government wants to spend money on. They are forcing you to be charitable, to be benevolent with your dollars. I am just beside myself that we would think that this could occur without continuing to bankrupt a Nation that is on the tipping point, on the verge.

So, one of my questions has to do with the fact that when DACA was created under Obama, that he explicitly excluded DACA recipients from Medicaid, CHIP, and ACA benefits. Why did he do that?

Ms. MONTZ. I believe the rule referenced some DHS memorandum and policymaking.

Mr. BURLISON. Well, I do not know that was an answer. You said that they issued a memorandum.

Ms. MONTZ. Sorry. The 2012 rule that used HHS' authority to define lawful presence as it relates to the Affordable Care Act, and CHIPRA 2009 referenced rulemaking done by the Department of Homeland Security in its rationale for excluding DACA recipients from the HHS' definition of lawful presence. As we have put forward in the proposed rule that we recently put out here that we are discussing today, we put forth the Biden Administration's rationale for changing that, for changing that policy interpretation under our authority.

Mr. BURLISON. OK. A question: is DHS currently allowed to add new applicants to DACA?

Ms. MONTZ. I would defer to DHS for that answer.

Mr. BURLISON. So, the way I understand it, the answer is no because a Federal judge held that DACA is unlawful. And so, the question then becomes if it is unlawful, what justification do you have to add individuals on a program that has been deemed by the courts to be unlawful?

Ms. MONTZ. The proposed rule that we put forward reflects current law in which DACA recipients—

Mr. BURLISON. And who directed you on the proposed rule? Did Congress direct you? Do you have direction from Congress?

Ms. MONTZ. It is a proposed rule pursuant to HHS' authority under the Affordable Care Act and CHIPRA 2009.

Mr. BURLISON. Did the White House instruct you?

Ms. MONTZ. Through any general kind of proposed rulemaking process, HHS, the White House, OMB and other affected Federal agencies are involved in the—

Mr. BURLISON. Thank you. At the end of the day, healthcare costs a lot of money. This Nation is nearly broke, and there is not enough to pay for everybody. I yield back.

Mrs. MCCLAIN. Thank you. The Chair now recognizes the gentleman from Texas, Mr. Casar.

Mr. CASAR. Thank you. Just to be really clear about what it is we are debating today, the Biden Administration has chosen to stop discriminating against DACA recipients so they can buy health insurance on the exchanges like everybody else. They pay their taxes, billions in taxes, and thankfully, the Biden Administration has said we are going to stop discriminating against DACA recipients just like we are going to treat them like other legally present people. And Republicans are arguing that we need to undo this really commonsense change from the Biden Administration.

And I have been sitting here this whole hearing, and I still cannot understand from the Republican Majority why they think that DACA recipients, who are paying billions of dollars in taxes to pay for healthcare programs, should not have health insurance and should instead go to the emergency room. So, I will take this moment just to hear from anybody in the Majority to hear why, if they are paying billions in taxes, we should keep discriminating against them.

Or why, if a mom is pregnant, we all chip in, we all participate because we know we want her to be able to take care of her kids. That is why moms who are low income can get access to Medicaid for the folks that are prolife in this group. Why is it that we want moms, who are legally present in this country, to not have access to health insurance? That is the question. It is the only question, if there are any takers.

We have been in bipartisan hearings where we have engaged productively. This is confounding. I want to hear why a mom who is legally present, who has paid her taxes, that we make sure we take care of moms in this country, but then we say, no, DACA recipients, we are going to take your labor, we are going to take your talents, we are going to take your sweat, we are going to take your blood, we are going to accept your brilliance, your talents, your inventions, but, no, if you get pregnant, we are not here, you do not need health insurance. Chairwoman? Anyone?

It is shameful. It is absolutely shameful. Providing people healthcare is not a reward. It is not charity. It is what we do because people go out and work and participate in society, and when my seniors need access to Medicare, I do not say this is a reward or this is charity. I say thank you. This is what we owe to one another, and we should do the same thing no matter who you are or where you are born in this country. It is not a reward. We should just be doing the right thing.

What DACA recipients have been asking for is not charity. It is for us to stop punishing them. They grew up in this country, they immigrated here as children, and they have just said stop punishing us. Let us live like everybody else, and the DACA recipients who are hearing this and their family members should know that you have earned it. You should not have to come and ask us for access to health insurance or to be treated like everybody else. It is something you earn every single day by taking care of your family members, by participating in this country, by taking care of school kids, or at nursing homes, or building amazing things in this country. You already have earned it, and it is just us who have kept you from having it.

But thankfully, the Biden Administration wants to stop this one little bit of discrimination and we have a whole hearing about it, and nobody is willing to say why they want to take health insurance away from a pregnant mom, or why they do not want to let somebody buy health insurance, why they want to send them to the emergency room where it is going to cost us more money and where people will die. We want to stop punishing people. We need to get to a place where we recognize we actually grow our economy, grow our tax base by including more and more people.

Come to Texas, come to a construction site, and tell me what building gets built without immigrant workers. Tell me what inventions get invented without immigrant workers. Just come. But instead, what we see from Governor Abbott is punishing people and, frankly, killing people because he is putting drowning devices in the Rio Grande. A trooper just blew the whistle and said that they are putting out orders that will kill people. We got to stop punishing people, and we should just actually answer the hard question, which is why should politicians keep on running to build their own power by punishing folks and threatening their lives.

So, I want to thank the Biden Administration for doing the right thing on this, and I will still be here waiting to hear just the baseline answer for why we want to take pregnant moms off of healthcare.

Mrs. MCCLAIN. Thank you. And I would like to respond to that is—

Mr. Casar. Please.

Mrs. MCCLAIN [continuing]. We are happy to have that conversation regarding immigration. And I think Congress is the appropriate body of the government to have that conversation. What I think people are irritated with, and I can speak for myself, what I am irritated with is we have three co-equal branches of government to do that. We need to have the appropriate conversations in the appropriate bodies of government agencies, not by with the swipe of a pen with either the agency or the executive branch. So again, sir, I am happy to have those conversations, and that is what—

Mr. CASAR. So, Chairwoman, would you—go ahead.

Mrs. MCCLAIN. If the gentleman will let me finish in response to your question. That is why we need to have the conversations. But what I am tired of is the agencies playing the end-all be-all and with a swipe of a pen reinterpreting definitions or just changing the rules, changing the definitions altogether. I mean, we talk about DACA recipients being children. The average age is 29. So, sir, again, I think you bring up a very, very valid point. This is the body to have those conversations. We have got to stop letting the agencies run with these. We have to follow the law. We are a land and a Nation of laws. So, with that, I yield.

Mr. CASAR. So, Chairwoman, would you co-sponsor a bill with me to say pregnant moms legally present in the country should have access to Medicaid? You know, pregnant moms should not have gone without health insurance.

Mrs. MCCLAIN. And again, sir, I think what we need to get back to is legally present. I am here—

Mr. CASAR. And they are legally present.

Mrs. MCCLAIN. If you could let me respond again, sir.

Mr. CASAR. Go ahead.

Mrs. MCCLAIN. Just finish my response—those are the types of conversations that we need to have. But what I think people are sick of is—let us not redefine the definitions, and maybe we need to spend some time on the definitions. So, again, happy to have that conversation, but with that, I yield to Mr. Langworthy from New York. Thank you.

Mr. CASAR. If we overturn this rule, we are taking pregnant moms off Medicaid.

Mr. LANGWORTHY. Thank you very much, Madam Chair, and I would like to thank Dr. Montz for joining us today to discuss the proposed CMS rule. This rule has far-reaching implications, particularly in our home state of New York where Medicaid is funded through property taxes and many other taxes. New York state firmly holds its place near the very top of the list that has the highest property values, and property taxes are a tremendous burden throughout my district and throughout the entire state.

The consequences of this entire rule are clear. To increase Federal spending and inevitable higher costs will burden hardworking American taxpayers, especially those in New York's 23d congressional District. And while we could engage in debates about costs and figures, it is essential to take a closer look at the actual development of these rules and others like this, just as my colleagues have just discussed. Far too often, we witness unelected officials within this Administration, especially in this particular Biden Administration, pushing their own agenda without giving consideration to due process or the impact on the American taxpayer. It is crucial that we hold the government accountable and ensure that policies are thoroughly examined, transparent and genuinely beneficial to all of our constituents.

So, Dr. Montz, why did CMS decide to develop this rule, and what was the rationale to extend benefits to DACA recipients when the Obama Administration did not do this in 2012?

Ms. MONTZ. Thank you for that question. The CMS is committed to expanding quality, affordable health insurance coverage throughout all of our programs consistent with the law. To that end, we proposed this rule which would align with the current definition. The Department of Homeland Security's longstanding definition of "lawful presence" would align HHS' definition of "lawfully present" with that of the Department of Homeland Security, ensuring that DACA recipients are treated the same as any other recipients of deferred action under the law.

The reason why we pursued this proposed change in addition to those two things I mentioned is, you know, with time and experience, under the DACA Program, we have learned that while the majority of DACA recipients receive health insurance coverage through their employer, still a third of DACA recipients remain uninsured. And we know that uninsurance can lead to certainly detrimental impacts to both individuals, but also our economy.

Mr. LANGWORTHY. So just to be clear, no congressional authority has been granted to CMS to make this rule change, and the Biden Administration has not issued an executive order dictating this rule change?

Ms. MONTZ. Under this proposed rule, HHS is pursuing this proposed rule under our authorities, under the Affordable Care Act and CHIPRA 2009 to define "lawfully present" and "lawfully residing."

Mr. LANGWORTHY. So, in developing this rule, did CMS seek feedback from Customs and Border Protection or U.S. Immigration and Customs Enforcement?

Ms. MONTZ. Just like any development of a proposed rule, that rule is looked at by our HHS, OMB, the White House, and any other affected agencies.

Mr. LANGWORTHY. Yes or no, did you talk to those two specific agencies?

Ms. MONTZ. The Department of Homeland Security did review the role of going through clearance.

Mr. LANGWORTHY. OK. And what was your feedback?

Ms. MONTZ. I would need to get back to you on the specifics.

Mr. LANGWORTHY. OK. With my remaining time, I want to shift and speak about the impacts of this rule and what it would have on the healthcare systems, especially rural hospitals that are already overwhelmed. In the Southwest, we have seen immense stress and overflowed healthcare facilities. Did CMS consider the impacts that this rule would have on these sorts of healthcare facilities?

Ms. MONTZ. In the proposed rule's regulatory impact analysis, we do note that one benefit of this proposed rule would be lower uncompensated care costs borne by the healthcare system that are ultimately borne by local, state, and Federal Government.

Mr. LANGWORTHY. And all the taxpayers. Dr. Montz, New York state pays some of the highest taxes in the country for Medicaid. We spend more than California and Texas combined on the program. How would you justify to my constituents in Western New York, which consists of some of the poorest counties in New York State, that their taxes could go up to pay for illegal immigrants' health insurance when they are struggling to pay for their own?

Ms. MONTZ. What this proposed rule does is propose to modify HHS' definition of "lawful presence" to align with that longstanding definition for the Department of Homeland Security. Under the Affordable Care Act, individuals who are lawfully present are eligible for benefits.

Mr. LANGWORTHY. I yield back, Madam Chair.

Mrs. MCCLAIN. Thank you. The Chair now recognizes Ranking Member Porter.

Ms. PORTER. Many Republican lawmakers seem to believe that President Trump had some great system going at the border when we had kids being separated from their parents, and families being housed in inhumane conditions, and Border Patrol agents put in danger trying to help migrants who are being smuggled by cartels, and that somehow President Biden changed all that awesomeness and started a border crisis. We hear this from them all the time.

Dr. Montz, let us just assume for a moment that there is, and I do not agree with this, a Biden border crisis. That is, like, the Republican's reference in this hearing title. When could that possibly have started? When could the beginning of Biden border crisis possible have started? When was President Biden elected, ma'am?

Ms. MONTZ. I was going say in 2021.

Ms. PORTER. January 20, 2021. Would immigration that happened, let us say, 14 years before that date count as part of the Biden border crisis?

Ms. MONTZ. I do not believe so.

Ms. PORTER. Dr. Montz, tell us, do you know what date Dreamers had to be physically present here in the United States to qualify for DACA?

Ms. MONTZ. 2007.

Ms. PORTER. June 15, 2007. If Dreamers had to be present in the United States 14 years before President Biden was inaugurated in order to become DACA recipients, can you tell me how their immigration in the years before 2007 changed and created a crisis on or after January 20, 2021?

Ms. MONTZ. I cannot.

Ms. PORTER. So, Republicans really cannot blame the DACA Program for any of their grievances, legitimate or, in my opinion, illegitimate, at the border. The DACA Program has nothing to do with what is happening today at our border. So then, what Republicans seem to be saying is that if we provide DACA recipients with healthcare, somehow more people eligible for DACA might cross the border, that might be some bad incentive. So, Dr. Montz, can anyone get DACA status who is not in the United States and has not been living here since 2007? Like, if someone crosses today, can they get DACA status?

Ms. MONTZ. I do not believe so.

Ms. PORTER. What if they crossed, like, 3 years ago? Can they get DACA status?

Ms. MONTZ. I do not believe so.

Ms. PORTER. Five years ago?

Ms. MONTZ. I do not believe so.

Ms. PORTER. Ten years ago?

Ms. MONTZ. Now you are forcing me to do math. I do not believe so.

Ms. PORTER. So, is President Biden expanding who can receive DACA status as part of his rulemaking?

Ms. MONTZ. Our rule strictly pertains to eligibility for CMS health insurance programs.

Ms. PORTER. Eligibility for DACA recipients who have all been here since at least 2007, following the rules, applying for renewals, going to school, and working. So, I do not get it, Dr. Montz. Can you think of any connection between how giving DACA recipients, like children and pregnant women, healthcare incentivizes new immigrants to cross the border if they would not even be eligible for this expanded healthcare that we are talking about?

Ms. MONTZ. I cannot.

Ms. PORTER. So, DACA did not cause a border crisis because stuff that happened before 2007 does not create a border crisis today. And two, giving DACA recipients the healthcare that they need to continue to work, and to earn, and to pay taxes, and to start businesses, and to flourish is not going to increase border crossings. This hearing is called "Why Expanding Medicaid to DACA Recipients Will Exacerbate the Border Crisis." I am sorry, there is no real connection between healthcare for DACA recipients who have been here since before 2007 and anything that is happening at our border, just no connection at all.

I want to close by pointing out, in response to one of my colleagues on the other side's comment about what border agents had told him, the Minority has done numerous hours of questioning of

U.S. Border Patrol chief agents. And during all of those numerous hours of questioning, which are transcribed interviews that anybody can read, not one U.S. Border Patrol chief agent mentioned access to healthcare as a reason for migration to the Southwest border or a concern for border security. I yield back.

Mrs. MCCLAIN. Thank you, Ranking Member Porter. The Chair now recognizes Dr. Foxx.

Ms. FOXX. Thank you, Madam Chair. You know, I think it is a stretch to say that there is no connection at all between people receiving free healthcare in this country who are here illegally, people here illegally, getting free healthcare and there not being people thinking, oh, maybe I could get that free healthcare, too.

Dr. Montz, thank you for being here today. The number of people illegally crossing the border has dramatically increased in recent years, nearly 3 million crossings in 2022, a full million more than occurred in 2021, which was itself a record year for crossings. Do you think that this unilateral expansion of Medicaid by CMS could lead to an additional increase in illegal immigration?

Ms. MONTZ. It is the Department of Homeland Security's long-standing policy that individuals that are subject to deferred action are considered lawfully present in this country. What our proposed rule does is propose to modify the definition of "lawfully present" as it relates to our CMS healthcare programs to ensure that DACA recipients, who are individuals who came to the United States as children and have resided here—

Ms. FOXX. OK. Just answer my question. So, it is the Department of Homeland Security's considered opinion that they can change the definition of who is legal and who is illegal in this country. Is that what you are saying?

Ms. MONTZ. I could not speak for the Department of Homeland Security. What I can say is that under this proposed rule, HHS is using its authority under the Affordable Care Act and CHIPRA 2009 to propose—

Ms. FOXX. Just like the Administration thought it had the authority to pay off student loans under a law passed in 2011. So, would it be fair to call the prospect of receiving free healthcare and other benefits an incentive for people to illegally cross into the United States?

Ms. MONTZ. Under our proposed rule that focuses on DACA recipients, individuals would have had to have resided in the United States since 2007.

Ms. FOXX. OK. So, DACA was ruled unlawful by the Fifth Circuit Court in October 2022. In that case, the state of Texas argued DACA was not only unlawful, but that the program cost the state hundreds of million dollars in healthcare and welfare costs. Can you tell me how much we can expect this unilateral expansion of Medicaid to cost both the states themselves and the Federal Government?

Ms. MONTZ. Our proposed rule includes a regulatory impact analysis, and we estimate for the roughly 35 states that have taken up the option to cover lawfully present pregnant women and children in the Medicaid and CHIP Program, that that would cost about \$100 million total a year.

Ms. FOXX. OK. Well, that is what I understand too, that it would be about \$100 million, but, again, that it is a program that we believe is illegal. Just last week, this Committee passed the Unfunded Mandates Accountability and Transparency Act, UMATA, a bill I introduced, which aims to prevent exactly this scenario where the Federal Government passes significant costs onto the states, \$40 million, we believe, in this case. What kind of input did CMS seek from states before advancing this rulemaking that will cause state budgets an extra \$40 million in 2024?

Ms. MONTZ. Thank you for that question. I would note that this is a proposed rule and the comment period just closed, and we are looking at comments that we have received on the rule. I would also note what I indicated before, which is under CHIPRA 2009, it is a state option to cover lawfully residing pregnant individuals as well as children, that continue—nothing in the rule changes. It is a state option.

Ms. FOXX. I have a quick follow-up. In 2012, CMS made a specific decision not to extend healthcare benefits, like Medicaid, CHIPS, and the ACA, to DACA recipients. What does the Agency believe has changed, besides DACA being declared unlawful, to evidence that such a dramatic expansion of eligibility? What has changed?

Ms. MONTZ. Our proposed rule references several reasons why we are proposing this change. First is that CMS is committed to expanding access under the law. Second is that the Biden Administration has indicated commitment to the DACA Program and DACA recipients. And the Department of Homeland Security recently published a final rule that reaffirmed that DACA recipients, like other recipients of deferred action, are considered lawfully present. One of the reasons why we are pursuing this rule is to better align with DHS' definition of "lawfully present." And finally, we have through time and experience come to understand that while the majority of DACA recipients receive health insurance coverage through their employers, still a third remain uninsured. And we want to ensure that DACA recipients are able to keep themselves healthy and productive in the work force.

Ms. FOXX. Thank you. Madam Chair, I yield back.

Mrs. MCCLAIN. Thank you. The Chair now recognizes the gentleman from Pennsylvania, Ms. Lee.

Ms. LEE. Thank you, Madam Chair. Folks, this hearing, like so many before it, is nothing more than par-for-course fear mongering by my Republican colleagues. To be very clear, we are not talking about millions of people at the border, a racist myth disproven annually at this point. We are talking about closing a gap in healthcare coverage for about 129,000 people, people with a legal status in this country.

Healthcare is a human right, and it should be available to everyone who resides in this country, no matter who they are. As those of us who care for our fellow man continue to push toward a Medicare for All system, a stop on the fight is fixing a technical wrong, which was not extending the Affordable Care Act to DACA recipients back in 2012. This should be an easy fix. Healthcare coverage ensures that people are accessing services before they are critically sick. It encourages the use of preventative resources, like cancer

screenings and routine vaccinations, something that people who grew up with insurance often take for granted.

Dr. Montz, what are the collective public health benefits of expanding healthcare coverage to more people?

Ms. MONTZ. Thank you for that question. What studies have indicated and certainly experience shows is that when an individual is insured, that individual is better able to keep themselves healthy, for example, go to the doctor to receive preventive services. Keeping yourself healthy also means that you can be more productive at your job and the work force for the economy. Studies have shown that individuals who are insured have 70 percent lower rates of absenteeism in the work force. Additionally, from a, you know, global economy perspective for the United States, being insured means that you are not incurring uncompensated care costs to the healthcare system, which, I have said before, are ultimately incurred by local, state, and Federal Government.

Ms. LEE. Thank you. Our Republican colleagues pretend that DACA recipients are not already here, paying taxes, picking up kids from school and accessing our public health system. This fix not only helps people who have legal status in our country, but all Americans. We are one of the only Western nations that does not have universal healthcare. I do not think our system is as appealing as Republicans are making it out to be. Further, many DACA recipients receive health insurance through work and rely on their benefits, just like nearly everyone on this dais today. Others live in states like California or New York, states that have successfully allowed DACA recipients to enroll in Medicaid and other state-funded plans for years.

What we are talking about today is a proposed rule to extend Affordable Care Act benefits to an estimated 129,000 uninsured DACA recipients. And make no mistake, these individuals are still getting sick and going to taxpayer-funded clinics and emergency rooms, but just like everyone else in this country, they deserve more than just emergency care. They deserve affordable prescription drugs and access to comprehensive healthcare and preventative treatments.

Dr. Montz, knowing that many DACA recipients already rely on our healthcare system, why would it be beneficial to expand their access to affordable insurance?

Ms. MONTZ. Thank you for that question. As I said, there are multiple benefits to being insured versus uninsured, including healthier, more productive life, your, you know, limited risk, receiving high medical bills that you are not able to pay for that then are incurred by the health insurance system.

Ms. LEE. Let me ask. When we are talking about the expansion of Medicaid, who would it apply to and about how many people would that include?

Ms. MONTZ. Our proposed rule estimates that in the roughly 35 states that have elected this option under CHIPRA 214 to cover pregnant individuals and children who are lawfully residing, that that would extend coverage to about 13,000 individuals.

Ms. LEE. Thirteen thousand individuals. Would those states be required to expand healthcare coverage for Medicaid?

Ms. MONTZ. The CHIPRA 214 coverage option is an option for states. They are allowed to cover or not cover lawfully residing.

Ms. LEE. Thank you. Just to conclude, the Affordable Care Act takes important steps to ensure that people are not denied basic healthcare because of their gender, disability status, zip code, or income, but we still need Medicare for All, and we will keep fighting for it. But cutting healthcare is par for the course for the so-called pro-life party. This is just another attempt to gut and block access to programs that help keep vulnerable moms and babies alive as our maternal mortality crisis and rates keep arising. To oppose such a small but important change shows a blatant disregard for human life because no one should be without healthcare. I yield back.

Mrs. McCLAIN. Thank you. The Chair now recognizes the gentlelady from Florida, Mrs. Luna.

Mrs. LUNA. The Centers for Medicare and Medical Services has proposed a new rule that would reinterpret the term “lawfully present” to expand taxpayer-funded Federal health benefits, specifically Medicaid, Affordable Care Act healthcare coverages, and the Children’s Health Insurance Program, to DACA recipients. Expanding benefits in this way would not deter illegal immigration. In fact, it encourages more individuals to take the dangerous trek across our borders illegally. And to put the cost of illegal immigration into perspective, illegal immigration has a net cost of approximately \$151 billion per year. This cost is not incurred by illegal aliens that are coming to United States but instead paid for by hardworking Americans, while those breaking the law have zero financial accountability.

This is not the only costs the American taxpayer have taken on. In fact, the U.S. Government spends more than \$23 billion annually on Federal medical expenditures and which services are used by illegal aliens to participate. One service costs taxpayers over \$5 billion in medical assistance for those born of illegal aliens. Even more concerning are the incentives that those exploiting birth tourism and international commercial surrogacies receive, which will only worsen our immigration crisis that we are facing in our country and defraud the American people. Dr. Montz, are you aware of what birth tourism is?

Ms. MONTZ. I am sorry. Could you repeat the question?

Mrs. LUNA. Are you aware of what birth tourism is?

Ms. MONTZ. No.

Mrs. LUNA. OK. So, birth tourism is when a pregnant woman will come to the United States, basically about to give birth, have their child here, they might not be a citizen, and then ultimately end up leaving the country. Meanwhile, the child will receive citizenship status, but it is a huge problem in this country, mainly because what we are finding is other countries that are more nefarious, like Russia and China, are exploiting the system. Are you aware that some nations that are participating in these illegal activities and exploiting birth tourism and international commercial surrogacy practices are from Russia and China?

Ms. MONTZ. I am not aware of that.

Mrs. LUNA. Are you aware that these two countries have long histories of anti-American espionage activities?

Ms. MONTZ. I would not have any knowledge of that.

Mrs. LUNA. You do not know that Russia does not like us? That is a question.

Ms. MONTZ. I know that Russia is currently at war with Ukraine.

Mrs. LUNA. So, you do not like Russia, correct?

Ms. MONTZ. I do not have any particular opinions that pertain to this hearing.

Mrs. LUNA. OK. Are you aware that China does not like the United States and has engaged in espionage activities against United States?

Ms. MONTZ. I do not have any personal professional knowledge of that.

Mrs. LUNA. OK. Well, I suggest you read Breitbart. Do you believe that allowing these practices puts the national security of the United States at risk?

Ms. MONTZ. I do not believe so.

Mrs. LUNA. You do not believe that allowing a country that engages in espionage against the United States, exploiting birth tourism could potentially open us up for risk?

Ms. MONTZ. I do not have the professional knowledge to opine on that issue.

Mrs. LUNA. Do you believe that individuals from these countries and illegal aliens in general should be allowed to exploit the medical system that you help oversee?

Ms. MONTZ. Again, I am here to talk about the HHS' proposed rule to extend benefits to DACA recipients to ensure that their treatment is in line with other deferred action recipients.

Mrs. LUNA. So, you cannot answer the question. Do you have an opinion on any of that?

Ms. MONTZ. Again, I am here to talk about the proposed rule that CMS has put forward. I am happy to take your questions.

Mrs. LUNA. OK. What would be your solution then for that proposed rule?

Ms. MONTZ. Under the proposed rule, this pertains to DACA recipients. As you know, DACA recipients are a defined population of individuals that came to the United States as children and have been lawfully residing here since 2007.

Mrs. LUNA. When Obama created the program in the Rose Garden?

Ms. MONTZ. I am not familiar with that.

Mrs. LUNA. OK. Can you just briefly tell me about how Nancy Pelosi treated DACA recipients when given the option to make them legal?

Ms. MONTZ. What I can talk about is the proposed rule. What we have proposed to do is further align HHS' definition of lawfully present with that of the Department of Homeland Security's long-standing definition—

Mrs. LUNA. And what is that definition?

Ms. MONTZ. That definition includes all individuals who are subject to deferred action.

Mrs. LUNA. OK. In my opinion, ma'am, you are obviously in charge of a very important program, but this program was created with the intent of making it political, and let us be clear. Whenever they show pictures of DACA recipients, they typically tend to show

Hispanic children when, in actuality, it is more than just the Hispanic demographic. So, I guess the question for you would be, you are in charge of a program that is costing American taxpayers millions and billions of dollars, and yet you are sitting here refusing to answer questions about whether or not that is fair or there is certain terminology being used for these programs.

I guess my suggestion to you is that our rules that we have in place are in place for a reason, and, ultimately, what ends up happening is when you have these programs that are exploited, it does harm people long term. Chairwoman, I yield my time. Thank you.

Mrs. McCLAIN. Thank you. The Chair now recognizes the gentlelady from Texas, Ms. Crockett.

Ms. CROCKETT. It never ceases to amaze me what will come out of some of my colleagues' mouths. So, it was suggested that you should read Breitbart, and I could not let it go. And so just for the general public, because I do not want anybody to believe this is a good idea, I just got on Google, which if you have a cellphone, we can all do that. Breitbart News Network is an American far-right syndicated news opinion and commentary website founded in mid-2007 by American conservative commentator, Andrew Breitbart. Breitbart News' content has been described as misogynistic, xenophobic, and racist by academics and journalists. So, I do not know that that is where I want anybody to take their cues from, especially when they are trying to run this country. That part, and then let me clear up another little part real quick. DACA is political is what I heard just now. Just to be clear, you have testified that DACA recipients are considered to be lawfully present, correct?

Ms. MONTZ. That is correct. I have said that under the Department of Homeland Security's longstanding definition, DACA recipients are considered lawfully present—

Ms. CROCKETT. Right. They are not considered illegals. They are considered to be lawfully present, but "lawfully present" does not mean that you have the right to vote, correct?

Ms. MONTZ. I would defer to—

Ms. CROCKETT. Well, I will give it to you. Only U.S. citizens can vote, and so, therefore, this idea that it is political or as if the Biden Administration is about to rack up some votes, is just another falsehood. In fact, all we continue to get is half-baked ideas, or half lies, or half-truths, whichever way you want to look at it. Let us talk about the half-baked ideas first, though. My colleague, Ms. Lee, brought up the fact that we are talking about expanding access to pregnant women and children, correct?

Ms. MONTZ. In the Medicaid Program, yes.

Ms. CROCKETT. OK. And this is only in states that have extended Medicaid, correct?

Ms. MONTZ. This is under the proposal. This would impact the roughly 35 states who have chosen the option to cover lawfully residing pregnant individuals as well as children.

Ms. CROCKETT. OK. So, we are talking about pregnant women, and have you heard of the Dobbs decision?

Ms. MONTZ. I have.

Ms. CROCKETT. OK. All right. So, we have a party that says, seemingly, what would Jesus do. Seemingly, that is how they gov-

ern themselves, and so they have decided that all women should just bear all the children and not have any rights to decide what they are going to do. And so even under this set of circumstances, they think that it is great that all women should just be pregnant, but they do not want them to have any access to healthcare. That sounds like a half-baked idea to me to say that forget life when it comes to, say, the life of the mother, because that is a real thing, because if you have healthcare, and I do not know how deeply you have delved into this, but we have been talking, and when I say “we,” I mean the Democrats, have been talking about the fact that we have a terrible maternal mortality rate in this country. And when you start talking about people of color or people of lower social economic means, that rate goes up even more astronomically. And, so the idea that people are already dying—

Let me be clear. Are there people that tend to be at a higher risk when they do not have access to healthcare when they are pregnant?

Ms. MONTZ. Yes, it is. It is our belief that being insured leads to better health outcomes.

Ms. CROCKETT. Thank you. Let us also just talk about these half-truths. Really they are just full lies. I was trying to be nice. The reality is that they are trying to make this into the immigration boogeyman that they always talk about. Yet, we have yet to have a bill on the Floor that has been proposed in the form of a policy around immigration. Instead, what they want to do is continue to treat immigrants as if they are the big, bad boogeyman.

And so we are sitting here and we are talking about a program, and you have remained composed, so let me compliment you for that because my colleagues on the other side of the aisle continue to ask you about the border. What in this rule change has anything to do with the border? Just give me one thing that it has to do with the border, one.

[No response.]

Ms. CROCKETT. OK. Exactly. It does not, right? It does not, but for some reason they believe if they say it, that is true. I would love to live in a world where whatever I say somehow is true, but the reality is that if they want immigration reform, they are in control of the House, and they can put a bill on the Floor, but they do not want to do that because they want to continue to say that immigrants are the big bad boogeyman.

Thank you for your service. This has nothing to do with immigration. It has everything to do with being good citizens, and good lawmakers, and good public servants who actually just give a darn about people. Thank you.

Mrs. MCCLAIN. Thank you. I now recognize myself. I think what it has to do, to answer your question, is incentives. I think people are logical and people do things that they believe is in their best interest, and we incentivize people and we incentivize their behaviors, so that is what it has to do with immigration. When we incentivize certain behavior, people respond in a logical fashion.

But with that said, Dr. Montz, in 2012 the Obama Administration created the Deferred Action for Childhood Arrival Program via agency memorandum without any authorization from Congress. But notably, the Obama Administration was careful to clarify that

DACA recipients would not be eligible for participation in Federal healthcare benefits, such as Medicaid, CHIP, and Obamacare. And again, what I want to point out is we have three co-equal branches of government, and we have to stop changing the definitions, and we have to follow the rules of law. And if we do not like the laws, then we have the ability and the authority to change those laws.

Now, CMS has suddenly reversed course and has concluded that DACA recipients should receive Medicaid, CHIP, and Obamacare eligibility, OK? Dr. Montz, did CMS base its decision to reinterpret the Agency's definition of "lawful presence" on a 2021 survey which found that 34 percent of DACA recipients reported not to be covered by health insurance?

Ms. MONTZ. As I have mentioned to a few of your colleagues, as we stated in the proposed rule, we have had several reasons for making this proposed change to treat DACA recipients the same as other recipients of deferred action.

Mrs. MCCLAIN. So, is that a "yes" or "no?"

Ms. MONTZ. Yes, one of the reasons—

Mrs. MCCLAIN. OK. Under the law, are DACA recipients U.S. citizens or lawful permanent residents?

Ms. MONTZ. Under longstanding DHS policy, DACA recipients, just like other recipients of deferred action, are considered lawfully present.

Mrs. MCCLAIN. They are lawful. So, are they U.S. citizens?

Ms. MONTZ. They are not U.S. citizens.

Mrs. MCCLAIN. OK.

Ms. MONTZ. They are lawfully present.

Mrs. MCCLAIN. Yet under the law, do we owe a legal duty to provide healthcare to DACA recipients over American citizens?

Ms. MONTZ. Under the Affordable Care Act, eligibility for the exchanges, as well as premium tax credits and cost sharing reductions, is extended to U.S. citizens, U.S. nationals, and those that are lawfully present.

Mrs. MCCLAIN. So, the answer is yes?

Ms. MONTZ. Yes. The Affordable Care Act covers those that are lawfully present.

Mrs. MCCLAIN. OK. But do we have a legal duty to provide their healthcare over the American citizens?

Ms. MONTZ. What this rule does is extend eligibility. It does not restrict eligibility for any other categories.

Mrs. MCCLAIN. OK. So, I am a firm believer in following the law. Some laws I do not like. Some laws I do not agree with. Unfortunately, we all took an oath to uphold the law. Dr. Montz, are you aware that in 2022 the Fifth U.S. Circuit Court of Appeals affirmed that DACA was unlawful?

Ms. MONTZ. I am aware that there is an injunction for any new DACA recipients.

Mrs. MCCLAIN. OK. Let me try this a different way. Can you tell me how many illegal border crossings the U.S. Border Patrol recorded in Fiscal Year 2021?

Ms. MONTZ. I would defer that answer to—

Mrs. MCCLAIN. Let me help you. It is 6.5 million illegal border crossings. So, what does that have to do, it has to do with incentives, right, and with all of those incentives comes money, and that

money comes at the cost. I have two issues. Who is going to pay, and if we do not like the law, it is up to this body in Congress to change the law. We have got to stop allowing these agencies to re-define and reinterpret the definition. Can you tell me did CMS at all consider how external Federal benefits to DACA recipients would spur future waves of illegal immigration? Did that come into your status at all or your decision at all?

Ms. MONTZ. We endeavor to do our proposed rulemaking under current law, and, as you know, DACA recipients—

Mrs. MCCLAIN. I am sorry. I am running out of time. Yes or no, did that play into your decision at all?

Ms. MONTZ. DACA recipients have been here since 2007, and so we did not believe that there is any impact.

Mrs. MCCLAIN. OK. So, no. So, can you please identify the section of U.S. Code that provides CMS with the authority to set U.S. immigration policy?

Ms. MONTZ. HHS does not set immigration policy. However, we have the authority to set the definition of “lawful presence” as it relates to HHS’ programs under the Affordable Care Act.

Mrs. MCCLAIN. OK. So, there is no code that provides CMS with the authority to set the immigration policy? Just, I want to hear that.

Ms. MONTZ. HHS does not set immigration policy.

Mrs. MCCLAIN. All right. So in my opinion, you altered the law in direct contradiction to the decision of the Federal court judge which stated that DACA was unlawful, and you did not consult with the agencies who oversee our immigration system or whether this would exacerbate President Biden’s border crisis. Instead, you chose to rewrite the law based on a single study that said 34 percent of DACA recipients who are here in violation of law had difficulty getting healthcare. And I am out of time, so I want to be respectful to my other colleagues.

So with that, I yield to Ms. Lee for her closing statement. Thank you so much.

Ms. LEE. Thank you, Madam Chair. All Americans deserve healthcare, and DACA recipients deserve to have a secure and healthy future in our country. Today we are here because too many Republican lawmakers on this Committee reject this vision and continue to fear monger, lying to the American people to buy into their twisted thinking. Again, Republicans are holding a hearing to deny 129,000 people healthcare. Sad.

Republicans like to paint a picture of America in crisis, millions of people lined up at the border all coming to destroy your way of life. They tell you that if you do not support their policies, the crisis will only get worse. But today, we have not heard any compelling argument that there is any kind of connection between DACA recipients being provided with healthcare and our failing immigration system. DACA recipients cannot just become DACA recipients to get healthcare.

So, let me explain the law. DACA recipients would have had to, one, have come to the United States back in 2007; and two, have been younger than 16 in order to qualify today for healthcare under the Biden Administration’s proposed rule. Unless migrants who come or who want to come to the United States for healthcare

are going to go back in time to meet those qualifications, this rule is not going to incentivize any new ones to come to our country for healthcare. The coverage under this rule does not apply to them.

Today, I am disappointed to say that not only has this hearing been disingenuous with the American people, it has wasted an opportunity to go after real waste, fraud, and abuse. It has wasted an opportunity to make our government, our economy, and our country work better. Next time the Subcommittee meets, let us do better.

In closing, Madam Chairwoman, I have statements with me today from pediatricians, budget and policy experts, and immigration rights advocates all stating that President Biden's proposed rule makes our healthcare statements stronger and affirms that allowing more people to have health insurance is beneficial to our collective well-being.

I ask unanimous consent to enter these three statements into the record: one from the National Immigration Law Center; another from the Center on Budget and Policy Priorities; and another jointly from the American Academy of Pediatrics, Center for Law and Social Policy, First Focus on Children, Georgetown Center for Children and Families, Kids in Need of Defense, the Children's Partnership and the Young Center for Immigrant Children's Rights.

Mrs. MCCLAIN. Without objection.

Ms. LEE. Thank you. I yield back.

Mrs. MCCLAIN. Thank you, Ms. Lee. The reason why we are having this hearing is because it is law, right? We are a land and a Nation of laws. Today's hearing demonstrated that the Biden Administration is prioritizing illegal immigrants over the American people. This Administration has chosen to reward those who enter the country illegally, with release from custody in many cases, and now with access to public benefits at the cost of taxpayers and Americans who need it.

We learned that CMS' proposed rule to expand access to Medicaid, CHIP, and Obamacare to DACA recipients will cost American taxpayers millions per year. Last I checked, this body is supposed to be the steward of American taxpayer dollars. That is our job, and that is what we are doing. CMS' own estimates show that Medicaid and CHIP state expenditures would increase by \$40 million, and Federal expenditures would increase by \$40 million in just the first year. Total expenditures would then balloon up to \$130 million per year, and that does not even include the proposed Obamacare expansion which will cost another \$15 million to \$20 million annually.

Now, I just say that because people have a tendency when they spend other people's money, the taxpayers' money, not to respect it as much as it is their money. That is our job. As messy as it may be, that is our job to be stewards of the American taxpayers' money. I am curious on how we are going to pay for this. Last I checked, we have a major deficit in this country, and I have yet to hear any explanation of how we are paying with this.

So, forget about the changing of the rules. Forget about the reinterpretation. Now we have the cost. It is our responsibility to ask those tough questions, and I will remind everybody that DACA

stands for “Deferred Action for Childhood Arrivals.” That means that DACA recipients are still and always have been unlawfully present in the United States. We may not like that, people may not agree with that, but that is the law. And it is up to this chamber to change it, not reinterpret the definition with the stroke of a pen. They would not have even been eligible for Deferred Action otherwise.

Lawless Democrats have deferred the prosecution of these immigration cases, despite Federal judges holding DACA is unlawful and DHS being prohibited from accepting further applicants, and, again, we may not like that, but it is the law. Only in Biden’s America can bureaucrats defy Congress and the courts to change the laws and extend benefits to individuals who are unlawfully present in the United States. There is already a crisis at the Southwest border caused by the Biden Administration’s failed policy. This proposed rule would only further signal to the world that illegal immigration is rewarded by the current Administration. We put a welcome mat at the door. That is why you see the immigration numbers skyrocketing.

The Biden Administration sees no difference between an American citizen and a non-citizen unlawfully present in this country. That, for me, is simply unacceptable. We should not reward individuals unlawfully present in the United States with benefits reserved for American citizens and those who lawfully present in this country. Even President Obama’s HHS knew that expanding public health benefits to DACA recipients was unlawful and a bad idea, but in Biden’s America, it seems that wrong is right and up is down, and 2 plus 2 equals 5, and all we have to do is change the definition and say it is so.

Illegal aliens are entitled to the same taxpayer-funded health benefits as American citizens? That does not comprehend with me. I will continue to fight to fix Biden’s border crisis and to fight against the Administration’s policies that reward those who violate the law because I believe in the rule of law. And make law-abiding citizens pay for it, it does not make sense.

In closing, I want to thank our witness once again for your important testimony.

And without objection, the Members will have 5 legislative days to submit materials and to submit additional written questions for the witnesses, which will be forwarded to the witnesses for their response.

Mrs. MCCLAIN. If there is no further business, without objection, the Subcommittee stands adjourned.

**BIDEN AND MAYORKAS' OPEN BORDER:
ADVANCING CARTEL CRIME IN AMERICA**

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

JULY 19, 2023

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BIDEN AND MAYORKAS' OPEN BORDER: ADVANCING CARTEL CRIME IN AMERICA

Wednesday, July 19, 2023

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
WASHINGTON, DC.

The committee met, pursuant to notice, at 2:06 p.m., in room 310, Cannon House Office Building, Hon. Mark Green [Chairman of the committee] presiding.

Present: Representatives Green, McCaul, Higgins, Bishop, Gimenez, Garbarino, Greene, Gonzales, LaLota, Ezell, D'Esposito, Lee, Strong, Brecheen, Crane, Thompson, Jackson Lee, Correa, Carter, Thanedar, Magaziner, Ivey, Goldman, Garcia, Ramirez, Menendez, and Titus.

Chairman GREEN. The Committee on Homeland Security will come to order.

Without objection, the Chair may declare the committee in recess at any point.

The purpose of this hearing is to receive testimony on President Biden and Secretary Mayorkas' open border policies and how they have advanced cartel crime in America.

I now recognize myself for an opening statement.

The Southwest Border is wide open and the evidence is clear. More than 5.5 million encounters, more than 1.5 million known gotaways since fiscal year 2021. Nearly 380,000 encounters of unaccompanied minors, a record number of fentanyl poisonings in the United States, largely driven by drugs flooding across our Southwest Border. The crisis is a direct result of DHS Secretary Alejandro Mayorkas' dereliction of duty. This committee's interim Phase One report is being published later today and makes all of this clear. Today's hearing and subsequent hearings will examine the costs and the consequences of these policies.

Now, before I get to the subject of today's hearing, I want to briefly talk about some of those numbers, because I am sure we are in for a few days of some unjustified celebration about what they mean. Keep a few things in mind. Every number that you hear the other side of the aisle talking about is still a number far above crisis levels. Even by the measure of President Obama's former DHS Secretary. We are still averaging more than 3,000 Border Patrol apprehensions a day. Jeh Johnson once said that 1,000 overwhelms the system and is a crisis. We are also seeing the number of inadmissible aliens arriving at the ports of entry continuing to skyrocket, jumping to more than 45,000 in June. Encounters at the ports this fiscal year already exceed last year's by more than

100,000. Last June, they were around 15,000 and 10,000 the year before that. Why the change? Well, because tens of thousands of inadmissible aliens are taking advantage of Mayorkas' new parole programs and his illegitimate CBP One policy, accepting his offer of no-questions-asked release into the United States. More than 170,000 people have used the CBP One app to schedule an appointment since January alone—170,000. The OFO numbers aren't even being released by the administration. Everyone in this room knows these individuals have no lawful basis to enter the country. Everyone also knows that Mayorkas is playing a massive shell game by shifting encounters between the ports of entry to the ports of entry, again, not disclosing the OFO numbers. The outcome, tens of thousands of inadmissible aliens entering Customs and Border Patrol and being released into the country. It is the same. Let's just be honest about that simple fact.

Further, Secretary Mayorkas' insistence that this is legal is a lie. Mass parole is against the laws passed by previous Congresses. As we are going to talk about today, the humanitarian costs of the Secretary's policies are still horrific. The people flooding to our border, whether between the ports or at them, are still having to put themselves in the hands of cartels, paying hundreds of thousands of dollars to get to the border, no matter where they cross. The cartels are still raking in the profits and migrants are still being smuggled, trafficked, and abused.

Our focus today is on the Mexican drug cartels and how they are running wild under Secretary Mayorkas' policies. One thing is clear, the cartels have seized control of our border. These organizations are the most vicious, evil organizations in the Western Hemisphere. What you will hear today from our witnesses will lay that out in eye-opening detail. As you listen, these groups are whom Mayorkas has turned our border over to.

What is unprecedented is the level of control these evil organizations now exert at both our Southwest Border and in the interior of our country. The boldness with which they operate in open defiance of law enforcement and the profits they are raking in, both Americans as well as migrants are suffering from their wrath. It is virtually impossible to cross the Southwest Border without first paying the cartels. People are killed simply for trying to do so.

While Secretary Mayorkas' policies have pulled thousands of Border Patrol agents off the line to process and release these aliens into the interior as quickly as possible, this is not the work they signed up to do. The former chief of the Border Patrol recently told us has made many agents feel like smugglers themselves. Their words, not ours. Cartels purposely overwhelm Border Patrol agents with illegal crossers in one area as a distraction so they can smuggle other aliens or drugs across in the areas just vacated by those agents. Amazingly, Secretary Mayorkas admitted to the Senate under oath in March that he was not aware of this strategy. Meanwhile, his attorney general did know the tactic used by the cartels. Unbelievable. Business is so good that the cartels have devised a complex system for the massive number of people trying to illegally cross the Southwest Border. For instance, cartels use colored wristbands, as I am showing here, to inventory those who are attempt-

ing to cross. Secretary Mayorkas told the Senate in the same hearing he was unfamiliar with these wristbands too.

The violence and atrocities are not just being felt along the border. Our American communities throughout the country are suffering as well. A lot of the violence can often be traced back to the cartels because they often subcontract their mayhem to gangs that effectively function as the cartels national distribution network. Per a recent *New York Post* headline, “Honduran Migrants Working For the Mexican Cartels brazenly took over San Francisco’s drug market thanks to lax policies.” Another outlet reported in February that the cartels have started operating, “on a very large scale” in Montana, hundreds of miles from the border. Drugs and the violence associated with them are engulfing communities across our country, and it can all be tracked back to the cartels.

The tidal wave of human smuggling and trafficking has led to an increased number of car crashes on our streets, putting law enforcement, innocent Americans, and the migrants themselves at risk. One sheriff told of us his department arrested 169 human smugglers in 2021 and is on pace to arrest more than 900 this year. Another sheriff said his county deals with 3 to 4 chases per day involving groups of 20 people or more. The cartels are recruiting American teenagers to drive for them, implicating our youth in these horrendous crimes. Meanwhile, innocent Americans, like Maria and Emilia Tambunga, have been killed in crashes by those smuggling illegal aliens on our streets and highways. Transnational gangs like MS-13, whose motto is kill, rape, control, are also taking advantage. A senior Border Patrol agent has said that gang members attempt to evade arrest by exploiting the influx of migrants attempting to enter our country. These gangs work closely with the cartels to support operations on both sides of the border. According to ICE, 40 percent of MS-13 members they arrest arrived in the United States as unaccompanied alien children. MS-13 also forces women and girls into sex trafficking to make money for the gang.

Cartels have made a record amount of money over the last 2 years. In 2021 alone, the cartels made an estimated \$13 billion just from human trafficking and smuggling. Then there is the fentanyl. It costs as little as \$.10 to produce a fake prescription pill laced with fentanyl, which can be sold for \$10 to \$30. Ten kilos of fentanyl is worth about \$20 million, but only costs about \$50,000 to produce. Every dollar the cartels rake in comes at the cost of an American life or livelihood. There were more than 109,000 drug deaths in 2022, 107,000 in 2021 alone, many of them from fentanyl. The cartels are continuing to push fentanyl into our country in record amounts, destroying our communities one family at a time.

I am sure we will hear today the same tired talking points that “Most fentanyl is seized at our ports of entry”. But a couple of things are worth noting. The majority of fentanyl that is seized has come through the ports of entry, but by definition, that is what is apprehended. Cartels know there is a higher risk of getting caught at the ports of entry because our border isn’t secure. We don’t know how much cartels are using unguarded entry points to smuggle drugs. My friends on the other side of the aisle won’t tell you that while CBP reports the majority of drugs like fentanyl are seized at

the ports, they have also said they believe they only catch 5 to 10 percent of what is coming through either at or between the ports. So that puts it into perspective. Finally, the amount of fentanyl being seized between the ports is increasing. In March, seizures were up 100 percent from the previous year, according to former Chief Raul Ortiz. That is just what is being caught.

As I said earlier, migrants are also victims of cartel atrocities. Once individuals are smuggled into the United States, the cartels often continue to extort and use them. According to Mayorkas' own department, there has been an increase in "alternative forms of payment in exchange for passage, including migrants being required to participate in smuggling controlled substances or other illicit items across the border or to work off those debts through criminal activity after they arrive in the United States." As many as 60 percent of unaccompanied minors are kidnapped and exploited by the cartels. Other migrants are sexually abused and assaulted. One victim told the *New York Times*, "you have to pay with your body." Some are even forced to allow their children to be abused. I can't imagine anything worse.

Secretary Mayorkas and President Biden's policies have encouraged record numbers of people to make the journey to the Southwest Border. This has represented a historic business opportunity for the cartels, who make thousands of dollars on every person they smuggle into our country. Their business model continues to work because instead of enforcing the laws written by this body or removing or detaining those who have no valid claim to enter, Mayorkas' DHS is flashing the neon sign open by releasing millions of inadmissible aliens into the United States. Millions of people are willing to bet they will win the lottery if they make it to the border under this administration's policies and it is a winning bet. The cartels are more than happy to insist. It is no wonder that a majority of Americans think the cartels now have more control of our border than the Biden administration—61 percent of America, according to a poll last fall. With Border Patrol agents so overwhelmed by the historic flow of illegal immigration on Mayorkas' watch, the cartels have filled the vacuum.

While Mayorkas has implemented his open borders agenda, his boss in the White House has utterly failed to put meaningful pressure on the Mexican government to fight back against the cartels and deal with the violence and corruption impacting not just Mexico, but our country as well. The United States is the most powerful Nation in the world, and yet we do not control our own sovereign Southwest Border, according to Chief Ortiz. If that is not evidence of Mayorkas' failures, I don't know what is.

I now recognize the Ranking Member, the gentleman from Mississippi, Mr. Thompson, for his opening statement.

Mr. THOMPSON. Thank you very much.

Mr. Chairman, in nearly 2 decades that I have served on this panel, a panel created in the wake of September 11, 2001 terrorist attack, I have seen this committee come together to address some of the most important Homeland Security issues facing our Nation. From supporting the establishment of the Department of Homeland Security in its early days to implementing the recommendations of the 9/11 Commission, and more recently, enacting significant cyber-

security legislation, this panel has built a record of bipartisanship in service to homeland security. But over the past 7 months, the character of the Homeland Security Committee has fundamentally changed from a bipartisan solutions-focused committee to a platform for the most extreme MAGA schemes. To be honest, I am embarrassed for the Republican Majority wasting the committee's time on so-called investigations. This entire endeavor is nothing more than a political stunt hatched in back rooms so extreme MAGA Republicans can exert power over the Speaker.

Today's hearing is yet another stunt to appease that crowd who are demanding the impeachment of someone, anyone at all. That same goes for the sham, "report" we are hearing from the press that Republicans plan to release today. We have been given no time to review this document, much less offer any input, but if it is anything like the report Republicans released immediately before their last hearing, this one will be rife with errors and full of extreme MAGA rhetoric masquerading as fact.

Meanwhile, the Republican Majority is squandering the Homeland Security Committee's time and opportunity to deal with real work of our committee. In the 7 months since we took our oath from the 118th Congress, the Republican Majority has proven itself to be uninterested in legislating and incapable of serious oversight. Instead of holding oversight hearings that would strengthen our Nation's security and improve our Department of Homeland Security authorities to carry out its complex mission, the Majority is stuck in a Southwest Border Groundhog Day. The Majority has held a variation of this hearing 9 times.

But repeating the same hearing over and over again until extreme MAGA Members get their way is not oversight. Dragging Border Patrol chiefs away from their job for politicizing interviews is not oversight. Don't get me wrong, addressing problems at America's border is a serious task. But oversight is about following the facts, not going on a fishing expedition when the facts don't fit an extreme MAGA narrative. The fact is that the administration plans to address the challenges at our Southwest Border and are working under Secretary Mayorkas' leadership.

Unlawful entries between ports of entry along the Southwest Border have plummeted since Title 42 was terminated on May 11. The number of border encounters overall has plunged in that time, and between May 12 and June 2, DHS repatriated more than 38,400 non-citizens to more than 80 countries. The Biden administration has also taken unprecedented steps to combat the fentanyl crisis through a whole-of-Government strategy focusing on disrupting the illicit fentanyl trade and traffickers' financial activities and addressing substance use here at home. Operational Sentinel, which Secretary Mayorkas stood up in April, has disrupted criminal networks and TCO's financial assets. Operation Blue Lotus, established at ICE in June, has surged resources to ports of entry and interior facilities to combat fentanyl smuggling and break the fentanyl supply chain. Operation Artemis is leveraging intelligence to target precursor chemicals, peel presses, and the movement of illicit fentanyl. Operation Rolling Wave has surged inbound inspections at the Southwest Border, covering every sector.

As recently-named Border Patrol Chief Jason Owens said in a transcribed interview on May 5, we have a very robust, targeted enforcement effort where we work hand-in-hand with our investigative partners to actively disrupt, degrade, and dismantle those networks and those pipelines that are the smugglers. He went on to say because we have got more detection capability, because we have more on the way, we have got the additional processing coordinators, we are in a better situation than we were in years past.

President Biden's and Secretary Mayorkas' leadership and hard work has paid off. Our borders are not open and those arriving outside lawful pathways are being sent home. The facts do not support the Republicans' case. You don't impeach the President or a Cabinet Secretary because you do not like their policies. You surely do not impeach any officer of the United States just to placate the most extreme wing of a political party. It is time to move from this sham impeachment effort and do your duty as overseers and legislators.

President Biden is fulfilling his duties, Secretary Mayorkas is doing his job. If the Republican Majority doesn't like what they are doing or how they are doing it, they should get off their soapbox and work with Democrats to pass bipartisan border security and immigration legislation.

Mr. Chairman, I yield back.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JULY 19, 2023

In the nearly two decades I have served on this panel—a panel created in the wake of the September 11, 2001, terrorist attacks—I have seen this committee come together to address some of the most important homeland security issues facing our Nation. From supporting the establishment of the Department of Homeland Security in its early days, to implementing the recommendations of the 9/11 Commission, and more recently enacting significant cybersecurity legislation, this panel has built a record of bipartisanship in service to homeland security.

But over the past 7 months, the character of the Homeland Security Committee has fundamentally changed from a bipartisan, solutions-focused committee to a platform for the most extreme MAGA schemes. To be honest, I am embarrassed for the Republican Majority—wasting the committee's time on this so-called “investigation.” This entire endeavor is nothing more than a political stunt—hatched in back rooms—so extreme MAGA Republicans can exert power over their speaker.

Today's hearing is yet another stunt to appease that crowd, who are demanding the impeachment of someone—anyone at all. The same goes for the sham “report” we're hearing from the press that Republicans plan to release today. We have been given no time to review this document, much less offer any input. But if it's anything like the “report” Republicans released immediately before their last hearing, this one will be rife with errors and full of extreme MAGA rhetoric masquerading as fact.

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The Majority has held a variation on this hearing 9 times. But repeating the same hearing over and over again until extreme MAGA Members get their way is not oversight. Dragging Border Patrol Chiefs away from their jobs for politicized interviews is not oversight. Don't get me wrong—addressing problems at America's borders is a serious task, but oversight is about following the facts, not going on a fishing expedition when the facts don't fit an extreme MAGA narrative.

The fact is that the administration's plans to address the challenges at our Southwest Border are working. Under Secretary Mayorkas' leadership, unlawful entries between ports of entry along the Southwest Border have plummeted since Title 42 was terminated on May 11. The number of border encounters overall has also plunged in that time. Between May 12 and June 2, DHS repatriated more than 38,400 noncitizens to more than 80 countries.

The Biden administration has also taken unprecedented steps to combat the fentanyl crisis through a whole-of-Government strategy focusing on disrupting the illicit fentanyl trade and traffickers' financial activities and addressing substance use here at home.

Operation Sentinel, which Secretary Mayorkas stood up in April, has disrupted criminal networks and frozen TCOs' financial assets.

Operation Blue Lotus, established at ICE in June, has surged resources to ports of entry and interior facilities to combat fentanyl smuggling and break the fentanyl supply chain.

Operation Artemis is leveraging intelligence to target precursor chemicals, pill presses, and the movement of illicit fentanyl.

And Operation Rolling Wave has surged inbound inspections at the Southwest Border, covering every sector.

As recently named Border Patrol Chief Jason Owens said in a transcribed interview on May 5, ". . . we have a very robust targeted enforcement effort where we work hand-in-hand with our investigative partners to actually disrupt, degrade, and dismantle those networks and those pipelines that are the smugglers."

He went on to say, "Because we have gotten more detection capability, because we have . . . more on the way, we've got the additional processing coordinators, we are in a better situation than we were in years past."

President Biden's and Secretary Mayorkas's leadership and hard work has paid off. Our borders are not open, and those arriving outside lawful pathways are being sent home.

The facts do not support the Republicans' case.

You don't impeach the President or a Cabinet Secretary because you do not like their policies. And you surely do not impeach any officer of the United States just to placate the most extreme wing of a political party. It is time to move on from this sham impeachment effort and do your duty as overseers and legislators. President Biden is fulfilling his duties. Secretary Mayorkas is doing his job.

If the Republican Majority doesn't like what they are doing or how they are doing it, they should get off their soapboxes and work with Democrats to pass bipartisan border security and immigration legislation.

Chairman GREEN. The gentleman yields.

Other Members of the committee are reminded that opening statements may be submitted for the record.

I am pleased to have a distinguished panel of witnesses before us today.

[Witnesses sworn.]

Chairman GREEN. Let the record reflect—please have a seat—let the record reflect that the witnesses have answered in the affirmative. Thank you.

Now, to formally introduce our witnesses.

Mr. Jones is an internationally-respected border intelligence expert with decades of experience on the Southwest Border. He is a retired captain for the Texas Department of Public Safety's Intelligence and Counterterrorism Division, and has supervised human intelligence operations in multiple nations, including leading the longest 24/7 border operation in Texas history, Operation Secure Texas. He was responsible for leading multiple investigations targeting Mexican cartel leadership, and collaborating closely with the U.S. intelligence community to save numerous lives in both Mexico and the United States.

Ms. Vaughan is director of policy studies for the Center for Immigration Studies, a D.C.-based research institute that examines the impact of immigration on American society and educates policy

makers and opinion leaders on immigration issues. She has been with the Center since 1992 and her area of expertise is immigration policy and operations covering topics such as visa programs, immigration benefits, and immigration enforcement. Ms. Vaughan is an expert on immigration enforcement and public safety, having directed a Department of Justice-funded project on the use of immigration law enforcement and transnational gang suppression. Prior to joining the Center, Ms. Vaughan was a foreign service officer with the State Department, where she served in Belgium, Trinidad, and Tobago.

Mr. Maltz is a retired special agent for the Drug Enforcement Administration who dedicated 28 years of his life to service. He is currently working as a national security and public safety executive who appears on national news networks as a subject-matter expert. Mr. Maltz was the special agent in charge of the United States Department of Justice Special Operations Division for almost 10 years before he left the Federal Government. Mr. Maltz also previously held the position as the chief of the New York Drug Enforcement Task Force, which is the oldest and largest drug task force.

Ms. Felbab-Brown—did I pronounce that correctly—is a senior fellow in the Strobe Talbot Center for Security Strategy and Technology in the Foreign Policy Program at Brookings. She is the director of the Initiative on Non-State Armed Actors. She is also the co-director of the Africa Security Initiative and the Brookings series on opioids, the Opioid Crisis in America: Domestic and International Dimensions. Previously, she was the co-director of the Brookings Project Improved Global Drug Policy: Comparative Perspectives Beyond UNGASS 2016, as well as another Brookings Project Reconstituting Local Orders. She is an expert on international and internal conflicts and nontraditional security threats, including insurgency, organized crime, urban violence, and illicit economies.

I thank the witnesses for being here.

I now recognize Mr. Jones for 5 minutes for an opening statement.

**STATEMENT OF JAESON JONES, PRIVATE CITIZEN, FORMER
CAPTAIN OF INTELLIGENCE AND COUNTER-TERRORISM,
TEXAS DEPARTMENT OF PUBLIC SAFETY**

Mr. JONES. Chairman Green, Ranking Member Thompson, and distinguished Members of the committee, I am truly honored to be here in our Nation's Capitol to talk to all of you today about without question what is the most significant national security threat and public safety threat to the American people in this country. That is our common enemy, the Mexican cartels.

After retiring from the Texas Department of Public Safety, I was so frustrated that what was not getting out about their evolution I decided to do it publicly myself. So today I am on your border every other week riding with law enforcement, trying to illuminate their activities and the impacts to the American people. What you have not been told is that these are no longer drug cartels. They have evolved from organized crime in 2006 into an insurgency in Mexico. I was there on the ground with people and we were

stunned at what we were seeing, 6- to 10-hour gun battles with 50 caliber belt-fed machine guns, 40 millimeter grenade launchers, RPGs and LAWS rockets as they truly were fighting back against the most elite special forces in the Mexican government. This was the insurgency.

What brought that about were the Los Zetas. They brought two forms of discipline. The Los Zetas were former Gafe Special Forces who came to work for Cartel del Golfo. What they brought was discipline and tradecraft. From that every other cartel was then forced to create an enforcement wing and rise to the occasion or fall. That is why you see such wide variety of violence, hyper-violence across Mexico today.

In 2010, another major tripwire, and that is when the Zetas began executing mass migrants and Mexican citizens. You may remember the 72 migrants killed in San Fernando. I worked that. The 300 men, women, and children they chopped into pieces, and then “Guisoed”, because the Zetas had a saying that you can’t count a body that doesn’t exist.

Then the final evolution as we see them today, into a true parallel government in Mexico. What was the indicator when that happened? Two thousand fifteen, Operation Jalisco, when their most elite soldiers went in to get El Mencho, the head of Carta Jalisco New Generation, and they were shot down. When we went after Ovidio Guzman in 2019 and the Mexican president of the country was forced to release him. What you weren’t told is because the Sinaloa cartel, Ivan, the head of the Chapitos, had so many people’s heads at knifepoint, ready to cut them off if the president did not release him.

This is where Mexico is. So how does that impact you here? How does it impact Americans today? I am telling you with everything I am, if we do not designate these cartels as foreign terrorist organizations or at least get the tools of national power, the hundred thousand Americans that we are losing year after year to date is just the beginning. The cartels will not stop because they can’t stop. This is what you are not told. The U.S. Intelligence Agency should be briefing you. They do not fear you. They fear their rivals. The reason they continue to escalate in hyper-violence and in capability is because if they don’t, then their rivals could completely take them over.

Today, they have evolved again. In February 2021, I broke this story. This is the adjustment, ladies and gentlemen, from the smuggling of people by Cartel del Golfo into the trafficking of men, women, and children. These are wristbands, the Cartel del Golfo, and each one represents a different alien smuggling organization who began moving them into country under debt bondage. We have never seen this before. What I am holding in my hand before you today, I want to be very clear. This is America’s new slave trade. Now we have moved these people throughout the country for the best means, but we have sent a virus of debt bondage across the Nation. I am happy to talk to you about that as I broke that story in February 2021.

Finally, I want to say to you this, is they will continue to increase because they have to. Validation to all of you. Look at fentanyl as a great example. The fentanyl that we’re seizing mostly

in the streets now is not regular fentanyl. They've gone from regular fentanyl to para-fentanyl to cera-fentanyl, and now introduction of xylazines. You've got four more xylazines coming on board. Get ready. China, they've already evolved around them.

The last part of this, I'll say, because I know I'm running out of time, is that you have to take aggressive action. Texas has spent \$9 billion to fight the cartels, and it's still not enough. What we need are authorities beyond the law enforcement capability and the mothers and fathers across this Nation. The indicator to you that this Government is on the right track to end this problem in this country is when we designate these cartels, or at least get the tools of national power and go after them.

Thank you all for having me today.

[The prepared statement of Mr. Jones follows:]

PREPARED STATEMENT OF JAESON JONES

JULY 19, 2023

INTRODUCTION

Chairman Green, Ranking Member Thompson, and distinguished Members of the committee, thank you for this opportunity to speak today about a common enemy we all face and must unite against. This threat represents the most significant national security and public safety threat to the American people. It is the threat we face from the Mexican cartels and Transnational Criminal Organizations (TCOs).

I am grateful for the opportunity today to share my experience as someone who had a long and rewarding 24-year career in Texas law enforcement, retiring as a captain with the Texas Department of Public Safety's Intelligence & Counter-Terrorism division, commanding the Texas Rangers Border Security Operation Center (BSOC), which operates as a cross-border operations center, working closely with U.S. intelligence agencies, Federal, State, and local law enforcement along the border region.

During my career, I was assigned to 9 different duty stations across Texas and on the U.S.-Mexico border in multiple cities, including El Paso, Brownsville, and Laredo, Texas. I have worked and led some of the most complex investigations and intelligence collection against several cartels, including the most hyper-violent at the time, the Los Zetas. It would be their tradecraft and discipline brought into the narco-underworld that would cause the rise of the Mexican cartel evolution from organized crime, into an insurgency, to terrorism, and ultimately into a parallel government as we see them today.

While today's focus is on the impact of Transnational Criminal Organizations (TCOs), it is crucial to address the distinction that exists between TCOs and the Mexican cartels. By comprehending this distinction, elected leaders can better develop comprehensive strategies to combat the Mexican cartels and set priorities that will leverage new authorities for the Homeland Security Enterprise's (HSE) success to defeat these dark networks.

It is imperative to understand the vast disparity between TCOs and the Mexican cartels. In South Texas, for example, it is common for law enforcement to apprehend juveniles almost daily who smuggle people, drugs, and act as lookouts or halcones (falcons), as they are also known across the Southwest Border. I have personally witnessed young juveniles as young as 12 years of age smuggling hundreds of pounds of narcotics in a stolen vehicle; ultimately, crashing into a residence after fleeing from law enforcement. There are many instances of juveniles crossing into the United States overseeing stash houses who direct the care, custody, and control of dozens of economic migrants who illegally entered the United States. These activities constitute the distinction of a TCO.

The Mexican cartels on the other hand control territory, which stretches far beyond Mexico's borders. The Sinaloa Cartel and Cartel Jalisco New Generation (CJNG) are Mexico's two largest cartels. Their activities are no longer isolated to Mexico. These complex dark networks span the world building relationships with other underworld networks now impacting nations in every region of the globe.

The Mexican cartel's evolution would also spark mass hyper-violence upon innocent Mexican citizens and economic migrants seeking a better life just trying to pass through Mexico. Since 2007, there have been over 340,000 murders in Mexico with

disappearances now exceeding 100,000 people. The cartels have a saying, “You can’t count a body that doesn’t exist.” Therefore, they have begun mass incineration of human bodies known as “Guiso,” where human remains are cut into pieces and their remains are cooked to ash.

The cartels leverage what is known as “Sicario’s,” trained assassins who operate as enforcers. Today, they employ tens of thousands of these individuals, including possessing entire enforcement wings within the organization. What is not well-known publicly is that many of these sicarios go through basic, intermediate, and advanced training. Most of the training is conducted by former law enforcement and special forces operators like Guatemalan Kaibiles, Mexico’s elite Gafe (similar to American Green Berets), and many other countries. Training is also conducted by known terrorist organizations such as the Revolutionary Armed Forces of Columbia (FARC) which are designated as a foreign terrorist organization (FTO) by the U.S. State Department.

The cartels employ a vast array of military-grade weaponry, comprising of surface-to-air missiles, vehicle-borne improvised explosive devices (VBIED), shoulder-fired anti-tank weapons like the AT4, LAW rockets, RPGs, heavy weapon mounted systems including 50 cal. belt-fed machine guns, grenade launchers, 40mm grenades, hand grenades, and fully automatic-machine guns manufactured from around the world. The majority of these military-grade weapons are purchased through corruption in armories throughout Central American countries. The cartels also operate first-, second-, third-, and fourth-generation armored vehicles as they battle for control of territory. The cartels over time have learned mobility is life, and with each generation of armored vehicles, they employ lighter more agile armored vehicles.

The cartels contract globally with long-haul smugglers and their alien smuggling organizations. They have adjusted from a human smuggling model over the last 2½ years, into a human trafficking model, placing hundreds of thousands of economic migrants into debt bondage. As an example of this transition, Cartel del Golfo also known as CDG, which operates along the Texas/Mexico border from Brownsville to Roma, Texas was so emboldened in February 2021, by the mass migration of economic migrant’s numbers that they began placing wristbands on men, women, and children to ensure the tax/piso (payment process) was established. This process created an ongoing payment model, which first collects the migrant’s personal identifying information (PII) into the cartel’s database. This provides the ability to keep them into debt bondage as their family’s personal information in the country of origin is firmly documented including establishing the migrants’ destination in the United States. This ensures future payments can be secured in the long term. For the first time in American history, people both legally and illegally in the United States are in debt bondage to terrorist/criminal organizations, operating in a foreign country for years, if not decades to come. This transition firmly establishes America’s new slave trade.

As someone who has documented the cartel’s evolution into a parallel government, led some of the most complex investigations, and sent critical real-time intelligence supporting precision-led operations with Mexico’s most elite special forces, to both rescue migrants from mass murder and apprehend leaders with the cartels, I want to be very clear, the Mexican cartels will not stop, they are going to have to be stopped. The entire approach for success against the cartels hinges on new authorities, prioritizing tools of national power, allowing the use of network theory, and a desperately-needed departure from the failed law enforcement investigative model.

The Mexican cartels have no choice but to increase their capabilities. Their fears are driven by territorial disputes and new advancements by rival cartels that could result in their destruction. This is the reason for their ever-increasing development of new tradecraft, technology, and the weaponization of controlled substances. Examples are the evolution of fentanyl analogs by cartel chemists from regular fentanyl, into para-fentanyl, then to cera-fentanyl, and the recent introduction of xylazine (or tranq, as it is referred) and their increasing appetite for horrific acts of hyper-violence against the innocent.

The Mexican cartels are responsible for the deaths of hundreds of thousands of Americans over the last several years and yet they are still not designated as a foreign terrorist organization (FTO). There is not one designated terrorist organization in the world responsible for killing this many Americans, and yet we still see no action from the U.S. Government to hold the Mexican government, and the Mexican cartels, accountable for the deaths of so many Americans.

CONCLUSION

In closing, there is a vast disparity of capabilities between TCOs and the Mexican cartels. The threats from the Mexican cartels to our citizens today are unparallel.

It is imperative that we marshal our collective will and direct the full force of our national power to confront these organizations. The time for half-measures and fragmented efforts has passed. Now is the moment for decisive and unwavering action to restore safety and security to our communities. This body must be committed to the protection of our citizens (your constituents) as the utmost priority. The future of our great nation depends on our focus against this common enemy.

To all mothers, fathers, and loved ones who have lost someone to these cartels, you are not forgotten. It is with steadfast commitment that I stand before you today, knowing that there can be no appeasement or reasoning with this evil. This is a good versus evil fight. May history remember this day as an important moment when our Nation committed in a resounding decree to end the Mexican cartels, to protect American citizens, and in doing so, we secure a brighter future for generations to come.

Thank you for the opportunity to appear before you today and I look forward to taking your questions.

Chairman GREEN. Thank you.

Ms. Vaughan, you are recognized.

STATEMENT OF JESSICA M. VAUGHAN, DIRECTOR OF POLICY STUDIES, CENTER FOR IMMIGRATION STUDIES

Ms. VAUGHAN. Good afternoon and thank you.

President Biden and Secretary of Mayorkas inherited the most secure border we've probably ever known. But they discarded that security in favor of what they want and what they call a more humane, more equitable system. What they seem to really want is to normalize illegal immigration.

Their system is far from humane. Plenty of people benefit from it, to be sure. Employers seeking exploitable workers, NGO's seeking Government contracts. But the biggest winners are the criminal cartels who've been raking in huge profits made possible only because these policies give them an endless supply of vulnerable customers that they can exploit and abuse, and hundreds of thousands of them are children. The human cost of these policies is unconscionable and for some, irreparable, and indeed most worthy of a hearing.

So the three main elements of the Biden-Mayorkas policies are the catch-and-release policies for illegal border crossers that have brought in more than 2 million people since January 2021, the CBP One program which gives out about 1,500 appointments to inadmissible aliens to enter through the ports of entry, and importantly, the dismantlement of immigration enforcement in the interior so that there's next to no threat of removal for the migrants, including those who abscond from their proceedings, which is the majority. Importantly, so that the employers and traffickers of these illegal workers can avoid scrutiny of their hiring practices.

Biden officials have claimed that CBP One policy is a great success because the illegal migrants no longer have to do business with the cartels, we should be skeptical of this claim. First of all, CBP One can only be used from locations in northern Mexico and the migrants still have to get there. For most, that still means paying a cartel-approved smuggler. The CBP One appointment itself turns out to be yet another opportunity for them to extort the migrants. Of course, the gotaways and the runners who are the bad guys are still coming in, as are the unaccompanied minors.

The situation now is nothing to brag about. We've merely gone from truly catastrophic to very bad. To the extent that there is a

decline in illegal entries is also helped by the efforts of Texas, of course, to block the most popular crossing points.

Biden and Mayorkas have been shockingly indifferent to the consequences of their policies for the migrants whom they are enticing into the cartel's web. The dangers begin on the journey with the high risk of robbery, assault, extortion, injury, illness. As we've discussed, for many, the abuse continues after they get here. Some people pay a discounted fee and give up their children for the smugglers to use to give to other single adults, others agree or are forced to be drug mules. A large number just make a down payment on the smuggling fee that's paid off in fear-driven forced labor debt bondage arrangements that are difficult for them to escape from.

So we now have a thriving market for cartel-involved human trafficking. According to one source, about one-fourth of the victims are children. Part of this is because of the policies of how these kids are handled once they are brought into the country as unaccompanied minors. The Border Patrol has to turn them over to the HHS assembly line where the goal is to flip them over to a sponsor as soon as possible with few questions asked. Not surprisingly, they end up in domestic servitude, working illegally at factories, poultry processing plants, on farms, or in the worst cases, trafficked for sex. These kids are vulnerable targets for criminal gangs like MS-13 and 18th Street, many of whom came here through the very same policies and are looking for new recruits or commodities to make money for the gang.

Some of the worst cases of this I've ever seen are happening very close to here, in PG County, Montgomery, Frederick, Baltimore, Ann Arundel, Fairfax, Loudoun, and Prince William County, have all had horrific cases. The cartels are into the forced labor too, what some have called narco slavery slavery, not just drug mules, but farm workers on the illegal marijuana grows in Oregon and California.

These public safety threats come on top of other significant costs to taxpayers. We have effective tools to fight back against the cartels directly. But the most obvious step is to secure the border and control illegal migration, to deny the cartels the opportunity to make money off the migration dreams of vulnerable people.

[The prepared statement of Ms. Vaughan follows:]

PREPARED STATEMENT OF JESSICA M. VAUGHAN

JULY 19, 2023

Thank you, Mr. Green and Mr. Thompson, for the opportunity to testify today. The mass migration crisis instigated by the Biden administration's misguided immigration policies has caused incalculable harm to American communities, to the integrity of our immigration system, and, tragically, to many of the migrants themselves. While there are a number of beneficiaries of these policies, including employers seeking cheap, exploitable workers; NGO's who are awarded huge contracts to provide services to migrants; and politicians who welcome the addition of non-citizen constituents to their districts, to name a few, the biggest winners under the Biden-Mayorkas policies are the criminal cartels and other transnational criminal organizations who are reaping profits on a nearly unimaginable scale. Drug trafficking is big business, and we've witnessed an alarming spike in the most dangerous drugs like fentanyl, but reportedly in recent years the cartels actually have been making more money from human smuggling and trafficking than from drugs. The fiscal and human cost is serious and enormous. Congress should take certain steps to combat

the cartels specifically, but the most effective action would be to address the main cause of the problem—the array of policies, unauthorized entry programs, and legal loopholes that generate the most profitable customers for the cartels—illegal migrants.

Biden-Mayorkas Policies Set Off Flood of Illegal Migrants; Millions Released into the United States.—When he took office, President Biden inherited what many experts considered to be the most secure land borders in U.S. history, with expanded and improved barriers, updated technology, and more personnel, all of which was backed up by policies that deterred migrants from crossing illegally. Yet on his very first day, President Biden began dismantling these policies and activities that had largely succeeded in controlling recent waves of illegal migrants. Within a short time, on the watch of DHS Secretary Alejandro Mayorkas, that largely secure Southern Border was transformed into a chaotic, lawless, and dangerous frontier, with cartels and criminal smuggling organizations orchestrating illegal crossings of migrants with impunity. The incentive: the understanding that the vast majority of illegal migrants would promptly be released from Government custody and transported to their destination (often with Government funds), despite low expectations that the migrants will comply with immigration proceedings or ever qualify to remain legally.

The Biden-Mayorkas policies, are built on the concept of increasing immigration by “managing” a much higher level of illegal migration and laundering the unauthorized entries using parole and work permit-issuing authority, together with the near-suspension of interior enforcement. The result is a system that is outrageously lucrative for the cartels and the smugglers, traffickers, gangs, and other criminal enterprises involved. Specifically, the Biden administration has arranged it so that the majority of those who do business with the smuggling organizations, which necessarily work under arrangements with the cartels who control the border area, will succeed in gaining entry to the United States with the opportunity to live and work here for an indefinite period, without a meaningful threat of removal. Under these policies, there is a near-endless supply of paying customers willing to risk working with criminal organizations to seek passage to the border.

These policies include:

1. Terminating construction of physical barriers at the border, and suspending operation of other tactics that were effective in deterring illegal entry, such as checkpoints and certain technology-based detection systems.
2. Directing the Border Patrol to coordinate with Mexican authorities to permit groups of migrants to cross the border illegally.¹
3. Directing the Border Patrol to undermine the border security enhancements installed by Texas authorities.²
4. Allowing inadmissible migrants to make appointments to be escorted through the ports of entry for processing and release into the United States. Those arriving without appointments may withdraw their applications and subsequently enter with an appointment.
5. Virtually guaranteed release of families, minors traveling without parents, and those claiming to be a family or minor. These categories of illegal migrants, now represent 30 percent of the current border apprehensions. Little to no vetting is done to verify claimed family relationships (DNA testing was recently suspended). Typically, after processing the migrants are turned over to contractors who provide shelter and arrange transportation to their destination, where they are told to check in with Immigration and Customs Enforcement to receive an immigration court date. Intake agencies are prohibited from sharing information on the minors with ICE, and ICE is prohibited from moving to deport anyone who sponsors a minor.
6. Unaccompanied minors are handed off to the Department of Health and Human Services, which will house them until a sponsor is located. Most are released to individuals claiming to be parents or other relatives, while others are released to lightly-vetted sponsors. Home studies, background checks, and financial assessments are rare, and little meaningful follow-up monitoring is done. The expectation is that any problems will be handled by State and local authorities.
7. Migrants are encouraged to comply with immigration proceedings in order to receive a work permit. This benefit may also lead to qualifying for additional

¹ Todd Bensman, *Biden DHS Coordinating Illegal Immigration In-Flows with Mexico* (cis.org), Center for Immigration Studies, May 10, 2023.

² Todd Bensman, *Dispatch from a Militarized Texas Farm—Where Biden’s Federal Agents Are Sabotaging the State’s Desperate Border Enforcement* (cis.org), Center for Immigration Studies, July 13, 2023.

services, including a driver's license. Their conduct is only lightly monitored to remain in compliance with the terms of their release.

8. Migrants who do not comply with the conditions of their release are not considered targets for immigration enforcement. Only those migrants who commit very serious crimes and serve out their sentences are considered for removal, and only if the crimes occurred recently and no other mitigating circumstances are presented. Tens of thousands of migrants who absconded from proceedings in the past, or whose cases are now considered low priority have been closed, eliminating any threat of removal.

9. Besides giving a pass to illegal migrants who don't comply with release conditions, Mayorkas has directed ICE to refrain generally from investigating employers who hire unauthorized workers and from attempting to detect illegal workers who are using stolen or false identities.

As Border Crossings Rise, So Do Cartel Profits.—Not surprisingly, the number of illegal border crossers and inadmissible migrants has exploded, in response to what the migrants call Biden's "invitacion." This has been a boon for the cartel profits; in the last 2 years, reportedly, the cartels have reaped more revenue from the human smuggling and trafficking business than they have from drug trafficking, and have accumulated more wealth than some entire states in Mexico, reaching sums of as much as \$14 billion a year, according to some experts.

Border Patrol encounters of illegal migrants at the border have consistently breached 2 million each year since 2021, and as of May of this year, are already over 2.1 million.

While the number of encounters measures attempted illegal crossings, the more important metric in the context of this discussion is the number of inadmissible aliens who are being released into the country. These are the cartel success stories, and consist of three categories of unauthorized migrants:

1. Illegal border crossers released after apprehension—Under Biden-Mayorkas policies, since January 2021 more than 2.2 million inadmissible aliens have been released into the country after turning themselves over to the Border Patrol or after apprehension.³ This massive catch-and-release program is operating in defiance of the Immigration and Nationality Act, which requires the Government to return, remove, or detain all illegal border crossers, including those express an intent to make an asylum claim.⁴

2. "Gotaways"—Prior to the implementation of Biden-Mayorkas policies, typically the number of aliens evading apprehension by the Border Patrol remained just over 100,000 per year. Beginning in 2021, that figure rose to nearly 400,000 "gotaways," and then nearly 600,000 in 2022. So far in 2023, reportedly 530,000 illegal aliens have evaded capture, for a total of at least 1.5 million "gotaways" entering under the Biden administration.⁵

3. Unauthorized parole programs—In an attempt to lessen scenes of chaos at the southern land border, Mayorkas recently launched a controversial program to funnel inadmissible migrants to land and air ports of entry and away from illegal land crossings. Migrants make an appointment in advance using a phone app known as CBP One, and are allowed to enter through the land ports on the day of their appointment. In addition, those who show up at legal crossings without a visa and without a CBP One appointment are allowed to withdraw and enter later using the app to make an appointment, usually bypassing the waiting lists, which can be as long as 5 weeks for other users. Initially set at 1,000 per day on May 12 (following the rescission of Title 42), now there are 1,450 appointments available every day at the land ports. In addition, according to our sources, every day more than 1,000 additional migrants who are citizens of Cuba, Haiti, Venezuela, and Nicaragua reportedly are being permitted to fly directly to certain U.S. airports, where immigration officials allow entry without a visa. The estimated total number of unauthorized parolees is 250,000 since January.

New Policies Fail to Make Illegal Migration Safer.—Biden officials have claimed that the policies and programs implemented after the termination of pandemic expulsions have created new "legal" pathways for migrants so that they do not need

³Andrew R. Arthur, *Decoding CBP's Southwest Border Statistics for May* (cis.org), Center for Immigration Studies, June 26, 2023.

⁴See Hillel R. Smith, "The Law of Immigration Detention," Congressional Research Service, updated September 1, 2022, *IF11343* (Congress.gov) and Andrew R. Arthur, *DHS Can't Just Release Illegal Migrants at the Border* (cis.org), Center for Immigration Studies, October 22, 2021.

⁵Andrew R. Arthur, 'Got-Away' Tsunami Is the Best Measure of the Decline in Border Security Under Biden (cis.org), Center for Immigration Studies, June 29, 2023.

to do business with the cartels. In remarks at a meeting with Mexico's President López Obrador and Canada's Prime Minister Justin Trudeau, Biden said:

"People have to make it through jungles and a long journey to the border. And many are victimized, not only in terms of what they have to pay but victimized physically in other ways. And so, we're trying to make it easier for people to get here, opening up the capacity to get here, but not have them go through that godawful process."⁶

Biden officials now claim (without releasing the official statistics to confirm) that illegal crossings have declined by 50 percent or more in the last month. However, there are reasons to be skeptical that the new programs actually have solved the border problems, especially the human smuggling and trafficking problems and the involvement of the cartels. First, since the CBP One app can only be used from locations in central and northern Mexico, migrants still need to get to that area from other parts of Mexico, from Central America, and all the other departure points around the globe. Typically that requires hiring a smuggler who specializes in a particular market, and work and shares profits with the cartels that control the border and passage through other countries.

Notably, U.S. authorities had to shut down the CBP One processing in the city of Laredo for 2 weeks because migrants with appointments were being extorted for amounts in the range of \$500 to \$13,000. Eventually they reinstated the program, even as the risk of extortion continues. Upon re-opening appointments U.S. officials said that to avoid being extorted in Laredo, migrants should consider applying from other Mexican cities.⁷

Even with the new policies, the numbers of illegal crossers is still unusually high, averaging over 3,500 daily encounters with Border Patrol, and essentially has progressed only from "catastrophic" to "very bad."

In particular, the number of family units and minors does not seem to be abating. According to reports, despite the threats of consequences for illegal entry, many migrants are abandoning the CBP One process in favor of illegal crossings because there is a 5-week waiting period to enter once an appointment is made, and they are still likely to be released into the United States anyway—so there is little advantage to using CBP One. Minors, the category most vulnerable to abuse, are still crossing in very high numbers, with nearly 10,000 apprehended in May 2023.

Moreover, the cartels, along with other bad actors, still need to move their products and operatives across the border for their illicit business purposes, and they do not want to risk detection by using the pathways established by *Mayorkas*. They continue to exploit the weak links in physical border security to move drugs, gang members, single males, and anyone else who is likely to be flagged and removed if caught.

The Border Patrol and Texas authorities continue to announce significant apprehensions and encounters of illegal crossers, this month, even in the brutal heat of summer. This week, Mexican authorities intercepted least two tractor trailers loaded with hundreds of migrants.

To the extent that there is any improvement at all, it is most likely due to efforts by the State of Texas to physically block the entry points, such as by patrolling on the Rio Grande river, installing razor wire and buoys, and arresting some of those who make it across in areas away from where the Border Patrol is processing illegal migrants.

Lax Border Policies Expose Migrants to Abuse by Cartels.—President Biden, Secretary Mayorkas, and their allies maintain that the arrival of 4 million illegal border crossers in less than 3 years (on top of several million legal immigrants and new temporary workers in the same time frame) is a necessary humanitarian response and good for the country as well. This claim is perhaps naive, but strikes me more as shockingly indifferent to the plight of the large number of migrants who are abused, exploited, and even trafficked after surrendering themselves, their family members, and sometimes their life savings to the criminal organizations who are actually in charge of this system.

The dangers begin on the journey to the United States. Depending on the country of departure, the migrants travel by plane, boat, bus, train, and on foot, usually traversing multiple countries in which they have to be stashed and staged in houses or fleabag hotels, or camp in the wilderness and on the streets of various towns they pass through. Bribes have to be paid to authorities, gangs or cartels on the way, and even if Mexico is the only foreign country they cross, they usually are subjected

⁶Joseph R. Biden, *Remarks by President Biden, Prime Minister Trudeau, and President López Obrador in Joint Press Conference/The White House*, January 10, 2023.

⁷Daina Beth Solomon and Laura Gottesdiener, *Exclusive: U.S. restarts asylum appointments at Mexico border town despite extortion threat/Reuters*, June 28, 2023.

to threats, robbery, assault, kidnapping, extortion, illness, injury, and more. An unknown number don't survive the journey to the U.S. border.

Depending on the place of origin, the smuggling fees run in the thousands of dollars. Some migrants will accept discounts on the fees by giving up their children to cross with other adults traveling alone. Others will agree or are forced to be drug mules, perhaps in exchange for a lower fee.

Many migrants agree to a contract stipulating that after making a down payment on the smuggling fee, after they arrive at their pre-arranged destination in the United States, they will work in a job and live in housing arranged by the smugglers. Their smuggling debt and numerous other "expenses" will be deducted from their (low) wages, in the classic debt bondage arrangement, now possible on a much larger scale because of the Biden-Mayorkas policies.

The trafficking and debt bondage incidents involving children are especially horrifying. In 2021, about 27 percent of the cases reported to human trafficking hot lines Nation-wide involved minors. From January 2021 to May 2023 approximately 380,000 unaccompanied minors have been taken into custody by the Border Patrol. Under the current rules, after a cursory screening, the Border Patrol must turn over the minors to the Department of Health and Human services, which, under Biden policies, rushes to place the child with a sponsor. These placements occur without any of the precautions established by State child welfare agencies, and too often put the minors in abusive situations.

This irresponsible process was the subject of a Judiciary hearing several months ago, in which expert witnesses described how countless children have ended up in sex trafficking, forced labor, domestic servitude, or are released to the custody of gang members, predators, or illegal employment in violation of child labor laws.⁸ The trafficking and other abuses also have been chronicled in numerous media investigative reports. One of the most informative accounts was the report of a grand jury empaneled in Florida in 2021 to investigate the problem. It observed:

"Some 'children' are not children at all, but full-grown predatory adults; some are already gang members or criminal actors; others are coerced into prostitution or sexual slavery; some are recycled to be used as human visas by criminal organizations; some are consigned to relatives who funnel them into sweatshops to pay off the debt accumulated by their trek to this country; some flee their sponsors and return to their country of origin; some are abandoned by their so-called families and become wards of the dependency system, the criminal justice system, or disappear altogether. Meanwhile ORR's efforts and resources are less directed at preventing or remedying any of these maladies, and instead appear fully focused on maximizing the number of children they can process, heedless of the downstream consequences to either the children or the communities into which they are jettisoned."⁹

Biden officials have been clear that they are more interested in moving UACs through the system as quickly as possible than they are concerned about the safety and well-being of the minors in their custody. In a shocking video that was widely circulated earlier this year at just about the time of one of the news media reports on the burgeoning problem of UAC labor trafficking, HHS Secretary Xavier Becerra urged HHS staff to further accelerate the processing of the kids, saying, "This is not the way you do an assembly line."¹⁰

Typically, the traffickers promise the young migrants and their families that they can go to school or work in the United States, and instead lure them into indentured servitude, peonage, sex trafficking, extortion, or demand that they work for the smugglers to pay off their debts to the traffickers. In other cases, desperate, unsuspecting, or opportunistic parents will arrange for their child to cross with a trafficker to work in the United States at a farm or factory, or worse. In one notorious case implicating an egg farm in Ohio:

". . . The defendants and their associates recruited workers from Guatemala, some as young as 14 or 15 years old, falsely promising them good jobs and a chance to attend school in the United States. The defendants then smuggled and transported the workers to a trailer park in Marion, Ohio, where they ordered them to live in dilapidated trailers and to work at physically demanding jobs at Trillium Farms for up to 12 hours a day for minimal amounts of money. The work included

⁸U.S. House Judiciary Committee hearing, *The Biden Border Crisis: Exploitation of Unaccompanied Alien Children*/House Judiciary Committee Republicans, April 26, 2023.

⁹Florida Grand Jury report, p. 4.

¹⁰*White House promises crackdown on migrant child labor (usatoday.com)*.

cleaning chicken coops, loading and unloading crates of chickens, de-beaking chickens and vaccinating chickens.”¹¹

In 2021, the Federal Government reportedly stopped releasing unaccompanied minors in at least two locations—Enterprise, Ala. and Woodburn, Ore.—due to concerns about organized labor trafficking. The Department of Justice and two other Federal agencies launched investigations based on suspicious clusters of arriving minors: “Some of these situations appear to involve dozens of unaccompanied minors all being released to the same sponsor and then exploited for labor in poultry processing or similar industries without access to education,” according to an email from a Justice official. So far, one couple in northern Alabama has been convicted of money laundering and conspiracy to transport illegal aliens unlawfully, and the other investigations apparently are still in progress.¹²

The establishment and resurgence of the transnational gang MS-13 in the Washington DC-Maryland-Virginia area, whose members are largely illegal aliens, many of whom originally arrived as unaccompanied minors, has brought an increase in cases of brutal sex trafficking in the area. The gang preys on young teenage girls who run away from shelters, foster care, or broken homes:

“In the United States, victims of MS-13 tend to be Latino immigrant girls or girls from the Northern Triangle countries who came into the country as unaccompanied minors . . . HHS places minors either in foster care, with family or a sponsor . . . MS-13 preys on the vulnerability of the unaccompanied minors; some have previously suffered sexual abuse either in their home country or during the trip north; others lack a community and do not speak English. Members of MS-13 seek out the vulnerable young girls using violence and other coercive tactics to intimidate the girl into having sex for money to help financially support the gang. Runaways are also appealing to the MS-13. Family problems, transitions from foster care and economic problems are some of the reasons that unaccompanied minors run away from their homes. Many of the unaccompanied minors may have experienced sexual abuse, exploitation, or physical abuse in their home countries or during their migration to the United States and even more suffer from poverty and lack of a stable social network. These are all factors that make young girls more susceptible to human trafficking.”¹³

Recent typical cases occurring in the area resulted in the prosecution of 11 MS-13 gang members for sex trafficking, assault, and other charges related to the prostitution of a 13-year-old and 16-year-old runaways. ICE officials have stated that an estimated 40 percent of MS-13 members they arrest originally arrived as UACs.

It is not only minors who end up being trafficked; the cartel-run system sets up adults for abuse as well. In 2021, Texas and New York had the largest number of cases reported on trafficking hot lines, but the places with the highest number of cases per capita were New Mexico, Mississippi, Georgia, Nevada and Washington, DC. Trafficking for commercialized sex is a serious problem, although the type of human trafficking that is most likely to involve illegal border crossers is forced labor trafficking. The most common sectors for this form of trafficking are agriculture/farm work and domestic work.

There are no comprehensive national statistics to quantify the true scale of trafficking or even recent trends, but the prevalence of new cases indicates that the criminal exploitation of workers is thriving under the Biden-Mayorkas border policies. For example, in April 2023, three Brazilian men were criminally charged for targeting and smuggling Brazilians over the Southern Border, for a fee of \$18,000–22,000. The illegal migrants were put to work in restaurants owned by the traffickers in Woburn, Mass., and had to share apartments owned or controlled by the defendants, who withheld wages from the victims in order to pay off their smuggling debts and forced them to work long hours, often performing difficult manual labor, while subjecting them to threats of serious harm—including financial harm, violence, and deportation to prevent them from quitting and demanding better pay and working conditions. The defendants carefully monitored changes in immigration policies at the border, coached the migrants on how to answer questions from au-

¹¹ U.S. Department of Justice, “Two Defendants Plead Guilty to Forced Labor Scheme that Exploited Guatemalan Migrants at Ohio Egg Farms,” August 25, 2015.

¹² *U.S. Probes Trafficking of Teen Migrants for Poultry-Plant Work* (bloomberglaw.com).

¹³ *The Connection between the Mara Salvatrucha (MS-13) and Human Trafficking* (humantraffickingsearch.org).

thorities, and offered to give fake documents to the victims to support bogus asylum claims.¹⁴

While some of the labor trafficking involves relatively small-time cruel and unscrupulous employers, the cartels are directly involved in employing an unknown, large number of trafficked illegal migrants on illegal marijuana farms in Oregon and California, and probably other States, in a form of forced labor known as “narco-slavery.” One illegal operation using trafficked workers was discovered after the body of a dead worker was discovered at a gas station, and investigators traced the matter back to the farm, uncovering other problems:

“Once Maria began working on the [illegal pot] farm, armed guards prevented her from leaving until the harvest was over. She said there were no bathrooms or beds for the more than 200 workers there. She slept on the floor or on an air mattress. “In the summer heat, she and others were forced to work from 7 a.m. to 10 p.m., Maria said. The guards would determine when they would wake up, eat and sleep.”¹⁵

Authorities sometimes refer to these operations, which usually are run by either the Sinaloa or Jalisco (CJNG) cartels, as “blood cannabis” producers. They typically are found in remote areas of the country and produce marijuana to sell all over the United States. The illegal cartel-run farms are places of squalor and violence, where female employees in particular frequently are sadistically abused and other workers are exploited:

“A man from Spain said he was victimized on a grow in Josephine County [Ore.], to the west of Jackson County and bordering California. The man [said] he was promised \$120,000 but was paid \$300.

“When the worker demanded his earnings, the growers shot at him. He ran, hopped into his car and sped off as a truck followed him. He hid out in the woods for a couple of days before escaping . . .

“He said other workers are made to work 16 or more hours without a break and sometimes without a meal. And women are sometimes sexually assaulted.

“They come from Mexico, Argentina, Chile, Spain, Honduras, El Salvador, Venezuela, and Colombia and have often spent all of their money to get to the cannabis farms. Workers on illegal cannabis grows like this one in Jackson County, Oregon, are sometimes lured to the region with promises of hotel rooms and six-figure salaries. They often live in squalor without a bed or clean water.”¹⁶

Lax administration of the legal visa programs also has allowed trafficking to flourish, particularly in the H-2A temporary farmworker, H-2B seasonal temporary worker, and J-1 exchange worker categories, but this trafficking is most frequently run by labor contractors and other staffing companies.

All of these problems are facilitated by the moratorium on worksite enforcement imposed by Mayorkas. Immigration enforcement at the worksite is the obvious place to detect instances of exploitative employment of migrants, but the Biden administration has shifted most work on these cases to the Department of Labor, which should also be involved, but lacks some of the authorities of DHS agencies, especially concerning non-citizens, who are responsible for at least half of the forced labor trafficking violations that have been prosecuted in Federal court each year, according to the Human Trafficking Institute.¹⁷

Biden-Mayorkas Policies Expose U.S. Communities to Threats.—The flood of people to the border brought on by the Biden-Mayorkas policies has created conditions that make it difficult, and at times impossible, for border officers to determine the identity, age, citizenship, and background of those they apprehend. The emphasis is on swift release of those caught crossing illegally and those seeking entry at the ports of entry, including those allowed to enter using CBP One. A cursory biometric and biographic screening is done, but if migrants have not previously been in the United States, there is little basis for assessing whether any individual migrant might pose a threat. The few documents that migrants might bring with them (those not ditched prior to crossing) are of little use to U.S. authorities.

¹⁴Department of Justice, *District of Massachusetts/Three Indicted for Forced Labor and One Charged with Labor Trafficking at Woburn Restaurants/United States Department of Justice*, April 4, 2023.

¹⁵Allie Weintraub et al, ‘Narco slaves’: Migrant workers face abuse on Oregon’s cartel-run, illegal pot farms—ABC News, December 15, 2022.

¹⁶Beth Warren, *Cartel-backed pot grows linked to California, Oregon human trafficking (usatoday.com)*, June 18, 2023.

¹⁷*Federal Human Trafficking Report/Human Trafficking Institute.*

These careless policies have created scores of new victims in American communities—all of which were preventable crimes. For example:

- Last month in El Paso, Eddy Jose Ortega Alvarado, a Venezuelan man who reportedly was allowed to enter using CBP One on May 20, 2023, has been accused of murdering a Honduran woman he was staying with in a dwelling that has been identified as an illegal alien stash house. Border Patrol agents told the news media that they had run a criminal history check on Ortega, but with the recent high volume of people to be processed and very limited access to criminal histories in other countries, there are “bad apples” who make it through.¹⁸
- In a case highlighted by the Florida Grand Jury, a 24-year-old man made it through Border Patrol screening posing as an unaccompanied child, and qualified to be placed with a sponsor in Jacksonville, whom he later murdered.¹⁹
- Several Venezuelan men who recently arrived in Chicago have been charged with a variety of crimes, including stabbings and shoplifting. Some have been arrested multiple times during the few months since their arrival. The State judge in one case lamented the lack of information on the men:

“These are individuals who’ve not been in the country very long. You’re now telling me that they were arrested at Macy’s, committing a felony retail theft. So the court wants some idea of who is in front of me. Additionally, as the public defender just indicated, one person has already indicated he’s using another name. So, who are these people? Who are these individuals?”²⁰

- School resource officers around the country are asking the same questions about some of the students they are observing in the public schools. Officers I have met have described disturbing cases of gang infestation and violence in the schools attributed to newly arrived unaccompanied minors, the entrapment of recently-arrived girls into sex trafficking, and kids arriving at school after working the overnight shift at a poultry processing plant, and more.
- Federal agents recently prosecuted members of the MS–13 gang in Virginia for sex trafficking case, among other crimes. They recruited a group of girls who had entered as unaccompanied minors, were placed in a group home in Fairfax, Va, and then ran away, into the clutches of the gang. The teen victims were brutally beaten to initiate them into the gang, and then repeatedly forced to engage in prostitution both to members of the gang and outsiders. From once court document:

“MINOR 2 was sex trafficked by numerous MS–13 gang members and associates shortly after she and MINOR 3 ran away from Shelter Care on August 27, 2018. According to MINOR 2, MINOR 3 informed her that she would engage in sex in exchange for money, food, and other things that MINOR 2 needed. During interviews with law enforcement, MINOR 2 and MINOR 3 both discussed staying at the residence of MOISES and JOSE ELIAZAR, two brothers who lived together . . . in Woodbridge, Virginia . . . MINOR 2 informed law enforcement that multiple men engaged in sex with MINOR 2 in the wooded area behind MOISES’ apartment . . . Geolocation data obtained during the investigation shows that MINOR 2 was harbored at multiple locations in Northern Virginia and Maryland . . . Numerous social media conversations involving MOISES, GUTIERREZ, and others, show their active involvement in finding different residences to harbor MINOR 2 for purposes of commercial sex.”²¹

- There are reports of several instances of individuals who had been watchlisted as known or suspected terrorists who still managed to enter the United States, either as asylum seekers²² or because overwhelmed border officials could not

¹⁸ Dave Burge and Fernie Ortiz, *Migrant arrested, charged with capital murder in death of another migrant/KTSM 9 News*, June 5, 2023.

¹⁹ *Illegal immigrant who posed as minor while crossing border charged with murder (nypost.com)*.

²⁰ *Venezuelan migrant arrested 3 times since arriving in Chicago 3 weeks ago: prosecutors—CWB Chicago*, May 9, 2023 and John Binder, *Sanctuary City Chicago: Migrants Accused of Stabbing, Shoplifting While Living in Taxpayer-Funded Shelters (breitbart.com)*, May 18, 2023.

²¹ *Affidavit in Support of Criminal Complaint and Arrest Warrant in United States v. MOISES et al*, July 31, 2020.

²² Todd Belsman, *The Biden Admin Released a Suspected Terrorist into the United States After He Illegally Crossed the Border (cis.org)*, Center for Immigration Studies, March 4, 2022.

react to the derogatory information. The latter case was the subject of a scathing report from the DHS Office of the Inspector General.²³

Besides the array of past and future individual criminals who have been allowed to enter after crossing illegally, either by the design of the Biden-Mayorkas policies or as “gotaways”, there is an even more concerning threat to the public from the cartels and other transnational criminal organizations that routinely exploit the border policies for their illicit business purposes. Most are sophisticated organizations, and the most successful are nimble in adapting to emerging opportunities, whether in human and drug trafficking across the U.S. border, or even more complex ways. Not only have they evolved “horizontally” to branch out into new ventures, for example getting involved in human trafficking as well as drug trafficking, in fentanyl trafficking as well as heroin and marijuana trafficking, and stealing oil as well as automobiles—they also have shown that they will evolve “vertically,” to control every level of production, distribution, and retail sales of their illicit products.

This vertical evolution presents a very serious threat to American communities. The Mexican cartels (and numerous other transnational criminal organizations) have not been content to remain in Mexico; they already have established operations in the United States. Federal agencies made more than 300 arrests for Mexican cartel-related crimes in 2022, according to one analysis.²⁴ To manage these operations, the cartels need to move their people into U.S. communities. This requires thwarting U.S. immigration controls, which is not difficult at the moment. Once here, they will try to gain control of the environments in which they operate, whether through violence or through the corruption of public officials. Some communities have already experienced such violence, such as in the case of the illegal marijuana grows in California and Oregon, or in the case of Goshen, Calif., where in January 2023, 6 people were executed in an “early morning massacre” that authorities described as a likely cartel hit.²⁵

These public safety threats come on top of the other significant costs to taxpayers, including the cost of expanded services to the migrants and lost job opportunities and depressed wages for legal U.S. workers. For example, Texas has told Federal courts that State taxpayers have incurred expenditures of hundreds of millions of dollars a year for medical care, schools, shelter and criminal justice costs attributed to the illegal migration brought on by the Biden-Mayorkas policies.

Recommendations.—The Biden administration has implemented policies that incentivize illegal migration on a massive scale, to the profit of criminal smugglers and traffickers, even with full knowledge of the risks that such policies will endanger the safety and well-being of the migrants. Some supporters of these policies have defended them on the belief that they are aiding the reunification of families, providing a safe haven from difficult living environments in their home countries, and even benefiting U.S. employers. On the contrary, I submit that there is no possible rationalization for policies that facilitate the abuse and exploitation of migrants and the endangerment of American communities on such a scale. There is no possible humanitarian or economic motive that could justify or make up for the damage that has been done by the cartels and the smugglers and traffickers who work with them.

Some suggest that a strong law enforcement agency response to target the cartels would solve the problems. Certainly that would help, and these reforms should occur, but such a surgical approach limited to targeting individual cartels and transnational criminal organizations will not be enough, even if a few cartels could be eradicated.

As long as the careless and poorly-managed immigration policies of the Biden administration remain in place, which allow for the near-unlimited illegal entry of migrants who do not have to establish admissibility, eligibility, or qualifications in any form, we can expect that the cartels and other criminal groups will exploit these policies to their own profit and convenience. If the policies are reversed, to end the mass catch-and-release of illegal crossers, to end unauthorized parole entry programs, to return Border Patrol agents to patrolling the border, to resume enforcement of immigration laws in the interior—especially at the work place, then it becomes much harder for the cartels to make a profit off of the migration dreams of vulnerable people in other countries, and they will find other business opportunities.

²³ Department of Homeland Security Office of the Inspector General, *OIG-23-31—CBP Released a Migrant on a Terrorist Watchlist, and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest (REDACTED)* (cis.org), June 28, 2023.

²⁴ Andrew Dorn and Steve Joachim, *Map: Tracking drug cartel arrests across the United States* (newsnationnow.com), February 16, 2023.

²⁵ Stella Chan, *Goshen, California shooting: 6 people, including a baby, were killed in a ‘cartel-style execution,’ sheriff’s office says* /CNN, January 17, 2023.

To solve the problem, Congress must change the immigration laws and rein in the executive policies that are incentivizing the mass illegal migration of both adults and minors. When we reach the point where migrants understand that there is no point in entering an agreement with a criminal smuggling organization or a labor trafficker, or even attempting to illegally join a family member in the United States, because such illegal entry and employment will not be tolerated and result in the consequence of being sent home promptly, then the smugglers and traffickers will have few clients, and the Government agencies will have a much greater ability to deal with a far fewer number of exploitation cases.

Many of these reforms would be accomplished by H.R. 2640, the Border Security and Enforcement Act of 2023, introduced by Mr. McClintock and Mr. Biggs, which passed the House and is now before the Senate. Congress should also make use of its appropriations authority to de-fund the most egregiously damaging programs established by the Biden administration, including CBP One, other parole programs, the Mayorkas immigration enforcement prioritization scheme, and migrant resettlement initiatives that in reality are the final leg of illegal human smuggling operations. In addition, Congress should appropriate funds to be awarded to State and local governments to initiate programs to combat human trafficking, smuggling, and other activities that involve the cartels and transnational criminal organizations.

Chairman GREEN. Thank you, Ms. Vaughan.
I now recognize Mr. Maltz for 5 minutes.

**STATEMENT OF DEREK S. MALTZ, PRIVATE CITIZEN, FORMER
SPECIAL AGENT IN CHARGE, SPECIAL OPERATIONS DIVI-
SION, DRUG ENFORCEMENT ADMINISTRATION**

Mr. MALTZ. Thank you for the opportunity to speak today on this very important topic.

After a 28-year career with DEA, I've been supporting law enforcement agencies all over the country and I also support the grieving families that are burying their loved ones on a daily basis. I believe the safety and security of America must be a top priority. The current border policies are placing every American at risk. The Mexican cartels are taking over and taking advantage of the vulnerabilities at the border, but they're working with the Chinese transnational criminals at levels we've never seen in the country. They're operating with no fear.

The brave men and women in CBP are doing tremendous work, but they're distracted every day because they're dealing with a tsunami of migrants coming in from over 150 countries. How can any reasonable person in America think the current situation at the border, which is now impacting all of America, is safe and secure? Makes no sense. Look at the historic number of deaths, right—I deal with this every day—9,161 dead Americans. Headline news today, 9 in Cleveland, Ohio. Most ever in a 24-hours period dead. Last month another public service alert because there were 5 dead in 12-hour period. This is what's happening. What about Ray Lewis, the legendary NFL player? What about this famous actor Robert De Niro's grandson, dead? What about baby Elijah in Florida with the fentanyl that a mother mixed in the blender?

Look at the escalating crime in the country. Look at the known gotaways, 1.5 million that are all over the country. We don't even know who they are, where they are, what they're doing here. Look at the 143 migrants have been apprehended this year at the border. Think about that. There was only 3 in 2020 during the last administration and in the last year. Think of how many terrorists and criminals are part of the gotaways. This is common sense. You don't have to be an expert to understand that. Look at the record

number of migrant deaths from them making treacherous journeys to get here. Baking in the desert and in the back of tractor trailers and this man is pulling them off the desert with the sheriffs and stuff on the ground. Look at the sexual assaults and the rapes and the migrants on the journey. Remember, depression, anxiety, and mental illness are on the rise and all of our Americans are turning to drugs for help. But unfortunately to the illicit drug supply. Allowing Mexican cartel operatives and unidentified people from around the world to enter the country illegally at record levels is enhancing the ability of criminals to kill Americans.

This is not what the Government should be doing to keep us safe. You don't have to be a border expert, an immigration expert to understand that the administration's policies related to the border are a recipe for disaster. I'm not a MAGA lunatic, OK. Look at the recent Statement on China made by FBI Director Wray. Now let's think about it. He said how China is the most—biggest national security threat to our long-term of this country. Based on that warning, let's look at the facts. Already this year, 14,655 Chinese nationals, many of them military-aged men, are being apprehended on the border. Let's look deeper. That's 1,540 percent increase from last year and over a 10,700 percent increase from 2021. So my question to everyone here, what are they coming here for? Military-aged men from China? How many are in those gotaways? Remember the bombing campaign from China continues from the Chinese labs with the xylazine. This is a tranquilizer for horses. It's rotting people from the inside out, causing necrosis. Mike McCaul, thank you sir, because you made this statement and I'll never forget it. Selling fentanyl to America is a great foreign policy for China. He's right on point and the man's been around homeland security issues a long time.

Synthetic drugs made in labs in China and Mexico are record levels game-changer for the United States. The Chinese criminals are providing critical money-laundering services which I can answer questions about. This is a disaster for America and I'm concerned. It's not a red or a blue issue. It's a red, white, and blue issue, and every American should care.

So in my view, it's chemical weapons destroying our country rapidly. One of the biggest obstacles for us law enforcement is the corrupt, high-level government corruption. We can't rely on soft-on-crime and corrupt leaders in Mexico to save our kids. So as far as I know, there's never been a terrorist organization in the history of America that has killed this many Americans. The cartels must be dealt with accordingly and severely for what they're doing to our families and communities.

Law enforcement's done tremendous work, and my hat goes off to all of them, saving lives every day. DEA last year 58 million fake pills, 13,000 pounds of fentanyl, 400 million deadly dosage units taken off the street. Homeland Security Investigations, CBP during operation Blue Lotus, 8,200 pounds of fentanyl, 2 months at two POEs. The sad part everyone has to think about, how much is being produced and how much is already here. So DEA warns Sinaloa and Jalisco are the biggest threats, drug threats we've ever seen. So, folks, where's the Operation Warp Speed COVID-like thing for fentanyl?

Last thing, without border security, we have no country. Thank you very much.

For the Ranking Member, sorry, we're wasting your time.
[The prepared statement of Mr. Maltz follows:]

PREPARED STATEMENT OF DEREK S. MALTZ

JULY 19, 2023

Chairman Mark E. Green, Ranking Member Bennie Thompson, and distinguished Members of the committee, I would like to thank you for this opportunity to speak today about the catastrophic situation in America caused by the Mexican Cartels, the open borders and the escalating fentanyl poisoning crisis. I am grateful for the opportunity to share my experience and thoughts as America faces complex challenges with this unprecedented national security and public health disaster. I had a long rewarding 28-year career as a special agent in the Drug Enforcement Administration (DEA). I retired from the DEA in July 2014 but remain actively involved in the private sector supporting law enforcement agencies around the world as they aggressively target Transnational Criminal Organizations (TCOs). I'm also very engaged in supporting families around the country who have lost loved ones to the devastating substance fentanyl entering America at historic levels.

During the last 10 years of my career, I was the agent in charge of the DEA's Special Operations Division (SOD) in Northern Virginia. In that capacity, I ran the SOD operational coordination center with 30 participating agencies, to include representatives from Canada, Australia, and the United Kingdom. SOD's primary mission is to support and synchronize the investigative efforts of Federal, State, local, and international law enforcement agencies. SOD focused substantial resources on the Mexican cartels since they have been one of the greatest threats to the United States for several years. SOD was instrumental in supporting the Mexican government and several U.S. agencies to capture the former leader of the Sinaloa Cartel, El Chapo Guzman, on two occasions, and coordinating the world-wide investigations against the cartel. SOD also has a long history of coordinating the efforts of agencies around the world disrupting and dismantling major criminal networks.

Unfortunately, the threat of the Mexican cartels has grown tremendously over the years from drug cartels to TCO's to narco-terrorists. In my view they remain the greatest daily threat to the citizens of this country. They have killed more Americans than any other terrorist organization and the rate of death and destruction continues to escalate. The cartels control the importation and distribution of heroin, cocaine, methamphetamine, and deadly fentanyl. They work closely with Chinese Criminal Networks (CCN) and together they are destroying communities and families throughout the United States and are killing record numbers of our future generation.

I remain committed to work with Congress, my colleagues in the Government agencies and fellow citizens who have lost their loved ones to the drug crisis to help develop recommendations and solutions to build more effective approaches to eliminate the current threats. Too many Americans are dying from fentanyl poisoning and citizens all over the United States are impacted by the Mexican cartels and the CCN.

It is time to work together and put politics aside. "The current unprecedented fentanyl poisoning crisis that's killing our kids at record levels is not a Red or Blue Issue. It's a Red, White, and Blue issue. We need all Americans to work together now to save lives."

We must utilize the best and brightest patriots serving the country and combine the arsenal of capabilities and authorities to decimate the cartel's deadly production operations in Mexico. We must simultaneously dismantle their importation and distribution networks to eliminate the growing threat to the United States and our citizens. The U.S. agencies must continue to work together with innovative strategies to shut down the flow of precursor chemicals shipped to Mexico from China, India, and other countries around the globe that are used in the production of dangerous synthetic drugs. The evolving sophisticated money-laundering schemes offered by the CCN to the cartels must also be shut down.

The U.S.G. must also use all Treasury and economic sanctions to disrupt the movement of criminal proceeds to the foreign leaders who run these networks. As the country faces these growing threats, especially with the involvement of the CCN's and their partnership with the cartels, law enforcement needs the full support of Congress. This historic ongoing national security threat requires a true "whole-of-America approach." While we must continue to treat those with mental ill-

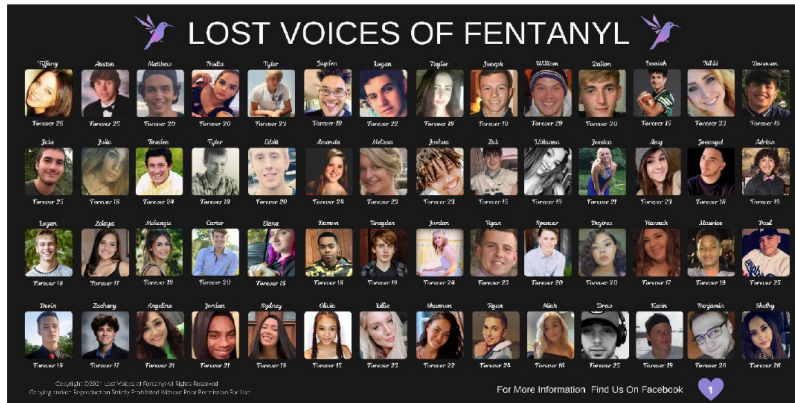
ness and drug addiction, the Mexican cartels and the CCN must be held accountable for their devastation and damages. They can no longer operate with impunity, and we need Congress and Government leadership to step up their efforts with a greater sense of urgency.

President Biden said appropriately on December 15, 2021, while speaking about his Executive Order on Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade,

“trafficking into the United States of illicit drugs, including fentanyl and other synthetic opioids, is causing the deaths of tens of thousands of Americans annually, as well as countless more non-fatal overdoses with their own tragic human toll. Drug cartels, transnational criminal organizations, and their facilitators are the primary sources of illicit drugs and precursor chemicals that fuel the current opioid epidemic, as well as drug-related violence that harms our communities. I find that international drug trafficking—including the illicit production, global sale, and widespread distribution of illegal drugs; the rise of extremely potent drugs such as fentanyl and other synthetic opioids; as well as the growing role of internet-based drug sales—constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.”

(Executive Order on Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade, 2021)

Based on the President’s statement above, and knowing the Mexican cartels are responsible for shipping record amounts of deadly substances and sending their operatives into the country from Mexico, any reasonable person can understand that the current border policies are enhancing the cartel’s ability to operate successfully, contradict the President’s statement, and that the border must be secured to ensure increased public safety and security in America.





OVERVIEW

On July 12, 2023, White House Office of National Drug Control Policy (ONDCP) Director Dr. Rahul Gupta released an update on drug overdose deaths in America. The latest CDC report shows 109,940 predicted overdose deaths in the 12-month period ending in February 2023. Most of these deaths are caused by illicit synthetic drugs like clandestinely-manufactured fentanyl and methamphetamine, often in combination with other drugs, including cocaine and heroin. (Dr. Rahul Gupta Releases Statement on CDC’s New Overdose Death Data, 2023) This alarming statistic reflects that America is losing around 9,161 people per month to drugs.

When you look closer into the statistics in some areas of the country like New Orleans, 95 percent of overdose deaths in 2022 were from fentanyl according to Coroner Dr. Dwight McKenna. (Robin, 2023)

When you look at the death statistics in San Diego, California, there was a 2,375 percent increase in fentanyl-related deaths in the 5-year period 2016–2021. (Fentanyl Seizures at Border Continue to Spike, Making San Diego a National Epicenter for Fentanyl Trafficking, 2022)

According to the Families against Fentanyl who have analyzed CDC statistics and have done a tremendous job educating the public on the troubling trends involving fentanyl, they revealed the following in the recent report “The Changing Faces of Fentanyl Deaths.”

(The Changing Faces of Fentanyl Deaths, 2023)

- Synthetic opioid (fentanyl) poisoning was still the leading cause of death among Americans 18 to 45 in 2021.

- Synthetic opioid (fentanyl) fatalities among children are rising faster than any other age group.
- In just 2 years, synthetic opioid (fentanyl) deaths among children ages 1 to 4 more than tripled, and increased 4-fold among infants less than one, and children ages 5 to 14.
- Since 2015, deaths among infants increased nearly 10-fold; among children ages 1 to 14 deaths increased 15-fold: an increase of more than 1,400 percent.

These are staggering statistics impacting communities all around the country, and all Americans should be alarmed and demanding accountability from the leaders.

Look at the recent press stories involving celebrity families, a 9-month-old baby and Black and Hispanic Americans impacted by deadly fentanyl. This again highlights how citizens are suffering, from all walks of life, because of the ruthless cartels and the wide-open borders.

- Ray Lewis III, the son of two-time Super Bowl champion Ray Lewis, has died, police said in an incident report detailing a suspected overdose. (Press, 2023)
- Robert De Niro's grandson Leandro died from fentanyl-laced pills (Ushe, 2023)
- Teen mom charged with aggravated manslaughter for giving 9-month-old baby fentanyl (El-Bawab, 2023)
- As Fentanyl Overdose Rates Rise Among Latinos, So Do Calls for Government Action (Gunderson, 2023)
- Mass. set a record for opioid overdose deaths. Black residents were hardest hit (Bebinger, 2023)

Sarah Richardson, Program Manager at the Chicago Department of Public Health Office of Substance Use, said city data shows a deepening crisis. "What we're seeing in Chicago right now is that 80 to 90 percent of our overdose deaths involve fentanyl, and a growing number of those deaths involve fentanyl as the only opioid in that death," Richardson said. "The number of Latinos in the community that have experienced a fatal overdose has significantly increased in recent years. We've seen those increases across every demographic group, but the greatest increase has in fact been in our Latino communities in Chicago."

There are so many stories around the country that highlight the unprecedented nature of the fentanyl poisoning crisis. Please see the mass poisonings all over the country at the end of this document.*

Over the last few years while actively supporting law enforcement in the private sector, I participated in the production of documentaries, national media segments, Congressional, think tank and educational sessions, and rallies with grieving families and non-profits from around America to help educate the public and bring needed awareness to the dangerous and evolving synthetic drug crisis.

I will continue to engage with families who lost children from these poisonous substances hitting our communities like a tsunami. It's hard to imagine the lack of engagement and action from our national leaders in Washington especially on the education for young Americans and the mixed messages from the leadership. I have worked tirelessly with families to recruit celebrities, professional athletes, role models and social media influencers to help create a movement to get specific messages to the kids. Sadly, these efforts to date haven't been very successful due to the stigma related to drugs and lack of knowledge on the current crisis. All Americans must realize this ongoing poisoning crisis is like nothing we have ever seen and the I believe if the right celebrity pushed out short social media videos, the kids would get the important messages. We must all accept that most children are not watching Congressional hearings, mainstream media, cable news, or listening to podcasts so it's critical to have role models step up in a big way to fill the educational void.

The Mexican cartels are also working in close partnership with CCN, operating with impunity and killing our citizens at historic levels. The threats posed by the cartels are growing rapidly as they make billions of dollars, especially benefiting from human smuggling with the porous Southern Border. The current border policies are irresponsible and placing all Americans at risk. As we see all the troubling news on the fentanyl poisoning crisis, there are also dangerous connections between the criminal activity of the Mexican cartels and terrorist groups like Hezbollah. The topic of narco-terrorism has been a priority of mine for many years, and we documented a very disturbing partnership during DEA's priority operation Project Cassandra to show the growing role of Hezbollah, working with the cartels in drug trafficking and global money laundering.

As we look at the latest statistics from the U.S. Customs and Border Protection (CBP), all Americans should be concerned with the fact that in fiscal year 2023 through May there were 127 U.S. Border Patrol Terrorist Screening Data Set (TSDS) encounters between ports of entry of non-U.S. Citizens. This reflects a stag-

*The information has been retained in committee files.

gering increase compared to the 3 apprehended for the entire fiscal year when the last administration enforced strong border security policies.

The country is currently being invaded by an overwhelming number of illegal immigrants from over 150 countries and deadly drugs killing Americans at historic levels. The brave men and women of CBP are being inundated with administrative duties and migrant processing instead of focusing on protecting our national country. The outrageous dereliction of duty by the current administration with the weak border policies distracting our CBP from securing the country is placing every American at risk.

The *New York Times* headline published on July 13, 2023, says “This Agency Was Created With a Terrorism Focus. Now It Also Has to Care for Migrants.

- Customs and Border Protection was set up after 9/11 amid the fight against terrorism. Its responsibilities have ballooned with the influx of asylum-seeking migrants crossing the Southern Border.”

You don’t have to be a border or immigration expert to understand that the current administration’s policies related to the border are a recipe for a disaster. Look at the recent statement made by FBI Director Christopher Wray,

- “I’ve said before, there is no doubt that the greatest long-term threat to our nation’s ideas, our economic security, and our national security is that posed by the Chinese Communist government.” (Inside the FBI: The China Threat, 2023)

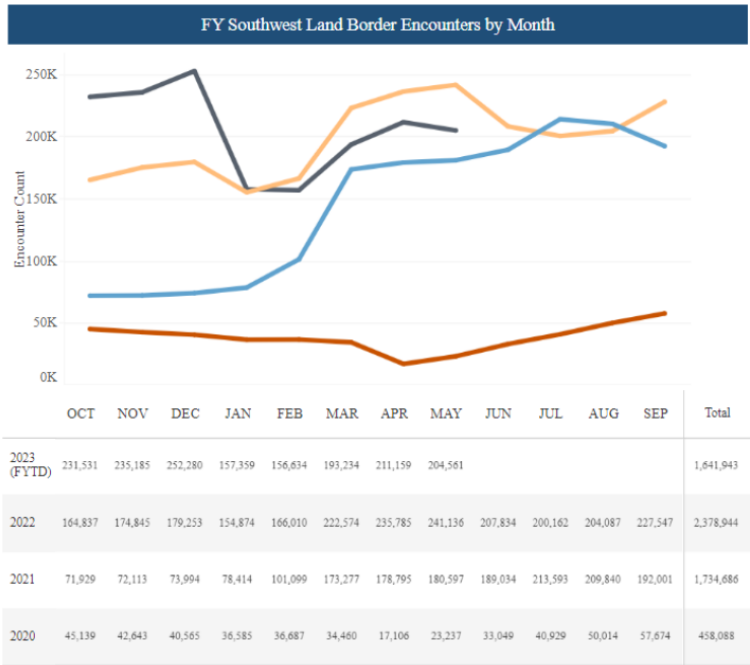
In June there were several news reports on the disturbing number of Chinese nationals crossing the U.S. Border.

Fox Business reported on June 26, 2023,

- “There are certain Chinese coming in that are really disturbing,” Gatestone Institute senior fellow Gordon Chang said. Packs of Chinese males of military age, unattached to family groups pretending not to speak English. These are probably saboteurs who are coming in on the first day of war with Asia.”
- Rep. Mark Green, R-Tenn., also claimed that “10,000-plus” Chinese nationals have been apprehended in fiscal year 2023, “a massive 300 percent increase” from the year prior. (Altus, 2023)
- A recent Fox News report also reflected that over 12,000 Chinese nationals were apprehended at the border this fiscal year thus far.

This concerning statement by the FBI Director combined with CBP’s statistics related to the massive increase of military age Chinese national men apprehended at the border and that over 1,500,000 known got-aways have been documented during this administration, I would say as an experienced public safety and law enforcement executive, the entire country is at serious risk.

Below provides the very alarming statistics of the fiscal year through May of Southwest Land Border Encounters: (*CBP.gov, 2023*)

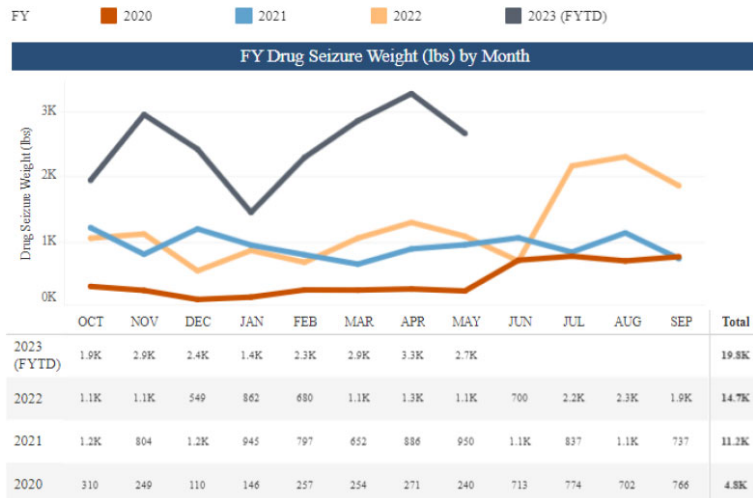


On July 12, DEA Principal Deputy Administrator George Papadopoulos testified before the House Homeland Security Subcommittee on Border Security and Enforcement at a hearing entitled, “Protecting the U.S. Homeland: Fighting the Flow from the Southwest Border” Mr. Papadopoulos stated the following:

- The Sinaloa and Jalisco Cartels pose the greatest criminal drug threat the United States has ever faced.
- The availability of fentanyl throughout the United States has reached unprecedented heights. In 2022, DEA seized more than 58 million fake pills containing fentanyl, and 13,000 pounds of fentanyl powder, equating to nearly 400 million deadly doses of fentanyl. This is enough fentanyl to supply a potentially lethal dose to every member of the U.S. population. These seizures occurred in every State in the country.
- These ruthless, violent, criminal organizations have associates, facilitators, and brokers in all 50 States in the United States, as well as in more than 100 countries around the world.
- The Sinaloa Cartel and the Jalisco Cartel and their affiliates control the vast majority of the fentanyl global supply chain, from manufacture to distribution.
- The cartels are buying precursor chemicals in the Peoples Republic of China; transporting the precursor chemicals from the PRC to Mexico; using the precursor chemicals to mass produce fentanyl; using pill presses to process the fentanyl into fake prescription pills; and using cars, trucks, and other routes to transport the drugs from Mexico into the United States for distribution. It costs the cartels as little as 10 cents to produce a fentanyl-laced fake prescription pill that is sold in the United States for as much as \$10 to \$30 per pill. As a result, the cartels make billions of dollars from trafficking fentanyl into the United States.
- The business model used by the Sinaloa and Jalisco Cartels is to grow at all costs, no matter how many people die in the process. The cartels are engaging in deliberate, calculated treachery to deceive Americans and drive addiction to achieve higher profits.

Steven Cagen, assistant director, Homeland Security Investigations, testified at the same Congressional hearing as Mr. Papadopoulos and made the following statements:

- TCOs flood the United States with deadly drugs, including illicit fentanyl and other opioids.
 - Criminal organizations in the 21st Century do not limit themselves to a single criminal enterprise. These criminal organizations have expanded beyond narcotics smuggling and have morphed into poly criminal TCOs involved in the associated crimes of weapons trafficking, human trafficking, human smuggling, money laundering, and other crimes.
 - TCOs have also evolved beyond insular entities and have sought out partnerships with competing TCOs in furtherance of their criminal activities. For example, the illicit collaboration between Chinese TCOs and Mexican cartels has created a complex criminal ecosystem that is fueling money-laundering and narcotics-trafficking operations, specifically illicit fentanyl, into and within the United States.
 - Chinese money-laundering organizations have developed sophisticated networks in the United States, Mexico, China, and throughout Asia to facilitate money-laundering schemes.
 - Mexican cartels have taken over fentanyl production and operate on an industrial scale, they are obtaining precursor chemicals from China and synthesizing these chemicals in Mexico to produce fentanyl. Mexican cartels then smuggle the fentanyl into the United States in either powder or pill form for distribution.
 - Chinese TCOs also facilitate the trafficking and distribution of illicit fentanyl pills by providing the Mexican cartels with the pill press equipment to make the fake oxycodone pills.
 - The Mexican cartels are purchasing these pill presses directly from Chinese manufacturers that are producing the equipment specifically for illicit activity.
- CBP has also reported staggering drug seizure statistics for the first 8 months of fiscal year 2023. CBP reports they seized 19,800 pounds of fentanyl. Although, I appreciate the incredible work of CBP and all the law enforcement agencies and I'm totally impressed with the dedication of the men and women on the front lines, these large seizures of deadly drugs should be a "wake up call" for all Americans. It's obvious and alarming to anyone who works in drug enforcement or border security that if this is what agencies are seizing, then everyone should be concerned on how much is being manufactured in Mexico, imported, and now on the streets in America.



To be clear, the current crisis can't be solved with law enforcement alone. This complex and emerging problem requires that all Americans unite. The United States needs more focus and resources on drug education, treatment, and rehabilitation in addition to law enforcement. This is an unprecedented public health, national security, and community safety matter that also has huge mental health ramifications for the addicted as well as their families. Sadly, Americans are turning to what they

think are legitimate prescription pills for help and are getting “fake” pills containing deadly fentanyl. Our citizens are being deceived to death in an exorbitant number of cases. There are many great American patriots working in the medical, education, addiction, science, technology, financial, and other private-sector industries that can help develop comprehensive strategies and plans to deal with this matter.

The status quo is an unacceptable option as too many lives are on the line. There must be accountability for all resources provided to these initiatives since it’s not good enough to just provide funding. We need to see the death rates decline across the country.

America has outdated technology and laws, limited resources directed at these national security threats, deceptive political leadership and huge morale issues across the agencies who are responsible for keeping the country safe. There is a concerning movement involving experienced law enforcement personnel retiring rapidly. This is happening as the cartels are building up their capabilities, enhancing their weapons systems, expanding their product line and unfortunately after forming a lethal partnership with CCN. Sadly, this has resulted in increased violence and escalating deaths in the United States.

As a DEA supervisor for many years, the agent in charge of SOD for almost 10 years and as an huge supporter of law enforcement and grieving families since retirement, I learned so much about the evolution of the opioid addiction crisis, the “bombing of America” from synthetic drugs coming from China and Mexico, the growing role of CCN in drug trafficking and money laundering and the increased threats posed to our country from the Mexican “terror” cartels.

Over the last year, there has been increased press reporting and Government warnings about new and more powerful synthetic opioid drugs or New Psychoactive Substances (NPS) like Nitazene, Etonitazene, Isonitazene, and Protonitazene. Nitazines are being sourced from China and being mixed into other drugs. DEA, Washington Field Division put out a warning on June 1, 2022, alerting the public about this emerging threat. (New, Dangerous Synthetic Opioid in D.C., Emerging in Tri-State Area, 2022)

In addition to the Nitazene class of drugs, American communities have been saturated with Xylazine mixed with fentanyl, known as Tranq. Xylazine is a non-opiate sedative, analgesic, and muscle relaxant only authorized in the United States for veterinary use and not approved for human consumption. However massive amounts of illicit Xylazine are being produced in Chinese labs as well and now this deadly flesh-eating drug is destroying Americans all over the country.

On March 20, 2023, DEA put out an emergency public warning on the widespread threat of Xylazine mixed with Fentanyl and on July 11, 2023, the White House announced warnings and a plan to deal with this emerging drug threat. As stated in the press release, ONDCP Director Dr. Gupta said,

“Xylazine has been detected in nearly every State in the country.” And “I have seen the devastating consequences of xylazine combined with fentanyl firsthand.”

(FACT SHEET: In Continued Fight Against Overdose Epidemic, the White House Releases National Response Plan to Address the Emerging Threat of Fentanyl Combined with Xylazine, 2023) (DEA Reports Widespread Threat of Fentanyl Mixed with Xylazine, 2023)

(The Growing Threat of Xylazine, 2022)

Deadly chemical substances are being manufactured in Chinese labs and being distributed all over America. Although I appreciate of the Government warnings and plans to deal with these emerging drug threats, **SYNTHETIC DRUGS COMING FROM CHINA AND MEXICO HAVE BEEN A GAME CHANGER FOR THE UNITED STATES** and we are under attack in my view. The U.S.G. must be way more aggressive in dealing with this growing public health and national security threat. Aggressive action plans, operational implementation and accountability on the leaders should be a top priority. Allowing the Mexican cartel operatives and people from around the world to enter the country illegally at record levels is enhancing the ability for criminals to kill Americans.

SYSTEMATIC CORRUPTION IN MEXICO AND GROWTH OF THE CARTELS

Another disturbing aspect involving the Mexican cartels is their role as narco-terrorists and their advancement with the use of technology and weapon systems to enhance their deadly business enterprise. They are not typical crime groups as they conduct acts of terrorism not solely in furtherance of drug trafficking but for the purpose of instilling fear in the public and influencing.

The cartels are responsible for utilizing terror tactics to silence, torture, and kill civilians, government officials, Catholic priests, and news reporters, who publicly

speak out against the violence inflicted by the cartels. The Mexican cartels have become Mexico's insurgency's and have utilized terror tactics. They have corrupted the system and undermine the Mexican government and the rule of law. The Mexican cartels have recruited hundreds of trained law enforcement and military personnel who now carry out executions and assassinations on behalf of the cartels. The cartels routinely conduct beheadings, in which corpses and heads are hung on public display. The cartels are also indiscriminately killing to scare the general population into submission and subservience.

The conviction of Genaro Garcia-Luna, former director of Mexico's Public Security, in Federal court in New York and the DEA arrest of Salvador Cienfuegos, former defense secretary of Mexico, reflects the level of corruption at the highest level of the Mexican government. (Mexico's former public security chief convicted in U.S. drug case, 2023)

(Golden, 2022) Having the top government officials on the Mexican cartel's payroll, help the cartels operate with impunity moving tons of drugs around the world and make billions. One of the biggest obstacles for U.S. law enforcement is overcoming the presence of high-level corruption in Mexico.

In my view, the U.S. Government mistakenly views the Mexican cartels as only transnational crime organization, and its current strategy to attack the cartel threat at the border and in America are insufficient to end the Mexican cartels chaos and massive deaths to Americans. Look at the amounts of young Americans dying daily from their poisonous substances. The production is on the rise and the supply of these poisonous drugs are vast. The United States must accept and come to the realization that the cartels are operating like the most dangerous terrorist organizations in the world.

As far as I know, there has never been a terrorist organization like al-Qaeda, Hezbollah, or ISIS, that has killed this many Americans. The U.S. Government assessment of the cartels must be updated. From my perspective, it doesn't matter what the U.S.G. decides to name the cartels, but rather what does matter is that the cartels are held fully accountable with the right force. The consequences for their actions must be appropriate based on their level of devastation they have caused American families. On September 11, 2001, approximately 3,000 Americans were killed, and the United States responded appropriately. With hundreds of thousands being killed from poisonous fentanyl, it's about time the cartels feel the full force of America.

The United States and Mexico efforts and strategies against the Mexican cartels have been proven to be ineffective in its ability to curtail and significantly reduce the level of drug trafficking and violence inflicted by the cartels. America must confront the level of violence and terror carried out by the cartels. The U.S.G. should not limit the strategy to combat the cartels with law enforcement alone. Additional capabilities must be put on the table to combat the Mexican "terror" cartels. The U.S.G. must use whatever authorities are needed to create a seamless plan to bridge the gap between the law enforcement, military, and the intelligence community to decimate these ruthless networks.

The cartels utilize military grade weapons and C4 explosives and have been found to be in possession of weapons such as assault rifles, pistols, grenades, RPG rocket launchers, claymore anti-personnel mines and man portable air defense systems. The Mexican cartels have taken control of Mexico through active means of terrorism. During my last trip to the Rio Grande Valley, Texas, I was extremely concerned to learn about the 9,000 drones used by the cartels for surveillance inside America especially knowing how the cartels are now dropping C4 explosives on their adversaries in Mexico. It's a threat growing daily on our Southern Border and the use of drones and explosives is a huge risk to our brave men and women of CBP who are fighting daily to keep us safe.

On July 12, 2023, as reported in ABC News, A drug cartel set off a coordinated series of 7 roadway bombs in western Mexico that killed 4 police officers and 2 civilians. The governor of Jalisco state said the explosions were "a trap" set by the cartel to kill law enforcement personnel. This is another recent example of the advanced terrorist-style attacks carried out by the Mexican Cartels. (STEVENSON, 2023)

RECOMMENDATIONS

- The President should hold a White House Summit immediately to declare a national health and security emergency based on the historic number of deaths from fentanyl and the escalating growing lethal relationship between the Mexican cartels and the CCN. All Americans must understand this is not the same old drug problem and synthetic drugs have changed the game.

- Create an Operation Warp Speed type of response for Fentanyl like we had for COVID and apply the best practices and lessons learned to address the current fentanyl poisoning crisis.
- The President should direct the Department of Education to implement a mandatory and robust curriculum at all schools to ensure young Americans are learning about the emerging deadly synthetic drug threats.
- The President must mandate the CDC to update the processes on reporting timely and producing accurate statistics on fentanyl and other synthetic drug poisonings and deaths.
- The White House should collaborate with professional athletes, role models, celebrities, and social media influencers to start an immediate outreach campaign to push impactful video reels on social media sites targeting the younger generation. The White House is currently using social media influencers to push campaign messages out so why not message about fentanyl to save American lives in the current state of emergency.
- Declare fentanyl a weapon of mass destruction.
- Work with Mexico and provide full U.S. support to decimate the cartel's operations.
 - Hold high-level security meetings with the Mexican counterparts to accurately assess their commitment to shut down the cartels and implement bilateral strategies.
 - Offer the use of U.S. military assets for training, capabilities, and resources to ensure the appropriate resources are directed at the threats.
 - Apply pressure on Mexico for increased information sharing and bilateral investigations.
 - Increase operations to arrest and extradite the highest members of the cartels to face justice in the United States.
 - Increase operations in Mexico to identify and destroy fentanyl and methamphetamine manufacturing labs.
 - Consider precision strikes on the cartel's production labs in Mexico.
- Declare the Sinaloa and CJNG cartel's terrorist organizations based on their growing direct threats to the United States and Mexico and apply the appropriate U.S. authorities, resources, and capabilities.
 - Since this recommendation is stuck in U.S. bureaucracy and doesn't seem to have the full support of U.S. leadership, the United States must at least respond appropriately based on the gravity of the threats posed by the cartels. The current response is unacceptable and irresponsible by anyone who took the oath to support the U.S. Constitution and protect America.
- Increase U.S. Treasury designations and sanctions to target people and businesses facilitating the deadly criminal enterprises and flooding America with poisonous drugs. Seize as many assets derived from criminal activity as possible.
- Expand multi-agency task forces with additional resources to target the supply of precursor chemicals from China and other countries to the Mexican cartels.
- Build up relationships with China, India, and other countries involved in shipping pre-cursor chemicals to the cartels.
- Strengthen border security with the policies that work and always place the interest of American citizens first.
 - Need additional scanning resources at the border.
 - Implement border walls with appropriate technology where necessary based on Homeland Security expertise not based on political motives.
 - Continue the border wall construction.
 - Implement remain in Mexico sound and common-sense policies to address the tsunami of illegal migrants entering the United States.
 - Eliminate the loopholes for the fraudulent asylum claims.
- Office of National Drug Control Policy of United States should develop Public Service Announcements immediately and establish close partnerships with grieving families and nonprofits who are fighting daily to spread awareness and save lives.
- Hold social media companies accountable for facilitating the movement of deadly drugs and other serious criminal activity like "sextortion" on their platforms.
- Increase resources for mental health, treatment, and rehabilitation for drug addiction and apply strict accountability for the resources. Need to articulate the results and progress.
- Provide resources for lab analysis and medical examiners to expedite the process.

- Set up fentanyl death task forces like Task Force 10 in San Diego and multi-agency task forces like in Los Angeles to aggressively prosecute fentanyl dealers who are killing citizens.
 - Increase resources and prosecutions of synthetic drug violators and ensure maximum penalties.
 - Establish a more formal DC-based multi-agency “Synthetic Drug Task Force” to use existing resources at the National Targeting Center at DOD, National Targeting Center at CBP, DOJ OCDETF Fusion Center, SOD, DEA’s Special Intelligence, HIDTAs, HHS, FDA, USPS, Treasury, and other key agencies.
 - Build new strategies to stop the complex money-laundering schemes used by the CCN to assist the cartels by moving funds efficiently back to the leaders.
 - Must address the outdated laws and polices especially related to criminal communications.
 - Work with technology companies and law enforcement to collaborate on the growing concern of encrypted communications and the impacts to national security.
 - Address the DOJ policy regarding the December 16, 2022, memorandum to all Federal prosecutors on charging, pleas, and sentencing on drug crimes.
 - The perception from law enforcement around America is their own DOJ is way to “soft on criminals”. The dedicated law enforcement is working hard to keep citizens safe are feel strongly they are being undermined. There are huge moral issues developing.
 - Must engage with mail services companies like UPS, FEDEX, DHL, and others to address the movement of deadly substances into America.
 - Need updated technology at mail facilities to screen and identify contraband moving around the country.
- ** The above is not an all-inclusive list of recommendations to address this very complex and escalating crisis.

CONCLUSION

The Mexican cartels, Sinaloa, and CJNG, currently operate throughout the United States and around the globe. They are working with CCN and are flooding America with deadly synthetic drugs. They are operating with impunity while taking full advantages of the vulnerabilities in the U.S. system and failing border policies and immigration laws. The cartels are growing in strength and power and using advanced technology and weapons systems to grow their operations. Migrants are dying in record numbers on their journey to America and being exploited and trafficked by the cartels at the most inhumane levels we have ever seen.

The current enforcement focus, treating the cartels as only criminal organizations, is not enough to stop the death and destruction. The United States must shut down the cartel’s ability to operate with or without Mexico placing the safety and security of Americans first. We must use all authorities and capabilities of not only law enforcement but the intelligence community, the Department of Defense and Treasury Department as one force to decimate the cartels.

CBP must focus their resources on border security and not have to be inundated with migrant processing, baby sitting, and administrative duties. The country is saturated with crime, drugs, and violence fueled by the Mexican cartels and, the cartels are taking full advantage of the massive addiction and the demand for opioids and methamphetamines all over the United States.

During his Senate testimony on February 15, 2023, Dr. Rahul Gupta, Director, Office of National Drug Control Policy of United States, stated the following related to the current drug situation:

- “Worst drug crisis we have ever seen.”
- “Unacceptable to me”
- “Unacceptable to the President”
- “Direct threat to public health and national security”
- “New era of drug trafficking”.

Based on these statements, the American public and specifically the families who have lost loved ones to poisonous fentanyl, deserve full transparency and way more action. Solving this unprecedented national security and public health crisis won’t go away from just words. We need new strategies and way more action. We must recognize that this is something America has never faced before, and we are losing the future generation rapidly.

Terrorists will continue to tap into the incredible amounts of money generated from drug trafficking and many other criminal activities such as human trafficking, counterfeiting, weapon sales, and sex trafficking so it’s imperative that our hard-

working law enforcement and other U.S. Government personnel get the resources and support to enforce the laws and keep Americans safe.

We need the leadership of the Attorney General, the Secretary of the Department of Homeland Security, executives from the Department of Defense and the intelligence community to unite and battle these growing adversaries. We also need to work closely with our State and local counterparts who are under-resourced trying to deal with this crisis on the front lines. We need to unite our agencies as the complexity of the threats continues to grow. The threats to this great country are moving at lightning speed and we need a sense of urgency at this point. It's evident that the Mexican cartels are moving extremely fast while our investigators and assets are getting "stuck in the mud" of politics, bureaucracy, and antiquated laws.

In my view, fentanyl is a chemical weapon and the narco-terrorists' Mexican cartels are destroying our country as they work closely with the CCN.

We need to step up the game with a sense of urgency. Law enforcement will continue to do their best in enforcing the laws, but America needs Congress and White House leadership to further engage on these growing issues. The death rates are spiking and impacting Republicans, Democrats, and Independents. We must come together and develop updated strategies to combat these threats.

As DHS Secretary Mayorkas stated during a Senate hearing in March 2023, "The record number of Americans dying of fentanyl overdoses is now the "single greatest challenge we face as a country." Based on this statement, America needs policies and actions consistent to this assessment.

Thank you for the opportunity to speak on these important topics impacting our national security and public safety.



(Chart made by Derek Maltz depicting the complexity of crime in America. The gap between "good and evil" is growing rapidly resulting in a more dangerous America)

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Chairman GREEN. I now recognize——

Mr. THOMPSON. Hold on a minute. Why do you reference me?

Mr. MALTZ. Because in your opening statement, you said that this was a charade, it was a waste of time, whatever words you used, and the kids are dying at record levels, and I don't appreciate that.

Mr. THOMPSON. Look, I had said——

Chairman GREEN. Hold on. The Ranking Member is not recognized.

We are going to continue on with our witnesses.

Ms. Felbab-Brown, you are recognized for 5 minutes.

STATEMENT OF VANDA FELBAB-BROWN, PHD, DIRECTOR, INITIATIVE ON NONSTATE ARMED ACTORS, THE BROOKINGS INSTITUTION

Ms. FELBAB-BROWN. Thank you for this opportunity to testify.

As was said, I'm a senior fellow at the Brookings Institution. The Brookings Institution is U.S. nonprofit organization devoted to independent research and policy solution. My testimony represents solely my personal views and not those of anyone else.

U.S. domestic prevention, treatment, harm reduction, and law enforcement measures are fundamental and indispensable to countering the devastating fentanyl crisis. Mexican criminal groups, particularly the Sinaloa Cartel and Cartel Jalisco Nueva Generación, source fentanyl and fentanyl precursors in China, synthesize them into fentanyl in Mexico, and then smuggle them into the United States. Some 90 percent of fentanyl seizures occur in legal ports of entry, and this is very likely where most fentanyl is smuggled through. Mexican cartels predominantly hire U.S. citizens to smuggle drugs across the border. U.S. citizens represent more than 85 percent of those convicted of fentanyl charges.

Drugs are hidden frequently in personal vehicles or within legal cargo. New ports of entry scanning technology authorized by the Biden administration are expected to significantly increase the percentage of inspected vehicles and cargo. A most welcome development. A highly pernicious recent development is the establishment in Mexico of pharmacies that sell fentanyl-laced drugs and other dangerous substances, as well as drugs such as antibiotics and steroids without prescription. These are located in major tourist areas and very likely are linked to Mexican cartels. Yet, although they operate in plain sight of Mexican authorities, the Mexican authorities appear to take little action against them.

Increasing payments for precursors originating in China are now occurring in wildlife, a significant problem endangering public health and safety, as well as food and security and global biodiversity with repercussions for the United States.

In Mexico, the collapse of rule of law is profound and goes far beyond the high rates of homicides and disappearances. While the administration of President Andres Manuel López Obrador persists in its do-little policy vis-à-vis Mexican cartels, the groups are in-

creasingly resorting to more brazen violence, enjoying high levels of impunity as well as governing large scope of economies, institutions, and a significant number of people while seeking to influence elections.

In contrast, in the United States, because of the high effectiveness of U.S. law enforcement and policies, Mexican criminal groups are far less violent and do not behave in the same way. Indeed, the overwhelming majority of violent, serious crime in the United States are committed by U.S. citizens.

U.S. counter-narcotics and law enforcement bargaining with Mexico is constrained by the U.S. reliance on Mexico to stop migrant flows to the United States. If the United States were able to pass the comprehensive immigration reform that would allow legal pathways for those seeking protection and opportunities in the United States, it would be far better able to induce the Mexican government to meaningfully cooperate on counternarcotics and other law enforcement issues.

In its engagement with the Mexican government the United States should prioritize shutting down Mexican pharmacies that sell fentanyl and methamphetamine-laced drugs, the actual dismantling of drug-trafficking networks, not merely seizures and labs and more effective Mexican prosecutorial action.

Rather than designating Mexican criminal groups as foreign terrorist organizations, the United States should further significantly intensify border inspections. That requires adequately resourcing U.S. Customs and Border protection, both with resources and personnel for legal ports of entry, as well as developing packages of leverage, such as indictment portfolios and visa denials against Mexican officials who sabotage rule of law in Mexico and facilitate cartel activities.

The United States should also adopt a true whole-of-Government approach to countering fentanyl smuggling, authorizing a wide range of U.S. agencies, including the departments, to support U.S. law enforcement. Because the cartels are no longer specializing simply in drug trafficking, but a whole variety of legal and illegal economies, the approach needs to be multifaceted. That means increasing intelligence collections against a wide variety of activities the cartels engage in, such as crimes against nature and consequently the number of U.S. Fish and Wildlife special agents and investigators, as well as other specialists for other economies. It also means bringing a wide set of law enforcement actors to organized crime drug force task forces.

Thank you.

[The prepared statement of Ms. Felbab-Brown follows:]

PREPARED STATEMENT OF VANDA FELBAB-BROWN

JULY 17, 2023

Dear Chairman Green, Ranking Member Thompson, and distinguished Members of the Committee on Homeland Security: I am honored to have this opportunity to testify at this hearing entitled, "Biden and Mayorkas' Open Border: Advancing Cartel Crime in America."

I am a senior fellow at the Brookings Institution where I direct The Initiative on Non-State Armed Actors and co-direct the Africa Security Initiative. Illicit economies, such as the drug trade and wildlife trafficking, organized crime, and corruption, and their impacts on U.S. and local security issues around the world are the

domain of my work and the subject of several of the books I have written. I have conducted fieldwork on these issues in Latin America, Asia, and Africa. I have been studying crime and security policies in Mexico and their impact on public safety in the United States for over two decades and have recently returned from a month-long research trip in Mexico in June 2023.

This testimony draws extensively on my many publications on crime issues in Mexico, available on my page on Brookings's website,¹ as well as my latest research trip in Mexico.

The Brookings Institution is a U.S. nonprofit organization devoted to independent research and policy solutions. Its mission is to conduct high-quality, independent research and, based on that research, to provide innovative, practical recommendations for policy makers and the public. The testimony that I am submitting represents solely my personal views and does not reflect the views of Brookings, its other scholars, employees, officers, and/or trustees.

EXECUTIVE SUMMARY

U.S. domestic prevention, treatment, harm reduction, and law enforcement measures are fundamental and indispensable to countering the devastating fentanyl crisis.

However, the structural characteristics of synthetic drugs such as fentanyl, including the ease of developing similar, but not scheduled, synthetic drugs and their new precursors—increasingly a wide array of dual-use chemicals—pose immense structural obstacles to controlling their supply.

Nonetheless, given the extent and lethality of the synthetic opioid epidemic in North America and its emergent spread to other parts of the world, even supply control measures with partial and limited effectiveness can save lives and thus need to be designed as smartly and robustly as possible.

THE TRAFFICKING PATTERNS

Mexican criminal groups—principally the Sinaloa Cartel and Cartel Jalisco Nueva Generación (CJNG)—source fentanyl, fentanyl precursors, and pre-precursors from China. In Mexico, they synthesize the precursors into fentanyl. Sometimes they traffic finished fentanyl to the United States in an unadulterated form; other times, they mix it into other drugs, press it into pills, and traffic such fentanyl contraband to the United States.

Some 90% of fentanyl seizures occur in legal ports of entry.

Mexican cartels predominantly hire U.S. citizens to smuggle drugs across the border; U.S. citizens represent more than 85% of those convicted of fentanyl charges. Drugs, such as fentanyl, are frequently hidden in concealed vehicle compartments driven by U.S. citizens with U.S. license plates. Traffickers also extensively hide fentanyl and other drugs within legal cargo entering the United States through legal ports of entry.

Yet despite efforts to increase port-of-entry inspections, the U.S. Customs and Border Protection (CBP) agency is able to inspect only some of the entering vehicles. New ports-of-entry scanning technologies authorized by the Biden administration are expected to significantly increase the percentage of inspected vehicles, a most welcome development.

Yet drug trafficking groups also utilize other smuggling methods, such as tunnels, maritime boats, and drones.

A highly pernicious recent development is the establishment of pharmacies in Mexico, particularly in major international tourist areas, that sell fentanyl-laced drugs, other dangerous substances, and regulated medications, such as antibiotics, without prescription. Most likely linked to major Mexican cartels, these pharmacies significantly increase the dangers of fentanyl trafficking as well as increased threats to global public health, security, and the economy. Yet although these pharmacies operate in violation of Mexican laws and in plain sight, there appears to be little meaningful action by Mexican law enforcement and regulatory authorities to shut them down.

Money laundering

Chinese actors have come to play an increasing role in laundering money for Mexican cartels, circumventing the U.S. and Mexican formal banking systems. Other money laundering and value transfers between Mexican and Chinese criminal networks include trade-based laundering; value transfer utilizing wildlife products,

¹Vanda Felbab-Brown, The Brookings Institution, <https://www.brookings.edu/people/vanda-felbab-brown/>.

such as protected and unprotected marine products and timber; real estate; cryptocurrencies; casinos; and bulk cash. Indeed, despite intensified efforts by the United States to counter the flow of bulk cash to Mexico across the U.S.-Mexico border across several administrations, extensive amounts of illicit money and weapons continue to flow from the United States to Mexico.

The increasing payments for drug precursors originating in China in wildlife products are particularly noteworthy. This method of payment engenders multiple threats to public health and safety, economic sustainability, food security, and global biodiversity. If this wildlife trafficking spreads dangerous zoonotic diseases, it could even pose a threat to national security.

The Behavior of Mexican Cartels in Mexico and in the United States

In Mexico, the collapse of the rule of law is profound and goes far beyond the high rates of homicides and disappearances of people perpetrated by criminal groups. While the administration of President Andrés Manuel López Obrador persists in its do-little policy, Mexican criminal groups are resorting more and more to brazen violence while enjoying high levels of impunity in Mexico.

In Mexico, Mexican criminal groups increasingly govern a large scope of territories, economies, and institutions and a significant number of people. They have also profoundly intensified their efforts to influence elections at all levels of the government.

Investigative and prosecutorial capacities in Mexico remain limited. They are overwhelmed by the level of crime in Mexico and suffering from criminal infiltration, corruption, and political interference despite decades-long efforts at reform.

In the United States, because of the high effectiveness of U.S. law enforcement, Mexican criminal groups behave strikingly differently: they are far less violent and do not have the capacity to govern people, institutions, or territories. The overwhelming majority of violent and serious crimes in the United States are committed by U.S. citizens.

Indeed, even in Mexico, Mexican criminal groups intensely fear U.S. law enforcement actions. Yet the Mexican government has gravely undermined the capacity of U.S. law enforcement to operate in Mexico.

Mexican drug cartels are expanding their role into crimes against nature, and they are also increasingly infiltrating and seeking to dominate a variety of legal economies in Mexico, including fisheries, logging, and agriculture, and extorting an even wider array of legal economies.

Because of the diversification of the economic portfolio of Mexican cartels and Chinese criminal networks, focusing primarily on drug seizures close to their source is no longer an adequate approach for effectively countering drug smuggling networks that send pernicious drugs to the United States or their financial systems.

Countering poaching and wildlife trafficking in Mexico and thwarting illegal fishing in Mexican and Latin American waters are increasingly important aspects of countering Mexican drug-trafficking cartels and their damaging effects in the United States and Mexico. Indeed, this convergence of illicit economies also provides the United States with new opportunities for intelligence gathering and law enforcement actions, even as China-Mexico law enforcement cooperation against the trafficking of fentanyl and precursor agents for meth and synthetic opioids remains minimal.

Mexico's Inadequate Law Enforcement Cooperation with the United States

Just like with China, Mexico's cooperation with U.S. counternarcotics efforts is profoundly hollowed out. The Mexican government of López Obrador has eviscerated counternarcotics and law enforcement cooperation with the United States since 2019 and particularly since 2020 when U.S. law enforcement activities in Mexico became shackled and undermined by Mexican government actions.

The U.S.-Mexico Bicentennial Framework for Security, Public Health, and Safe Communities² of the fall of 2021 reiterates multiple dimensions of counternarcotics cooperation, including law enforcement, and emphasizes the public health and anti-money-laundering elements of the agreement, as the Mexican government sought.

In practice, however, the Mexican government's actions and cooperation on its side of the U.S.-Mexico border remain profoundly inadequate, including and particularly in law enforcement actions to counter the Mexican criminal groups and their production and trafficking of fentanyl. Crucially, even when drug laboratories are

²“Summary of the Action Plan for U.S.-Mexico Bicentennial Framework for Security, Public Health, and Safe Communities: A Fact Sheet,” U.S. Department of State, January 31, 2022, <https://www.state.gov/summary-of-the-action-plan-for-u-s-mexico-bicentennial-framework-for-security-public-health-and-safe-communities/>.

actually busted by Mexican authorities, little network dismantling and few meaningful drug prosecutions follow. Traffickers can thus easily survive and recover from limited financial losses by erecting new drug labs.

U.S. counternarcotics and law enforcement bargaining with Mexico is constrained by the U.S. reliance on Mexico to stop migrant flows to the United States. Both the Trump and the Biden administrations strongly prioritized securing Mexico's cooperation in stopping the flows of undocumented migrants to the United States. This prioritization—and the dependence on Mexico's cooperation on that issue—has left the Mexican government feeling emboldened to disregard other U.S. interests and Mexico's commitments, such as on counternarcotics and law enforcement cooperation. If the United States were able to conduct a comprehensive immigration reform that would provide legal work opportunities to those currently seeking protection and opportunities in the United States through unauthorized migration, it would have far better leverage to induce meaningful and robust counternarcotics and law enforcement cooperation with Mexico and would be better able to save U.S. lives.

Policy Priorities and Tools

Although supply control measures have partial and limited effectiveness, improving them to supplement U.S. domestic treatment and harm reduction measures is important.

Strengthening border controls at legal ports of entry through which the vast majority of fentanyl enters the United States is one such important measure, as is demanding better cooperation from the Mexican government.

Since Mexican drug cartels have diversified their activities into a wide array of illicit and licit commodities, primarily focusing on drug seizures close to the source is no longer sufficient for effectively disrupting fentanyl smuggling and criminal networks implicated in it.

Rather, it is imperative to counter all of the Mexican criminal groups' economic activities. This includes countering poaching and wildlife trafficking from Mexico and illegal logging and mining in places where the Mexican cartels have reach, acting against illegal fishing off Mexico and around Latin America and elsewhere, and shutting down wildlife trafficking networks into China. These are all increasingly important elements of countering Mexican and Chinese drug-trafficking groups and reducing the flow of fentanyl to the United States.

In its law enforcement engagement with the Mexican government, the United States should prioritize:

- shutting down Mexican pharmacies that sell fentanyl- and methamphetamine-adulterated drugs;
- not merely seizures and busts of laboratories but the actual dismantling of drug trafficking networks, particularly of their middle-operational layers that are hard to recreate and the removal of which significantly hampers the ability of criminal groups to operate and smuggle contraband;
- and far more effective Mexican prosecutorial actions against suppliers.

The United States has various tools to induce better cooperation from Mexico: Designating Mexican cartels as Foreign Terrorist Organizations (FTOs) would enable intelligence gathering and strike options for the United States military, such as against some fentanyl labs in Mexico. But the number of available strike targets in Mexico would be limited, and the strikes would not robustly disrupt the criminal groups. Neither would the FTO designation add authorities to the economic sanctions and anti-money laundering and financial intelligence tools that the already-in-place designation of Transnational Criminal Organization carries.

Moreover, such unilateral U.S. military actions in Mexico would severely jeopardize relations with our vital trading partner and neighbor and the FTO designation could significantly limit and outright hamper other U.S. foreign policy options, measures, and interests.

Instead, the United States should:

- consider further significantly intensifying border inspections;
- adequately resource U.S. law enforcement agencies such as the U.S. Customs and Border Protection (CBP) to adopt the most advanced scanners and increase the number of CBP inspectors at U.S. legal ports;
- develop packages of leverage, including indictment portfolios and visa denials, against Mexican national security and law enforcement officials and politicians who sabotage rule of law cooperation in Mexico, facilitate cartel activities, and undermine law enforcement cooperation with the United States.

Importantly, to effectively counter the fentanyl-smuggling actors, the United States should expand and smarten up its own measures against criminal actors, including by:

- truly adopting a whole-of-Government approach to countering fentanyl-smuggling entities;
- authorizing a wide range of U.S. Government agencies, including the Departments of State and Defense, to support U.S. law enforcement against Mexican and Chinese criminal actors and fentanyl trafficking and crimes against nature;
- collecting relevant intelligence on crimes against nature to understand criminal linkages to foreign governments and criminal groups and elevate such intelligence collection in the U.S. National Intelligence Priorities Framework;
- expanding the number and frequency of participation of U.S. wildlife investigators and special agents in Organized Crime Drug Enforcement Task Forces (OCDETF);
- increasing the number of U.S. Fish and Wildlife Service special agents and investigators, which have flatlined since the 1970's even as the value of wildlife trafficking has significantly increased since then; and
- designating wildlife trafficking as a predicate offense for wiretap authorization.

THE TRAFFICKING PATTERNS

Synthetic opioids are the source of the deadliest and unabating U.S. drug epidemic ever. Since 1999, drug overdoses have killed over 1 million Americans,³ a lethality rate that has increased significantly since 2012 when synthetic opioids from China began supplying the U.S. demand for illicit opioids. In 2021, the number of fatalities was 106,699⁴; in 2022, it is estimated at 107,477.⁵ Most of the deaths are due to fentanyl, consumed on its own or mixed into fake prescription pills, heroin, and increasingly methamphetamine and cocaine.

After years of intense U.S. diplomacy, China placed the entire class of synthetic opioids on a regulatory schedule.⁶ Yet it remains the principal (if indirect) source of U.S. fentanyl.⁷

The fentanyl scheduling and China's adoption of stricter mail monitoring have created some deterrence effects. Instead of finished fentanyl being shipped directly to the United States, most smuggling now takes place via Mexico.

Mexican criminal groups—principally the Sinaloa Cartel and CJNG—source fentanyl, fentanyl precursors, and pre-precursors from China. In Mexico, they synthesize the precursors into fentanyl. Sometimes they traffic finished fentanyl to the United States in an unadulterated form, other times, they mix it into other drugs, press it into pills, and traffic such fentanyl contraband to the United States. The Mexican cartels are also increasingly exploring the possibility of moving fentanyl production and pill-pressing sites to other parts of the world, such as Colombia and Guatemala.⁸

³Julie O'Donnell, Lauren J. Tanz, R. Matt Gladden, Nicole L. Davis, and Jessica Bitting, "Trends in and Characteristics of Drug Overdose Deaths Involving Illicitly Manufactured Fentanyl—United States, 2019–2020," *Morbidity and Mortality Weekly Report*, 70, No. 50, December 17, 2021.

⁴Merianne Rose Spencer, Arialdi M. Miniño, and Margaret Warner, "Drug Overdose Deaths in the United States, 2001–2021," NCHS Data Brief No. 457, Centers for Disease Control and Prevention National Center for Health Statistics, U.S. Department of Health and Human Services, December 2022, <https://www.cdc.gov/nchs/data/databriefs/db457.pdf>.

⁵"Dr. Rahul Gupta Releases Statement on CDC's New Overdose Death Data," The White House, Office of National Drug Control Policy, January 11, 2023, <https://www.whitehouse.gov/ondcp/briefing-room/2023/01/11/dr-rahul-gupta-releases-statement-on-cdcs-new-overdose-death-data-2/#:~:text=Rahul%2520Gupta%2520C%2520Director%2520of%2520the,period%2520ending%2520in%2520August%25202022>.

⁶Mark Landler, "U.S. and China Call Truce in Trade War," *The New York Times*, December 1, 2018, <https://www.nytimes.com/2018/12/01/world/trump-xi-g20-merkel.html>.

⁷Vanda Felbab-Brown, "China's Role in the Smuggling of Synthetic Drugs and Precursors," The Brookings Institution, March 2022, <https://www.brookings.edu/events/chinas-role-in-the-smuggling-of-synthetic-drugs-and-precursors/>.

⁸Luis Chaparro, "Sinaloa Cartel Exports Fentanyl 'Kitchens' from Mexico to Colombia amid International Crackdown," Fox News, June 13, 2023, <https://www.foxnews.com/world/sinaloa-cartel-export-fentanyl-kitchens-mexico-colombia-international-crackdown>; Vanda Felbab-Brown, "How the Taliban Suppressed Opium in Afghanistan—and Why There's Little to Celebrate," *Time Magazine*, July 17, 2023, <https://time.com/6294753/taliban-opium-suppression-afghanistan/>; Vanda Felbab-Brown, "The Foreign Policies of the Sinaloa Cartel and CJNG—Part V: Europe's Supercoke and On-the-Horizon Issues and the Middle East," *Mexico Today*, <https://www.brookings.edu/opinions/the-foreign-policies-of-the-sinaloa-cartel-and-cjng-part-v-europes-supercoke-and-on-the-horizon-issues-and-the-middle-east/>; Vanda Felbab-Brown, "The Foreign Policies of the Sinaloa Cartel and CJNG—Part IV: Europe's Cocaine and Meth Markets," *Mexico Today*, September 2, 2022, <https://www.brookings.edu/opinions/the-foreign-policies-of-the-sinaloa-cartel-and-cjng-part-iv-europes-cocaine-and-meth-markets/>; and Vanda Felbab-Brown, "The Foreign Policies of the Sinaloa Cartel and CJNG—Part I: In the Americas," *Mexico Today*,

It appears that the vast majority of fentanyl enters the United States through legal ports of entry. Certainly, in 2022, 90% of fentanyl seizures occurred at a legal port of entry or interior vehicle checkpoints.⁹ In 2022, Border Patrol agents who were not at vehicle checkpoints accounted for just 9% of fentanyl seizures.¹⁰ Since October 2022, i.e., the start of the 2023 fiscal year, 92% of fentanyl seizures occurred at legal ports of entry.¹¹

Mexican cartels intensively hire U.S. citizens to smuggle drugs across the border because U.S. citizens generate less suspicion and are often subject to less inspection scrutiny than foreign nationals. Drugs, such as fentanyl, are frequently hidden in concealed vehicle compartments driven by U.S. citizens with U.S. license plates. In 2022, 88% of fentanyl trafficking convictions were of U.S. citizens.¹² In 2021, U.S. citizens accounted for 86.3% of fentanyl convictions.¹³ Only 0.02% of people arrested by Border Patrol crossing illegally into the United States possessed any fentanyl.¹⁴

Traffickers also extensively hide fentanyl and other drugs within legal cargo entering the United States through legal ports of entry.¹⁵

Yet for years, CBP has been able to inspect only a small percentage of the vehicles that cross the U.S. land borders. In 2019, CBP acknowledged that it was able to inspect only 2% of all private vehicles and only 16% of commercial vehicles at land legal ports of entry.¹⁶

The Biden administration has appropriately sought to redress this challenge by installing powerful scanners at legal ports of entry. Their augmented efficiency allows for better visibility into individual vehicles and their cargo as well as the scanning of more vehicles.¹⁷ Once the new scanners are deployed, the number of inspected vehicles is expected to rise dramatically to 40% of passenger vehicles and 70% of cargo vehicles.¹⁸

But even with the installation of advanced technology to better scan more vehicles entering through U.S. legal ports of entry, a significant percentage of vehicles and cargo will still go unchecked.

Yet drug trafficking groups also utilize other smuggling methods, such as tunnels under the U.S.-Mexico border and postal or courier services. Increasingly, the smuggling methods feature drug trafficking by boats on the seas and by drones across the land border with Mexico. The very high potency-per-weight ratio of synthetic opioids and improving payloads of commercial off-the-shelf drones make the smuggling of fentanyl through this method increasingly feasible and profitable.

A highly pernicious recent development is the establishment of pharmacies in Mexico, particularly in major international tourist areas, that sell fentanyl-laced drugs and other dangerous substances. Proliferating in places such as the Mayan Riviera and Los Cabos over the past 3 years, these pharmacies are physical buildings that appear like other Mexican pharmacies. Yet they openly advertise drugs such as antibiotics, anabolic steroids, and prescription opiates and sell them illegally without a prescription. Investigative work by *The Los Angeles Times* and separately by Vice discovered that drugs sold as Percocet, for example, also contained fentanyl

July 22, 2022, <https://mexicotoday.com/2022/07/22/opinion-the-foreign-policies-of-the-sinaloa-cartel-cjng-part-i-in-the-americas/>.

⁹U.S. Customs and Border Protection (CBP), “Drug Seizure Statistics fiscal year 2023” and “Drug Seizure Statistics fiscal year 2022,” <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics>.

¹⁰David J. Bier, “Fentanyl Is Smuggled for U.S. Citizens by U.S. Citizens, Not Asylum Seekers,” CATO Institute, September 14, 2022, <https://www.cato.org/blog/fentanyl-smuggled-us-citizens-us-citizens-not-asylum-seekers>.

¹¹Adam Isacson, “Weekly U.S.-Mexico Border Update: Fentanyl, CBO One, ‘Friendship Park,’” Washington Office on Latin America, March 24, 2023, <https://www.wola.org/2023/03/weekly-u-s-mexico-border-update-fentanyl-cbp-one-friendship-park/>.

¹²U.S. Sentencing Commission, “Quick Facts: Fentanyl Trafficking Offenses,” 2022, https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Fentanyl_FY21-.pdf.

¹³[Footnote not provided.]

¹⁴David J. Bier, “Fentanyl Is Smuggled for U.S. Citizens by U.S. Citizens, Not Asylum Seekers.”

¹⁵Drug Enforcement Administration (DEA), “2020 National Drug Threat Assessment,” March 2021, [dea.gov/sites/default/files/2021-02/DIR-008-21_2020_National_Drug_Threat_Assessment_WEB.pdf](https://www.dea.gov/sites/default/files/2021-02/DIR-008-21_2020_National_Drug_Threat_Assessment_WEB.pdf).

¹⁶Leandra Bernstein, “Vehicle Scanning Technology at the Border Is about to Ruin the Drug Trade,” NBC Montana, August 29, 2019, <https://nbcmontana.com/news/nation-world/vehicle-scanning-technology-at-the-border-is-about-to-ruin-the-drug-trade>.

¹⁷Nick Miroff, “U.S. Deploys Powerful Scanners at Border to Fight Fentanyl Smuggling,” *The Washington Post*, March 9, 2023, <https://www.washingtonpost.com/nation/2023/03/09/united-states-arizona-border-fentanyl/>.

¹⁸Ibid.

and methamphetamine.¹⁹ During my June 2023 fieldwork in Mexico, shop assistants in these pharmacies claimed they could mail any of these drugs to the United States without a prescription.

Amidst an already terrible drug epidemic, these pharmacies greatly magnify the threats to public health. U.S. citizens have long been used to buying medications that are too expensive in the United States from Mexico. Unwittingly, intending to buy other medication, they may end up buying drugs causing lethal overdose or addiction. The legitimate veneer of these pharmacies also exposes a much wider set of potential customers to fentanyl and other dangerous drugs, ranging from teenagers to the elderly. Because the pharmacies aggressively target international tourists in major vacation resort areas, they also export the fentanyl epidemic to other regions of the world, such as Western Europe. Many of these pharmacies are likely linked to the Sinaloa Cartel and CJNG. Further funding the Mexican cartels and other drug trafficking networks, a geographic spread of fentanyl use would augment the global public health disaster.

The adulteration of fake medications with fentanyl and methamphetamine is not the sole problem. The unauthorized sale of antibiotics without prescription at these pharmacies also poses other massive global public health, economic, and security harms, such as the intensified emergence of drug-resistant bacteria.

Shutting down these unscrupulous pharmacies to minimize the criminals' market access and to reduce exposure to customers is imperative. Simply seizing illicit pills while letting the pharmacies operate is inadequate. Shutdown and strong prosecutorial actions are necessary against suppliers. Yet while these pharmacies operate in violation of Mexican laws, in plain sight, and visibly saturate major tourist areas, there appears to be little law enforcement action by Mexican officials and regulatory authorities, such as from Mexico's Federal Commission for Protection Against Sanitary Risks (COFEPRIS).²⁰

MONEY LAUNDERING

The National Drug Intelligence Center of the U.S. Department of Justice estimated in 2008 that Mexican and Colombian drug trafficking groups earned between \$18 billion and \$39 billion a year from wholesale drug sales.²¹ In 2010, the U.S. Department of Homeland Security (DHS) estimated bulk cash smuggling to Mexico at between \$19 billion and \$29 billion annually.²² Other estimates from the United Nations Office on Drugs and Crime, research organizations, and news media have assessed Mexico's drug export revenues to have been in the range of \$6 billion to \$21 billion a year between 2010 and 2018.²³

Mexican cartels utilize many money-laundering methods, among which are illicit money-laundering systems such as the black-peso market, trade-based money laundering, real estate, cryptocurrencies, casinos, and bulk cash.²⁴ Indeed, despite intensified efforts by the United States to counter the flows of bulk cash to Mexico across the U.S.-Mexico border across several administrations, extensive amounts of illicit money and weapons continue to flow from the United States to Mexico.

The cartels are also increasingly using a novel approach: Chinese informal money exchange systems based out of the United States and Mexico.

Although it is not clear what percentage of the cartels' illicit profits is laundered through Chinese money transfer networks, U.S. officials fear that the effectiveness

¹⁹ Connor Sheets and Keri Blakinger, "Fentanyl-tainted Pills Now Found in Mexican Pharmacies from Coast to Coast," *The Los Angeles Times*, June 14, 2023, <https://www.latimes.com/world-nation/story/2023-06-14/fentanyl-tainted-pills-now-found-in-mexican-pharmacies-from-coast-to-coast>; and Deborah Bonello, "Cartels Are Using Pharmacies To Sell Fake Pills Laced With Fentanyl and Meth to Unwitting Tourists," *Vice*, June 14, 2023, <https://www.vice.com/en/article/m7bbxv/mexico-pharmacies-fake-pills-cjng-sinaloa-cartel>.

²⁰ In June 2023, COFEPRIS finally raided three such pharmacies in Los Cabos, arresting 4 and seizing some 25,000 pills. See Brittany Mejia, "Mexico Raids Pharmacies in Probe of Fentanyl-Laced Pills," *Los Angeles Times*, <https://www.latimes.com/world-nation/story/2023-07-07/mexican-authorities-raid-pharmacies-in-inquiry-into-fentanyl-tainted-pills>.

²¹ "Illicit Finance," in National Drug Threat Assessment 2009 (Washington, DC: National Drug Intelligence Center, U.S. Department of Justice, December 2008).

²² [Footnote not provided.]

²³ See "Estimating Illicit Financial Flows Resulting from Drug Trafficking and Other Transnational Organized Crimes: Research Report," (Vienna: United Nations Office on Drugs and Crime, October 2011); Beau Kilmer, Jonathan P. Caulkins, Brittany M. Bond, and Peter Reuter, "Reducing Drug Trafficking Revenues and Violence in Mexico: Would Legalizing Marijuana in California Help?" (Santa Monica, Calif.: RAND Corporation, 2010); Gabriel Stargardter, "Mexico's Drug Cartels, Now Hooked on Fuel, Cripple the Country's Refineries," *Reuters*, January 24, 2018, <https://www.reuters.com/investigates/special-report/mexico-violence-oil/>.

²⁴ Vanda Felbab-Brown's interviews with current and former U.S. and Mexican officials and law enforcement officers, Mexico City, and by virtual platforms, October and November 2021.

of the Chinese networks' money laundering is such that it is even displacing established Mexican and Colombian money launderers and putting the flows of cartel money even more out of reach of U.S. law enforcement.²⁵ In some cases, a particular Chinese money-laundering network managed to get itself hired by both the Sinaloa Cartel and the CJNG; in other cases, they worked exclusively with just one of them.²⁶

The increasing payments for drug precursors in wildlife products coveted in China—for Traditional Chinese Medicine, aphrodisiacs, other forms of consumption, or as a tool of speculation, such as in the case of the highly-prized swim bladder of the endemic and protected Mexican totoaba fish poached for Chinese markets—are particularly worrisome.²⁷ Other wildlife commodities used for money laundering, tax evasion, and as barter payments between Mexican cartels and Chinese precursor networks include abalone, jellyfish, and lobster.²⁸ Instead of paying in cash, Chinese traffickers are paid in commodities. The amount of value generated by wildlife commodity payments, likely in the tens of millions of dollars, may not cover all of the precursor payment totals, but could cover a substantial percentage since the total payments for precursors likely amount to tens of millions of dollars also.²⁹ Wildlife barter may not displace other methods of money laundering and value transfer. But the increasing role of this method can devastate natural ecosystems and biodiversity in Mexico as the cartels steadily seek to legally and illegally harvest more and more of a wider range of animal and plant species to pay for drug precursors. In Mexico, poaching and wildlife trafficking for Chinese markets are increasingly intermeshed with drug trafficking, money laundering, and value transfer in illicit economies.

THE BEHAVIOR OF MEXICAN CARTELS IN MEXICO AND IN THE UNITED STATES

The connections between the illegal drug trade and the timber and wildlife trade and trafficking from Mexico to China are all the more significant as poaching and wildlife trafficking in Mexico is increasing and Mexican drug cartels are expanding their role in crimes against nature.

They are also increasingly taking over legal economies in Mexico, including logging, fisheries, and various agricultural products such as avocados, citrus, grain corn, mining, and water distribution in parts of Mexico. Such takeover of legal economies by the cartels does not merely entail extortion—enormously wide-spread as many businesses in Mexico do not have the capacity to shield themselves from extortion by Mexican criminal groups. These organized crime groups across Mexico, especially the Sinaloa Cartel, often seek to monopolize the entire vertical supply chain. Fisheries provide a prime example. Beyond merely demanding a part of the profits from fishers as extortion, the criminal groups dictate to legal and illegal fishers how much the fishers can fish, insisting that the fishers sell the harvest only to the criminal groups, and that restaurants, including those catering to international tourists, buy fish only from the criminal groups. Mexican organized crime groups set the prices at which fishers can be compensated and restaurants paid for the cartels' marine products. The criminal groups also force processing plants to process the fish they bring in and issue it with fake certificates of legal provenance for export into the United States and China. They charge extortion fees to seafood exporters. They also force fishers to smuggle drugs.

²⁵ Drazen Jorgic, "Special Report: Burner Phones and Mobile Banking Apps: Meet the Chinese Brokers Laundering Mexican drug money," Reuters, December 3, 2020, <https://www.reuters.com/article/us-mexico-china-cartels-specialreport/special-report-burner-phones-and-banking-apps-meet-the-chinese-brokers-laundering-mexican-drug-money-idUSKBN28D1M4>.

²⁶ Vanda Felbab-Brown's interviews with U.S. Government and law enforcement officials, Mexico City, and by virtual platforms, October and November 2021.

²⁷ Vanda Felbab-Brown, "China's Role in Poaching and Wildlife Trafficking in Mexico" (The Brookings Institution, March 2022, <https://www.brookings.edu/events/chinas-role-in-poaching-and-wildlife-trafficking-in-mexico/>). For background, see also Vanda Felbab-Brown and Alejandro Castillo, "Restore US-Mexico seafood trade & save the vaquita," *Mexico Today*, May 7, 2021, <https://mexicotoday.com/2021/05/07/opinion-restore-us-mexico-seafood-trade-save-the-vaquita/>; Enrique Sanjurjo-Rivera, et. al., "An Economic Perspective on Policies to Save the Vaquita: Conservation Actions, Wildlife Trafficking, and the Structure of Incentives," *Frontiers in Marine Science* (August 27, 2021), <https://doi.org/10.3389/fmars.2021.644022>.

²⁸ Vanda Felbab-Brown's interviews with current and former U.S. and Mexican officials and law enforcement officers and Mexican fishery experts and high-level fishery operators, Mexico City, and by virtual platforms, October and November 2021.

²⁹ Vanda Felbab-Brown's interviews with U.S. law enforcement officials, Mexico City, and by virtual platforms, October 2021.

Mexican criminal groups are also expanding into illegal fishing outside of Mexico.³⁰ There have long been suspicions about the extent to which Latin American fishing fleets are also engaged in the smuggling of drugs such as cocaine to the United States.³¹ The penetration of legal fisheries by Mexican cartels further facilitates their drug smuggling enterprise.

Similarly, massive Chinese fishing fleets have long engaged in illegal fishing, sometimes devastating marine resources in other countries' exclusive economic zones. However, there also appears to be a growing involvement of Chinese fishing ships in drug trafficking, compounding the extensive problem of Chinese cargo vessels carrying contraband such as drugs and their precursors as well as wildlife.³² And there is the possibility that Chinese fishing flotillas or individual vessels operating around the Americas and elsewhere in the world may carry spy equipment collection intelligence for China.

Within Mexico, Mexican criminal groups often control extensive territories where the government has only limited control and sporadic access and some of which have become outright no-go-zones for government officials.

They have also profoundly intensified their efforts to influence elections at all levels of the government.

Indeed, the collapse of the rule of law in Mexico is profound and goes far beyond the very high homicide rates; since 2017 more than 30,000 Mexicans have been killed per year³³ while more than 112,000 remain disappeared.³⁴

In Mexico, Mexican criminal groups increasingly govern a large scope of territories, economies, and institutions and a significant number of people.

Because of the high effectiveness of U.S. law enforcement, in the United States, Mexican criminal groups behave far less violently and do not have the capacity to govern people, institutions, or territories.

The overwhelming majority of violent and serious crimes in the United States are committed by U.S. citizens. For example, according to the Centers for Disease Control and Prevention, 26,031 crimes were committed in the United States in 2021 and 24,576 in 2020.³⁵ Yet in the fiscal years 2022, 2021, and 2020, which span the calendar years, non-citizens in the United States committed only 62 homicides, 60 homicides, and 3 homicides respectively, according to CBP.³⁶

Indeed, even in Mexico, Mexican criminal groups intensely fear U.S. law enforcement actions.

Yet the Mexican government has gravely undermined the capacity of U.S. law enforcement to operate in Mexico. At the beginning of his administration, López Obrador announced a strategy of “hugs, not bullets” toward criminal groups that sought to emphasize socio-economic programs to deal with crime and address the causes that propel young people to join criminal groups. But that strategy never articulated any security or law enforcement policy toward criminal groups. Worse, as the López Obrador administration persists in its do-little policy, Mexican criminal groups are resorting more and more to brazen violence and impunity in Mexico.

Like other Mexican presidents since the 1980's, López Obrador reshuffled Mexican security institutions. Most significantly, he abolished the Federal Police—because of its infiltration by Mexican criminal groups, a systematic and pervasive problem for all of Mexico's law enforcement forces for decades. (Since the 1980's, the many iterations of law enforcement reforms have failed to expunge such infiltration and corruption across Mexican agencies.)

³⁰Vanda Felbab-Brown's interview with a top executive of a large Mexican seafood exporter, Mexico, November 2021.

³¹Vanda Felbab-Brown's interviews with Latin American law enforcement officials, December 2017, November 2021, and February 2022.

³²Vanda Felbab-Brown's interviews with U.S. Government and law enforcement officials, October 2021.

³³Instituto Nacional de Estadística y Geografía (INEGI), Defunciones por Homicidios, Gobierno de México, <https://www.inegi.org.mx/sistemas/olap/proyectos/bd/continuas/-mortalidad/defuncioneshom.asp?s=est#>; and Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública (SESNSP), Datos Abiertos de Incidencia Delictiva, Gobierno de México, <https://www.gob.mx/sesnspp/acciones-y-programas/datos-abiertos-de-incidencia-delictiva?-state=published>.

³⁴Comisión Nacional de Búsqueda, Estadísticas del El Registro Nacional de Personas Desaparecidas y No Localizadas (RNPNDNO), Gobierno de México, <https://versionpublicarupndno.segob.gob.mx/Dashboard/ContextoGeneral>.

³⁵Centers for Disease Control and Prevention, National Center for Health Statistics, “National Vital Statistics System. Mortality 2018–2021.” <https://wonder.cdc.gov/controller/datarequest/D158;jsessionid=A6B25FA1C3F284E8DEF7DC5C5846#Citation>.

³⁶“Criminal Noncitizen Statistics Fiscal Year 2023,” U.S. Customs and Border Protection, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-noncitizen-statistics>.

In its place, López Obrador created a National Guard staffed mostly by Mexican soldiers and police officers from the former Federal Police. However, the National Guard is not and could never be an adequate replacement for the Federal Police. The Federal Police, with all its faults, had the greatest investigative capacities and mandates, while the National Guard has no investigative mandates and very little capacity; it can only act as a deterrent force by patrolling the streets, something that it has not been effective at, or acting against crime in flagrancia. As a Mexican lawyer told me in 2021: “The National Guard are the most expensive mannequins in Mexico.”

Investigative authorities in Mexico are predominantly under the Office of the Attorney General (Fiscalía General de la República, FGR), the Federal Ministerial Police, and state prosecutorial offices. But as with other law enforcement institutions in Mexico, the FGR’s capacities are limited, overwhelmed by the level of crime in Mexico, and suffer from criminal infiltration, corruption, and political interference despite decades-long efforts at reform.

The effective prosecution rate for homicides in Mexico continues to hover at an abysmally low 2% and remains in single digits for other serious crimes.³⁷

Essentially, the Mexican president has hoped that if he does not interfere with Mexico’s criminal groups, they will eventually redivide Mexico’s economies and territories among themselves, and violence will subside. That policy has been disastrous for many reasons: Most important, because it further undermines the already-weak rule of law in Mexico, increases impunity, and subjects Mexican people, institutions, and legal economies to the tyranny of Mexican criminal groups. But also because Mexico’s out-of-control criminal market, plagued by a bipolar and increasingly internationalized war between the Sinaloa Cartel and CJNG, has little chance to effectuate such stabilization.

MEXICO’S INADEQUATE COOPERATION WITH U.S. COUNTERNARCOTICS EFFORTS

Just like with China, Mexico’s cooperation with U.S. counternarcotics efforts is radically hollowed out of Mexico’s cooperation with U.S. counternarcotics efforts is part and parcel of the overall lack of a security policy of the López Obrador administration. But it also goes beyond that.

In the spring of 2023, López Obrador began falsely denying that fentanyl is produced in Mexico, deceptive statements echoed at his behest by other high-level Mexican officials and agencies.³⁸ Blaming fentanyl use in the United States on U.S. moral and social decay, including American families not hugging their children enough (the statement an apparent nod to his strategy of confronting Mexican criminals with “hugs and not bullets”), the Mexican president also proceeded to deny that fentanyl is increasingly consumed in Mexico.³⁹ With his statements, López Obrador is not just unwittingly (or knowingly) echoing China’s rhetoric, but also publicly dismissing two decades of a policy of shared responsibility for drug production, trafficking, and consumption between United States and Mexico.

But that spring crisis was merely the visible tip of the iceberg of how Mexico has eviscerated counternarcotics and law enforcement cooperation with the United States during the López Obrador administration. When López Obrador assumed office in December 2018, he started systematically weakening that collaboration. From the beginning of his administration, he has sought to withdraw from the Mérida Initiative, the U.S.-Mexico security collaboration framework signed during the Felipe Calderón administration. And he sought to redefine the collaboration extremely nar-

³⁷ Catalina Kühne Peimbert, et al, “Impunidad en homicidio doloso y feminicidio 2022,” *Impunidad Cero*, December 2022, <https://www.impunidadcero.org/uploads/app/articulo/-175/contenido/1669895146115.pdf>; and Vanda Felbab-Brown’s interviews with Mexican security and legal experts, Mexico City, June 2023.

³⁸ Ken Dilanian, “Drug war cooperation between the United States and Mexico is at its lowest point in decades. What went wrong?” NBC News, March 17, 2023, <https://www.nbcnews.com/politics/national-security/no-cooperation-us-mexico-drug-war-rcna75093>; Vanda Felbab-Brown, “The U.S.-Mexico Fentanyl Meltdown—Part I: The State of Noncooperation,” *Mexico Today*, March 19, 2023, <https://mexicotoday.com/2023/03/19/opinion-the-u-s-mexico-fentanyl-meltdown-part-i-the-state-of-noncooperation/>.

³⁹ Mark Stevenson, “Mexican president to US: Fentanyl is your problem,” Associated Press, March 9, 2023, <https://apnews.com/article/mexico-fentanyl-epidemic-overdoses-26f735a54ee0-ba075c394ce85aef03d0>; “Mexican president blames US fentanyl crisis on ‘lack of hugs’ among families,” Associated Press, March 17, 2023, <https://www.theguardian.com/world/2023/mar/17/mexico-president-fentanyl-hugs-children-amlo#:~:text=%25E2%2580%259CThere%2520is%2520a%2520lot%2520of,said%2520of%2520the%2520US%2520crisis>; Vanda Felbab-Brown, “AMLO’s Security Policy: Creative Ideas, Tough Reality,” The Brookings Institution, March 2019, https://www.brookings.edu/wpcontent/uploads/2019/03/FP_20190325_mexico_anti-crime.pdf.

rowly: U.S. assistance to Mexico was intended to reduce demand for drugs in Mexico, while the United States focused on stopping the flow of drug proceeds and weapons to Mexico and reducing demand at home. Previous Mexican governments also certainly sought a significant increase in U.S. law enforcement focus on those two types of illicit flows but were willing to collaborate also inside Mexico.

After the United States arrested former Mexican Secretary of Defense Gen. Salvador Cienfuegos in October 2020 for cooperation with a vicious Mexican drug cartel, López Obrador threatened to end all cooperation and expel all U.S. law enforcement personnel from Mexico.⁴⁰ To avoid that outcome, the Trump administration handed Gen. Cienfuegos over to Mexico where he was rapidly acquitted.

But despite this significant U.S. concession, Mexico's counternarcotics cooperation remained limited. Meanwhile, U.S. law enforcement activities in Mexico became shackled and undermined by a December 2021 Mexican national security law on foreign agents.⁴¹ As Matthew Donahue, a former high-level Drug Enforcement Administration (DEA) official, stated, since then and because of the continually immense level of corruption and cartel infiltration in Mexican security agencies, Mexican law enforcement spends more time surveilling DEA agents than it does cartel members.⁴²

With the threat of Mexico's unilateral withdrawal from the Mérida Initiative, the United States Government worked hard to negotiate a new security framework with Mexico—The U.S.-Mexico Bicentennial Framework for Security, Public Health, and Safe Communities⁴³—in the fall of 2021. The United States emphasized the public health and anti-money laundering elements of the agreement, as the Mexican government sought. The Framework reiterates multiple dimensions of counternarcotics cooperation, including law enforcement.

In practice, however, the Mexican government's actions and cooperations on its side of the U.S.-Mexico border remain profoundly inadequate, including and particularly in law enforcement actions to counter the Mexican criminal groups and their production and trafficking of fentanyl.

The U.S.-Mexico law enforcement cooperation has thus been only limping. The Mexican government has conducted some interdiction operations based on U.S. intelligence, and some collaboration has persisted at the sub-Federal level in Mexico. While the DEA's operations in Mexico remain hampered and limited, other U.S. law enforcement actors in Mexico have been able to induce some cooperation, with some Mexican government agencies even sharing some intelligence with the United States.

Crucially, as DEA Administrator Anne Milgram stated in her February Senate testimony, the Mexican government continues to be unwilling to share samples and information from its claimed lab busts and fentanyl and fentanyl precursor seizures.⁴⁴ It is still not allowing the participation of DEA agents, even in only an observer role, in the interdiction operations it claims it has conducted. All of which raises questions about the drug busts. Extraditions of indicted drug traffickers to the United States from Mexico also remain limited.

There have been some recent improvements. Finally, at least some senior Mexican law enforcement officials began acknowledging again that fentanyl is produced in Mexico, an admission necessary for improving U.S.-Mexico collaboration.⁴⁵ In fact, the Mexican military now claims that it seized 7 tons of fentanyl over the past 5 years and busted 1,740 drug laboratories.⁴⁶ However, as Reuters' investigative work

⁴⁰Vanda Felbab-Brown, "A Dangerous Backtrack on the U.S.-Mexico Security Relationship," *Mexico Today*, December 21, 2020, <https://www.brookings.edu/blog/order-from-chaos/2020/12/21/a-dangerous-backtrack-on-the-us-mexico-security-relationship/>.

⁴¹"Mexico softens rules for controversial new foreign agents law," Reuters, January 14, 2021, <https://www.reuters.com/article/us-mexico-usa-security/mexico-softens-rules-for-controversial-new-foreign-agents-law-idUSKBN29J24M>.

⁴²Dilanian.

⁴³"Summary of the Action Plan for U.S.-Mexico Bicentennial Framework for Security, Public Health, and Safe Communities: A Fact Sheet," U.S. Department of State, January 31, 2022, <https://www.state.gov/summary-of-the-action-plan-for-u-s-mexico-bicentennial-framework-for-security-public-health-and-safe-communities/>.

⁴⁴Questions and answers period, U.S. Senate Foreign Relations Committee hearing "Countering Illicit Fentanyl Trafficking," February 15, 2023, <https://www.foreign.senate.gov/hearings/countering-illicit-fentanyl-trafficking>.

⁴⁵Luis Chaparro, "Mexico's President Says His Country Doesn't Produce Fentanyl. His Military Seized 7 Tons in 5 Years," *Vice*, June 28, 2023, <https://www.vice.com/en/article/93k3kp/mexico-president-fentanyl>.

⁴⁶Ibid.

showed, even in recent months, the Mexican military was fabricating and manipulating drug seizure and bust data.⁴⁷

Crucially, even when labs are busted, little network dismantling and few meaningful drug prosecutions follow in Mexico. Traffickers can thus easily survive and recover from limited financial losses by erecting new drug labs.

Overall, Mexico's law enforcement cooperation with the United States has dramatically weakened and is still troublingly inadequate.

CONCLUSIONS, POLICY IMPLICATIONS, AND RECOMMENDATIONS

As vast numbers of Americans are dying from fentanyl overdose and Chinese and Mexican criminal groups expand their operations around the world and into a vast array of illegal and legal economies, the United States finds itself in hollowed out and weak cooperation with both countries. Below I offer some policy implications and recommendations on how the United States can attempt to induce Mexico to better cooperate with U.S. counternarcotics and law enforcement objectives. I also provide suggestions for what law enforcement and policy measures the United States can undertake independently, even if Mexico continues to reject robust cooperation.

The structural characteristics of synthetic drugs, including the ease of developing similar, but not scheduled synthetic drugs and their new precursors—increasingly a wide array of dual-use chemicals—pose immense structural obstacles to controlling supply, irrespective of political will to prohibit and regulate their use, enforce the regulations, and take actions against trafficking.

U.S. domestic prevention, treatment, harm reduction, and law enforcement measures remain indispensable and fundamental for countering the devastating fentanyl crisis. It is likely that the most powerful measures to address the opioid crisis are internal policies such as expanded treatment and supervised use.

However, given the extent and lethality of the synthetic opioid epidemic in North America and its emerging spread to other parts of the world, even supply control measures with partial and limited effectiveness can save lives. That is a worthwhile objective. The Commission on Combatting Illicit Opioid Trafficking stressed that targeted supply reduction and the enforcement of current laws and regulations are essential to disrupting the availability of chemicals needed to manufacture synthetic opioids.⁴⁸ The commission also highlighted how improved oversight of large chemical and pharmaceutical sectors and enhanced investigations of vendors or importers in key foreign countries can help disrupt the flow.⁴⁹ The commission offered supply-side control recommendations include reducing on-line advertising, encouraging enhanced anti-money laundering efforts in China and Mexico, enhanced interdiction efforts, and increased international scheduling of at least synthetic drug precursors that are only used for illicit purposes and enhanced control of precursor flows through collaboration with China and international counternarcotics organizations.⁵⁰

In its law enforcement engagement with the Mexican government, the United States should prioritize:

- shutting down Mexican pharmacies that sell fentanyl- and methamphetamine-adulterated drugs;
- not merely seizures and busts of laboratories, but the actual dismantling of drug-trafficking networks, particularly of their middle-operational layers that are hard to recreate and the removal of which significantly hampers the ability of criminal groups to operate and smuggle contraband;
- and far more effective Mexican prosecutorial actions against suppliers.

My recommendations below analyze and recommend tools to induce Mexico to cooperate more robustly with U.S. law enforcement measures.

U.S. counternarcotics and law enforcement bargaining with Mexico is constrained by the U.S. reliance on Mexico to stop migrant flows to the United States. If the United States were able to conduct a comprehensive immigration reform that would provide legal work opportunities to those currently seeking protection and opportunities in the United States through unauthorized migration, it would have far better leverage to induce meaningful and robust counternarcotics and law enforcement co-

⁴⁷ Drazen Jorgic, Jackie Botts, and Stephen Eisenhammer, "Exclusive: Amid U.S. pressure on Fentanyl, Mexico Raises Drug Lab Raids Data," *Reuters*, March 17, 2023, <https://www.reuters.com/world/americas/amid-us-pressure-fentanyl-mexico-raises-drug-lab-raids-data-2023-03-17/>.

⁴⁸ Commission on Combatting Synthetic Opioid Trafficking, *The Final Report*, February 2022, <https://www.rand.org/hsrd/hsoac/commission-combatting-synthetic-opioid-trafficking/xiv>.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*: 36–44; and 54–57; 61–64.

operation with Mexico and would be better able to save U.S. lives. Nonetheless, even absent such reform, the United States can take impactful measures that I discuss below.

INDUCING COOPERATION FROM MEXICO

Various U.S. lawmakers have proposed designating Mexican criminal groups as Foreign Terrorist Organizations (FTO).

An FTO designation would enable intelligence gathering and strike options for the United States military, such as against some fentanyl laboratories in Mexico or visible formations of large Mexican cartels—principally CJNG.

However, such unilateral U.S. military actions in Mexico would severely jeopardize relations with our vital trading partner and neighbor whose society is deeply intertwined with ours through familial and other connections. Calls for U.S. military strikes against fentanyl-linked targets in Mexico have already been condemned by Mexican government officials, politicians, and commentators.

Meanwhile, the number of available targets in Mexico would be limited. Most Mexican criminal groups do not gather in military-like visible formations. Many fentanyl laboratories already operate in buildings in populated neighborhoods of towns and cities where strikes would not be possible due to risks to Mexican civilians. Moreover, fentanyl laboratories would easily be recreated, as they already are.

Nor would the FTO designation add authorities to the economic sanctions and anti-money laundering and financial intelligence tools that the already-in-place designation of Transnational Criminal Organization (TCO) carries. The latter designation also carries extensive prohibitions against material support.

But an FTO designation could significantly limit and outright hamper U.S. foreign policy options and measures. Clauses against material support for designated terrorist organizations have made it difficult for the United States to implement non-military and non-law-enforcement policy measures in a wide range of countries, such as providing assistance for legal job creation or reintegration support for even populations that had to endure the rule of brutal terrorist groups. To be in compliance with the material support laws, the United States and other entities must guarantee that none of their financial or material assistance is leaking out, including through coerced extortion, to those designated as FTOs.

Yet such controls would be a significant challenge in Mexico where many people and businesses in legal economies, such as agriculture, fisheries, logging, mining, and retail, have to pay extortion fees to Mexican criminal groups. The attempted controls could undermine the ability to trade with Mexico as many U.S. businesses would not be able to determine whether their Mexican trading or production partner was paying extortion fees to Mexican cartels, and thus guarantee that they were not indirectly in violation of material support clauses.

The FTO designation could also hamper the delivery of U.S. training, such as to local police forces or Mexican Federal law enforcement agencies, if guarantees could not be established that such counterparts had no infiltration by criminal actors.

Instead, if the López Obrador administration continues to deny meaningful law enforcement cooperation, the United States may have to resort to significantly intensified border inspections, even if they significantly slow down the legal trade and cause substantial damage to Mexican goods, such as agricultural products. Even with the significant improvement in vehicle and cargo inspection expected to be reaped from the scanning technologies the Biden administration authorized for deployment at the U.S. ports of entry, a significant percentage of vehicles and much cargo will still go unchecked.

Under optimal circumstances, U.S.-Mexico law enforcement cooperation would be robust enough to make legal border crossings fast and efficient. Joint fentanyl and precursor busts and seizures could take place near the production laboratories and at warehouses. The inspections of legal cargo heading to the United States could take place close to the production and loading site in Mexico. Under the Mérida Initiative, the Obama administration, in fact, sought to develop with Mexico such systems of legal cargo inspection inside Mexico and away from the border. But if Mexico refuses to act as a reliable law enforcement partner to counter the greatest drug epidemic in North America, which is also decimating lives in Mexico, the United States may have to focus much-intensified inspections at the border, despite the economic pains.

But if the López Obrador administration refuses to cooperate, manual inspections, even though costly to Mexican—and U.S.—businesses, should be mounted.

Effective border interdiction, however, requires meaningfully resourcing U.S. law enforcement agencies at U.S. legal ports of entry through which the vast majority of fentanyl enters the United States. That means allocating sufficient resources for

CBP port-of-entry inspectors as well as high-tech scanners. Any reduction in CBP budget allocation to inspections at legal ports of entry would severely and perniciously intensify the flows of dangerous drugs to the United States.

Furthermore, packages of leverage, including indictment portfolios and visa denials, should also be developed against Mexican national security and law enforcement officials and politicians who sabotage the rule of law in Mexico, assist Mexican criminal groups, and perniciously hamper law enforcement cooperation with the United States. Calls to undertake such sanctions by Republican senators led by Senator Bill Hagerty of Tennessee should be carefully and diligently explored.⁵¹

EXPANDING AND SMARTENING UP U.S. MEASURES AGAINST CRIMINAL ACTORS

Importantly, the United States has significant opportunities to rapidly strengthen and smarten up its own measures against Mexican criminal actors participating in fentanyl and other contraband trafficking.

Already, the Biden administration has sought to intensify and harmonize U.S. law enforcement actions against fentanyl trafficking. In March 2023, for example, it launched Operation Blue Lotus to coordinate cooperation across CBP, Immigration and Customs (ICE), Homeland Security Investigations (HSI), and other Federal, State, Tribal, and local law enforcement agencies.⁵²

Scaling up such efforts is necessary.

Some new anti-fentanyl law enforcement measures would also simultaneously enhance U.S. measures to counter wildlife trafficking and protect public health and global biodiversity.

But since Mexican drug cartels have diversified their activities into a wide array of illicit and licit commodities, primarily focusing on drug seizures close to the source is no longer sufficient for effectively disrupting fentanyl smuggling and criminal networks implicated in it.

Rather, countering other economic activities of the Mexican criminal groups is imperative. This includes countering poaching and wildlife trafficking from Mexico and illegal logging and mining in places where the Mexican cartels have reach, acting against illegal fishing off Mexico and around Latin America and elsewhere, and shutting down wildlife trafficking networks that extend into China are increasingly important elements of countering Mexican and Chinese drug-trafficking groups and reducing the flow of fentanyl to the United States.

To effectively counter fentanyl-smuggling actors requires a whole-of-Government approach—not simply on paper, but truly in implementation. A wide range of U.S. Government agencies should be authorized to support U.S. law enforcement against Mexican and Chinese criminal actors, fentanyl trafficking, and crimes against nature. These include U.S. intelligence agencies, the Department of State, the Department of Defense, and U.S. Fish and Wildlife Service (USFWS).

Moreover, the focused collection, analysis, and reporting of intelligence by a variety of U.S. Government actors against wildlife trafficking, illegal fishing, and illegal mining could beget new opportunities to understand the criminal linkages to foreign governments, including China's, to confirm or dismiss concerns as to whether Chinese fishing vessels carry spy equipment, and to identify the crucial vulnerabilities of Mexican and other dangerous cartels.

To such end, crimes against nature should be elevated as a collection and reporting priority of the U.S. intelligence community, and within the U.S. National Priorities Framework.

Stove-piping in information and intelligence gathering across a wide set of illicit economies should be ended. Gathered information and intelligence should be shared with interagency analysis groups intent on interdicting the illicit international flow of scheduled drugs and endangered species. Such efforts could be enabled by significantly increasing the number of USFWS special agents and by augmenting their respective participation in interagency Organized Crime Drug Enforcement Task Forces investigations.

The relevant intelligence on crimes against nature to understand and dismantle criminal networks could include names, phone numbers, license plates, courier ac-

⁵¹Adam Shaw, "Senators Urge Biden Admin to Slap Sanctions, Visa Bans on Mexican Officials to Force Action against Cartels," Fox News, June 21, 2023, <https://www.foxnews.com/politics/senators-call-biden-admin-impose-sanctions-mexican-officials-force-action-against-drug-cartels>.

⁵²"DHS's New Operation Blue Lotus Has Already Stopped More Than 900 Pounds of Fentanyl from Entering the United States," U.S. Department of Homeland Security March 21, 2023, <https://www.dhs.gov/news/2023/03/21/dhss-new-operation-blue-lotus-has-already-stopped-more-900-pounds-fentanyl-entering#:text=Since%20its%20launch%20on%20March,states%20through%20Sunday%2C%20March%2019>.

counts, bank accounts, and wiretapped conversations. Conversely, countering groups perpetrating crimes against nature could be productive in terms of freezing accounts and visas to interdict the smuggling of drugs, guns, and humans that they're conducting.

Enhancing intelligence collection and law enforcement action opportunities stemming from such an expanded lens to cover all of the activities, including crimes against nature, of dangerous and nefarious actors, such as Mexican cartels and Chinese criminal groups, requires enlarging the pool of USFWS special agents and uniformed wildlife inspectors at the U.S.-Mexico border and transportation hubs within the United States. The DEA appropriately enjoys strong capacities, currently maintaining a force of 4,000 agents.⁵³ In contrast, the number of USFWS special agents has for years hovered at a mere and insufficient 220.⁵⁴ For years, this inadequate number has not increased even though poaching, illegal logging, mining, and trafficking in natural resource commodities have grown enormously over the past three decades, are continually expanding, and increasingly involve Mexican drug cartels as well as Chinese criminal networks.

As a corollary and imperative effort, U.S. law enforcement agencies' legal authorities to counter wildlife trafficking should be expanded. Importantly, wildlife trafficking should be designated as a predicate offense for wiretap authorizations.⁵⁵ Such expanded authority would bring about multiple benefits: including the enabling, understanding, and demonstration of the connections between wildlife and transnational organized crime networks and foreign bad actors, enhancing the ability to disrupt fentanyl trafficking, and allowing for more expeditious and pointed prosecution of wildlife trafficking crimes. Currently, Federal legislation at the foundation of wildlife crime prosecution, at the core of which is the Lacey Act, often entails proof of knowledge on the part of the defendant, a requirement that wiretap authorization would greatly facilitate, in the interest of prosecuting transnational wildlife trafficking and convicting criminal syndicates.

Many fentanyl-trafficking networks are not narrowly specialized in fentanyl or drugs only. Many Mexican cartels and criminal groups no longer solely focus on drug smuggling. Fentanyl smuggling networks have powerful protectors among corrupt government officials worldwide. Incentivizing better cooperation from the Chinese and Mexican criminal governments is important. But particularly given the challenges in inducing such cooperation in the current geopolitical environment and given the policy orientation of the current Mexican government, it is equally crucial to enhance the United States' own policy tools to counter fentanyl-trafficking networks. Expanding the intelligence-gathering aperture and mandating and resourcing a whole-of-Government approach in support of U.S. law enforcement will save U.S. lives currently decimated by fentanyl overdoses.

Chairman GREEN. Thank you, Ms. Felbab-Brown.

I just want to make a statement here. Look, witnesses as well as Members of the Committee, we have some rules. Those rules are that you direct your comments to the Chair. So if you direct them to another Member on the dais or even within the committee, we don't do that unless we ask for time to yield and then you can ask a question. There are procedures on how to do that. Your comments, especially for the witnesses, should be directed to the Chair.

I want to make sure that is real clear.

Mr. IVEY. Mr. Chairman.

Chairman GREEN. Yes, the gentleman is recognized.

Mr. IVEY. I appreciate that comment, but I really want to raise a point of order here.

Chairman GREEN. OK.

Mr. IVEY. I don't think I have ever seen a witness personally attack a Member like that at a hearing.

⁵³ DEA Administrator Anne Milgram, DEA Leadership profile, <https://www.dea.gov/about/dea-leadership#:~:text=As%20Administrator%2C%20she%20leads%20an,foreign%20offices%20across%20the%20globe>.

⁵⁴ U.S. Fish and Wildlife Service, Office of Law Enforcement, "Law Enforcement at a Glance," Fiscal Year 2022, October 28, 2022.

⁵⁵ See 18 USC 2516, Authorization for interception of wire, oral, or electronic communications.

Chairman GREEN. OK. Let me just—here, I will clarify it. You are no longer recognized.

Mr. Maltz, the better way to have said what you wanted to say would have been to someone on the committee or to say, it has been said that this is a waste of time, and you could say that is offensive to me, there are Americans dying. You could make the comment like that. But to direct it at the Ranking Member is inappropriate, and I think everyone would agree with that.

With that, I recognize—Mr. Carter, you are recognized.

Mr. CARTER. Thank you.

Parliamentary inquiry. Shouldn't our role be to discourage disrespectful behavior and not coach on how to do it more appropriately?

Chairman GREEN. Look, no—hold on, hold on. Let me be clear here. In previous hearings, we have had individuals attack individuals on my side of the aisle, and I gaveled them down.

Mr. CARTER. No, I—

Chairman GREEN. Hold on. You cannot address your comments to an individual about an individual, but you can say Secretary Mayorkas lied. But you can't say Secretary Mayorkas is a liar. I know it is a subtle difference, but the rules are very clear. The rules of the House are very clear on that. So the point is, you cannot direct anything other than to the Chair. That is the rule, and that is the rule we will live by.

Mr. CARTER. And to preserve decorum and respect. Rather we agree or disagree, no Member, Republican, Democrat or other, no Member of the Committee should disrespect a Member of—that is a witness. But what we witnessed a second ago was a direct attack.

Chairman GREEN. Yes. Well, what—yes.

Mr. CARTER. I appreciate you telling him he shouldn't have done that, but I would like to go a step further. May I? If I would, very respectfully.

Chairman GREEN. Yes, sure.

Mr. CARTER. That we may—

Mr. BISHOP. Look, if we are going to entertain a debate on this, it needs to be two-sided.

Chairman GREEN. Hold on just a second, Mr. Bishop.

Mr. BISHOP. If we are going to entertain a debate, I insist that it be two-sided.

Chairman GREEN. Mr. Bishop, you hold on just a second and I will recognize you in a moment.

Mr. BISHOP. Very well.

Chairman GREEN. Don't do that again, please.

Mr. BISHOP. I will be heard if we are going to hear both sides.

Chairman GREEN. Mr. Carter, finish your comment.

Mr. CARTER. Mr. Chairman, thank you.

My only comment is that we should always preserve decorum and respect. We can disagree without being disrespectful. You think that is a debate, Mr. Bishop, I am sorry.

Chairman GREEN. You are disagreeing with me. I appreciate that. What I am saying is there is a way to say things without directing your comment against an individual. You can say that Secretary Mayorkas lied, you can't say, Secretary Mayorkas is a liar. You can say, I don't think this is a waste of time and I am offended

when someone suggests that it is a waste of time. I think making that point clear is important for the whole committee.

Mr. Bishop, you are recognized.

Mr. BISHOP. Thank you, Mr. Chairman.

At the outset, the Ranking Member said he was embarrassed that we would undertake this hearing, that it was so worthless, it was embarrassing to him. That witness responded to that because it was an attack on that witness, every witness on this panel and every Member on this side of the dais. I would like to know why a Member of Congress, because he sits up here at this dais, can feel free to disrespect people who come at our invitation to testify by declaring what they have to say about youth being killed by fentanyl poisoning across this country, that that is not worth this committee's time. But a response to that is objected to.

I will say another thing. Forensically, in every hearing that I have attended where witnesses testify, they address their remarks to the Chairman and to the Ranking Member. I have never heard it done otherwise, I have never heard anybody remonstrated for addressing the Ranking Member, and I don't know why this would be the first time that would be brought up. I object to it.

Chairman GREEN. We are not going to debate this.

Mr. IVEY. May I respond to that?

Chairman GREEN. No. I will advise Members that under Clause 1 of Rule 17 of the Rules of House, they must observe the House standards of decorum in debate and conduct. They must speak and act respectfully and may not use disorderly words, unparliamentary language, such as words impugning the motives of their colleagues, or words that are personally offensive.

I would encourage the Members to adhere to the House standards of decorum and proceed in order. We need to get on with this.

Members will be recognized by the order of their seniority for their 5 minutes of questioning. An additional round of questioning may be called after all Members have been recognized.

I now recognize myself for 5 minutes of questioning.

My first question is to Mr. Jones. The cartels have essentially taken over a lot of the drug networks inside many of the United States cities. Some headlines just in the past few weeks about San Francisco alone, they basically have seized control and are coordinating with the gangs to seize control of drug trade in San Francisco. They have essentially taken over all the criminal networks, much like a mafia. The Attorney General, Merrick Garland, has admitted to the Senate that the cartel strategy was to flood the Border Patrol and by tying up Border Patrol, because Border Patrol now is doing basically a catch-and-release system, then the drug cartels will slip people around the other side.

Can you tell us how this policy of the open border and this strategy of the cartels have combined to allow them to basically take over crime in the cities?

Mr. JONES. Chairman, the way it works on your Southwest Border, you hear the term all the time, operational control. The problem is, no one ever tells you how the cartels have it. That's what I'm going to share with you here today and to answer your question.

That is that they utilize a network known as the Halcon Network. Halcons are scouts, they're lookouts. They check on and off just like law enforcement, anywhere from 8-hour shifts, 10-hour shifts, 12-hour shifts. I've seen them in South Texas as far as 30 miles into the United States, I have seen them in Arizona as far as 70 miles. They leverage two-way handheld encrypted radio, sometimes encrypted apps, and they communicate back to what is known as synthral. So what happens is you have these lookouts everywhere. When what they call the gate is open, the gate, meaning a bend in the river or a bend at your border, when there is no law enforcement, they surge with whatever commodity it is that they want to push. So when you're talking about based on the policies of all of these migrants that have come from all over the world, what is happening is the cartel by design will push hundreds of people, as you have seen on every news station over the last few years, and the media focuses on that, that causes the surge of local, State, and Federal law enforcement to that location. They do that by design because it opens up the other gates. Now, if they're going to move a commodity directly linked to a cartel boss, they'll shut down more gates to ensure that commodity makes it in.

What they do, Chairman, is they contract directly with U.S.-based street gangs and what we call tier one gangs, those are gangs which impact multiple regions in our country, they work directly with the cartels. Today, it is very important to understand your U.S.-based street gangs are working side-by-side, contracting with the cartels. I could go on and on here, but in 2009, eMe—Mexican Mafia—I was a lieutenant Laredo, Texas over two major drug squads as the war broke out between CDG and the Zetas, and we were stunned at what we found. We had Mexican Mafia working in Mexico, working operations, going through basic, intermediate, and advanced training from former Special Forces and law enforcement, conducting hits in the United States, and getting reduced costs of cocaine for that. That is the way it really works.

So when you wonder today why you are being overrun with drugs, it is because the tier one gangs and U.S.-based street gangs are contracting and working directly with these cartels. I will go back to this, and that is that they will not stop. They can't. They're going to have to be stopped. We're going to have to really take extreme aggressive action to fix this.

Chairman GREEN. How has the open policies, the basic catch-and-release, and this stimulation of a mass wave of migration by having an open border facilitated this process?

Mr. JONES. This is it. I want to be very clear here. Historically, your cartels, the Mexican cartels, we call them drug cartels because that's what they work today, they are in over 54 countries around the world. This is not a U.S.-Mexico problem, ladies and gentlemen. Cartel Jalisco New Generation we know is in 48. This will not stop. Now they've transitioned into the final version of human trafficking known as debt bondage. I am holding it in my hands. This is it. This is how emboldened they've become.

So I can't stress to you that you have to take extreme, extreme action to go after these cartels and to truly create relationships with Mexico and the rest of the world in what we call a unified command and treat them as the dark networks that they are.

I'm happy to discuss that with you as to how to go after them. Chairman GREEN. Thank you. I now recognize the Ranking Member for 5 minutes questioning.

Mr. THOMPSON. Thank you very much, Mr. Chairman.

Mr. Jones, you talked about that Congress should take extreme action. Let me tell you what was in the last omnibus package that we passed in 2023. We provided \$17 billion for Customs and Border Protection, including an increase in spending by 17 percent over the previous year. It allowed for hiring operations along the Southwest Border. We also provided funding for 19,855 Border Patrol agents, an increase of over 300 agents, the most since 2011. We also appropriated \$60 million more to hire 125 Customs and Border Protection officers and mission support staff at our ports of entry.

But I would also tell you, not a single Republican on this committee voted for it. It was passed only by Democrats. We are the ones who are trying to put by the resources to the good men and women along the border who are addressing this. Every time an opportunity presents itself to put resources on the border Democrats are the one who vote for it. You can talk tough, but when it comes time, as a Member of Congress, you really need to vote your conviction. So if you don't give the men and women the money they need to help protect us, then that is our fault. But thank goodness the Democrats in Congress gave the money that was asked for by the Department. We need more.

I look forward to when the next time that people ask for money, like I hear you talking about resources, that they will vote for it, because that is the only way we can address this problem.

The other situation, as I said, I have been on the committee a long time. Responsible men and women can disagree, but there is a way you can be disagreeable. I understand the witness is on the Republican side. This is a great democracy, and it is only great because of the men and women who live in it. It is not a personal attack, it is just the facts.

I hope, Mr. Maltz, you understand that. But be that as it may, there are some policy differences. I think 9 hearings on this subject is a bit much. I am embarrassed at that because we are wasting time trying to impeach a Secretary when we ought to be providing our men and women along the border resources. I have never voted against the Homeland Security budget since the Department was created. I don't plan to ever vote against it because it is not the right thing to do.

Now, I will disagree with this Chairman, I will disagree with that Chairman, and we will probably continue, but we are adults. I just think as long as we act as adults, we will get things done.

People around the world look at us. They want to be like us. But what I see happening and trying to disagree and trying to somehow take it to another level, is just not who we are.

So, Dr. Felbab-Brown, can you tell me what kind of programs you have seen that have been helpful along the border in addressing this problem?

Ms. FELBAB-BROWN. Certainly. Improving input technologies so that inspections of vehicles, cargo, and people crossing the border can be intensified is a very useful measure. The CBP several years ago stated that it is only capable of inspecting about 2 percent of

personal vehicles crossing and about 17 percent of cargo vehicles. Raising that number to a much higher level, especially because the vast majority of fentanyl is seized and very likely smuggled through legal ports of entry, is a good way of reducing the amount of fentanyl coming into the United States.

It's not a sufficient policy. A whole-of-Government approach needs to be adopted. Increasing collection intelligence on a variety of activities that the criminal cartels, Mexican cartels engaging, deploying various tools, various agencies of the United States to be able to facilitate U.S. law enforcement work.

Mr. THOMPSON. I yield back.

Chairman GREEN. The gentleman yields.

I recognize the gentleman from Texas, Mr. McCaul.

Mr. MCCAUL. Mr. Chairman, I want to thank Mr. Jones and Mr. Maltz for your service, your law enforcement service in the line of duty in very dangerous conditions. Mr. Maltz, I want to thank you also for your comment about foreign policy because I can't think from a Communist China standpoint a better foreign policy than introducing poison through Mexico into the United States, killing Americans and making money off it. It is almost like a reverse Opium war. They see it that way. It has killed 70,000 young people, 20,000 pounds of fentanyl seized, enough to kill 4.6 billion people. My children have been to 5 funerals of their friends who thought they were taking Xanax or ADD medication and they never woke up.

Mr. Jones, I know I commend you for being, No. 1, my great State of Texas, what you have done. We know this better, I think, than anybody. I remember going down after Mayorkas rescinded Remain in Mexico. I talked to the Border Patrol chief, and it was chaos. I said, what do you attribute this to? Is there any cause and effect, a direct cause and effect between what you are seeing now and what the policy change of this administration? He said, Congressman, there is no question there is a direct cause and effect between the rescission of Remain in Mexico and what we are seeing today.

What else are we seeing? A human trafficking event of my lifetime. I have never seen anything like this. I was a U.S. Attorney at Western District of Texas at the Texas border, I was a Chairman of this committee. We were, Ms. Vaughan, getting this under control. We were controlling political asylum because the cartels manipulate political asylum claims. When the Remain in Mexico went into place, they couldn't manipulate anymore. You know why? Because they couldn't get into the United States. Their claims were adjudicated with them in Mexico. Therefore, catch and release was ended finally. The very first bill I introduced in Congress 20 years ago. Imagine.

Here we are today. It is alive and well, and this Secretary is responsible, in my judgment. The rising crime, and the women go into sex trafficking, the unvetted homes that these kids go to, and the men go to MS-13. There is a criminal enterprise now not just in Mexico and in Latin America, but right here in the United States, and it was created by this administration's policies.

So my question to the three of you Mr. Jones, Ms. Vaughan, Mr. Maltz, do you believe that the actions of this Secretary by rescind-

ing Remain in Mexico, a policy that was effectively working, that has created this criminal enterprise, do you believe that this Secretary is responsible for and complicit with the criminal enterprise that has resulted as a result of these policies being rescinded?

Mr. Jones.

Mr. JONES. Yes, I do. That is validated by not only the data from the United States Customs and Border Protection that validates the numbers that crossed into our country as a result of the exemptions created under Title 42, which Secretary Mayorkas is the architect behind that. In addition, the overdose deaths in this country due to the sheer impact to mothers and fathers and families across this country. The data validates it.

Mr. MCCAUL. One thing to add, the district court said you must re-implement Remain in Mexico. The Secretary did not comply with that order. He failed to comply with that order.

Ms. Vaughan.

Ms. VAUGHAN. I do believe that the Biden-Mayorkas policies are responsible. A disaster. They're what's responsible for the situation that we have today. No amount of money that is funneled to these agencies is going to help the situation until the officers and agents are allowed to do their job. The policies at this point are more important than the money.

Mr. MCCAUL. In fact, they said, sir, we are turning our backs on you because you turn your back on us, as I recall.

Mr. Maltz.

Mr. MALTZ. Well, I say it starts at the top with the President and it comes down. I just want to say that I make these collages of these dead kids on my own time to help spread the awareness. So the results are just dead children and families going to funerals. That's what it comes down to. I'm not an expert on immigration law or border policies, but I know what's going on in America. That's why I'm here today.

So thank you.

Mr. MCCAUL. That is why we marked up a bill in my committee to designate fentanyl as a chemical weapon under the Chemical Weapons Convention, Mr. Jones. I will give us more authorities to go after him.

I yield.

Mr. BISHOP [presiding]. The former Chairman yields back.

I now recognize the gentleman from California, Mr. Correa, for his 5 minutes of questions.

Mr. CORREA. Thank you, Mr. Chairman.

Before I start with my comments, I wanted to submit for the record, without objection, CBP release, June 2023. Just came out yesterday, showing the lowest Southwest Border encounters since February 2021. If I may read, total Southwest Border encounters in June, including individuals who presented at ports of entry with or without CBP One appointments were down 30 percent to 144,000. If I could submit that to the record, sir.

Mr. BISHOP. Without objection.

[The information follows:]

CBP RELEASES JUNE 2023 MONTHLY UPDATE

STATISTICS SHOW LOWEST SOUTHWEST BORDER ENCOUNTERS SINCE FEBRUARY 2021

WASHINGTON.—U.S. Customs and Border Protection (CBP) today released operational statistics for June 2023, which show a significant and continuing decline in migrant encounters along the Southwest border as well as successful drug interdiction efforts resulting from new enforcement initiatives. CBP's total encounters along the Southwest border in June were the lowest in over 2 years, dropping nearly a third from May.

"Our sustained efforts to enforce consequences under our longstanding Title 8 authorities, combined with expanding access to lawful pathways and processes, have driven the number of migrant encounters along the Southwest Border to their lowest levels in more than 2 years. We will remain vigilant," said Troy A. Miller, CBP Senior Official Performing the Duties of the Commissioner.

"As our June statistics show, CBP's mission is vast, and thanks to the dedication of our personnel and Federal partners, we are delivering results that keep the American people safe: ensuring border security, seizing drugs, stopping the flow of illicit weapons, rescuing people in distress, facilitating lawful travel and trade, and stopping the entry of harmful agricultural pests."

Below are key operational statistics for CBP's primary mission areas in June 2023.

Ensuring Border Security and Effectively Managing Migration

CBP is processing all migrants under Title 8 immigration authorities, and generally placing individuals who cross the border unlawfully into Expedited Removal or Section 240 Removal Proceedings. Noncitizens who cross between the ports of entry or who present at a port of entry without making a CBP One appointment, are subject to the lawful pathways rule, which places a condition on asylum eligibility for those who fail to use lawful processes, with certain exceptions.

In June—the first full month since the lifting of the Title 42 Public Health Order—the U.S. Border Patrol recorded 99,545 encounters between ports of entry along the Southwest Border: a 42 percent decrease from May 2023. Total Southwest Border encounters in June, including individuals who presented at ports of entry with or without a CBP One appointment, were 144,607, a 30 percent decrease from May 2023. These are the lowest monthly Southwest Border encounter numbers since February 2021.

People who made the dangerous journey to cross the Southwest Border unlawfully have died of dehydration, starvation, and heat stroke. Smuggling organizations abandon migrants in remote and dangerous areas. To prevent the loss of life, CBP initiated a Missing Migrant Program in 2017 that locates migrants reported missing, rescues individuals in distress, and reunifies decedents with their families in the border region. In June 2023, the U.S. Border Patrol conducted nearly 1,700 rescues, bringing the total number of rescues in fiscal year 2023 from 24,056 at the end of May to 25,735 at the end of June.

Safeguarding Communities by Interdicting Dangerous Drugs

CBP continues to interdict the flow of illicit narcotics across the border. CBP has significantly increased non-intrusive inspection scanning capabilities and forward-operating labs to swiftly identify suspected drugs and recognize trends. CBP has found packages of narcotics in roofs, floorboards, door panels, bumpers, tires, gas tanks, car batteries, seats, speaker boxes, false floors, drones, and more.

Nation-wide in June, seizures of cocaine, methamphetamine, heroin, fentanyl, and marijuana (combined, by weight) increased 7 percent from May. To date in fiscal year 2023, CBP has seized more than 22,000 pounds of fentanyl—compared with 8,300 pounds over the same period in fiscal year 2022.

To disrupt supply chains used in the development and movement of fentanyl, CBP launched two new interagency operations in June: Operations Artemis and Rolling Wave. A parallel intelligence and analysis operation, Operation Argus, is providing trade-focused analysis. These efforts build on the success of Operations Blue Lotus and Four Horsemen, which seized nearly 10,000 pounds of fentanyl.

Operation Artemis began on June 5 and has made over 130 seizures, which include:

- 21 pill presses and 54 pill molds
- More than 5,000 pounds of precursor chemicals
- More than 300 pounds of methamphetamine
- And over 5,000 pounds of other drugs.

The U.S. Border Patrol is concurrently running Operation Rolling Wave, surging inbound inspections at Southwest Border checkpoints. This operation has seized:

- More than 1,500 pounds of fentanyl
- More than 1,000 pounds of cocaine
- More than 8,000 pounds of marijuana
- More than 6,500 pounds of meth.

Under Operation Blue Lotus 2.0, which launched on June 12, CBP and HSI have also continued to surge resources to Ports of Entry, where 90 percent of fentanyl is trafficked primarily in cars and trucks. This operation has seized over 1,500 pounds of fentanyl and over 23,000 pounds of other narcotics like cocaine, methamphetamines, and heroin.

Facilitating Lawful Trade and Travel and Promoting Economic Security

To improve the traveler experience while maintaining the highest levels of security, CBP has increased the deployment of technology that provides a more seamless and faster entry into the United States by air, land, and sea. In June, CBP announced the deployment a new Electronic System for Travel Authorization mobile application. CBP continues to improve the travel experience and reduce wait times while enforcing over 400 laws for 40 other agencies and stopping thousands of violators of U.S. law.

Travel volumes continue to rebound globally from pandemic lows. Travelers arriving by air into the United States increased 20 percent from June 2022 to June 2023, and pedestrians arriving by land at ports of entry increased 12 percent over the same period. Passenger vehicles processed at ports of entry increased 11 percent and commercial trucks increased 2 percent from June 2022 to June 2023.

CBP works diligently with the trade community and port operators to ensure that merchandise is cleared as efficiently as possible, and to strengthen international supply chains and improve border security. In June 2023, CBP processed more than 3.1 million entry summaries valued at more than \$278 billion. CBP identified an estimated \$7 billion of duties to be collected by the U.S. Government. In June, trade via the ocean environment accounted for 39.5 percent of the total import value, followed by air, truck, and rail.

CBP One App

The CBP One mobile application remains a key component of DHS efforts to incentivize migrants to use lawful and orderly processes and disincentivize attempts at crossing between ports of entry. In June, more than 38,000 individuals who scheduled appointments through the CBP One app were processed at a POE.

Since the appointment scheduling function in CBP One was introduced in January through the end of June, more than 170,000 individuals have successfully scheduled appointments to present at a POE using CBP One. The top nationalities who have scheduled appointments are Haitian, Mexican, and Venezuelan. Beginning on July 1, CBP announced the expansion of available appointments for noncitizens through the CBP One app to from 1,250 to 1,450 per day.

Protecting Consumers and Eradicating Forced Labor from Supply Chains

CBP continues to lead U.S. Government efforts to eliminate goods from the supply chain made with forced labor from the Xinjiang Uyghur Autonomous Region of China.

In the year after the agency began implementing the Uyghur Forced Labor Prevention Act on June 21, 2022, CBP has reviewed a total of nearly 4,300 shipments valued at nearly \$1.4 billion. In June 2023, CBP stopped 405 shipments valued at more than \$239 million for further examination based on the suspected use of forced labor.

Intellectual property rights violations continue to put America's innovation economy at risk. Trade in counterfeit and pirated goods threaten the competitiveness of U.S. businesses, the livelihoods of American workers, and the health and safety of consumers. In June, CBP seized 1,709 shipments that contained counterfeit goods valued at more than \$120 million.

Defending our Nation's Agricultural System

Through targeting, detection, and interception, CBP agriculture specialists work to prevent threats from entering the United States.

In June 2023, CBP issued 5,400 emergency action notifications for restricted and prohibited plant and animal products entering the United States. CBP conducted 97,101 positive passenger inspections and issued 678 civil penalties and/or violations to the traveling public for failing to declare prohibited agriculture items.

CBP

U.S. Customs and Border Protection is the unified border agency within the Department of Homeland Security charged with the comprehensive management, con-

trol, and protection of our Nation's borders, combining customs, immigration, border security, and agricultural protection at and between official ports of entry.

Mr. CORREA. I just wanted to, first of all, thank our witnesses for being here today. I want to quote General John Kelly when his Secretary of Homeland Security would say, border security does not end or begin at the border.

Mr. Jones, I want to say I heard your testimony I listened to it very carefully. I got to tell you, I really don't like what you said. But as an individual that has worked a lot on both sides of the border, I have to tell you, you have some valid points. We do need some extreme solutions. We need to coordinate with Mexico. We need to get it right.

Speaking to Mexican officials recently, and they reminded me that just recently they had seized 46,000 bank accounts, were blocked. The equivalent of almost \$700 million of money from organized crime, have entered into an anti-money-laundering binational group with the United States, 1,600 members of the Mexican military today are deployed at 55 security points along the border, seizures recently, 7.5 tons of fentanyl, 1,700 labs shut down, almost 74,000 criminals arrested in Mexico. Then, of course, in January of this year, the arrest of Chapo's son Ovidio Guzman, that erupted into one of those gunfights that you are describing where 12 Mexican Marines were killed. So I think the effort is there, but I just don't think it is enough because this is an effort that is going to require all of us working together.

Last week, Chairman Higgins and I introduced the bill, legislation to really enhance, support homeland security's investigation of transnational criminal units—I should say investigations of transnational criminal units, Mexico, Central America, and South America. Is this the kind of efforts do you think that would help us really drill down and work with other countries south of the border to identify some of these folks?

Mr. JONES. Thank you for the question, Congressman.

I will tell you that those statistics you gave are fantastic and I applaud the efforts of all of those in Mexico who are in harm's way. They have some incredible people working to try to fight for their country. But none of this matters. If you notice, not one cartel has fallen. As a matter of fact, more Mexican citizens and more migrants have fallen to these cartels and been brutalized like we've never seen before in Mexico. You also see violence now spreading across the country at levels where historically, sir, it was along our frontera, with our border. Today it is across the nation of Mexico. Where I'm going with that is I want you to know that the effort is not near enough. Not even close.

Mr. CORREA. You know, if I may interrupt you, because I only have a minute left, but there is a new dynamic emerging, leverage partnership dependence. Mexico is now our largest trading partner in the world. We are going to depend on each other for economic success, livelihood, and we need to work together to address these common issues.

I have 44 seconds very quickly. Any thoughts how to move forward on that?

Mr. JONES. I think that's a great point about how we can leverage and work together because of that exact reason. They are deal-

ing with guns going south and military-grade weapons coming north. We have a lot of areas that we can work with the Mexicans and we should, as somebody that has done it. It is all with relationships. But I want to tell you and be very honest, there is a lack of effort in Mexico right now. They put a lot of pretty paint on the wall. It means nothing and it is doing nothing. You see it in the deaths of Americans, you see it in the deaths of Mexican citizens and it's just pretty paint on the wall that doesn't amount to anything.

Mr. CORREA. I do hope we can engage in a transparent manner to address these issues that do affect my citizens on Main Street on a daily basis in terms of fentanyl deaths.

Thank you Mr. Chairman. I yield. My time is up.

Chairman GREEN. The gentleman yields.

I now recognize Mr. Higgins from Louisiana.

Mr. HIGGINS. Thank you, Mr. Chairman. I thank you ladies and gentlemen for being before us today.

Let's see if we can clarify for the American people.

Mr. Jones and Mr. Maltz, I am going to go to you in my limited time.

Mr. Jones, confirm please your former title in law enforcement. We have here you were former captain of intelligence and counterterrorism with Texas Department of Public Safety, is that correct?

Mr. JONES. Yes sir, it is.

Mr. HIGGINS. So you have a great deal of expertise in law enforcement, do you not?

Mr. JONES. Yes, sir.

Mr. HIGGINS. You are a resident of Texas?

Mr. JONES. Yes, sir.

Mr. HIGGINS. You know what is going on down there, don't you brother?

Mr. JONES. Yes, sir.

Mr. HIGGINS. Roger that.

Mr. Maltz, according to my information, you are a former special agent in charge of Special Operations Division with the Drug Enforcement Administration, the DEA. Is that correct, sir?

Mr. MALTZ. That's correct.

Mr. HIGGINS. You have a long history in law enforcement, do you not?

Mr. MALTZ. Yes, sir.

Mr. HIGGINS. Where do you live, sir?

Mr. MALTZ. I live in Virginia now.

Mr. HIGGINS. Well, congratulations, living off of the border. You spent a lot of time down there in DEA operations, did you not?

Mr. MALTZ. Absolutely, yes.

Mr. HIGGINS. You know what is going on down there?

Mr. MALTZ. Yes, sir.

Mr. HIGGINS. Let's get to it, shall we?

Since President Biden was inaugurated and made perhaps the poorest decision in the history of poor decisions by hiring Secretary Mayorkas to enact his policy, because although Secretary Mayorkas has a great deal of expertise, as you gentlemen do as well, he has the added responsibility as the Secretary to advise the President if the President's policies are injurious to America. Once those poli-

cies have been demonstrated to be clearly injurious to our country, the Secretary, further reflective of his oath, has a responsibility to step away from that administration if the President does not abide by his advice when the President's policies that the Secretary is enacting are clearly hurting our country. They absolutely are.

Gentlemen, I am going to ask you a little bit about cartels' access to our country. You both have conducted United States operations in and with Mexico, have you not?

Mr. JONES. Yes, sir.

Mr. HIGGINS. Mr. Jones, yes? Mr. —

Mr. MALTZ. Yes, sir.

Mr. HIGGINS. Yes and yes. The United States operations in Mexico, must they follow United States law and be organized with the Mexican government and Mexican law enforcement?

Mr. MALTZ. Yes, sir.

Mr. HIGGINS. Mr. Jones.

Mr. JONES. Yes, sir.

Mr. HIGGINS. Yes and yes, of course. So we have operations in Mexico, law enforcement operations in Mexico, but we have to follow the law, do we not?

Mr. MALTZ. Right. If I may add, the best example of that is the unified operation to capture Chapo Guzman on two occasions working with the Mexican Marines. They did the operation, not the United States. They went out and they grabbed them. They had the courage to do it.

Mr. HIGGINS. Understood. I like your spirit.

So let's compare that to the cartels. Gentlemen, do you consider it a true statement that the cartels have gained unprecedented access and networking within the United States of America? Mr. Jones.

Mr. JONES. Yes. Yes, sir. I do.

Mr. MALTZ. Yes, sir.

Mr. HIGGINS. Have you seen this increase incredibly over the last 2 years? Mr. Jones.

Mr. JONES. Yes, sir.

Mr. HIGGINS. Mr. Maltz.

Mr. MALTZ. Yes.

Mr. HIGGINS. Roger that. Do they have to follow our laws?

Mr. MALTZ. No way.

Mr. HIGGINS. Absolutely not.

Mr. MALTZ. There's no fear. They're not going to go to jail.

Mr. HIGGINS. They have unfettered access to the communities of America, and they traffic in two things, drugs and human beings. This administration has accommodated their efforts. Oh, how can you say that, Congressman Higgins? Well, let me give you an example. We have spoken a great deal about technology on the border. My colleagues across the aisle stated, we don't want a wall, wall is old tech, we don't need a barrier system, we have technology. OK. First of all, that is in denial of the fact that a physical barrier is part of a security system that includes physical barriers to deter and delay an attempted criminal crossing or trafficking of human beings and drugs into our country. Second, let's talk about the technology. Much has been said about drones being used. We have technology on the border, was requested by law enforcement

on the border during the Trump administration, approved by Congress, funds appropriated, contracts arranged for to detect and take down cartel drones. That is called the detection and mitigation capabilities of our anti-drone tech deployed on the border, called the defensive and offensive operations of that anti-drone tech. Somewhere since Secretary Mayorkas has been in charge—and I promise you we will find the smoking gun—since Secretary Mayorkas has been in charge, the offensive capabilities or the mitigating capabilities of that anti-drone tech has been suppressed.

Mr. Chairman, my time has expired, but my passion has not. I yield.

Chairman GREEN. Sometimes Clay Higgins just says it the best way.

I now recognize Mr. Carter—I think, is who is up next, from Louisiana.

Mr. CARTER. Thank you, Mr. Chairman.

Mr. Chairman, I ask unanimous consent to enter into the record an article titled “Cadre of Nativist Groups: Figures Have Long Pushed Replacement by Immigration Ideas into Mainstream”, which explains how the replacement conspiracy theory has inspired domestic terrorism and documents that the Buffalo mass shooter cited by Ms. Vaughan’s research is justifying his domestic terror attack.

Mr. Chairman, this hearing is, unfortunately a sham. It is a dangerous national platform that risks legitimizing the extremist idea terrorists latch on when carrying out attacks on the homeland. In this committee, all of us should frown on that. So I would like to enter this to the record so everyone will have an opportunity to read it, sir.

Chairman GREEN. Without objection, so ordered.*

Mr. CARTER. Most migrants coming to our border have no other legal pathway to the United States for citizenship and are seeking asylum here because they have no other legal pathway, which is their legal right. However, our system was not set up for this kind of volume that we are experiencing, and it is absolutely unsustainable, I think we all agree.

Dr. Brown, as director of initiatives for non-state armed actors at the Brookings Institute, what are recommended practices that can be used at our ports of entry to put human rights at the forefront?

Ms. FELBAB-BROWN. Congressman, thank you for your question.

Certainly, a comprehensive immigration reform that would allow legal paths of entry into the United States would immeasurably improve U.S. law enforcement domestically, as well as it would improve capacities to induce partnership and meaningful cooperation from vital partners and countries such as Mexico.

In the mean time, increasing inspection is what is an important measure, as well as recognizing that the cartels are no longer singularly focused on smuggling drugs, but are engaged in a whole variety of activities that require all of U.S. Government response.

Mr. CARTER. Thank you.

*The information was not available at the time of publication.

We are witnessing a shift around the world of people seeking asylum, safety, and economic prosperity. Individuals are fleeing economic uncertainty, government corruption, and violence. This is not only a struggle here in the United States, but world-wide.

Ms. Vaughan, with your work for immigration studies, would you agree that there is an unprecedented movement of vulnerable people in the Americas and world-wide?

Ms. VAUGHAN. There certainly is unprecedented movement of inadmissible migrants into the United States. That is for sure, yes.

Mr. CARTER. How is that impacting our points of entry?

Ms. VAUGHAN. It is overwhelming the men and women of the Border Patrol and CBP to the extent that they cannot adequately talk to migrants to detect trafficking, for example. They are forced to process and release them as quickly as possible. It is distracting them from preventing gotaways who are often the bad actors, and the drug loads from coming into the United States. It is creating chaos in border communities and impacting the safety of those communities, it is compromising the safety of the people who live along the border, who have to deal with the cartels bringing loads of people and drugs through their private property and threatening their lives and well-being.

I mean the problems created by this open border are just incalculable. And—

Mr. CARTER. So how would we—we are all ears now and we are presumably here to listen, to learn, and to do better. So now we are all ears. How should Government interact with our regional partners to make a difference?

Ms. VAUGHAN. Well, I think that United States needs to make it clear to our international partners that this level of migration, illegal migration into the United States cannot be sustained. It's causing problems with our country, and that we need to work together to address it and stop it. Because to the extent that the criminal cartels are enriched and emboldened, it affects civil society in their countries as well. It's destabilizing to Mexico and to some of the other—Panama is terribly destabilized because of the trafficking that occurs through the Darién Gap.

Mr. CARTER. Thank you.

Ms. VAUGHAN. They have an interest in working with us, too.

Mr. CARTER. Thank you very much.

My time has expired. I yield back. Thank you, ma'am.

Chairman GREEN. The gentleman yields.

I now recognize Mr. Bishop of North Carolina.

Mr. BISHOP. Thank you, Mr. Chairman.

Mr. Jones, you are the witness I have been waiting to hear for months and months in this committee. You talked about the—and I forgot how you described it—ultra violence? What did you say about—what did you call the violence?

Mr. JONES. Hyper-violence.

Mr. BISHOP. Hyper-violence among Mexican cartels. I have questioned witnesses here before about, in January in Culiacan, I believe there was open warfare, 50 cal machine guns being used, narco tanks driven by cartel soldiers against Mexican army. This is the second taking or the second effort to take Ovidio Guzman, I believe. You have said—I think it certainly is—I have some con-

cern about militarizing this dispute and having the United States military take on the Mexican cartels. I am open to the debate on that. But there is another aspect of this that is of interest to me. I wonder if you can comment on it, because the wristbands that you hold up testify to it.

You talked about bond—what did you call that—bondage slavery?

Mr. JONES. Debt bondage, sir.

Mr. BISHOP. Debt bondage, yes, sir.

So you got hundreds of thousands, or at least 150,000, 200,000 migrants entering per month, Mexican cartel has tabs on all of them. We saw the headline the Chairman put up during his opening statement from the *New York Post* that Honduran migrants were operating the drug trade—or I believe is what they said in San Francisco. Very troubled place, as you know. As they bring these very vulnerable human beings that they have absolute control over and knowledge of into the United States, they are keeping tabs on them, these criminal organizations, could they not develop the same sort of hyper-violence in the United States that we are seeing in Mexico given sufficient time?

Mr. JONES. They will. I can assure every Member here, if you do not take action on this and change what we are doing and look at them not as you are hearing, as criminals, but truly as terrorist organizations and leverage the full weight of this Government, it is coming here. I worked in 2015, the beheading of an individual in Port Isabel, South Padre Island, that was committed by a U.S. Border Patrol, working from the navel up all the way up. His entrails were removed in his head, as far as we can tell, was taken back to Mexico. I worked the 2013 lawyer where El Gato spent a million dollars putting tracking devices all over his family's vehicles and then were able to locate him in South Lake, Texas, and then executed him. So that they are here, sir. They are here and they are among us.

Mr. BISHOP. The people who have erased our borders as a means of improving their voter population might—already have gotten more than they bargained for I would say in the fentanyl deaths I am going to ask Mr. Maltz about next. But they also may see yet more. We may see the same sort of open militarized conflict with our own law enforcement and military resources here in the United States. That is what you are saying?

Mr. JONES. I have video that I've submitted to this committee of 50 caliber rifles, fully-kitted individuals, on Interstate 10, Tucson to Arizona, passing two Arizona State troopers.

Mr. BISHOP. The only thing—

Mr. JONES. I can go on. They are here, sir.

Mr. BISHOP. My fellow lawmakers only decry the fact that we are not spending more money letting that happen.

Mr. Maltz, I want to ask you, you ever been to Charlotte, North Carolina?

Mr. MALTZ. Yes, sir.

Mr. BISHOP. You know the community just north, very affluent community just north of there called Cornelius?

Mr. BISHOP. Not aware of that, no.

Mr. BISHOP. Hough High School. A member of a sports team up there, young man died a week or so ago. They say that fentanyl has pierced Hough High School in Cornelius, North Carolina. It is happening everywhere, not just at the border, everywhere across this country.

But there is something even—I don't know if you can say more disturbing than that. I just watched the movie "Sound of Freedom", and I would urge everybody to go see it. But the problem of child sex trafficking is, I understand, at epidemic levels as well. Been fed from places south of the United States, but now in the United States we have children that—600,000 children, minors come into the United States under the policies Democrats have advocated, Secretary Mayorkas is overseeing, 85,000 we have lost track of. These people are showing up in factories and the like. But that is not even the worst of it, it is the people being sold into another form of bondage, Mr. Jones, sex trafficking. You keep up with that at all, Mr. Maltz? The sex exploitation of children?

Mr. MALTZ. Yes, sir. Because the cartels control it all at the border. They have total control of the border. So they're making money on all those young kids, those innocent kids. That's why I commented before, because of all these rapes and these assaults on these young children as they make the journies up into the United States.

But one thing I would want to add is that Secretary of Mayorkas did say that the fentanyl overdoses are the single greatest challenges that we have in America. But my question to everybody is then why would you reverse the policies that were working before to keep those people out? It's the operatives that are all over our country now running the business of collecting money, of pushing the poison on the streets, and they're getting right over the border. They have total control.

Mr. BISHOP. If you think the problem is so insignificant that it embarrasses you to consider it, Mr. Maltz, that would be your answer.

I yield back.

Chairman GREEN. The gentleman yields.

I now recognize Mr. Thanedar.

Mr. THANEDAR. Thank you, Mr. Chair. Thank you to the witnesses who are here today.

Two months ago, the DEA confirmed the interception of a massive shipment of over 20 kilograms of fentanyl during a routine traffic stop in my beloved city of Detroit. Now, just think about this for a moment. Fatal dose of fentanyl is only 2 milligrams. Now, if you look at this 20 kilogram seizure of fentanyl, and if I do a quick math here, that 20 kilograms is enough to kill 10 million people. That is almost the entire population of my State of Michigan.

But let me clarify. This deadly drug finds its way to my district because there is a name, an unattended addict, a path of destruction waiting for it. That is the root cause of this fentanyl crisis, demand for the opioid.

My message to my Republican colleagues is that the opioid epidemic does not begin or end at our borders. This crisis is not a border crisis, it is a public health crisis. We need to focus on health care. By doing so, we not only save lives, but also disrupt the prof-

itability of these cartels. It is a win-win situation. We can cripple their operation while healing those trapped in this grip of addiction.

Dr. Brown, can you discuss how treating demand for these drugs would hurt cartel operations while saving lives?

Ms. FELBAB-BROWN. Thank you.

I stated at the beginning of my testimony that focusing on treatment, demand reduction, and harm reduction approaches is absolutely critical and indispensable. This is indeed what will save us lives.

Law enforcement actions, both on the U.S. side of the border and internationally, are also very important because we do want to minimize the amount of flows to the United States and also because the objective should be dismantling the drug trafficking groups. However, expanding access to insurance so that more people in the United States could receive treatment, adopting the smartest most proven evidence based approaches so that people are not dependent on sourcing illicit drugs on the illegal market, so they are not dependent on sourcing illicit drugs, period, is crucial. With that and a very important element of that is also a significant over prescription of legal opioids.

I want to go back to emphasizing another point from my testimony. The real big danger currently of pharmacies in Mexico that are brick-and-mortar buildings, look like any pharmacies, and are selling all kinds of drugs, including fentanyl- and meth-laced adulterated drugs to international tourists such as U.S. citizens. They need to be shut down.

Mr. THANEDAR. Thank you, Dr. Brown.

My understanding is that the administration is working to expand its public health initiative to combat the fentanyl epidemic. Do you view this as a necessary step?

Ms. FELBAB-BROWN. Yes. The Biden administration deserves enormous credit for framing a lot of our drug policy in terms of public health. Significant genuine progress has been made, and some of them precedes initiative already from during the Trump administration with States, State legislature, and Members of Congress, the U.S. Congress recognizing the need to adopt much smarter, much wider strategies, such as the availability of medications that reverse overdose.

Mr. THANEDAR. Thank you, Dr. Brown.

Mr. Chairman, I yield back.

Chairman GREEN. The gentleman yields.

I now recognize Mr. Gimenez from Florida.

Mr. GIMENEZ. Thank you. Thank you very much.

In September, September 11, 2001, terrorists killed around 3,000 Americans and we went 7,000 miles, and we waged war for 20 years because 3,000 Americans were killed. Seventy thousand Americans are being killed every single year by fentanyl and we are doing nothing about it.

I had the director of the FBI sitting in that chair and I asked him, do you think that we should be labeling the Mexican cartels, the multinational cartels, as terrorists? He says well, this is a technicality. Well, they are terrorists. They are killing us. As a matter of fact, we only lost 60,000, close to 60,000, people in Vietnam in

10 years of war. They are killing 70,000 Americans every single year and they are right across the border.

So my question to you, Mr. Jones, is this: Do you believe that the Biden administration policies have strengthened the Mexican cartels?

Mr. JONES. Yes, sir, I know they have.

Mr. GIMENEZ. Do you believe that by strengthening the Mexican cartels, we are actually not only destabilizing the United States of America, but we are also helping to destabilize Mexico?

Mr. JONES. Yes.

Mr. GIMENEZ. There is the crux of the matter. So we can fund \$10 billion and put CBP agents locked and armed 2,000 miles on the border, and unless we change the policy, nothing changes. Is that correct?

Mr. JONES. That is absolutely correct. This is an authority. This is not a money issue any longer. We, as lawmen, do not have the authorities we have needed to go after these cartels. That is the problem. I don't believe in going to war with the cartels. They are dark networks, Congressman. The way we win against them is giving us the authority for full spectrum operations, leveraging our full U.S. intelligence agencies, law enforcement and military, but mostly clandestine operations. How you go after the Sinaloa cartel as a network will be much different as to how we go after the Gulf Cartel del Noreste and many others, because these networks are different and we have to fight in the future differently than we have in the past.

Mr. GIMENEZ. I agree. But also we need to change our policy so that the migrants who are coming through, who think they can get into the United States, that are paying them their passage, deprives them of that revenue and makes them weaker. Is that correct?

Mr. JONES. It does. But you also need to understand these cartels are global. You hear all the time that right now they're making billions of dollars off of the human trafficking of people. That's absolutely true. They're making more than they are off of drugs. But when you look at them in the totality today, look at why Cartel Jalisco New Generation has risen so quickly, so fast. Because they began moving their narcotics overseas to Europe, Russia, and Australia, making hundreds of thousands of dollars. Literally, one kilo at one time in Australia was \$180,000. This is why their rise is so massive. But what are you always told by these so-called experts? That these cartels—listen, if you just legalize, it'll all go away. Look at what has happened to us.

Mr. GIMENEZ. You are right. This is not a simple answer to the problems that we face in the United States, but we need to view them as adversaries. We need to view them as people that are killing Americans, 70,000 a year.

Look, I was in the streets of Miami. I am a paramedic. That is my craft, all right. So in the 1970's and the 1980's they responded to overdoses left and right, all the time, and overdoses with opioids. But they weren't laced with this poison. This poison hooks them, makes it much more addictive, and then it kills us. We have to do something about it. What the Biden administration is doing is not doing very much to protect American lives. That is the duty of Gov-

ernment. The duty of Government is to protect the lives of American citizens. In this respect, the Biden administration and this Secretary is failing miserably.

Much has been said about the decrease in the number of migrants that are coming through the border. Now, from the height and yes, maybe it was, but the number that I got, the last in February 2020, only 36,000 migrants were encountered at the border. Now we are looking at as 100,000 as being a good number, 150,000 being a good number. It is an utter disaster what is happening at the border—it is an utter disaster what is happening at the border.

One final thought. My colleagues across the aisle think that everything can be solved by throwing money at it, and it cannot. In this case, the best thing we can do is change the policies. By changing the policies, you will then disincentivize the migrants from coming into the United States, deprive the cartels of the money that they get from them, and then we can start focusing in on destroying the cartels, which are the source of the fentanyl, which is killing 70,000 Americans every single year.

I yield back. Thank you.

Chairman GREEN. The gentleman yields.

Without objection, the title of Ms. Vaughan's testimony submitted for the record has to be stricken. The wording of that title makes an accusation against the President and the Secretary that they are accomplices to crime, and we have to strike that.

So, without objection, the title of that testimony is stricken.

We will move to the next question.

I now recognize Mr. Magaziner for 5 minutes.

Mr. MAGAZINER. Well, thank you, Chairman.

The American people want us to work together in a bipartisan way to solve the Nation's problems and to strengthen our security. But instead, we are here for yet another episode of impeachment theater, the latest installment in House Republicans' plans to impeach someone, anyone, from the Biden administration. It is disappointing and the facts don't support it.

The premise of the argument—and we all know that this is where this is headed—the premise of the argument is something like this, that Secretary Mayorkas, President Biden are breaking the law because they are not attempting to stop transnational criminal activity at the border. Unfortunately for my colleagues, the facts are not on their side.

Here is just a sample of the actions that the Biden administration has taken to combat transnational criminal organizations at the border. In 2021, Secretary Mayorkas launched Operation Sentinel, a collaborative, inter-agency effort to disrupt logistical networks of criminal organizations. Also in 2021, the administration launched Joint Task Force Alpha to enhance U.S. enforcement efforts against smuggling and trafficking groups operating in Mexico and in the Northern Triangle countries. December 2021, President Biden issued Executive Order 14060, establishing the United States Council on Transnational Organized Crime. The Executive Order outlined a policy for the United States to combat TCOs and established a council to monitor the production and implementation of coordinated strategic plans to do just that. President Biden signed legislation to increase funding for border security, for better

technology at points of entry, for more Border Patrol agents. In almost every case, our Republican colleagues who were there last year voted against this legislation. This year, the Biden administration launched operation Blue Lotus and operation Four Horsemen, inter-agency surges of operations to seize narcotics, investigate crimes, and investigate dangerous individuals associated with TCOs. In just 2 months, those operations seized nearly 10,000 pounds of fentanyl and more than 10,000 pounds of other narcotics, like cocaine and methamphetamines. In the last week alone, Operation Blue Lotus arrested 284 people on fentanyl charges.

I can keep going. Secretary Mayorkas launched Operation Artemis to target precursor chemicals, pill presses and parts, and finished substances involved in fentanyl. Secretary of State Blinken, who some of our colleagues are also trying to impeach, organized a ministerial meeting with more than 80 countries to launch a global coalition to address synthetic drug threats, a worldwide effort led by the United States to disrupt fentanyl supply chains. In April, the Biden administration's Justice Department announced charges against 28 Sinaloa cartel leaders. Of course, most importantly, since the expiration of Donald Trump's Title 42 policy, illegal border crossings are down more than 50 percent. That is on President Biden's watch.

So, listen, we can all have our own opinions about whether the administration is doing a good job or not. Everybody is entitled to those opinions. But if your core argument is that the Biden administration is breaking the law by not trying to disrupt TCOs, the facts don't support it. We are going to keep having this debate, apparently for months to come, but that is the central point.

Here is what it all boils down to. Even though the administration have taken numerous actions to address the challenges at the border, detaining criminals, seizing drugs, some of our colleagues are just hell-bent on impeaching a Cabinet Secretary for the first time in 150 years. For some, this has been the plan all along. House Republicans first introduced articles of impeachment against Secretary Mayorkas 2 years ago, when the guy had only been in office for a couple months. They have been gushing to their donors about impeachment behind closed doors before they even took control of the House and before any of these investigations even began, even though there is no legal basis.

So, look, the American people want us to work together to secure the border on a bipartisan basis. There are things that we could be doing. We should invest in technology and personnel, we should strengthen our relationships with allies in the region who are key partners in this fight, we can reform the immigration system to make it more orderly, we can finally do something about the guns across the border from the United States of Mexico, which is a part of this problem that our colleagues don't ever want to talk about. But in order for us to move forward in a productive way, impeachment theater has to stop so that we can get to work for the American people.

I yield back.

Chairman GREEN. The gentleman yields.

I now recognize Ms. Lee from Florida for 5 minutes.

Ms. LEE. Thank you, Mr. Chairman.

Ms. Vaughan, I would like to return to your testimony. You touched on a subject that I think is a very important aspect of what we are here to discuss today, and that is human trafficking and how these policies are affecting women and girls and children who are being trafficked. Specifically, you used the phrase in your opening that these kids go into the HHS assembly line with few questions being asked. I would like to focus a bit there. It is correct, is it not, that when that happens, we have seen numerous incidents of children who are actually put into placements in homes that prove to be unsafe?

Ms. VAUGHAN. Absolutely, yes. There are a number of instances where, for example, girls have been placed with older men in what is clearly an exploitative situation. There are kids who have been turned over to labor traffickers, there are kids who get turned over to gang members, there are kids who get placed into domestic servitude and other forms of abuse. It's really quite horrific.

Ms. LEE. Well, and I know we have also seen cases where—and this happened even in my own State—if the children themselves aren't screened, that can pose a danger or an inappropriate circumstance for a host family. Is that also correct?

Ms. VAUGHAN. Yes. There are problems at some of the shelters, sometimes incidents of predatory behavior on the other kids who are housed there until their release. There was the case in Jacksonville where the alleged minor, who turned out to be 24 years old, because the Border Patrol is not able to really screen people, murdered his sponsor.

Ms. LEE. In your opinion, after children are placed in these sponsor homes, is there an adequate level of follow-up and supervision that is occurring by HHS?

Ms. VAUGHAN. Absolutely not. There's almost no supervision or follow-up that goes on. These standards that they have for not only placements but also post-placement services, are way, way inferior to the procedures that every State in the Union uses for foster care placements, for example. It's been said that it is harder to adopt a cat than it is to sponsor an unaccompanied minor. There are rarely background checks done, almost never home studies, no financial assessments. The Biden administration has stopped doing background checks on other people in the households to make sure that the placements are safe. This is something that simply would not be tolerated in our foster care system.

Ms. LEE. You also mentioned that roughly a one-fourth of the trafficking victims were children. Would you tell us a little bit more about that and the patterns that you see that are affecting young people and children that are coming to this country?

Ms. VAUGHAN. Well, what happens is the smugglers often either convince the parents of these kids that they're going to have a better life in the United States, so pay us a down payment on the smuggling fee now and the child will make enough money or be able to go to school or some other tale to get the parents to release the kid who, when they get to the United States, are released to a sponsor who turns out to be a trafficker or are put directly into trafficking situations. Sometimes it's forced labor trafficking, sometimes it's commercial sex, sometimes it's domestic servitude. But the child is isolated from their family members in the complete

control of the people who have custody of them. There's no monitoring of the situation by the Federal Government that put them in this situation. There is very little opportunity for seeing what's going on in some of these workplaces to rescue the kids. It's a lot of, frankly, hear no evil, see no evil, there must not be any. Really deliberately kind-of looking the other way at what is happening.

Ms. LEE. Thank you Ms. Vaughan.

Agent Maltz, I want to return to you. You used a phrase in your written—which is important and I want to be sure that we today hear the distinction that you make as someone who spent so many years with DEA. The distinction is between drug traffickers, which is something that we have seen obviously for many decades coming across our Southern Border, but you use the phrase narco-terrorist. Would you please explain to us the distinction between a drug trafficker and a narco-terrorist?

Mr. MALTZ. Well, a drug trafficker is in the business to make money only. The cartels, when I first started to work, we know them as drug traffickers, right? But they've evolved from drug traffickers to transnational criminals. But now they're narco-terrorists. Just look at the death and destruction of what they're doing in that country. I mean when I was the head of the Special Operations Division, I kept on my phone the greatest hits of the violence in Mexico with the head, the decapitations, the chopping off limbs, throwing people in acid. They used to have a guy called the stew maker. He would drop—they were never found. That's why in Mexico today there's so many disappearances. They don't want to put that out because it's going to deter any tourism in Mexico. But these cartels—I mean Jaeson can tell you, he reports on it every week, every 2 weeks. They got tanks, they got rockets, they got drones that drop explosives. That's another thing that makes me concerned as a citizen because as our brave men and women are on the border, what happens if one day they drop the explosives on our own people? Right?

So these guys have evolved to the point where—I mean they're a multi-billion-dollar enterprise, they have plenty of money, they have no rules, they have no bureaucracy. So I'm very concerned about their evolution and the lack of the way we deal with them.

Ms. VAUGHAN. Thank you, Agent Maltz.

I am out of time.

Mr. Chairman I yield back.

Chairman GREEN. The gentlewoman yields.

I now recognize Mr. Ivey.

Mr. IVEY. Thank you, Mr. Chairman. I appreciate it.

Got a lot of ground to cover. I do want to start off with agreeing with Mr. Magaziner with respect to the—we have got sort-of two tracks of things going on here. One is there is an impeachment track that is pretty obvious that—the dereliction of duty language dovetails exactly with Ms. Greene's HRS 598, which has articles to impeach President Biden. So we know that is part of what is going on. But the fact that you all are here as a panel, I do have some questions I want to ask you.

I appreciate we may have some differing views, but I do want to try and figure out some of the things that are going on here, be-

cause I do think we have a duty to try and address the problems that we have got.

Ms. Vaughan, you mentioned Prince George's County, and I was the State's attorney there, the local prosecutor. One of the groups that we prosecuted was MS-13 repeatedly. In fact, we did a joint prosecution with the U.S. attorney at the time, President Trump's deputy attorney general. A lot of the stuff that they were doing looks a lot like some of the things we are talking about now. The human trafficking piece, the prostitution up and down the coast, the enforcers, the money and all of that.

So, Mr. Jones, I want to come to you at some point too, but I do wonder about some of the differences that seem to be there.

Mr. Maltz, I think you kind-of touched on this, but in the old days, and I will put myself in that category, the sale of drugs, they weren't trying to kill their customers, basically. So they would sell addictive drugs, cocaine, heroin, whatever, but they weren't necessarily killing them off. Fentanyl seems fundamentally different to me in the sense that, yes, it is extremely addictive, more addictive than those, but it is also the fatality rates are incredibly high. The things I would like to try and figure out if we get a chance to move to a hearing on that front would be why that change in the business model has taken place.

Mr. Jones, I want to get a—I might have to ask you all to send in a written response or something just because I am almost half-way through my time. Mr. Jones, to you, you have made a couple references to, I think, essentially military action, I think was the way you phrased it. Need more authority and more tools beyond law enforcement was one. Then in your last answer that you gave a few minutes ago, you mentioned explicitly wanting to have the military get involved in the pushback against the cartels.

I will pause for this answer. What exactly do you have in mind on that front?

Mr. JONES. Yes, sir. What I'm talking about is the tools of national power. Here, what I mean by it. Our system by design, as you know, as a former prosecutor, moves very slow. It's exactly how we want it under our Fourth Amendment.

Mr. IVEY. Let me ask you to cut to the chase, because I am down to a minute-and-a-half. What exactly—because military involvement is a very big step.

Mr. JONES. If we operate beyond the investigative model what it allows us to do is go after their assets and their money, real-time versus work in 2-year cases. It allows us to limit their mobility globally around the world just to Mexico, because now you can't get on aircraft, you can't get on boats. Third, it allows us to remove them who are here on visas, because most of you would be stunned. They have the money for visas. So it puts speed in the system and gives us tools. Now we go after the network and that's how we win.

Mr. IVEY. Let me reclaim my time. I don't know that you need the military to do any of those three things. I think the Department of Justice does that currently. But we can maybe discuss that at another time.

I also had a question to Mr. Maltz. You mentioned working with China and I think Mexico. Here at a previous hearing—I can't remember if it is Mr. Higgins or Mr. Bishop, but we had someone at

the—I want to say it was the White House that also said the importance of getting involved with China, especially in blocking the amount of precursors that are coming out of China and going to Mexico. Because when the relationship between the United States and China broke off a few years ago, China stopped enforcing the exportation of precursors that led to the really explosion of the availability of that in Mexico. That witness’ thought was that—part of the answer was going to be that we needed to work with China to address that.

With respect to Mexico—I am running out of time—but, Mr. Jones, you mentioned another issue too, which was money. You are the first witness I have heard in one of these hearings to say more money isn’t the issue. We have had CBP and those guys come up and talk about we need more agents, we need everything really, because they are outgunned in a variety of ways. So I guess I will have to get that from you later on.

I would ask for unanimous consent to offer a couple of articles, “How to Stop the Mexican Cartels: Stop Supplying Them With Guns”**—Which I think was a point you made, Mr. Jones—“On Biden’s Border Policy Critics Both Left and Right Are Wrong”, “Southern Border Eerily Quiet After Policy Shift on Asylum Seekers”.

Chairman GREEN. Without objection, so ordered.
[The information follows:]

ARTICLE, *The Washington Post*

OPINION: ON BIDEN’S BORDER POLICY, CRITICS BOTH LEFT AND RIGHT ARE WRONG

By the Editorial Board

July 14, 2023 at 7:30 a.m. EDT

Uncontrolled migration across the U.S.-Mexico border is not in anyone’s interest except, perhaps, for the smugglers who profit by charging people to make the difficult and dangerous trek. After much hesitation, during which unauthorized attempted border crossings reached an all-time high of 2.76 million in fiscal 2022, the Biden Administration acted to stem the flow and redirect it into lawful, more manageable channels. Initial data from the Department of Homeland Security shows progress: Daily Border Patrol encounters with migrants fell from 10,000-plus just before May 11, when the policy went into effect, to 3,400 in early June. Set forth in regulations finalized May 10, the plan seems to be preventing the border chaos many had feared would follow expiration of emergency powers under Title 42, a public health law that had allowed Federal authorities to expel migrants summarily during the pandemic.

There’s a catch, though: President Biden’s policy has to be consistent with Federal law. And critics from both ends of the political spectrum have gone to Federal court arguing that it’s not. On July 19, a judge in Oakland, Calif., is set to hear a coalition of immigrants’ rights advocates, headed by the American Civil Liberties Union, who claim, in effect, that the Biden plan unlawfully truncates the right to asylum. Meanwhile, red States, headed by Texas, accuse the administration of the opposite: letting in hundreds of thousands of migrants without sufficient legal authority.

The courts should let the administration’s approach, which includes a 2-year time limit, run its course. Some of the legal arguments against it are serious. Yet, so is the Biden administration’s case: that the President is trying to address a major problem through a pragmatic exercise of his existing authority.

Essentially, the new policy offers migrants incentives and disincentives—carrots and sticks—the net effect of which is to discourage irregular border-crossing. The disincentive, framed as a “rebuttable presumption” against entry, is swift expulsion and a 5-year bar on reentry for those who cross between ports of entry without first seeking asylum in a third country en route. The incentive is that these tough condi-

**The information was not available at the time of publication.

tions do not apply to migrants who first make appointments using a cellphone app to apply for asylum at ports of entry and wait in Mexico for their turn. The rule contemplates advance processing for asylum in a third country as well. Separately, it offers 30,000 people per month from Venezuela, Nicaragua, Cuba, and Haiti—main sources of the 2022 border surge—direct access to the United States via 2-year humanitarian parole, provided they have a U.S. sponsor.

ARTICLE SUBMITTED BY RANKING MEMBER GLENN IVEY

SOUTHERN BORDER ‘EERILY QUIET’ AFTER POLICY SHIFT ON ASYLUM SEEKERS

By Nick Miroff and Toluse Olorunnippa

July 12, 2023 at 6 o’clock a.m. EDT

EL PASO—On the border bridge from Mexico, about 200 asylum seekers lined up on a recent morning with their phones open to a Customs and Border Protection mobile app, ready for appointments at a reception hall on the U.S. side.

Thirty miles north, the Biden administration provided a different reception for those attempting to enter the United States illegally, bringing them to a massive tent complex in the desert for migrants facing deportation. The new 360,000-square-foot facility’s shelves were stocked with diapers, snacks and baby formula, signs of the administration’s efforts to meet the changing demands of U.S. immigration enforcement.

The two locations illustrate the extent to which Biden administration officials have begun transforming the way asylum seekers and migrants are processed along the southern border since May 11, when the White House lifted the pandemic policy known as Title 42. The policy had allowed quick expulsions of migrants who entered the United States illegally but no penalty for those who tried to get in again and again.

Now the administration is allowing tens of thousands of migrants to enter the United States legally each month through the mobile app CBP One, while those who don’t follow the rules face ramped-up deportations and tougher penalties.

The preliminary result is a nearly 70 percent drop in illegal entries since early May, according to the latest U.S. Customs and Border Protection data. After 2 years of record crossings and crisis-level strains, the Biden administration appears to have better control over the southern border than at any point since early 2021.

The president’s critics continue to depict his border policies as too permissive—geared more toward accommodating mass migration than deterrence. But the decline in illegal crossings undermines a key line of attack for President Biden’s Republican critics and bolsters Democrats’ argument that the pandemic expulsion policy was partly to blame for record numbers of border arrests.

Administration officials acknowledge it is too soon to tell whether their new approach can achieve lasting effects. Republican State officials are suing in Federal court to block Biden’s policies expanding legal entries through CBP One. At the same time, immigrant advocacy groups have filed challenges in Federal court to Biden’s new border restrictions on asylum seekers who cross illegally.

The recent drop in illegal crossings does not mean fewer than half as many migrants are coming to the United States. President Biden is allowing roughly 43,000 migrants and asylum seekers per month to enter through CBP One appointments and accepting an additional 30,000 through a process called parole. The new legal channels appear to be absorbing many of the border crossers who for years have entered unlawfully to surrender in large groups, overwhelming U.S. border agents.

U.S. agents made about 100,000 arrests along the Mexico border in June, the first full month that Biden’s new measures were in effect, down from 204,561 in May, according to the latest CBP data. It was the largest 1-month decline since Biden took office.

Imelda Maynard, the legal director of Diocesan Migrant & Refugee Services in El Paso, which aids migrants, described the past several weeks in the city as “eerily quiet.” The number of migrants released by CBP onto the streets of El Paso dropped to zero in recent days, according to the city.

“We’ve been so used to putting out fire after fire, we’re like: Where are all the people?” Maynard said.

‘We’re so close’

On the outskirts of El Paso, where for much of the past 2 years migrants have attempted to enter illegally each day through the steep canyons of Mount Cristo Rey, a CBP helicopter and a team of agents gave chase one recent morning to a single border-crosser. He turned back south.

With CBP using more contractors at its facilities to help perform tasks such as data entry, medical screening and child care, Biden officials say more U.S. agents can return to patrol duties. That appears to be making it harder for border-crossers to sneak through.

The factors that have fueled migration to the United States remain largely unchanged, but for the first time since Biden took office, the President's team is testing a new border-management strategy, one it considers a more humane and effective alternative to the Trump administration's approach. At the heart of the strategy is a belief that reducing the chaos and illegality of migration is more feasible than trying to stop it.

Legislative proposals to overhaul the U.S. asylum process continue to face steep odds in a polarized U.S. Congress, which hasn't passed significant immigration legislation in nearly two decades.

Blas Nuñez-Neto, the top border policy official at the Department of Homeland Security, said the Administration's measures remain vulnerable to adverse court rulings because they rely on executive actions rather than congressional fixes, which remain stalled.

The fact that the new Biden system is working as intended is encouraging, Nuñez-Neto said in an interview. "But it's still too early to draw any definitive conclusions about what we're going to see in the coming weeks and months."

For migrants in Mexican border cities trying to secure a CBP One appointment, the wait can be harrowing.

Jose Ricardo Pimentel, a 33-year-old Venezuelan, stood on the bridge on a recent morning. Lowering his voice to a whisper, he acknowledged that he'd slipped into the line without an appointment that day because he was so desperate to leave Mexico.

"I was kidnapped along the highway to Ciudad Juárez and held for 22 days," he said. "I'm scared."

Pimentel reached the front of the line to plead his case, but U.S. officers saw his name wasn't on their list. They turned him back.

Pimentel fell in behind other families who lacked appointments but were clinging to faint hopes the CBP officers would allow them to enter anyway.

Leidimar Muñoz; her husband, Alexander Gonzalez; and their 7-year-old daughter, Yefreannys, waited there, too, but they gave up after 5 hours in the 100-degree heat.

"My daughter couldn't stand it any longer," said Muñoz, also from Venezuela. "She was hungry and asking to use the bathroom."

The family walked back down the bridge into Ciudad Juárez, then laid out a blanket under the bridge's shade, sharing a plate of chicken and fried rice from a foam container. Yefreannys took out Play-Doh and Barbie dolls from a dusty backpack with a cat face.

Muñoz had registered the family for a CBP One appointment 8 days earlier. The average wait for an appointment was 4 to 6 weeks, but she didn't want to move into a shelter farther away from the border bridge. They were spending nights under the bridge, sleeping outdoors on the patio of a Mexican migrant services center.

Downtown El Paso seemed within grasp, its skyline visible past the border wall and the spools of concertina wire.

"We're so close," Muñoz said.

Before May 11, the family could have joined the tens of thousands of other Venezuelans crossing illegally and surrendering to border agents with an expectation they'd be quickly released into the United States. Now doing so would risk deportation back to Mexico and ineligibility for asylum. Muñoz had to wait, glued to the mobile app.

Criticism from all sides

The drop in illegal crossings has given Biden a reprieve on one of his most vulnerable issues ahead of next year's Presidential election. White House officials expressed a sense of validation at seeing the border numbers fall after the expiration of the pandemic restrictions—noting how Republican politicians had been warning of impending chaos after May 11.

But even as Biden's aides expressed relief, the president himself has largely refrained from calling out his detractors over the issue. The challenges with border enforcement have vexed his administration since its earliest days, with fast-changing migration patterns, court orders that kept Title 42 in place and criticism from both liberals and conservatives.

The issue is bound to remain a sticking point during the 2024 campaign. Former president Donald Trump—who initiated the Title 42 policy and predicted that its

end would lead to record migration—has accused Biden of deliberately undermining border security by lifting the restrictions.

Recent polling indicates that immigration is one of Biden's biggest political liabilities, with 6 in 10 adults saying they disapprove of his handling of the border, according to a recent AP-NO RC poll. In the aftermath of Title 42's lifting, several Republican candidates have announced Presidential bids—and almost all of them have used their campaign launches to attack Biden on immigration.

In some cases, the disapproval is coming from Biden's side of the aisle—with Democrats criticizing him as being too harsh toward migrants.

Crystal Sandoval, director of strategic initiatives for Las Americas, an advocacy group working on both sides of the border, said Biden's restrictions have effectively "ended" access to asylum. Though the administration is allowing tens of thousands to enter with CBP One appointments to live in the United States while their protection claims are pending in U.S. courts, asylum seekers who might be fleeing immediate danger face new hurdles if they cross the border illegally.

"Is it really due process?" said Sandoval, whose organization has been helping migrants in Ciudad Juárez fix errors to their CBP One registrations.

"I expected more," she said. "We can and should do better."

A floating city

The deceased man lay facedown in a sandy berm about five miles north of the border wall and 100 yards from a highway.

A CBP helicopter first spotted him, sending agents on horseback. They estimated he'd been there about a week. Pieces of sponge were glued to his boot soles, a tactic used to mask footprints. The sun had left his limbs the color of charcoal.

He was one of two deceased migrants recovered in the Santa Teresa, N.M., area, just outside El Paso, on a recent morning.

Crossings have historically dipped during the peak summer months when temperatures along the border soar past 100 degrees. But as migrants trying to evade capture face tougher odds to sneak through, they often resort to more remote areas with greater risk. They may be U.S. deportees, or have criminal records, making them ineligible for CBP One.

Border agents in CBP's El Paso sector are still averaging 400 to 500 arrests per day, bringing detainees to the sprawling new detention facility comprising brightly lit, climate-controlled tents that resemble puffy clouds. The size of six football fields, it is the largest and perhaps least harsh CBP facility ever built, with capacity for more than 2,500.

The Border Patrol supervisor running the facility likened it to a cruise ship—a small self-contained city floating on the desert. With hot showers, onsite laundry and scores of private booths where migrants can videoconference with attorneys, asylum officers and immigration judges, the facility's operating costs exceed more than \$1 million per day.

Border Patrol officials said the facility allows them to manage detainees using far fewer agents. They can reserve the more austere, jail-like detention cells at Border Patrol stations for migrants considered security risks. Family groups, unaccompanied minors and others deemed lower risk can be held at the tent complex, where contractors perform administrative and custodial tasks that have long grated on agents.

Rep. Tony Gonzales (R-Tex.), a border-district lawmaker who criticized the new facility's price tag after a recent tour, said 100,000 illegal crossings a month still add up to more than a million annually, near historic highs. Asylum seekers who are released into the United States while their claims are pending rarely end up deported, even though the majority of their cases are rejected in U.S. immigration court, he said.

"If this is what the administration thinks is a win, they're on the complete wrong path," Gonzales said.

He said he is concerned that the arrival of tens of thousands of migrants through CBP One has effectively "streamlined and normalized illegal immigration."

"So they won't be deported, but they'll be living in the shadows all their lives," Gonzales said. "It's wrong to funnel them down a dead end."

Under CBP policy, 72 hours is the maximum amount of time migrants should remain in the agency's custody before they are released or transferred to another agency such as Immigration and Customs Enforcement for longer-term detention. The 3-day window is generally too short to resolve asylum seekers' claims of persecution in their home countries.

The Biden administration appears to be using the new tent complex to hold detainees longer, allowing more time for the government to apply the new asylum restrictions and deport those who disregard the CBP One route.

Border Patrol officials providing a tour of the facility did not allow interviews with detainees. But one man lining up for a shower said he'd been there 18 days.

Olorunnipa reported from Washington.

Mr. IVEY. Thank you, Mr. Chairman.

Chairman GREEN. The gentleman yields.

I now recognize. Mr. Garbarino from New York.

Mr. GARBARINO. Thank you, Mr. Chairman. Thanks to the witnesses for being here today.

Mr. Jones, in its own 2021 Border Security Metrics Report, DHS documented an increase in alternative forms of payment in exchange for passage, including migrants being required to participate in smuggling controlled substances or other illicit items across the border or to work off debts upon arrival in the United States, as well as reports of harsh negotiations concerning payment plans with family members. Can you talk about the rising prevalence of debt bondage and how the cartels are using those they smuggle and traffic into the country due to the work on their behalf?

Mr. JONES. Absolutely.

The Gulf Cartel specifically has a saying, and that is that people are the gift, they keep giving, because they can make them move the commodity just as you just acknowledged. But we have seen that on the border where they're now making migrants carry narcotics, we have seen where they then exploit them. We've seen where other migrants are now being used to transport migrants themselves. Because you can truly make this commodity do what you want it to do. What these really represent, and that's the most important here to understand, is this is a process. Because just as Border Patrol was being absolutely overwhelmed with these people, so were the cartels. The Gulf had to come up with a process that worked. You're seeing it on each of these. You've got some you can look here and you'll see. That number goes into a database, and if you—at the time that we broke this story, if you were a Mexican citizen, it was \$2,500 just across the river in South Texas, if you were Central American, it was \$3,000, if you were Chinese, \$5,000, and if you were Russian or Middle Eastern, \$9,000. I've never seen money like that, ever. It was always \$100, if that, and they didn't care where you went. Now, think of this. Now these people are moved throughout our Nation, but yet they are indebted to these people for years, if not decades to come in a foreign country. This is where we really are now.

Mr. GARBARINO. You talked about how you have seen this before, but lower numbers with these higher numbers and the amount of people, is this relatively a new phenomenon under Secretary Mayorkas?

Mr. JONES. It is. Now, the smuggling of people has always been there, but the adjustment from smuggling into the trafficking through debt bondage, because due to the sheer numbers, they thought, God, we can make so much money and we can do it for the long run. This is the game-changer. When you think of human trafficking, most people think of commercial sex. That's one piece of it. Don't forget, you have forced labor, and this is your final form, debt bondage. Now it's Nation-wide.

Mr. GARBARINO. Mr. Jones, I want to continue with the profits on fentanyl and human trafficking. In July 2021 you said I can

without any doubt tell you that the profits they are making today are like nothing we have seen prior. This is a major revenue stream. How have those profits increased since Secretary Mayorkas took office? How much do you think the cartels are making annually on human trafficking and smuggling alone?

Mr. JONES. We don't really know what the exact amounts are. I mean, look, this is going to go on for decades. Many of us will be dead and gone before we clean this up. But I can tell you this. There will not be a law enforcement agency in this country that is going to be doubling down on the threat that we are now facing from trafficking as a result of what Secretary Mayorkas is the architect behind these changes. When he took power and he created the three exemptions under Title 42, allowing UACs, unaccompanied alien children, into the country, when he allowed pregnant mothers to come into the country, and when he allowed family units, this was the game-changing moment. It's validated by the data. If you just look at CBP when these people began pouring across the country.

Mr. GARBARINO. I was trying to do some numbers before with what you said. You said went from \$100 to \$3,000 for some, \$2,500 for others, \$5,000 up to \$9,000.

Mr. JONES. That was just at the river, sir. Just at the river. Never mind what country of origin where you came from. Right now, if you're Chinese, to cross from China to Ecuador and then make your way up, they're charging \$35,000 a head. They're moving 35 at a time in Fronzon. Then the Cartel del Noreste, literally takes all of their ID before they let them into the United States and they drop it on the mic side so that when it comes across, it holds up Border Patrol longer so that they can then move weapons south, and as much commodities in as they need to.

Mr. GARBARINO. So for the last 2½ years, it seems that the profits for these drug cartels have increased immensely?

Mr. JONES. Agreed.

Mr. GARBARINO. How are these profits giving these cartels more power, making them more dangerous?

Mr. JONES. Well, look at the military-grade weaponry they're now using, look at the level and span of control in Mexico. The people of Mexico have taken the blunt of this. They've lost over 340,000 citizens since 2007. In the last national election, CNN did a fantastic work. There was 132 politicians and staffers killed. Anybody can Google it. Mexico has truly fallen to these cartels. When I tell you they're a parallel government, you are truly looking at a narco-state. The problem is when you're killing journalists in Mexico and they can't get the information out, this is why we are so far behind what these cartels are doing. That's why we and Americans are feeling the impact in every part of this Nation today.

Mr. GARBARINO. I am out of time, but if you could respond in writing more about what is happening to the American citizens because of the cartels, that would be great.

Thank you, Mr. Chairman, I yield back.

Chairman GREEN. The gentlemen yields.

I now recognize Ms. Jackson Lee of Texas.

Ms. JACKSON LEE. I am kind enough to yield to the next individual. I will come back after that.

Chairman GREEN. We can go out of order, absolutely.

Ms. JACKSON LEE. Thank you.

Chairman GREEN. Ms. Garcia, you are recognized.

Mrs. RAMIREZ. Ramirez. Ms. Ramirez.

Chairman GREEN. Ms. Ramirez. I am sorry.

Mrs. RAMIREZ. Thank you. Thank you, Chairman and Ranking Member Thompson.

We have been here for about an hour-and-a-half and I want to thank you for this hearing. Today's hearing should be shedding light on the pressing issues surrounding immigration policies, what is causing migration, and how do we make sure the children we talk about, the children that I actually know personally are cared for. Instead, I think we continue to politicize an issue that actually both sides need to address, which is immigration reform.

I actually want to get back to why we are all here today. The American people expect us to do our job and to solve the problems. They expect us to have unbiased people who are witnesses here and provide us an opportunity to shed light on how we move forward. As I think about the hearing now and hearing the witnesses, I think about just last year how a horrific domestic terror attack at a Buffalo, New York supermarket left our Nation reeling. My colleagues across the aisle offered up their thoughts and prayers, but they offered no actions to address racially- and ethnically-motivated violent extremism. It is not lost on me that before murdering 10 people at the supermarket last year, the shooter wrote, and I quote, "We are experiencing an invasion on a level never seen before in history." However, twisted justification, the shooter believed he was repelling an invasion of the United States by immigrants from Latin America. Does that sound familiar?

Mr. Maltz, in your testimony you said I know what is going on in America. So let me ask you, do you support the assertion that the United States is experiencing a historic invasion by immigrants? That is a yes or no question.

Mr. MALTZ. Illegal immigrants, immigrants from around the—yes.

Mrs. RAMIREZ. Yes or no?

Mr. MALTZ. Yes.

Mrs. RAMIREZ. So you believe that we are experiencing a historic invasion of immigrants?

Mr. MALTZ. Yes.

Mrs. RAMIREZ. So despite knowing that the Pittsburgh shooter justified his actions based on the idea of an immigrant invasion to replace white people, despite knowing that invasion ideology was used to justify the shootings in El Paso and Buffalo, you continue to espouse this great replacement theory and extremist ideology that people like me, when my mother crossed the border pregnant with me, don't deserve to be here because we are invading the country?

Mr. Chairman, this hearing is not a fact-finding mission, it is a raw political sham to stoke fear and it will continue to justify the violence against immigrant communities. I find that unacceptable. This body's job is to address the problems in our country, not to

spew more hate. That is what we should be focusing on, legislative solutions, not divisive distractions, and prioritizing the expansion of resources for immigrant communities and comprehensive immigration reform. That is how we address public safety.

So let me just end by saying let us direct our efforts toward meaningful action that upholds our values and ensures the security and well-being of all of us, regardless of immigration status. That is the America that I know, that is the America that I love.

With that, Chairman, I yield back.

Chairman GREEN. The gentlelady yields.

I now recognize Mr. Ezell for his 5 minutes.

Mr. EZELL. Thank you Mr. Chairman and thank you panel for being here today.

I know it is a lot going on and we appreciate your time here.

I spent 42 years in police service, 3-term sheriff and enjoyed every day of it. I will tell you, the safety and security of people has always been on my mind, not only of my home State of Mississippi, but across this Nation. I want to be clear that due to the Biden administration's open border catch-and-release policies, cartel crime is transitioning from a border issue to a national issue. Every State is a border State.

Border Patrol agents have arrested more than 30,000 illegal aliens with criminal backgrounds since Joe Biden took office. While this is a staggering number, it does not even consider the illegal aliens with criminal backgrounds that have evaded Border Patrol and entered the country illegally.

Mr. Jones, in your estimation, how many criminals, gang members, or suspected terrorists are now in the United States among the 1.5 million getaways that have evaded Border Patrol agents?

Mr. JONES. Congressman, thank you for your service.

We have no idea. The border is so wide open.

Mr. EZELL. That is exactly right.

What threats do these individuals pose to communities not just at the border, but throughout this country?

Mr. JONES. Everything from terrorism to the unprecedented amounts of deaths that we're seeing of American citizens from fentanyl and the many other drugs that are crossing that Southern Border.

Mr. EZELL. Mm-hmm.

Mr. Maltz, we know cartels are the leading criminal organizations that manufacture and distribute illegal fentanyl in our country. Over the past 3 years, Border Patrol has seized over 45,000 pounds of fentanyl, enough to kill over 10 billion people. Most of that fentanyl has been seized at the ports of entry on the border. However, the sheer amount of this drug on our streets shows that the ports of entry aren't the full story.

Can you walk the committee through how cartels are using Mayorkas' open border between the ports of entry where there is little infrastructure stopping them to smuggle these drugs into our country?

Mr. MALTZ. So I would say, first of all, they're making billions of dollars, so funding is not an issue. Then they're flooding the zones. They're sending massive amounts of migrants to certain areas where they know Border Patrol has limited resources, and

then they're using the open border area to just smuggle in unlimited amount of people, unlimited amount of drugs, and, of course, bringing the weapons south and the money south. So it's basically they're just taking full advantage of the vulnerabilities and the weaknesses. The poor Border Patrol is out there and they don't have the personnel. They don't have enough people in certain sectors.

I mean, obviously, this document—and I deliberately attached this into the record—it's all the news, the headline news of all the mass poisonings. So that's the ultimate impact when the cartels have such control at the border to send their people into America to set up operations and move this poison all over the place.

Mr. EZELL. Do you believe a border wall would deter the flow of fentanyl in this country?

Mr. MALTZ. Yes, because the border wall would then force everybody to go into the POEs, where we could put the best and brightest and resources and technology and scanning and canines and do much more thorough searching. We wouldn't have to worry about our manpower running around the open border trying to chase people down, sometimes one and two guys. It's very, very dangerous to be out there when you don't have the manpower.

So I would prefer to focus everybody into the POEs. That's not going to solve the problem, but it's going to help and that's what we're looking to do.

Mr. EZELL. Very good.

From what we have heard today, it is completely irresponsible that President Biden from his first day in office he signed an Executive Order pausing border wall construction. The 70,000 fentanyl deaths in America are directly attributed to this open border policy.

Mr. Chairman, I will not stop working with you to protect our Nation's families.

With that sir, I yield back.

Chairman GREEN. The gentleman yields.

I now recognize Ms. Jackson Lee from Texas for 5 minutes.

Ms. JACKSON LEE. I have been in this committee and I have watched Chairman Green and Chairman Thompson work very well together on a number of issues. In fact, they have shown themselves to be respectful of each other. For that I say thank you.

I have had the ability to monitor what has been going on in this room and I frankly believe that problems don't get solved by castigating and making incorrect statements.

I also have a 28-year history in this Congress and have been involved with immigration for at least that long a period of time. In the Judiciary Committee, as Ranking Member of the Immigration Subcommittee, and this committee as Chair of the Transportation Security Committee, Ranking Chair of the Border Security Committee, and as a Texan have been to the border many times. I do believe that we can do this and solve the problem of immigration reform together.

What I also know is at least the border in Texas there are many who are on the border that don't want a border wall because of its intrusiveness. In addition, because of topography and design, the border wall sometimes is not effectively put in the right place to be able to create any kind of criminal incident. After Title 42, we

have found statistically, as answered by those at CBP, Customs and Border Protection, and the Border Patrol that numbers are clear, that we have worked to do together on those who are coming across. It is clear that not one American, no matter what their party affiliation, abhors cartels violence and viciousness, and will come together to work on that issue.

But it does no good for any of us to suggest that the President of the United States and the Secretary of Homeland Security are the key and only reasons for migration. I take offense and it is wrong frankly because migration is a world-wide concern. Some would say problem, others would say crisis. People desperately come even if it is for their economic goodness and they argue something else.

We well know that immigrants contribute \$1.3 trillion in spending power to the economy. We also realize that not one single person sitting in this room was an indigenous person in the United States of America. Your ancestors came from somewhere. Mine came unwillingly in bondage.

But it is clear to me that we have to find a better way.

Let me quickly raise this question. Let me quickly do so. In 2018, the Nation was horrified when a domestic terrorist shot down 11 worshippers at the Tree of Life Synagogue in Pittsburgh. Before going on this rampage, the shooter shared a manifesto alleging that, "The Hebrew Immigrant Aid Society likes to bring invaders in that kill our people. I can't sit by and watch my people get slaughtered." Two weeks before that, he called immigrants hostile invaders on social media.

Ms. Vaughan, do you believe there is a flood of immigrant invaders at the Southern Border who are slaughtering victims in American communities? This is a yes or no answer.

Ms. VAUGHAN. No. They're taking advantage of the opportunities that are offered by the current policies.

Ms. JACKSON LEE. So you have answered no. So let me just say this. In your testimony, on page 8 of your written testimony, you say there is a flood of people in the border, to the border brought on by the Biden-Mayorkas policies, and that these careless policies have created scores of new victims in American communities, all of which were preventable crimes. Ms. Vaughan, the issue of your partisan extremism goes beyond your testimony today. On November 4, 2021, you alleged that the tragic murder of a man in Florida that year was another casualty due to Biden's open border. Two years before that, on January 8, 2019, you laid blame for the horrific murder of a police officer, Mrs. Singh, in San Joaquin Valley at the feet of Democrats' border weakening and sanctuary policies. I find this very dangerous, because we need to come together as Americans, frankly, to be able to work, not name-call, but to be able to say, none of us wanted those kinds of incidents. How dare you say that any of us will want to have an officer killed or family killed? Neither does the President and neither the Secretary.

Let me move quickly to something that is very important, Mr. Green, and I appreciate if you would allow me to do that.

I happen to be someone who knows that there are barriers that can be utilized in certain ways, being a Texan. I also know that we need to stop penalizing nonprofits for trying to help persons so that

cities wouldn't have to put persons somewhere because the non-profits have them. But let me raise this to a former DPS. I want to applaud a DPS officer who is on duty today in Texas who became a whistleblower to ask the question, why is State government and this Lone Star effort causing immigrants to die in the water, causing a pregnant woman to miscarry over the raised wire and the buoys that are there, forcing them to go into deeper water, why a mother lost her life, her child's life, and another child is missing, why a little 4-year-old was denied water. This is the words of DPS whistleblower right on staff today. The question would be to all of you, as I asked the question, this is not America. The Border Patrol agents saying that the razor wire and the buoys are creating a difficult situation for them because as sworn officers of the United States of America, they are sworn to protect these people even as they will send them back. They are going into deeper water to save lives.

Chairman GREEN. The gentlelady's time has expired.

Ms. JACKSON LEE. I am putting that on the record, Mr. Chairman, because I want an investigation. These are not governmental witnesses, they are witnesses who have come to share their stories. But I want an investigation.

Mr. JONES. Can I respond to that?

Ms. JACKSON LEE. I want an investigation.

Mr. JONES. Is there availability for me to respond to that accusation?

Chairman GREEN. Hold on, hold on. I am taking control back, the gentle lady's time has expired.

Ms. JACKSON LEE. The gentleman is not——

Mr. D'Esposito is recognized from New York. You may yield, if you would like to, to Mr. Jones.

Ms. JACKSON LEE. The gentleman is not on staff at this point.

Mr. D'ESPOSITO. Mr. Chairman, I would like to yield to Mr. Jones.

Mr. JONES. I am the only one sitting in this room that's been exactly where those accusations were made. On my phone I've got video of what the men and women of law enforcement at local, State, and especially the Texas Department of Public Safety and National Guard are going through as hundreds of people 3 miles from the closest port of entry are being crossed by the cartels. To say that the men and women of DPS are throwing babies into the river is absolute absurd——

Ms. JACKSON LEE. I didn't say——

Mr. JONES [continuing]. And that they would do that——

Ms. JACKSON LEE. I didn't say that.

Mr. JONES. That's the accusation in there.

Chairman GREEN. The gentleman is recognized. The gentleman may——

Ms. JACKSON LEE. Mr. Chairman, he cannot malign me in this room. I did not say——

Mr. JONES. Not only that——

Mr. D'ESPOSITO. Ms. Jackson Lee, I believe this is my time. Ms. Jackson Lee.

Chairman GREEN. Mr. D'Esposito, you have reclaimed your time.

Mr. D'ESPOSITO. Thank you.

So the name of this hearing, "Biden and Mayorkas' Open Border: Advancing Cartel Crime in America", I have heard this described as a sham, I have heard it described as theater, I heard it described as a complete waste of time. It is beyond explanation. People are dying and crimes are being committed. How is that a sham? How is that theater? How is any of that a waste of time?

I want to thank all of you for being here today. Mr. Jones, Mr. Maltz, I want to thank you for your service in law enforcement. I too spent a career in law enforcement and retired from the NYPD as a detective.

There is no doubt there is a crime crisis in America thanks in part to the dereliction of duty of Secretary Mayorkas' wide open Southwest Border.

I am going to ask all of you, it is a yes or no question, do you believe the Biden administration's soft-on-crime policies, such as their efforts to limit law enforcement access to surplus Federal equipment and their restrictions on Federal grant dollars to police departments worsen our Nation's crime prices?

Mr. Jones, yes or no?

Mr. JONES. Yes.

Mr. D'ESPOSITO. Ms. Vaughan, yes or no?

Ms. VAUGHAN. Yes.

Mr. D'ESPOSITO. Mr. Maltz, yes or no?

Mr. MALTZ. Yes.

Mr. D'ESPOSITO. Ms. Felbab-Brown, yes or no?

Ms. FELBAB-BROWN. No.

Mr. D'ESPOSITO. OK. So I have heard this also mentioned that we should be thankful that the numbers have fallen to such a low level. They are not low. There are still thousands upon thousands of people coming to this country illegally and thousands and thousands more that we don't even know about. Quite frankly, it is like celebrating a category 3 hurricane instead of a category 4 hurricane. It is absurd.

I want to focus on the law enforcement for a second. Mr. Jones, what are some of the main consequences for local law enforcement of increased cartel activity in their jurisdictions?

Mr. JONES. They are completely overrun on the Southwest Border. If you go to Arizona right now and you sit back with Sheriff Mark Lamb, let me tell you, I've embedded with his law enforcement agency. You realize out of 1 out of every 10 traffic stops that man is making and his personnel are in pursuits 70 miles into the country. These agencies are overrun. The Texas Department of Public Safety has spent \$9 billion from the State legislature to try to support operations between the ports of entry because we are overrun with crime.

Mr. D'ESPOSITO. Mr. Maltz, do you believe that law enforcement throughout this country faces more threats of violence because of our open borders?

Mr. MALTZ. Absolutely. I also know they're retiring at record levels at the executive leadership level because they can't take it anymore. The mixed messages are overwhelming.

Mr. D'ESPOSITO. So you don't believe the lines at the pension section just happened to happen?

Mr. MALTZ. I just know that I talk to people every day and they're leaving law enforcement because morale is at a rock level, at the lowest level, because of this. They signed up to keep America safe.

Mr. D'ESPOSITO. I agree. It is because of exactly failed leadership like this.

Mr. Jones and Mr. Maltz, I am going to ask you a question. Both of you have served in leadership capacities in law enforcement, have ever and would you ever make a decision that would put any of your officers in danger?

Mr. MALTZ. Never.

Mr. JONES. Never.

Mr. D'ESPOSITO. Right. That is why we are here today, because we are talking about cartels, we are talking about crime that is being committed, and we are talking about Secretary Mayorkas and his dereliction of duty. Why? Because he makes policies and carries out policies that have put people in danger, has put law enforcement in danger.

I only have 40 seconds left. A general question to Mr. Jones and Mr. Maltz, what are the broader impacts on first responders, law enforcement, fire service because of the cartel along the border? Please, if you could do 10 seconds a piece.

Mr. JONES. Completely overrun. When you look in South Texas right now, you've got Texas troopers who've been deployed for 2½ years, 12,000-plus Texas National Guardmen completely overrun and overwhelmed after—exhausted.

Mr. D'ESPOSITO. Thank you.

Mr. Maltz.

Mr. MALTZ. The criminals don't fear any repercussions of their actions because they're not being held accountable.

Mr. D'ESPOSITO. Exactly. So what we are seeing here today, we are answering the question to this hearing. So it is not a sham, it is not a waste of time, it is actually a mission. It is a mission to make this homeland, our homeland, the United States of America, safer for our children and our grandchildren.

Mr. Chairman, I yield back.

Chairman GREEN. The gentleman yields.

I now recognize Mr. Menendez of New Jersey.

Mr. MENENDEZ. Thank you, Mr. Chairman.

We can all agree that Mexican cartels pose a direct threat to U.S. interest. We can all agree that we need to fight the scourge of fentanyl in this country. We can also agree that this body and the U.S. Government should prioritize addressing these issues.

But today's hearing has not been a serious discussion of ways to protect American families from cartel activities or fentanyl trafficking. How can we engage in good-faith discussions of border policies when this committee's Majority is using this committee to arrive at a pre-determined destination, the impeachment of Secretary Mayorkas, a destination they have said both publicly and behind closed doors they are set on reaching. No matter what the facts are, no matter what the administration has done to address these critical issue, when witnesses confirm what the Majority already believes instead of engaging in actual fact-finding.

Ms. Vaughan, you work for the Center for Immigration Studies, is that correct?

Ms. VAUGHAN. Yes, I do.

Mr. MENENDEZ. Ms. Vaughan, yes or no, did you speak at an event organized by the Social Contract Press?

Ms. VAUGHAN. Look, I have said that you—

Mr. MENENDEZ. Yes or no? Yes or no? Yes or no? Yes or no? You were able to answer other questions in a yes-or-no fashion. Yes or no?

Ms. VAUGHAN. Look, what I said is that—

Mr. MENENDEZ. You did. Did you appear—

Ms. VAUGHAN [continuing]. You're trying to distract from a serious topic—

Mr. MENENDEZ. Did you appear—excuse me, Mr. Chairman—

Ms. VAUGHAN [continuing]. By smearing—

Mr. MENENDEZ [continuing]. This is my time.

Ms. VAUGHAN. Attempting to smear me.

Mr. MENENDEZ. No, I am just asking you questions.

Chairman GREEN. The gentleman reclaims his time.

Ms. VAUGHAN. Denigrating—

Mr. MENENDEZ. Did you appear alongside an editor of *Chronicles* magazine, yes or no?

Ms. VAUGHAN. Could you repeat it, please?

Mr. MENENDEZ. Did you appear alongside an editor of *Chronicles* magazine, yes or no?

Ms. VAUGHAN. Not that I know of.

Mr. MENENDEZ. Did you give an interview to the American Free Press?

Ms. VAUGHAN. I've never heard of it.

Mr. MENENDEZ. You have never heard of the American Free Press?

Ms. VAUGHAN. No, sir.

Mr. MENENDEZ. You have never done work with the American Free Press? OK, well, we will go back to the record.

Ms. VAUGHAN. Please explain to me—

Mr. MENENDEZ. It is important that—excuse me. I am reclaiming my time. I think it is important that we shed light on the organization you work for as well as the three organizations that I believe you have either worked for or appeared alongside.

The Center for Immigration Studies has been labeled an anti-immigrant hate group by the Southern Poverty Law Center.

Ms. VAUGHAN. That is a complete—

Mr. MENENDEZ. The Social Contract Press, a white nationalist publisher, has been labeled as a designated hate group by the Southern Poverty Law Center. According to the Southern Poverty Law Center, *Chronicles* magazine is a publication with strong neo-Confederate ties that caters to the white nationalist movement. According to the Anti-Defamation League, the American Free Press is an antisemitic newspaper founded by a Holocaust denier.

On the day that Congress welcomed the Israeli president to address us, we have someone who has contributed to an antisemitic newspaper founded by a Holocaust denier, a witness who makes 9 assertions in her written testimony about the administration's policies, assertions the Majority will likely rely on to further their

cause for the impeachment of Secretary Mayorkas. Yet only 2 citations were provided for those 9 assertions, both of which were provided by the Center for Immigration Studies, where you work, again, an organization that has been labeled an anti-immigrant hate group.

I also think it is important that we discuss some of these issues through the lens of our values. Members of the Majority, along with some of our witnesses, have mentioned their concern for the safety of migrants. Ms. Vaughan, you contend that the administration's policies expose migrants to abuse by the cartels. I am glad that you recognize that the long and difficult journey that migrants face is an issue of concern. Immigrants travel to the United States by any means they can, in search of a better life for their family, including on foot for hundreds, if not thousands of miles, enduring exposure to injury and illness along the way. That is why it is unconscionable to me that you also go out of your way to praise what Governor Abbot of Texas has done. You say in your testimony that, "To the extent there is any improvement at all it is most likely due to efforts by the State of Texas to physically block the entry points, such as by patrolling the Rio Grande River, installing razor wire and buoys." I am sure that many of us saw the reports this week about how Texas is telling their medics in the Department of Public Safety to treat migrants inhumanely. There has been a soaring heat wave in the Southwest, yet medics have reportedly been told not to give out water. Governor Abbott has made crossing the Rio Grande River a more dangerous and even deadly proposition by adding the buoys and razor wire mentioned that you alluded to in your testimony, including in areas of the river with high water and low visibility.

This report included a story of a 19-year-old woman trapped in the wire who is having a miscarriage. Five immigrants have drowned in a 1-week period in the area near where this wire was installed. Where is the humanity for these people? Where is your outrage when you hear these stories? What are you doing to change the outcome for the people trying to get to this country, our country to live their American dream for the betterment of their families? Where is your outrage when they have to encounter these conditions trying to get here to seek asylum?

I yield back.

Chairman GREEN. The gentleman yields.

I recognize, Mr. Brecheen of Oklahoma.

Mr. BREECHEN. Mr. Chairman, at the onset of my time, I would like to yield 30 seconds to Ms. Vaughan.

Chairman GREEN. Ms. Vaughan, you are recognized.

Ms. VAUGHAN. I am outraged because I cannot imagine a more inhumane policy than one that entices vulnerable migrants to turn over their life savings, their families, their kids to criminal smuggling organizations because they believe that they will be allowed to stay in this country, and end up in debt bondage and other horrific situations. Frankly, I'm saddened that Members feel the need to distract from this horrific treatment of people by impugning my motives, insulting me, smearing, repeating lies about me to distract from a horrible problem.

I sat and testified as a witness at a hearing about a year ago that Ms. Jackson Lee held in which she brought in three survivors of human trafficking. It was a very well-done hearing. We heard their stories. They were brave. This is a real issue, a real atrocity that is occurring at our border. To act like this is some kind of political stunt is a shame.

Mr. BREECHEN. Mr. Chairman, if I may, I want to give you some time, if I may reclaim my time.

Chairman GREEN. The gentleman reclaims.

Mr. BREECHEN. Look, let's just talk about the difference of where we have come in 2 years. Historic lows in 45 years of illegal immigration, historic lows by the person at the helm who enacts laws, historic lows of illegal immigration. Now we have the most illegal immigration in our country's history. Decisions matter. A lack of leadership on this front matters. People are losing their lives. Children are being sold into the sex traffic slave trade because of decisions that are being made.

In 2022, human trafficking arrests have increased 50 percent, 72 percent of trafficking victims are immigrants.

Mr. Jones, a minute ago, you talked about some things that we have to be concerned about. The new mob, the cartel coming into the United States. The new mob. I want you to recite the fact that you said a minute ago. How many politicians were killed in Mexico?

Mr. JONES. In the last national election—if you'll look up, CNN did some great reporting on this—132, including their staff.

Mr. BREECHEN. Mr. Jones, are they coming to a State near you? Are the cartels richer and more powerful because of this administration, President Biden's decision and Secretary Mayorkas' decision? Are they more powerful and richer today?

Mr. JONES. This is a whole new scheme that has resulted in them getting richer right here in debt bondage.

Mr. BREECHEN. Are they more powerful in America because of the decisions at the Executive helm?

Mr. JONES. Yes, sir.

Mr. BREECHEN. In America debt bondage, we keep hearing about debt bondage. Thirty-five thousand dollars if you are coming from China, the cartel is charging you to come into this country. Do we not think that they are going to employ not only the tactics of the employment, but what about prostitution to repay that debt?

Mr. JONES. In every form that you can think of, they're going to require these people—and then when they've paid it, they're going to say they did something wrong, and now they owe another \$5,000, \$10,000, \$15,000, because that's what they can do. You see, they know where their families are in their country of origin, and they know where they're going here in our country. It's all right here in the numbers in their database.

Mr. BREECHEN. Mr. Chairman, I am concerned about the Biden administration, as I know many of us on this committee are, their policies, these unaccompanied alien children, and it is run by the Department of Health and Human Services. So some of you have some great insight on that fraudulent use of that UAC program. Children that are being trafficked, they are being abused, they are being sold into sex trade.

I want to ask Ms. Vaughan, what do you know about children that have been involved in the sex trade because of the UAC program implementation?

Ms. VAUGHAN. Well, in many cases, their lives are ruined. In some cases, it happens because they get preyed on when, for example, they're in shelters in places like San Antonio or New York or Chicago that are overrun. They're there by themselves.

Mr. BREECHEN. Is this administration making sure that those children who may be forced to say they are related, is this administration making sure that they verify that they are those children? What change over the prior policy is not making sure that they are the children?

Ms. VAUGHAN. Well, previously the policy was that no child would be without a certain level of vetting of the sponsor.

Mr. BREECHEN. Does that include DNA tests to make sure if that child's being forced?

Ms. VAUGHAN. OK, well, DNA testing was done at the border because there was a problem—

Mr. BREECHEN. Has that been changed under this administration?

Ms. VAUGHAN. Yes, it has. They eliminated—

Mr. BREECHEN. So are we complicit? Is this administration potentially complicit in children who are being forced to claim they are related, being sold into a sex trade, and we could have caught them at the border if we had have done DNA analysis? This administration is undermining that process?

Ms. VAUGHAN. The cartels and smugglers are thrilled that the DNA testing policy has been abandoned because it makes it very easy for them now to rent, kidnap, and use children to assist other inadmissible illegal aliens in crossing into the United States.

Chairman GREEN. The gentleman's time has expired.

I now recognize Ms. Titus for her 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, may I introduce into the record—please, just very briefly.

Chairman GREEN. Do you want to ask Ms. Titus to introduce that for you, Ms. Jackson Lee? Ms. Titus has been recognized.

Ms. TITUS. I ask unanimous consent to enter into the record—

Ms. JACKSON LEE. The Texas troopers accounts of bloodied and fainted migrants on the U.S. Mexico border. Also in the *Houston Chronicle*, the *Washington Post*. These were not my words, the words of a Texas trooper words.

Chairman GREEN. Without objection, so ordered.*

Ms. JACKSON LEE. I thank the lady. Thank you.

Ms. TITUS. I am just wondering how you know that the cartel members are thrilled. Have you done polling of these cartel members or something to figure out how thrilled they are about this?

Ms. JACKSON LEE. It is OK.

Ms. TITUS. That is a rhetorical question.

I just sit here one more time and listen to one more hearing trying to attack the Secretary, trying to attack the President, talking about the border with inflammatory titles like The Open Border, Advancing Cartel Crime. Meantime, we got domestic terrorism, we

*The information was not available at the time of publication.

got antisemitism, we got Asian hatred, we got cybersecurity. All of that is being ignored, and all of those things are serious problems.

It is so easy just to point a finger at one person and say, oh, it is his fault for being a bad manager. But if you look at the issue from a historical, sociological, and economic standpoint, you will find that it is much more complicated than that. You can look at the complex history of Central and South America. You can look at our currently-strained relationship with Mexico. You can look at the broken immigration system that we don't seem to be able to fix. You can look at the immense power of the cartels and their abuses at every level, using guns that they have mostly gotten from across the border and selling drugs to people in the United States because we have customers here who want that, as we have a decades-long opioid crisis, and there is no agreement on border policies. We hear from some members of the border what we need are more resources, we hear from whatever your sources are from disgruntled people at the border that it is all management's fault.

Let's look at this comprehensively. I would ask you, Doctor, you mentioned in Europe there is a difference between the way the cartels work in Mexico and when they come to the United States. Largely that can be credited to our law enforcement doing a good job. They are not as violent, they don't infiltrate governments, they don't raid villages here. But we don't have a very good relationship with Mexico on this front like we do on some other diplomatic fronts. Could you talk a little bit about how we could maybe improve that relationship so we can jointly go after some of these cartels?

Ms. FELBAB-BROWN. Several years ago, the U.S. Government and the Mexican government established a policy or basic understanding of shared responsibility. This notion of shared responsibility carried across both Republican administration and Democratic administration on the U.S. side and across several Mexican governments. Unfortunately, although this notion is still in rhetoric, the current Mexican government of President López Obrador has significantly walked away back from it. We have seen really during his administration a very profound hollowing out of cooperation. He is also adopting policies, or the lack of policies in Mexico, that are enabling in their lack of response the Mexican cartels. It is difficult to see how this could be changed during the last year of his administration, but there will be elections in Mexico.

It is clear that any kind of effective policy requires respect and recognition of interest on both sides. But unfortunately, this is not happening with the current Mexican government. The Biden administration has done its best to try to induce better cooperation from Mexico. But we have very far to go.

Ms. TITUS. Thank you. I hear from your other panel members the way to solve this problem is get rid of Mayorkas and maybe build a wall. Are there other things more realistic that we could do to make the situation better just on our side?

Ms. FELBAB-BROWN. Absolutely. Certainly there are many opportunities to strengthen both treatment, demand reduction, and address those important dimensions, as well as access to medications, such as overdose medication, other medication for those that have substance use disorders.

There are other opportunities to strengthen law enforcement actions. These include resourcing far better legal ports of entry so more inspections can take place. This includes expanding the policies, how we tackle the cartels, not simply thinking of them as smuggling entities or drug-smuggling entities only, but targeting their many dimensions, including their other access to money through joint task forces that have U.S. law enforcement agents as well as other members of relevant agencies.

So whole-of-Government approach that expands both Departments of State, Department of Defense, that expands authorities of agencies such as U.S. Fish and Wildlife.

Ms. TITUS. Well, we also hear that some of the Mexican pharmacies are selling drugs laced with fentanyl. That is to a lot of American tourists who are down there, that is not the cartels, but there may be a connection. Also these retail crimes here in this country often use what they sell on the internet or sell wherever to fund some of these things, like trafficking. That would be kind of part of the all-of-Government approach that we might address. Is that right?

Ms. FELBAB-BROWN. Absolutely.

Ms. TITUS. Well, thank you.

Mr. Chairman, I yield back.

Chairman GREEN. The gentlelady yields.

I now recognize Mr. Crane from Arizona.

Mr. CRANE. Thank you, Mr. Chairman. Thank you all for coming here today.

I continue to hear the same thing. I want to echo what my colleague Mr. D'Esposito was saying. I can't help but notice, this is a sham, this is more impeachment theater. This is the Homeland Security Committee. If we are not talking about this, I don't know what else we are going to be talking about. If we are not talking about trying to hold the individuals that are in charge of leadership on homeland security accountable, I don't know what else we are going to be talking about.

I wish you gentlemen were here yesterday. Some of my colleagues on the other side were trying to undermine how effective walls and barriers are. It is sad. I spent a lot of my life in the military, and I worked in Special Forces, so I understand security, I understand security systems. We talked about overlapping deterrents, we talked about using trained personnel, technology, barriers, intelligence, all of these things together. Overlapping deterrents and security systems to secure whatever you want to secure. It is sad to me that my colleagues on the other side of the aisle can't even acknowledge that barriers, whether it is around their house, their schools, these complexes, whatever it is, are effective.

Mr. Jones, I want to ask you about that, sir, because I know you understand security a lot better than the average individual. Do you find individuals that isolate barriers and walls and say they are archaic and ineffective, do you find those individuals serious when it comes to actual security?

Mr. JONES. I think they don't understand what's taking place. In South Texas, for example, you can be inside a stash house in a matter of seconds. So it's not about an electronic wall for detection, it's about how fast can you get a law enforcement personnel there.

Mr. CRANE. Yes.

Mr. JONES. When you go to Arizona, for example, you've got a lot of space there. You still have the challenge. That where we are in 2024, it's not about the detection issue, it's about how you get law enforcement able to respond before they're picked up or inside these stash houses. That's the core fundamental problem.

Mr. CRANE. These overlapping deterrents help give our law enforcement officials time to respond. Is that correct?

Mr. JONES. It's correct.

Mr. CRANE. Mr. Maltz, would you agree with that?

Mr. MALTZ. Absolutely, yes.

Mr. CRANE. OK, great.

Mr. Jones, you were talking about classifying cartels as terrorist organizations. I have heard that argument before. I understand why that argument is being made. But I want to ask you something, sir. Did you watch the videos of the United States pulling out of Afghanistan?

Mr. JONES. Yes, sir, I did.

Mr. CRANE. Did you watch the people hanging from planes?

Mr. JONES. Yes, sir, I did.

Mr. CRANE. Mr. Maltz, did you watch that?

Mr. MALTZ. Yes. I also witnessed my brother coming back in a body bag from the war in Afghanistan.

Mr. CRANE. Thank you, sir.

One of my biggest concerns when we start talking about that stuff, sir, is it would be the same leadership fight against the cartels. That concerns me. Quite honestly, I don't trust them to do that job. That is one of the biggest issues that I have.

I also want to hear your thoughts, sir, because I know you have done this for a long time, how that would affect some of the asylum claims.

Mr. JONES. Sure. First, we have to understand that the issue right now that we have with these cartels is it's about authorities. I don't look to go to war using our military in Mexico.

Mr. CRANE. Right.

Mr. JONES. We have proven in the past, working with the Marines, working with SEMAR, driving intelligence-led operations. But what we didn't do was network theory. We leveraged a law enforcement model and it was too slow. What does it do? It goes after the bosses.

Mr. CRANE. Just out of time—for time's sake, sir, so you are talking more about using intelligence.

Mr. JONES. Absolutely. But we will have—

Mr. CRANE. OK. You are not talking about—

Mr. JONES. We will have to use overt action at times. Look, the air is—you're not flying over there without getting shot down.

Mr. CRANE. Thank you, sir.

My last question. The Federation for America Immigration Reform, FAIR, recently calculated the cost of illegal immigration to be \$150.7 billion to Americans. Do you know how much a border wall would cost to build? Anybody on the panel have any idea, roughly? The same group says about \$22 billion. Mr. Jones, do you think that would be a good investment?

Mr. JONES. I think right now, beyond anything regarding money being spent by this committee or any others to the protection of this country, you have to look at the totality of these cartels in providing the authorities we need. That is our real issue right now.

Mr. CRANE. Thank you, sir.

Mr. Chairman, I ask for unanimous consent to enter this article into record.

Thank you. I yield back.

Chairman GREEN. Without objection, the article is entered.

[The information follows:]

THE FISCAL BURDEN OF ILLEGAL IMMIGRATION ON UNITED STATES TAXPAYERS—2023
COST STUDY

MARCH 8, 2023

Report by FAIR Research—March 2023

The following is a summary of our cost study findings. To access our full report, including State-specific information, [click here](#).

KEY HIGHLIGHTS

- At the start of 2023, the net cost of illegal immigration for the United States—at the Federal, State, and local levels—was at least \$150.7 billion.
- FAIR arrived at this number by subtracting the tax revenue paid by illegal aliens—just under \$32 billion—from the gross negative economic impact of illegal immigration, \$182 billion.
- In 2017, the estimated net cost of illegal migration was approximately \$116 billion. In just 5 years, the cost to Americans has increased by nearly \$35 billion.
- Illegal immigration costs each American taxpayer \$1,156 per year (\$957 after factoring in taxes paid by illegal aliens).
- Each illegal alien or U.S.-born child of illegal aliens costs the United States \$8,776 annually:
- Evidence shows that tax payments by illegal aliens cover only around a sixth of the costs they create at all levels in this country.
- A large percentage of illegal aliens who work in the underground economy frequently avoid paying any income tax at all.
- Many illegal aliens actually receive a net cash profit through refundable tax credit programs.

INTRODUCTION

This cost study report is currently the only comprehensive examination of the financial impact of illegal immigration in the United States. Every day, hundreds of millions of dollars in American taxpayer money are spent on costs directly associated with illegal immigration. Only a small fraction of these costs is ever recouped from taxes paid by illegal aliens, with the rest falling on the shoulders of American citizens and legal immigrants.

Our aim in this report is to show the American people the fiscal burden of illegal immigration at every level and across nearly all aspects of life. These costs range from emergency medical care to in-State tuition; from incarcerating illegal aliens in local jails to Federal budgets that pay out billions in welfare every year. Because there are so many different ways that money is spent on illegal aliens at both the State and local levels, the information in our report is otherwise hard to find (or even intentionally hidden). This report supersedes FAIR's 2017 cost study and highlights massive increases in spending related to illegal immigration that were implemented while American citizens deal with an uncertain economy.

THE NUMBER OF ILLEGAL IMMIGRANTS IN THE UNITED STATES

Estimating the fiscal burden of illegal immigration on the U.S. taxpayer depends on the size and characteristics of the illegal alien population. FAIR defines “illegal alien” as anyone who entered the United States without authorization or anyone who unlawfully remains once his/her authorization has expired. Unfortunately, the U.S. Government has no central database containing information on the citizenship status of everyone lawfully present in the United States.

The overall problem of estimating the illegal alien population is further complicated by the fact that the majority of available sources on immigration status rely on self-reported data. Given that illegal aliens have a motive to lie about their immigration status in order to avoid discovery, the accuracy of these statistics is dubious at best. All of the foregoing issues make it very difficult to assess the current illegal alien population of the United States.

However, FAIR now estimates that there were at least 15.5 million illegal alien residents as of the beginning of 2022. This estimate takes into account drastic, ongoing increases in illegal immigration under the Biden administration. This estimate also includes some categories of individuals without legal status, like DACA recipients and parolees, who are illegal aliens under law but misleadingly excluded from many estimates. For more information on how we reached this figure, refer to the FAIR study “How Many Illegal Aliens Live in the United States?”

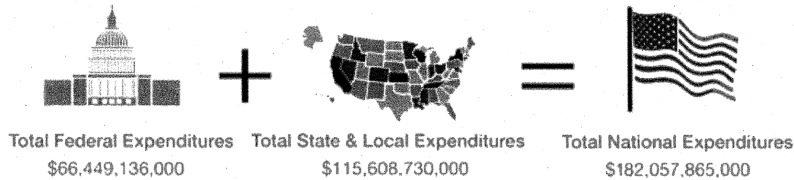
THE COST OF ILLEGAL IMMIGRATION TO THE UNITED STATES

At the Federal, State, and local levels, taxpayers shell out approximately \$182 billion to cover the costs incurred from the presence of more than 15.5 million illegal aliens, and about 5.4 million citizen children of illegal aliens. That amounts to a cost burden of approximately \$8,776 per illegal alien/citizen child. The burden of illegal immigration on U.S. taxpayers is both staggering and crippling, with the gross cost per taxpayer at \$1,156 every year.

Illegal aliens only contribute roughly \$32 billion in taxes at the State, local, and Federal levels. This means that the net fiscal cost of illegal immigration to taxpayers totals approximately \$150.7 billion.

In 2017, FAIR estimated the net cost of illegal immigration at approximately \$116 billion. This means that in just 5 years, the cost of illegal immigration has increased by nearly \$35 billion. This rapid increase is a consequence of the ongoing border crisis and a lack of effective immigration enforcement. The sections below further break down and explain these numbers at the Federal, State, and local levels.

TOTAL GOVERNMENTAL EXPENDITURES ON ILLEGAL ALIENS



TOTAL TAX CONTRIBUTIONS BY ILLEGAL ALIENS

TOTAL ECONOMIC IMPACT OF ILLEGAL IMMIGRATION

FEDERAL

Federal Spending

The approximately \$66.4 billion in Federal expenditures attributable to illegal aliens is staggering, and constitutes an increase of 45 percent since 2017. This amounts to roughly \$3,187 per illegal alien, per year.

FAIR believes that every concerned American citizen should be asking our Government why, in a time of increasing costs and shrinking resources, it is spending such large amounts of money on individuals who are not authorized to be in the United States. This is an especially important question in view of the fact that the taxes paid by illegal aliens offset very little of the enormous costs stemming from their presence in the country.

- Federal Education—\$6.6 Billion
- Total Federal Medical Expenditures—\$23.1 Billion
- Total Federal Justice Enforcement Expenditures—\$25.1 Billion
- Total Federal Welfare Programs—\$11.6 Billion
- Total Overall Federal Expenditures—\$66.5 Billion

Federal Taxes

Taxes collected from illegal aliens help offset fiscal outlays and therefore must be included in any examination of the cost of illegal immigration. However, illegal alien advocates frequently cite the alleged large tax payments made by illegal aliens as a justification for their unlawful presence and as a reason itself to grant them amnesty. That argument is nothing more than a red herring. Such claims rarely look at the costs associated with illegal immigration, and instead only focus on the amounts contributed to the economy and paid in taxes.

Most studies grossly overestimate both the taxes actually collected from illegal aliens and, more importantly, the net amount of taxes actually paid by them (i.e., the amount of money collected from illegal aliens and ultimately kept by the Federal Government). A predominant reason for this is that in recent years, the United States has focused on apprehending and removing almost solely criminal aliens (and since President Biden took office, many criminal aliens are now protected from deportation as well). Because of this, the majority of illegal aliens seeking employment in the United States now live in an environment where they have little fear of deportation even if discovered.

- Federal Tax Receipts from Illegal Aliens—\$24.6 Billion
- Net Federal Impact of Illegal Aliens—\$50.2 Billion

STATE AND LOCAL

The total fiscal burden of illegal immigration on State taxpayers has now reached a staggering \$115.6 billion, which is 30 percent more than it was in 2017. The primary reasons for this, aside from a rapid increase in the illegal alien population, are that a number of States have opted to expand access to State welfare, education, and medical programs to illegal aliens. These expansions have led to taxpayers paying tens of billions in additional funding to cover these costs.

Concerningly, as will be seen in the following section, the taxes paid by illegal aliens to State and local governments fall far short of making up for the numerous additional State-funded benefits they are receiving. Moreover, with many States set to begin offering even more benefits to illegal aliens, as mentioned previously, these costs are only expected to increase even further.

State and Local Spending

- State Educational Expenditures—\$73.3 Billion
- State Medical Expenditures—\$18.6 Billion
- State Administration of Justice Expenditures—\$21.8 Billion
- State Welfare Expenditures—\$2 Billion
- State and Local Expenditures—\$115.6 Billion

State and Local Taxes Collected

As with Federal costs, State and local costs are offset—to some degree—by the taxes illegal aliens pay. As noted in the Federal taxes portion of this section, proponents of illegal immigration argue that the taxes paid by illegal aliens result in a net boon to State and local coffers. However, this is a spurious argument. Evidence shows that the tax payments made by illegal aliens fall far short of covering the costs of the services they consume.

It is also important to note that calling illegal alien tax payments a net receipt is a mischaracterization. The overall wage depression inflicted on local labor markets by the presence of large numbers of illegal aliens willing to work for less than market rates has far-reaching fiscal implications that are often not quantified on average balance sheets. Low-wage workers generally access more government benefits than higher-paid employees. Furthermore, illegal aliens also tend to remit large portions of their earnings back to their home countries, and thus less money is incorporated back into local economies and less is paid in local sales and excise taxes. However, because this study looks at the fiscal impacts of illegal immigration, and tax collections are a fiscal offset, we do our best to estimate how much of the fiscal costs borne by taxpayers are reduced by taxes paid by illegal aliens.

Illegal aliens are not typical taxpayers. First, the large percentage of illegal aliens who work in the underground economy avoid paying any income tax at all. Those that do work in the formal economy often receive back more than they pay to the Federal Government through refundable tax credit programs. Finally, the average earnings of illegal alien households are considerably lower than earnings of legal aliens and native-born workers, thus they typically fall into the lowest tax brackets.

- State Taxes Collected—\$15.2 Billion
- Net State Impact—\$100.4 Billion

COMBINED FEDERAL STATE COST TABLES

- Federal and State Fiscal Outlays—\$182 Billion
- Federal and State Tax Contributions—\$31.4 Billion
- Net Cost of Illegal Immigration—\$150.7 Billion
- Cost of Illegal Immigration by State (PDFs)

NOTES ABOUT THIS REPORT

- A Note on the Lack of Transparency in Government Data Reporting
- Summary of Methodology

Chairman GREEN. I now recognize Ms. Greene.

Ms. GREENE. Thank you, Mr. Chairman.

Human trafficking is a \$150 billion-a-year industry. In 2021, Georgia had one of the highest number of cases per capita that were reported through trafficking hotlines. The northern area of Atlanta is well-known. It is one of the highest places of human trafficking, human sex trafficking of women and children. Women and girls represent approximately 71 percent of all trafficking victims globally. More than 90 percent of detected female victims are trafficked for the purpose of sexual exploitation. Approximately one-third of all human trafficking victims are children. This next sentence is hard to even read because it is our country. The United States is one of the top destinations for human trafficking and is among the largest consumers of child sex. The average age of entry into the commercial sex market is 12 years old.

In the past few weeks, there has been a lot of controversy about a movie called “Sound of Freedom”. I can’t understand why anyone would say anything negative about a movie that is trying to expose child sex trafficking, especially when it involves our United States border.

Ms. Vaughan, can you tell me, is it a conspiracy theory? Is child sex trafficking a conspiracy theory?

Ms. VAUGHAN. It is most certainly not a conspiracy theory. It occurs far too much. I have met with and hugged survivors and heard what they have gone through. To refer to it as a conspiracy is an insult to what they have endured.

Ms. GREENE. Is our border a serious issue, the fact that our border is open, and the amount of people coming across our border, is that contributing to child sex trafficking?

Ms. VAUGHAN. It is most definitely contributing to the problem of not only child sex trafficking, but forced labor and domestic servitude and debt bondage, as we’ve discussed today.

Ms. GREENE. Is our current administration’s border policies contributing to child sex trafficking?

Ms. VAUGHAN. They are certainly facilitating it, yes. So it’s happening with more frequency as a result of the loose policies at the border and the lack of enforcement, frankly, in the interior of the country as well that would help rescue some of these survivors—or at least turn them into survivors as opposed to victims.

Ms. GREENE. Thank you, Ms. Vaughan.

Fentanyl deaths are at an all-time high, 300 Americans dying every single day from fentanyl. Having a top government official on the Mexican cartels’ payroll helped the cartels operate with impunity, moving tons of drugs around the world and make billions. It cost the cartels as little as \$.10 to produce the fentanyl-laced fake

prescription pill—\$.10. That is sold in the United States for as much as \$10 to \$30 per pill.

Mr. Maltz, with your experience in your career in the DEA, is the amount of fentanyl coming across our border, is this an all-time high?

Mr. MALTZ. Yes. I mean, this is the greatest drug threat we've ever faced in the history of the country. But I want to add that it's really not a drug, it's a chemical weapon coming out of China. Just like the K2, the spice now, the xylazine, that is rotting people from the inside out. This is deliberate, in my opinion, my expert opinion, from all the years of doing this. I lived this nightmare starting in about 2008, and then fentanyl started 2012. This is deliberate, and I would say based on my experience, it's like—just like the Afghans used to say, selling heroin to the West is a Jihad against America. Well, for China, they're undermining, they're destroying our country and they're sitting back using the Mexican cartels to do the dirty work.

Ms. GREENE. I agree with you Mr. Maltz. I believe, and I would ask your opinion as well, with the Biden administration's policies allowing the Mexican cartels to traffic the amount of poison fentanyl that is coming across China, it seems to be it is not negligence. It is not that they don't know it is happening, they know it is happening. It is hard to deny 300 Americans dying every single day from fentanyl. But would you agree that the Biden administration's policies is helping the Mexican cartels traffic this Chinese poison fentanyl into the United States?

Mr. MALTZ. Little boy, 3 years old, from Kentucky—and this is his mother in the coffin here with the kid because of fentanyl. It's happening every day all over the country. I deal with the families, I know. That's really sad. It's very sad that the current administration overturned strong homeland security policies that kept us all safe. That's my passion. I mean, I can't believe this is happening to this great country.

Ms. GREENE. I agree with you, Mr. Maltz. It seems that border security should be our utmost important issue that we are working on, not only to stop child sex trafficking, human trafficking, but also to prevent the poison of 300 Americans a day.

Thank you, Mr. Chairman. I yield back.

Chairman GREEN. Thank you. The gentlelady yields.

I now recognize Mr. Garcia for 5 minutes.

Mr. GARCIA. Thank you, Mr. Chairman.

Just want to also, just to be clear, just to review for the hearing, Democrats want to solve drug trafficking, we want to solve human trafficking, and certainly want to solve any sort of arms trafficking, which funds the cartels. What we don't want, and what some on this committee are hell-bent on doing, is we don't want to demonize or scapegoat immigrants, refugees, and people that need the most help. We are interested in real solutions, not going along with Republican attacks and the crusade to launch fake impeachments of Secretary Mayorkas for political gain.

Now, I do want to start with a question. Now, less than a year after the Tree of Life massacre in Pittsburgh, which we know killed 11 worshippers, a terrorist shot up a Walmart in El Paso, killing 23 people. Like the Tree of Life shooter before him, the murderer

in El Paso believed he was fighting in a war to end “Hispanic invasion of Texas”.

Mr. JONES, yes or no, is there an invasion of Texas at the Southern Border by immigrants?

Mr. JONES. No, sir. We are now in a new phase. We are a Nation overrun.

Mr. GARCIA. A Nation overrun. No longer an invasion. You don't believe there is an invasion going on?

Mr. JONES. I'm saying we're even beyond an invasion.

Mr. GARCIA. OK. Because you have on Twitter and on numerous occasions said that there is actually an invasion that is being caused by the U.S. Government, similar to the same words that have been said in this horrific shooting. So I just want to know that words actually cause impacts and can be quite dangerous here and across the country.

Our country needs responsible leadership. It needs border security. Of course Democrats agree with that. I also want to note, just to clarify the record, that more than 90 percent of hard drugs such as fentanyl enter the United States through legal crossings at ports of entry, which continues to be forgotten over and over again. Democrats have increased funding for ports of entry in the Government funding package last year, which Republicans, of course, overwhelmingly opposed.

So we keep hearing over and over again solutions that are not serious, which is why we never seem to discuss treatment programs here in this committee. There is no answers to how to improve access to health care or tackle the mental health crisis happening in our country. We just keep having the same Groundhog Day hearing over and over again, blaming migrants for a drug crisis that continues to replay itself hearing after hearing.

I want to just real quickly just go down the list and ask each of you yes or no, yes or no for each of you. Yes or no, solving the fentanyl crisis must involve addressing not only the supply, but also the demand is coming from the United States? Mr. Jones, is that correct?

Mr. JONES. It is. Also we have to remember where the demand is being supplied from.

Mr. GARCIA. Just a yes or no. So yes. Thank you, sir.

Mr. JONES. Well, you have to remember what the cartels have done now is—

Mr. GARCIA. Sir, this is my time. I just asked you for a yes or no. Thank you.

Mr. JONES. Yes.

Mr. GARCIA. Ms. Vaughan, is that correct?

Ms. VAUGHAN. Well, when a teenager ingests fentanyl—

Mr. GARCIA. Do we have to also—

Ms. VAUGHAN [continuing]. That they think is Adderall, I wouldn't call that displaying demand.

Mr. GARCIA. So you would not agree that U.S. demand is not part of the fentanyl crisis?

Ms. VAUGHAN. I think it is part of it.

Mr. GARCIA. Thank you.

Mr. Maltz.

Mr. MALTZ. Absolutely. Demand is a disaster right now.

Mr. GARCIA. Thank you.

Ms. Felbab-Brown.

Ms. FELBAB-BROWN. Yes.

Mr. GARCIA. Thank you.

Second question, just a yes or no, please. Mr. Jones, have you ever received a direct order from the President to stand down or open the border?

Mr. JONES. Have I received a direct order from the President to stand down on the border?

Mr. GARCIA. Yes. Yes.

Mr. JONES. No, sir.

Mr. GARCIA. Thank you.

Mr. Maltz, have you?

Mr. MALTZ. No.

Mr. GARCIA. Ms. Vaughan, are you aware of any such orders that have ever happened?

Ms. VAUGHAN. Am I aware of?

Mr. GARCIA. Of orders directly from the President?

Ms. FELBAB-BROWN. No, I—

Mr. GARCIA. To stand down and open the borders?

Ms. FELBAB-BROWN. I don't have any—

Mr. GARCIA. Ms. Felbab-Brown, have you ever heard of that?

Ms. FELBAB-BROWN. No.

Mr. GARCIA. Thank you very much.

Also want to just real briefly ask you about some of the border policies, though, that have been proposed by some of my friends on this committee and on the other side.

Ms. Felbab-Brown, do you think it would be a good idea to build a water-filled trench with alligators along the border? Would that be helpful in stopping the border crisis?

Ms. FELBAB-BROWN. No.

Mr. GARCIA. No? Interesting. Do you think that if we shot migrants in the legs and stopped them from coming over, do you think that would be helpful?

Ms. FELBAB-BROWN. No.

Mr. GARCIA. So those policies were actually proposed by former President Donald Trump, just to be very clear. Like Members of this committee, I am very concerned that we continue to have this hearing to essentially put down immigrants. I immigrated to this country when I was a young kid. I am proud to be a very proud American that earned and gained my citizenship. I hope that in future committees we could stop demonizing immigrants.

With that, I yield back. Thank you.

Chairman GREEN. The gentleman yields.

I now recognize the Ranking Member for his closing remarks.

Mr. THOMPSON. Thank you very much, Mr. Chairman.

To say the least, it has been a journey the last 3 hours. Mr. Chairman, I remain extremely concerned that the committee continues to focus its attention on a baseless attempt to impeach Secretary Mayorkas to the exclusion of its legitimate legislative and oversight work.

As Representative Magaziner outlined, the Department of Homeland Security, under the leadership of Secretary Mayorkas, has taken unprecedented law enforcement actions to disrupt and dis-

mantle the cartels. The notion that Secretary Mayorkas is working to advance cartel crime in America, as this hearing title suggests, is outrageous. He is working to combat it. This is a monumental task, one that entirety of the Biden administration is focused on. This committee should be focused on how we can help the administration in those efforts. This should be bipartisan. In the past, it has been bipartisan.

But now we need to look no further than the previous title for this hearing, which accused President Biden and Secretary Mayorkas of being accomplices to crime. To understand the goal of this so-called investigation, I will remind everyone that Chairman Green struck that title from the record because it didn't adhere to House rules. We can also look at the Members who accused Secretary Mayorkas of being derelict in his duties before their so-called investigation has even concluded. That doesn't seem to matter. The investigation has closed before it is even open.

They are explicit about this. In fact, the hearing that launched this investigation was called "Open Borders, Closed Case: Secretary Mayorkas' Dereliction of Duty on the Border". That is right, closed case. This doesn't sound like a good faith investigation. Releasing a report today without any consultation with Democrats isn't a good faith effort at bipartisanship. Nonetheless, I am grateful for the witnesses for appearing here today.

This is America and we have an opportunity to voice our opinions. The greatness of this country is that we can do it without any fear of a cartel or anything doing anything to us. But also the greatness of it is that at some point, as Americans, we can come together. It is a process. But I don't think citing Secretary Mayorkas, who has been here as Secretary 2 years, 6 months, is the way to go.

Democrats are prepared to work with Republicans. We have put our votes where our concerns have been. We actually support comprehensive immigration reform. We support fully funding the men and women who protect us along the border. Our votes reflect that. Our votes will continue to reflect that.

So I thank our witnesses, those who are in law enforcement, for their service. But you know, when you look at the Democrats on this committee and its diversity, it looks a lot like America today. So I hope you understand that that diversity makes us strong, but it also says that our policies have to reflect that diversity. My ancestors came over to this country in the belly of a ship, didn't want to come, but they came. I am an American. I only know this country. I will defend the right for what we do in this country and for others who used to come because we invited them to come because we were the shining star. Now, for whatever reason, we have decided that we don't want anybody else because we have enough. I reject that notion. Sure, comprehensive immigration will get us there. President Reagan knew we had a problem. He solved the problem right off the bat. He said, I am going to let everybody who is here stay here. That backlog, he wiped it out with an Executive Order.

We can do anything we want as Americans. But to demonize people who travel thousands of miles to try to get to our border because what we stand for is not our value system. Our value system

is what everybody else would like to be like. I don't ever want to change it. Comprehensive immigration reform, not impeachment, is the way for us to get there.

I yield back, Mr. Chairman.

Chairman GREEN. The gentleman yields.

I want to thank our witnesses for being here. Deeply appreciate it. I am sure the Ranking Member knows that immigration reform is handled in the Judiciary Committee and not here, but I do appreciate him bringing up the need for it. I will talk to Mr. Jordan and encourage him to take that up.

We heard today from the Ranking Member about how embarrassed he is that this committee has held 9 hearings on the Southwest Border. We have heard from our witnesses, though, that the horrific actions of the cartels are worsening secondarily to the policies of this administration. We all know the process. They allowed instant parole, they stopped detention, they stopped deportation, the catch-and-release policies happened and the migrants called home, millions have come. Make no mistake, there was no change in crime or corruption or economic conditions in Latin America. Actually, since COVID is gone, the economic conditions in Latin America have gotten better. The mass migration is secondary to the policies of this administration, period. There is no legitimate argument to suggest otherwise. Even Merrick Garland agreed that the cartels have taken advantage of these policies and are trafficking large groups to overwhelm the Border Patrol and then pass nefarious individuals the gotaways and drugs around them.

The Attorney General recognizes it. Perhaps if the Minority party owned that current administration is failing, perhaps if the administration addressed the problem, we could move on. But the numbers are not going down. CBP's One app shell game, not releasing the OFO numbers, moving the numbers from crossing over to the ports of entry and then giving automatic parole to those individuals, not decreasing the incentive. They are still coming. The drug cartels will continue to take advantage of it, just like Merrick Garland said. We have allowed automatic parole through this app and those numbers are not being counted. The border is open. The incentive for mass migration remains. As I said, they are coming. The drug cartels are seizing the opportunity.

My Democrat colleagues have said it is a waste of time to look into cartel crime. They said it was a waste of time to address the dead Americans to fentanyl. Nine Committee hearings is too many. They say look at all the policies that this administration has done. Well, they are not working. Fix it and maybe we will stop these hearings. I happen to believe personally, as do many people in this country, that the Southwest Border, the human trafficking, the overdose deaths, the cartel crime, is the greatest threat to this country. So yes, we are going to continue until the border is controlled and the cartels are stopped. When Americans stop dying, then we will stop these hearings.

Open border, drug cartels seizing the day, partnering with gangs that have taken over the criminal activity in many of our cities, that is what is happening. The Dems on this panel don't want to discuss it.

No one has denigrated immigration today. Not a single individual has picked on a particular race of individuals or anything, yet that is what they want to imply. I am offended by that. This is about migration policies that have resulted in the drug cartels taking advantage of them and killing Americans.

I hope the media is paying attention. Americans are dying and the left is saying our committees investigating this as an embarrassment. Sixty-one percent of Americans get it, though. That is the percentage of Americans who say that our border is not controlled by us, yet investigations are an embarrassment.

As for impeachment, my Democrat colleagues keep saying how this is somehow an impeachment effort. I have never used those words, not here in this committee and not at this supposed recording that they keep talking about.

They also say that somehow this discussion is racist. It is not racist to say we have a problem at our Southern Border. It is not racist to say that the cartels are seizing this opportunity of our open border and the automatic parole and the mass waves of people who are coming. It is not racist to say that. The only reason they bring up that it is racist or that we are trying to impeach, or it is some kind of dog-and-pony show is because they can't tell you that Americans aren't dying. They can't say, oh, look, the numbers are going down on Americans dying due to fentanyl, look, the drug cartel crime is going down in America. They can't make a valid argument against those facts and so they say we are racist or imply that we are racist, or that we somehow have some game here, or that it is embarrassing that we have had 9 committee hearings on this. Well, I will tell you when the committee hearings will end. They will end when this administration starts fixing the problem. They will end when the White House recognizes that their Secretary of Homeland Security isn't doing his job. That is called a dereliction of duty. That is when the hearings will end.

It is the job of this committee to get to the bottom of what is going on and we will do it. The Democrats are on record, they think this Homeland Security Committee, its investigation of the border, the oversight of the border is embarrassing. They don't want these hearings because they don't want the light shined on what is going on. The decisions made by this White House and the DHS Secretary.

Well, like I said, we will not stop until we get to the bottom of it and the problem gets fixed, period.

Again, I thank our witnesses for being here.

As I said, this doesn't end these hearings, but it does end this one. The committee is adjourned.

[Whereupon, at 5:11 p.m., the committee was adjourned.]



OVERSIGHT OF THE U.S. DEPARTMENT OF
HOMELAND SECURITY

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

WEDNESDAY, JULY 26, 2023

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- DHS data on U.S. Immigration and Customs Enforcement, submitted by the Honorable Becca Balint, a Member of the Committee on the Judiciary from the State of Vermont, for the record
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OVERSIGHT OF THE U.S. DEPARTMENT OF HOMELAND SECURITY

Wednesday, July 26, 2023

HOUSE OF REPRESENTATIVES

COMMITTEE ON THE JUDICIARY

Washington, DC

The Committee met, pursuant to notice, at 10:01 a.m., in Room 2141, Rayburn House Office Building, Hon. Jim Jordan [Chair of the Committee] presiding.

Members present: Representatives Jordan, Issa, Buck, Gaetz, Johnson of Louisiana, Biggs, McClintock, Tiffany, Massie, Roy, Bishop, Spartz, Fitzgerald, Bentz, Cline, Gooden, Van Drew, Nehls, Moore, Kiley, Hageman, Moran, Lee, Hunt, Fry, Nadler, Lofgren, Jackson Lee, Cohen, Johnson of Georgia, Schiff, Swalwell, Lieu, Jayapal, Correa, Scanlon, Neguse, McBath, Dean, Escobar, Ross, Bush, Ivey, and Balint.

Chair JORDAN. The Committee will come to order.

Without objection, the Chair is authorized to declare a recess at any time.

We welcome everyone to today's hearing on Oversight of the Department of Homeland Security. We welcome the Secretary here.

The Chair now recognizes the gentleman from Texas to lead us in the pledge.

ALL. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all.

Chair JORDAN. The Chair is now recognized for an opening statement.

After 2½ years of the Biden border crisis, here is what administration officials have to told us:

The Biden Administration's policies have led to more national security threats. The Biden Administration's policies make it less likely—less likely—that enforcement actions will be taken against criminal aliens.

ICE officers have been reassigned from their duties locating and arresting aliens to simply processing illegal border crossers, if they report to ICE, as they were ordered to when they were released at the border.

ICE officers are attempting to arrest fewer aliens because of the Biden Administration's enforcement priorities memo.

According to the IG, we know that even aliens who illegally cross the border who are on the Terrorist Watchlist can be released into the United States, free to board an airplane, and head to the U.S. city of their choice.

We know that record numbers of illegal aliens, terrorists, and fentanyl have crossed our Southwest border during the 2½ years of this administration.

We know that not only are communities on the Southwest border overwhelmed, so are cities 2,000-plus miles away from the border.

With the current rate of removals and the current number of nondetained aliens who have been ordered removed from the United States at over 1.2 million, it would take 20 years for removal of those individuals.

Criminal aliens who could have been removed under previous administrations are likely not subject to removal today under the Biden Administration.

We know that Border Patrol does not specifically check the home country criminal history of aliens it encounters at the border.

We know that the Biden Administration's open border policies have led directly to the deaths of Noel Rodriguez and Kayla Hamilton, the violent assault of a teenaged girl in Alabama, and the victimization of countless other American citizens.

We know that this administration repeatedly violates the law under the guise of instituting safe, orderly, and humane policies, but nothing about the Biden Administration's policy is safe, orderly, or humane.

In fact, there have been more than 5.6 million illegal alien encounters across the Southwest border since the start of the Biden Administration, and that doesn't include the over 1.5 million gotaways.

Millions of foreign nationals have indebted themselves to the smuggling cartels to get to this country. Millions of foreign nationals have subjected themselves to assault, robbery, or worse, on the way to the border, because they know that, more likely than not, they will be allowed to stay in the United States once they get here.

I know that today Secretary Mayorkas is going to try to paint a rosy picture of this disastrous mismanagement of our border, but the numbers don't lie. As of June, border encounters were down from record highs of 252,000–145,000. Only this administration and my Democrat colleagues would call it a success when monthly encounter numbers are near 150,000.

In fact, from Fiscal Year 2014 to the beginning of the Biden Administration, there were only four months with an apprehension number higher than 100,000. Under the Biden Administration, there have now been 29 straight months—29 months in a row—with more than 100,000 border encounters, illegal encounters on our borders.

DHS was created in the wake of September 11, 2001, after the terrorist attack. It was created to help ensure Americans' safety. Admittedly, this is an enormous task, and it is one in which this Secretary has completely failed.

Instead of building off the previous administration's success, this administration has abandoned any semblance of border security and immigration enforcement. Americans are paying the price and they demand accountability.

With that, I yield to the Ranking Member, the gentleman from New York, for an opening statement.

Mr. NADLER. Thank you, Mr. Chair.

Mr. Chair, we are, once again, far afield from the work this Committee should be doing. The Department of Homeland Security was born in the wake of the September 11th attacks and exists to protect our Nation from new and emerging threats. That work is serious business.

In years past, under the leadership of Chair of both parties, when we welcomed the Secretary of Homeland Security into this hearing room, we took our responsibilities seriously. To be sure, some of the questions we posed in those past hearings were tough. Debate is often heated when we discuss important topics like immigration and the security of the Nation. Our work on both sides of the aisle was grounded in a good-faith effort to advance the mission of the department and to keep our country safe.

How times have changed. A few weeks ago, desperate for votes on the debt ceiling deal, Speaker McCarthy promised the extreme MAGA wing of his party that they could pursue the impeachment of Secretary Mayorkas.

As Representative Marjorie Taylor Greene put it, if she was going to vote for the debt ceiling bill, she wanted some, quote, “dessert.” As she so eloquently put it, “Everyone loves dessert and that’s impeachment. Someone needs to be impeached.”

Like many of her colleagues, she seemed not to care who was impeached, so long as they could engage in the political exercise of impeaching somebody in the Biden Administration. She singled out Secretary Mayorkas as, quote, “the lowest hanging fruit.”

Unfortunately, as we have already heard from the Chair, today’s hearing will not be about legitimate Congressional oversight or finding out the facts. Instead, the Chair and his colleagues in the majority will use today’s hearing as a predicate for a completely baseless attempt to impeach Secretary Mayorkas. They will do so at the behest of the most extreme MAGA Republicans. It will be one more exercise in political theater for the right-wing outrage machine before the August break. Sadly, the outrage will be entirely evidence-free.

Don’t just take my word for it. In October 2022, before the Republicans took the majority, and before any investigation had started, Chair Jordan said that Secretary Mayorkas deserves impeachment.

More recently, he said, quote, “It is not a matter of if; it’s a matter of when.” That’s right, who needs high crimes and misdemeanors? Chair Jordan thinks the DHS Secretary should be impeached because he, quote, “deserves it.”

To be clear, Republicans have not established any legitimate grounds to impeach Secretary Mayorkas. They have not uncovered evidence of wrongdoing or malfeasance of any kind. They have policy disagreements with the Secretary, and so do we, but policy disagreements and personal grudges are not a basis for impeachment.

Throughout this hearing, you will hear more of the same bogus claims that we have been hearing for the past six months—some of it dangerous; some of it petty; none of it true.

First, Republicans will say that, as a result of, quote, “invasion” of migrants at our Southern border, we no longer have a country.

Second, they will say that Secretary Mayorkas opened our borders deliberately and is willfully violating our immigration laws.

Third, they will say that all migrants are suspect because they are smuggling drugs, especially fentanyl, across our Southern border.

Fourth, they will say, without evidence, that Secretary Mayorkas lied to Congress.

Not one of these claims is true. Let's address each one in turn.

The invasion narrative some Members push in this hearing room is bigoted, fact-free, and dangerous. Next month, we will commemorate the fourth anniversary of the El Paso shooting. In 2019, a domestic terrorist walked into a Walmart in El Paso, Texas and murdered 23 people and injured 22 others. He posted a hateful and racist manifesto online prior to the attack, espousing White nationalist theories, like the great replacement theory, and claiming that there was a, quote, "Hispanic invasion." He told investigators that he was targeting Mexicans.

We can draw a straight line from the hateful rhetoric we hear from some Congressional Republicans to that horrific tragedy. Our words matter. I implore my colleagues to be careful about how we discuss these issues today.

I hope we can stick to the actual facts. Opened our borders? The reality is that Secretary Mayorkas is aggressively enforcing our immigration laws. The administration has issued a new asylum regulation that just yesterday a court determined was too restrictive. The administration has also opened additional legal pathways for migrants to come via refugee processing on a case-by-case parole determination.

No matter what you think of these policies, they appear to be working. As of now, border numbers are at their lowest point since February 2021, with border apprehension numbers down 70 percent—down 70 percent—from they were just 10 weeks ago.

Further, the Biden Administration has deported or expelled over 2.5 million people in the last two years. This is nearly as many people as President Obama deported in his entire eight years in office.

These are not the policies of an open border or an administration not executing our laws. They are the opposite.

As we have discussed, drugs are, in fact, coming into this country. However, as every expert seems to agree, they are coming largely through ports of entry. According to CBP's own data, they are being brought in overwhelmingly by U.S. citizens.

Last, no, the Secretary did not lie to Congress. Nobody believes that Secretary Mayorkas knowingly and willfully misled Congress during last year's testimony, and any assertion to the Congress is flat-out false.

Thank you for being here today, Secretary Mayorkas. I hope the good men and women of the department will not be disheartened by what they hear today. I have confidence that they will not let these baseless attacks deter them from their commitment to the work that is so essential to the safety of our Nation.

With that, I thank the Chair and I yield back.

Chair JORDAN. The gentleman yields back.

Without objection, all other opening statements will be included in the record.

Chair JORDAN. We will now introduce today's witness, the Hon. Alejandro Mayorkas. Mr. Mayorkas is Secretary of the Department of Homeland Security. He was sworn in on February 2, 2021.

We welcome our witness and thank him for appearing here today.

We will begin by swearing you in. Will you please rise and raise your right hand.

Do you swear or affirm under penalty of perjury that the testimony you're about to give is the truth and correct, to the best of your knowledge, information, and belief, so help you God?

Let the record reflect that the witness has answered in the affirmative.

Mr. Mayorkas, you know how this goes. You've done this several times. You get approximately five minutes for an opening statement. We got your written statement last night. I read through it. We'll look forward to your remarks, and then, we'll go right into questioning.

STATEMENT OF THE HON. ALEJANDRO MAYORKAS

Secretary MAYORKAS. Thank you very much, Mr. Chair, Ranking Member Nadler, distinguished Members of this Committee.

I'm immensely proud to be here to discuss the work of the United States Department of Homeland Security. Every day, members of our extraordinary workforce—260,000 selfless, dedicated, and talented public servants across the country and around the world—make sure that travelers reach their destination safely; protect our shores and harbors; keep fentanyl and other deadly drugs from entering our country; help families rebuild after the devastation of a natural disaster; protect our ability to safely and securely turn on our computers, faucets, and lights, and secure our border, despite the broken and outdated immigration system in which we operate.

These heroic men and women are meeting challenges that have grown more complex and dynamic throughout the 20 years since our department was established. As the threats have evolved, so, too, has our department—innovating and advancing, as we secure our homeland and keep the American public safe.

We are leading an unprecedented effort to interdict the flow of fentanyl into our communities, which has escalated for more than five years. We seized nearly two million pounds of narcotics last fiscal year. Operations Blue Lotus and Four Horsemen alone stopped nearly 10,000 pounds of fentanyl from the U.S.; led to 284 arrests and yielded invaluable insights into the transnational criminal organizations wreaking this death and destruction on our communities.

When our department was created after the tragedy of 9/11, foreign terrorists were our primary terrorism-related focus. While that concern certainly persists, the most prominent terrorism-related threat we now confront is from lone offenders and small groups already present here and radicalized to violence, based on ideologies of hate, antigovernment sentiments, false narratives, and personal grievances.

Thanks to support from Congress, we have developed grant programs and distributed more than \$50 million in funds to help communities prevent acts of targeted violence and terrorism.

Our approach to managing the border securely and humanely, even within our fundamentally broken immigration system, is working. Unlawful entries between ports of entry along the Southwest border have consistently decreased by more than half compared to the peak before the end of Title 42.

Under President Biden's leadership, we have led the largest expansion of lawful, safe, and orderly pathways for people to seek humanitarian relief under our laws, at the same time imposing tougher consequences on those who, instead, resort to the ruthless smuggling organizations that prey on the most vulnerable.

We secured the first increase in Border Patrol Agent hiring in more than a decade, and our campaign to disrupt and dismantle human smuggling networks has resulted in the arrest of nearly 14,000 smugglers.

We have taken bold and decisive action to counter the cybersecurity threat from Nation-States like the People's Republic of China, Russia, Iran, and North Korea, and from cyber criminals around the world who targeted our critical infrastructure and seek to hold schools, hospitals, police departments, and other institutions vital to our daily lives hostage for ransom.

We have seen the recent devastation that increasingly severe and frequent extreme weather events have brought to Kentucky, Florida, Vermont, Oklahoma, New York, and many other States. Our department, through FEMA, is working with partners across the Federal Government to support communities impacted by unprecedented natural disasters and help them strengthen their long-term recovery and resilience through grant funds, technical assistance, and on-the-ground support. This and so much more.

The DHS workforce does all of this with honor, integrity, and the resolve to safeguard our people, our homeland, and our values. They perform bravely, despite public attacks on their character and service; despite unfair and inadequate pay, and despite, as front-line agents repeatedly tell me, threats made against them and their families.

These public servants deserve better. Supporting the men and women of DHS has been my top priority since taking office. We have expanded departmental efforts to solicit and incorporate feedback from personnel across all components and all levels; worked to ensure that every employee works in a high-quality facility; made new resources available across the department for employee mental health and well-being, and earlier this week, facilitated long-overdue pay fairness for TSA personnel.

Our department and this Congress need to work together as partners to address the threats and challenges America faces. We must fix our broken immigration system; fund the continuing protection of local communities; disrupt and dismantle transnational criminal organizations and implement the latest technologies to advance our mission.

Americans are safer today on the border, in the air, at sea, across the country, and around the world because of the Department of

Homeland Security. Serving with the personnel of DHS is the greatest honor of my life.

I look forward to continuing to work together on their behalf, and I look forward to your questions.

[The prepared statement of the Hon. Mayorkas follows:]



TESTIMONY OF

Alejandro N. Mayorkas
Secretary
U.S. Department of Homeland Security

BEFORE

Committee on the Judiciary
United States House of Representatives

ON

“Oversight of the U.S. Department of Homeland Security”

July 26, 2023
Washington, DC

Introduction

Distinguished Members of this Committee:

I am proud to submit this testimony on behalf of the 260,000 people across our nation and across the world who make up the Department of Homeland Security.

Our workforce makes sure that travelers reach their destinations safely; they protect our shores and harbors; they help families rebuild after the devastation of a natural disaster; they guarantee our ability to safely and securely turn on our computers, faucets, and lights; they keep deadly drugs off of our streets and away from our children; and they work to secure our border, despite the broken and outdated immigration system in which they operate.

The men and women of DHS are our most important and vital resource. Serving alongside them is the greatest honor of my life, and supporting them has been my top priority since taking office. I am immensely proud of our expanded Departmental efforts to solicit and incorporate feedback from personnel across all components and all levels, our focus on ensuring every employee works in a high-quality facility, and our work making new resources available across the Department for employee mental health and well-being. Our collaboration with Congress has been essential for these successes, including our efforts to fully fund TSA's employee pay initiative and ensure each of TSA's 65,000 employees is paid at a level comparable to their counterparts on the General Schedule pay scale.

Together, we are enabling our workforce to effectively prevent, prepare for, and respond to the increasingly diverse and complex threats and challenges facing our country.

The most urgent and lethal of these threats to American communities today is fentanyl. The devastation of fentanyl has been escalating over at least the past five years. Drug deaths nationwide reached a record high last year, driven by transnational trafficking organizations intent on bringing death and destruction to our communities. Through U.S. Customs and Border Protection (CBP), the U.S. Coast Guard (USCG), Immigration and Customs Enforcement (ICE), and the Transportation Security Administration (TSA), we are leading an unprecedented effort against these criminals. We are screening people, cargo, and vehicles at our ports of entry more efficiently and effectively, and we seized nearly two million pounds of narcotics last fiscal year thanks to new technologies and our robust partnerships with federal, state, tribal, and local law enforcement agencies.

Combatting the scourge of fentanyl is just one of twelve priorities I set to advance the wide-ranging mission of our Department. Each priority reflects the evolving threat landscape our country faces, and is yielding real results for the American people.

We are eager to work with Congress to continue innovating and to expand our capabilities to confront the threats and challenges facing our communities. To give one example, Unmanned Aircraft Systems (UAS) can be used to convey narcotics across borders, as well as to violate Secret Service protective operations, disrupt airport operations, and conduct kinetic

attacks. It is vital that Congress act this year to extend and expand the Department's counter-UAS (C-UAS) authorities to protect against this malicious drone activity.

The terrorism-related threat to the United States now predominately comes in the form of lone offenders and small cells, for instance, so DHS has, in response, announced \$2 billion in preparedness grant funding for this fiscal year, including \$305 million for the National Security Grant Program to support nonprofit organizations' preparedness activities and enhance broader state and local preparedness efforts. DHS has also invested more than \$50 million over the past three years to help communities prevent acts of targeted violence and terrorism, and we have done so in a way that respects civil rights and liberties, and privacy protections. We are grateful for Congress's funding of these grant programs.

We must address the flawed foundation on which our immigration system is built: there remains an approximately two million case backlog in our immigration courts; two million Dreamers still lack immigration status and cannot fully contribute to their communities; and our immigration laws provide for just 140,000 immigrant visas each fiscal year for noncitizens to come to the United States for work, despite ten million open jobs in the U.S. labor market.

Within the confines of that broken system, our Department's approach is working. Under President Biden's leadership, we have led the largest expansion of lawful, safe, and orderly pathways for people to come to the United States in decades, and we have, at the same time, imposed tougher consequences on those who choose not to use those pathways – consequences that have resulted in the return, removal, and expulsion of more than 665,000 people in the first half of this fiscal year. We secured the first increase in Border Patrol Agent hiring in more than a decade, adding 300 in FY2023 and asking for 350 in FY2024. We launched an unprecedented campaign to disrupt and dismantle human smuggling networks, resulting in the arrest of nearly 14,000 smugglers. We launched regional advertising campaigns and broadcast our message to would-be immigrants across the Hemisphere: that our borders are not open, and people who cross our border unlawfully and without a legal basis to remain will be promptly processed and removed. America needs an immigration system for the 21st century, and only Congress can provide a sustainable one.

Natural disasters are intensifying. While we cannot eliminate the climate threats we face as a nation, DHS is working with partners across the federal government to support communities impacted by unprecedented extreme weather events and help them strengthen their long-term recovery and resilience.

Urgent and unforeseeable challenges continue to threaten international trade and travel. To ensure we are prepared to respond rapidly when these challenges arise, DHS has established first-of-their-kind Department-wide incident management teams to lead all-of-government responses. The results of this commitment to Departmental cohesion and improved mission execution can be seen in the success of our efforts to vaccinate millions of Americans against COVID-19 and provide protection for fleeing Ukrainian citizens through Uniting for Ukraine.

Finally, as the world has grown exponentially more connected over the last 20 years, so too has the ability of malicious actors to exploit these connections. Nation states like the People's

Republic of China (PRC) and Russia are now capable of threatening any community in the world.

In response, DHS is working collaboratively with our partners across government, at home and abroad, and with industry and academia, to manage these security risks. We are addressing cyber risks through the Cybersecurity and Infrastructure Security Agency's (CISA)'s Joint Cyber Defense Collaborative (JCDC), which was recently expanded to include major energy and financial sector firms. Through the Cyber Safety Review Board (CSRB), experts from the public and private sectors develop actionable recommendations to strengthen our collective security, and our Cybersecurity Performance Goals (CPGs) provide businesses and critical infrastructure owners with a roadmap to protect themselves and the people they serve.

We are looking to the future. I have directed a 90-day Department-wide sprint to assess how threats posed by the PRC will evolve, and how DHS will best position itself to guard against future manifestations of these threats. I have also directed the creation of our Department's first Artificial Intelligence (AI) Task Force, which is driving specific applications of AI to advance our homeland security missions – from deploying AI to more ably screen cargo and identify the importation of goods produced with forced labor, to better detecting fentanyl shipments and interdicting the flow of precursor chemicals.

With our daily work touching each of these priority areas and more, the Department of Homeland Security's mission has never been more vital to the safety and well-being of our nation. Our components are collaborating more closely than ever before. Americans are safe today because of the work – on the border, in the air, at sea, and across the country and around the world – that the Department of Homeland Security performs every day.

Combating Terrorism and Targeted Violence

Since this Department's inception, the threat landscape has evolved dramatically. DHS has remained agile and vigilant to address all terrorism-related threats to the homeland.

Foreign Terrorist Threats

Our assessments indicate that foreign terrorist organizations (FTOs) will continue to maintain a highly visible presence online and prioritize messaging focused on inspiring homegrown violent extremists (HVEs) to conduct attacks in the United States. Media branches of designated FTOs, including the Islamic State of Iraq and ash-Sham (ISIS) and al-Qa'ida, continue to target U.S. and Western-based audiences with their media releases. These releases address a variety of topics, including operational and communication security guidance, such as warning their supporters about the risks of engaging with associates online, and encouraging the use of violence by their supporters. ISIS and its supporters continue to call for attacks in the United States, and supporters often share tactics and techniques for increasing the effectiveness and reducing the likelihood of detection. Additionally, ISIS-Khorasan (ISIS-K) continues to hone its external operations capability – including using social media to contact potential supporters – and continues to represent a threat that requires close coordination and cooperation with our international allies.

We continue to see that Iran, a state sponsor of terrorism, and its partner, Lebanese Hezbollah, pose an enduring threat to the homeland, evidenced by Iran's public statements threatening retaliation in the United States for Islamic Revolutionary Guard Corps Quds Force (IRGC-QF) Commander Qasem Soleimani's death and arrests of IRGC and Hezbollah members plotting operations in the United States. In the past several years, U.S. law enforcement has arrested numerous individuals for spying on Iranian dissidents in the United States and for acting as agents of influence for the Iranian Government. In August 2022, federal prosecutors unsealed charges against an IRGC member for plotting to assassinate a former U.S. official. In January 2023, prosecutors announced charges and a new arrest in connection with an assassination plot directed from Iran. Members of an Eastern European organized crime group are alleged to have plotted to murder a U.S. citizen of Iranian origin in New York City who has publicly opposed Iran's government. Given its capabilities, Iran could advance an attack plot targeted at the United States with little to no warning. DHS continues to work closely with other law enforcement agencies and the Intelligence Community (IC) to remain aware of ongoing threat streams and take preventative actions, as appropriate.

DHS works closely with our law enforcement, national security, and IC partners to continuously improve our ability to identify individuals who pose a national security or public safety threat and who seek to travel to the United States or receive an immigration benefit. In FY 2022, the National Vetting Center (NVC), managed by DHS, expanded support to DHS and the Department of State (DOS) for the vetting of refugee applicants and all non-immigrant visa applicants worldwide. Through technology advancements, the NVC has increased efficiencies in vetting processes, improving our ability to identify potential threats.

We continue to build partnerships with foreign governments that increase our information sharing and vetting capabilities. DHS is constantly striving to increase our ability to engage in biometric comparison with our foreign partners, and recently added a new requirement to the Visa Waiver Program (VWP) to require participating countries to enter into an Enhanced Border Security Partnership (EBSP). Under EBSP, DHS and VWP member countries will be able to conduct biometric checks against each others' biometric data to authenticate the identity of individuals seeking to travel under the VWP, and to receive information with regard to whether nationals of individual VWP countries traveling to the United States or to our VWP partners represent a threat to the security and welfare of the homeland or our partners.

As a key part of the interagency approach to countering all threats, DHS's Office of Intelligence and Analysis (I&A) is uniquely positioned to provide timely and accurate intelligence to the broadest audience at the lowest classification level possible. DHS, the Intelligence Community (IC), and our state, local, tribal, territorial, and campus (SLTTC) partners rely on I&A's contributions and unique authorities to share this information. DHS will continue to leverage our deployed intelligence professionals to ensure the timely sharing of information and intelligence with DHS components and SLTTC partners, in accordance with applicable law and privacy, civil rights, civil liberties, and intelligence oversight policies. These activities, as well as the information that I&A collects around the country about the fentanyl trade, human smuggling, and other serious threats to the homeland, yield unique insights that are invaluable to our DHS and IC partners with related missions.

Violent Extremism and Targeted Violence

The evolving threat to the homeland also includes lone offenders or small groups motivated by a wide range of ideologies and personal grievances, which DHS and the Federal Bureau of Investigation (FBI) assess to be the primary terrorist threat to the homeland. These can include individuals inspired by FTOs and domestic violent extremists (DVEs) based and operating primarily in the United States who seek to further political or social goals wholly or in part through unlawful acts of force or violence without direction or inspiration from an FTO or foreign power. DVEs are motivated by various factors, including biases against racial and religious minorities, grievances towards women, perceived government overreach, and conspiracy theories promoting violence.

In June 2023, DHS and the FBI jointly assessed that a wide range of DVEs continue to pursue attacks against a diverse set of targets, including democratic institutions, government officials, critical infrastructure, and soft targets in pursuit of their social or political goals. DVE reactions to flashpoint events likely will contribute to violence or criminal activity carried out primarily by lone actors – with a potentially heightened threat environment during the 2024 election cycle – and DVEs will use evolving conspiracy theories to justify threats of violence.

Among DVEs, DHS assesses that racially or ethnically motivated violent extremists (RMVEs), such as those who advocate for the superiority of the white race, present the most lethal DVE threat to the homeland. In many cases, prior to their planned attacks, threat actors have spent inordinate amounts of time online viewing violent material and engaging with like-minded individuals. RMVEs often have the most persistent and concerning transnational connections because adherents to this ideology are present throughout the West. They frequently communicate with each other and, at times, have inspired attacks. Such connectivity with overseas violent extremists might lead to a greater risk of U.S.-based RMVEs mobilizing to violence.

DHS has invested more than \$50 million over the past three years in communities across the United States to help prevent acts of targeted violence and terrorism through the Targeted Violence and Terrorism Prevention (TVTP) Grant Program. Managed by the DHS Center for Prevention Programs and Partnerships (CP3) and the Federal Emergency Management Agency (FEMA), this program provides funding for SLTTC governments, nonprofits, and institutions of higher education to establish or enhance capabilities to prevent targeted violence and terrorism. Last September, DHS announced 43 TVTP grant awards to entities in 20 states, totaling \$20 million for FY 2022. These awards fulfill the grant program's focus on prioritizing the prevention of domestic violent extremist acts, while respecting individuals' privacy, civil rights, and civil liberties.

DHS also provides security funding to support facility hardening and other operational and physical security enhancements for nonprofit organizations, including religious institutions, at risk of terrorist attacks through the Nonprofit Security Grant Program (NSGP). The Department is grateful that Congress supported this critically important program by providing \$305 million in the FY 2023 Consolidated Omnibus Appropriations Act, an increase of \$55 million from FY 2022 levels. The President's FY 2024 Budget proposes a further increase to

\$360 million. These funds are in addition to the resources provided by DHS to our state and local partners through the Homeland Security Grant Program (HSGP), in which DHS designated Combating Domestic Violent Extremism as a “National Priority Area” for both FY 2021 and FY 2022. As a result of this designation, between FY 2021 and FY 2022, states and local governments across our nation spent over \$111 million in grant funding on capabilities to detect and protect against these threats.

Through the Presidential Threat Protection Act of 2000, Congress formally authorized the U.S. Secret Service (USSS) to establish the National Threat Assessment Center (NTAC) to conduct research, training, and consultation on threat assessment and the prevention of targeted violence. NTAC leads the field of targeted violence prevention by producing world-class research examining all forms of domestic terrorism, targeted violence, mass casualty attacks, and attacks against K-12 schools.

NTAC’s experts provide training and guidance for professionals from a wide range of agencies and institutions on establishing threat assessment frameworks and targeted violence prevention programs unique to their organization’s missions and needs. In FY 2022, NTAC delivered over 280 trainings and briefings to over 28,000 participants, including state and local law enforcement, government officials, educators, mental health professionals, faith-based leaders, and workplace security managers. The number of events and participants reached by NTAC in FY 2022 represents the highest total in the Center’s history.

On January 25, 2023, NTAC released its most comprehensive analysis of mass attacks to date, titled *Mass Attacks in Public Spaces: 2016 – 2020*. This study analyzes 173 attacks perpetrated from 2016 through 2020 in public and semi-public locations in the United States, including businesses, restaurants, retail outlets, schools, houses of worship, open spaces, and other public locations. On the day of the release, NTAC hosted a virtual training event to highlight the report’s findings. Over 21,000 public safety officials from across community sectors registered for the event, representing all 50 states and over 80 foreign countries.

The Department continues to see threats to federal employees and the targeting of federal facilities. The Federal Protective Service (FPS), a law enforcement agency within the Department, leads our efforts to provide integrated law enforcement and security services to protect more than 9,000 federal facilities across the nation, safeguarding the more than 1.4 million federal employees and visitors to these facilities. FPS works closely with federal, state, and local law enforcement across the country to investigate these threats and respond to incidents at federal facilities.

To prepare for this threat, the Department has embraced a community-based approach to preventing terrorism and targeted violence by building trust, partnerships, and collaboration across every level of government, the private sector, non-governmental organizations, and the communities we serve, while respecting First Amendment protections. We must make it harder to carry out an attack and reduce the potential for loss of life; one important way we do that is by helping to prevent mobilization to violence.

CP3 uses a public health-informed approach to targeted violence and terrorism prevention. Our efforts focus on creating evidence-based prevention resources and helping prevention providers build strengths, such as social cohesion, trust, and awareness at the individual, family, and community levels to decrease the risk of terrorism and targeted violence, such as school or workplace violence, premeditated hate-fueled violence, and terrorism. The focus of a public health-informed approach is on the health, safety, and well-being of entire populations. This approach employs strategies that have been used in other forms of violence prevention for decades, backed by program evaluations and research in areas like public health, psychology, and criminology. CP3 partners with independent research organizations to collect data, evaluate programming, and gather lessons learned from across the United States to continually improve the evidence base for terrorism and targeted violence prevention. CP3 holds privacy, civil rights, civil liberties, and the First Amendment as pillars of its prevention mission. CP3 routinely engages with DHS's Privacy Office and Office for Civil Rights and Civil Liberties to ensure all public-facing prevention resources, grants, and training materials respect Americans' privacy, civil rights, and civil liberties.

Weapons of Mass Destruction

Although terrorist capabilities to conduct large-scale attacks have been degraded by U.S. counterterrorism operations and policies, terrorists remain interested in acquiring and using weapons of mass destruction (WMD) in attacks against U.S. interests and the homeland. DHS will continue its efforts to secure the homeland from the enduring threat of terrorist use and proliferation of WMD, which poses profound and, in some cases, existential dangers to the United States. This threat continues to evolve due to advances in science and technology and as dual-use knowledge, goods, materials, and technology applicable to WMD continue to proliferate. We cannot rule out the risk of unsecured or vulnerable fissile and other source materials in the United States. DHS will help maintain a multi-layered defensive domestic network for detecting nuclear and radiological material out of regulatory control in order to disrupt WMD terrorism threats and prevent nuclear terrorism from occurring within the United States. DHS will continue developing, acquiring, and providing equipment and training to federal, state, and local partners to prevent, detect, and mitigate the impacts of these threats.

Cyber Threats

Our interconnectedness and the technology that enables it—the cyber ecosystem—expose us to a dynamic and evolving threat environment, one that is not contained by borders or limited to centralized actors, and one that impacts governments, the private sector, civil society, and every individual. As a result, cyber threats from foreign governments and transnational criminals remain among the most prominent threats facing our nation. Hostile nations like Russia, China, Iran, and North Korea, as well as cybercriminals around the world, continually grow more sophisticated and create more adverse consequences.

Within the past three years, we have seen numerous cybersecurity incidents impacting organizations of all sizes and disrupting critical services, from the SolarWinds supply chain compromise to the widespread vulnerabilities generated by open source software like Log4j. Further, ransomware incidents—like those affecting JBS Foods, Kaseya, a major pipeline

company, the Common Spirit hospital system, and the recent exploitation of the managed file transfer solution, MOVEit Transfer—continue to increase. We continue to believe there is significant under-reporting of ransomware incidents, and we assess that ransomware attacks targeting U.S. networks will increase in the near and long term. Cybercriminals have developed effective business models to increase their financial gain, likelihood of success, and anonymity.

The Department is committed to keeping Americans safe from the devastating effects of cybercrimes. Cyber criminals' primary motivation is financial gain, and criminals show little regard for whom they target. Cybercrime investigators at the USSS and HSI are dedicated to seizing and returning stolen funds to the victims and arresting those responsible. Cybercrimes are often transnational, with the criminal actors, their infrastructure, and their victims spread across the globe. The USSS was recognized by the Attorney General for its contributions to the dismantling of the Hive ransomware infrastructure used to communicate with other criminals and disrupting the group's ability to attack victims. USSS and HSI continue to partner with federal and SLTT law enforcement and with international and foreign law enforcement in combating cybercrimes.

The Department plays an important role in helping to protect our nation's critical infrastructure from these attacks. The private sector, which owns and operates most of the nation's critical infrastructure, plays a vital role in working with CISA and other Sector Risk Management Agencies (SRMAs), such as TSA and USCG, to ensure that we are aware of new attack campaigns and intrusions. That awareness in turn helps CISA advise other potential victims—increasing the nation's collective cyber defenses through our collaborative efforts.

In March 2022, President Biden signed the Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCIA) into law. CIRCIA marks an important milestone in improving America's cybersecurity. The increased number of incident reports that will be received from our private sector partners as a result of this new law will enable CISA, in partnership with other federal agencies, to build a common understanding of how our adversaries are targeting U.S. networks and critical infrastructure. This information will fill critical information gaps and allow us to rapidly deploy resources and render assistance to victims suffering cyber intrusions where appropriate, analyze incoming reporting across sectors to spot trends, and quickly share that information with network defenders to warn other potential victims. We are grateful to Congress for passing this historic bipartisan legislation, marking a critical step forward in the collective cybersecurity of our nation.

Cyber Threat Mitigation and Resilience

To respond to evolving cyber threats and increase our nation's cybersecurity and resilience, DHS has established several vehicles, including:

- The Joint Cyber Defense Collaborative (JCDC) develops and executes joint cyber defense planning with partners at all levels of government and the private sector to prevent and reduce the impacts of cyber intrusions and to ensure a unified response when they occur.

- The Cyber Safety Review Board (CSRB) is a groundbreaking public-private advisory board dedicated to after-action review of significant cyber incidents. The CSRB published its first report last summer addressing the risk posed by vulnerabilities in the widely used “Log4j” open-source software library. Its second review of the recent intrusions associated with Lapsus\$, a global extortion-focused hacker group, is nearing completion. We are asking Congress to strengthen the ability of DHS to carry out comprehensive reviews of significant cyber incidents in ways that will allow us to learn from past experience and strengthen our response to future threats.
- The Cybersecurity Performance Goals (CPGs) are voluntary practices that outline the highest-priority baseline measures businesses and critical infrastructure owners and operators of all sizes can take to protect themselves against cyber threats. In March 2023, based on a rigorous process involving stakeholders from all critical sectors and our government partners, CISA published an initial update to the CPGs. The CPGs are now categorized around the NIST Cybersecurity Framework (CSF) functions to help organizations more easily prioritize investments as part of a broader cybersecurity program built around the CSF. They include updated goals regarding multifactor authentication and recovery from cyber incidents. By clearly outlining measurable goals based on easily understandable criteria such as cost, complexity, and impact, the CPGs are designed to apply to organizations of all sizes.
- The Cyber Incident Reporting Council (CIRC), which includes 33 Federal departments and agencies, is working to coordinate, deconflict, and harmonize Federal cyber incident reporting requirements, including those issued through regulation.
- Security Directives and Emergency Amendments issued by TSA to surface transportation owners and operators and certain TSA-regulated aircraft operators and airports require the implementation of critically important and urgently needed cybersecurity measures to address persistent cybersecurity threats against these sectors.

Emerging Technology Threats

Unmanned Aircraft System (UAS) Threats

UASs, or drones, offer tremendous benefits to our economy and society, but their misuse poses real security challenges. The rapid proliferation of drones and their expanded use by hobbyists, professionals, and threat actors have required DHS to shift its response efforts to mitigate smaller, more agile, and less attributable dangers across all mission areas while still supporting the lawful use of these advanced technologies within our nation. Drones around the world have conducted kinetic attacks with payloads of explosives or firearms, caused dangerous interference with manned aviation, disrupted airport operations (causing significant economic harm), and disrupted and damaged critical infrastructure. Nearly every day, transnational criminal organizations (TCOs) attempt to use drones to convey illicit narcotics and other contraband. TCOs also use drones to conduct hostile surveillance of law enforcement and guide human smuggling across the border.

I thank Congress for extending existing law that provides DHS’s C-UAS authority through September 30, 2023. Ensuring that the existing authorities did not lapse was vital to our mission, including protecting the President and Vice President, patrolling the Southwest border,

securing certain federal facilities and assets, and safeguarding the public. DHS has exercised its current C-UAS authority by successfully executing C-UAS operations at mass gatherings, Special Event Assessment Rating (SEAR) events, and National Special Security Events (NSSEs), including the 2022 World Series, the Indianapolis 500, the United Nations General Assembly, the Democratic and Republican National Conventions, the State of the Union address, the MLB All Star Game, the New York City Marathon, and the Boston Marathon. At all times, DHS engages in these activities consistent with applicable law and in a manner that protects individuals' privacy, civil rights, and civil liberties.

To ensure the Department can continue its C-UAS activities, including protecting the 2026 World Cup events, both the Department and the Administration remain committed to a multi-year extension as well as an expansion of existing authorities. Any lapse in DHS's current C-UAS authority would entail serious risks for homeland security, as DHS would have to cease or curtail existing C-UAS operations that protect the homeland. Additionally, the Department and the Administration look forward to working with Congress, including this Committee, to expand C-UAS authority to address critical gaps in the current law, such as a lack of protection for U.S. airports and the inability of DHS to partner on C-UAS activities with SLTT enforcement officials or critical infrastructure owners or operators. To further close the gap with our SLTT law enforcement partners, we have requested, on a pilot basis, authority for a limited number of SLTT partners to detect, identify, and under appropriate federal oversight and training – including privacy, civil rights, and civil liberties protections – to mitigate drones posing a credible threat to their jurisdictions or at their facilities, respectively.

Congressional action is required, as DHS's authority to detect and counter drone threats will expire on September 30, 2023. A lapse in this authority and failing to close known vulnerabilities by expanding C-UAS authority could have catastrophic implications for homeland security.

Cryptocurrency

While most cryptocurrency is used legitimately, cryptocurrency has attributes that have already been exploited by criminals, terrorists, and other adversaries to facilitate their operations. Most notably, as it has become easier to access and more widely used in general commerce, many transnational ransomware operations are using the cryptocurrency ecosystem to obfuscate illicit requests and to facilitate the receipt of ransoms.

Many components within DHS are focused on the rising illicit use of digital assets, developing and providing training, investigating, and collaborating with interagency partners. Pursuant to the President's Executive Order 14067, *Ensuring Responsible Development of Digital Assets*, the Department contributed to the whole-of-government effort to address concerns with respect to digital assets.

For example, with domestic and international law enforcement partners, the USSS has achieved notable successes in combating cyber-enabled financial crimes, including dismantling two centralized virtual currency providers that supported extensive criminal activity, and the

successful investigation of a Russia-based criminal scheme attempting to defraud cryptocurrency exchange customers of \$16.8 million.

HSI has offices in over 50 countries and works to combat cybercrimes, including by providing training to international partners and analytical assistance in tracing digital assets. HSI investigations related to virtual assets have risen from one criminal investigation in 2011 to over 530 criminal investigations in FY 2022—seizing over \$4 billion in virtual assets this last fiscal year. HSI has also trained law enforcement partners in more than 20 countries on dark web and cryptocurrency investigations, and regularly works with victims to remediate vulnerabilities before they are exploited.

Artificial Intelligence (AI)

AI will drastically alter the threat landscape and augment the arsenal of tools we possess to succeed in the face of these threats. DHS will lead in the responsible use of AI to secure the homeland and in defending against the malicious use of this transformational technology. As we do this, we will ensure that our use of AI is rigorously tested to avoid bias and disparate impact and is clearly explainable to the people we serve.

Malicious actors are increasingly using more advanced AI, powered by more data, more accessible computing resources, and more advanced machine learning algorithms. To counter these threats, DHS's use of trustworthy AI can help us more effectively and efficiently accomplish our mission to secure the homeland. DHS has taken several steps, including:

- Establishing the Department's first AI Task Force to drive specific applications of AI to advance our critical homeland security missions. The Task Force is working to enhance the integrity of our supply chains and the broader trade environment by deploying AI to more ably screen cargo, identify the importation of goods produced with forced labor, and manage risk. It is also charged with using AI to better detect fentanyl shipments, identify and interdict the flow of precursor chemicals around the world, and target for disruption key nodes in criminal networks.
- Tasking our Homeland Security Advisory Council to study the intersection of AI and homeland security and deliver findings that will help guide our use of it and defense against it.
- Working with other responsible partners—domestically and internationally—to share best practices and develop standards.
- In response to requirements from the 2023 National Defense Authorization Act (NDAA) and Executive Order 13960, DHS is finalizing policies and procedures for trustworthy AI acquisition and use with due consideration of risks and impacts associated with AI. This includes the evaluation of privacy, civil rights, and civil liberties impacts and misuse, degradation, and non-operability risks.
- Convening leading experts, academics, advocates, and others to understand evolving adversary AI capabilities that could be used to exploit or overcome security measures at our physical borders, in cyberspace, in election systems, and beyond.

Counternarcotics

DHS employs a multi-layered approach to mitigating and countering narcotics trafficking and threats of all types using our extensive liaison networks, domestic and foreign partnerships, personnel, and technology deployments such as Non-Intrusive Inspection (NII) capabilities. The increased production and trafficking of synthetic opioids from Mexico have prompted the interagency to implement a whole-of-government approach, including a number of DHS components and efforts, to combat these threats.

With the support of Congress, CBP continues to make significant investments and improvements in drug detection and interdiction technology to detect the presence of illicit drugs, including illicit opioids, in all operating environments, while CBP's National Targeting Center uses advanced analytics and targeting capabilities to identify critical logistics, financial, and communication nodes, and exploit areas of weakness in opioid trafficking networks. Leveraging these investments, CBP seized 11,200 pounds of fentanyl in FY 2021 and 14,700 pounds in FY 2022, as compared to 2,804 pounds in FY 2019. Thus far in FY 2023, CBP has seized 19,821 pounds of fentanyl by applying these same investments.

CBP seeks to prevent drug trafficking through POEs, which is where most synthetic drugs enter the United States. Recent DHS Office of Intelligence and Analysis reporting indicates that Mexico-based drug traffickers involved in both drug and human smuggling rarely exploit migrants to smuggle fentanyl into the United States. Analysts continue to assess that the vast majority of fentanyl that enters the United States moves through U.S. POEs, and CBP data indicates that U.S. citizens were responsible for transporting the fentanyl seized in 77 percent of seizures in FY 2023 to date. Personal vehicles remain, by volume, the primary method of conveyance for illicit drugs entering the country over land, with notable increases within commercial truck conveyances for methamphetamine. The NII Systems Program provides technologies to inspect and screen cars, trucks, railcars, sea containers, as well as personal luggage, packages, parcels, and flat mail through either X-ray or gamma-ray imaging systems. CBP officers use NII systems to effectively and efficiently detect anomalies in an effort to prevent contraband, including drugs, unreported currency, guns, ammunition, and other illegal merchandise, as well as inadmissible persons, from being smuggled into the United States, while having a minimal impact on the flow of legitimate travel and commerce.

CBP also robustly enforces the Synthetics Trafficking and Overdose Prevention (STOP) Act to prevent trafficking by mail. CBP operates within major international mail facilities to inspect international mail and parcels arriving from more than 180 countries. CBP and the U.S. Postal Service are working to increase the amount of advance electronic data received on international mail. This advance information enables HSI and other agencies to identify networks of foreign suppliers and domestic importers that are responsible for smuggling fentanyl into the United States, enhancing our investigative capabilities.

HSI plays a critical role in countering narcotics trafficking by exchanging information, coordinating investigations, and facilitating enforcement actions with law enforcement partners abroad to deter the ability of TCOs to smuggle drugs, people, and contraband into and out of the United States. FY 2022 statistics reveal HSI conducted 11,535 narcotics-related criminal arrests

and seized roughly 1.87 million pounds of narcotics, which included 20,981 pounds of fentanyl. Additionally, HSI Special Agents seized more than \$210 million in total currency and assets through their narcotics enforcement efforts.

One of HSI's most significant tools to combat TCOs engaged in fentanyl trafficking domestically are the Border Enforcement Security Task Forces (BESTs). BESTs eliminate the barriers between federal and local investigations and close the gap with international partners in multinational criminal investigations. BESTs continue to be a primary vehicle used to carry out HSI's comprehensive, multi-layered strategy to address the national opioid epidemic. For example, in response to the exploitation of international shipping routes to transport illicit drugs and dual use chemicals, HSI increased the number of BEST units at international mail facilities (IMFs), express consignment hubs (ECC), and international airports that act as IMFs.

Recognizing the unprecedented epidemic of deaths from illicit opioids, HSI recently developed and began implementation of its *Strategy for Combating Illicit Opioids*. The *Strategy* builds upon many of HSI's core investigative authorities and capabilities in combating TCOs and focuses efforts on four core goals, all of which align with the National Drug Control Strategy. They are 1) reduce the international supply of illicit opioids; 2) reduce the domestic supply of illicit opioids; 3) attack the enablers of illicit opioid trafficking: illicit finance, cybercrime, and weapons smuggling; and 4) conduct outreach with private industry. Through this strategy, HSI aims to make important strides in reducing the harm illicit opioids have on U.S. communities.

One of HSI's primary international tactics in the fight against fentanyl is the Transnational Criminal Investigative Unit (TCIU) program. The TCIU Program was created to help facilitate the exchange of information between the United States and its foreign partners. This enhances the host country's ability to investigate and prosecute individuals involved in transnational criminal activities, threatening the stability and national security of the region and posing continuing threats to the homeland security of the United States. HSI TCIUs are comprised of foreign law enforcement officials, customs officers, immigration officers, and prosecutors who undergo a strict vetting process conducted by HSI to ensure that shared information and operational activities are not compromised. These units work to identify targets, collect evidence, share information, and facilitate the prosecution of TCOs both in-country, among other foreign partner nations, and through the U.S. judicial system. HSI TCIUs prioritize criminal investigations related to weapons trafficking and counter-proliferation, money laundering and bulk cash smuggling, human smuggling, human trafficking, illegal drug trafficking, intellectual property rights violations and other customs fraud, child exploitation, cybercrime, and other violations of law within HSI's investigative purview. The current HSI TCIU footprint consists of over 500 personnel assigned to 12 TCIUs and two International Task Forces in 14 countries around the world. HSI expanded the program to one additional country in FY 2023 and anticipates expanding the program further in FY 2024. Colombia and Guatemala are the two largest international TCIUs, with more than 150 vetted individuals. HSI's Strategy aims to increase training of TCIU members, focused on the methodologies surrounding chemical and pill press machinery acquisition.

HSI has also launched targeted enforcement campaigns to combat illicit narcotics, particularly fentanyl. From March 13, 2023 to May 9, 2023, CBP and HSI launched Operation

Blue Lotus to facilitate and increase fentanyl interdictions primarily at POEs and develop criminal cases along the Southwest border. Focusing operations at the ports of San Ysidro, CA, Otay Mesa, CA, and Nogales, AZ, Operation Blue Lotus aimed to curtail the flow of illicit fentanyl smuggled into the United States from Mexico, while simultaneously illuminating the TCO networks. Upon its conclusion, Operation Blue Lotus, which spanned 60 days, resulted in the seizure of more than 4,700 pounds of fentanyl, more than 4,600 pounds of methamphetamine, more than 1,050 pounds of cocaine, and more than 72 pounds of heroin, in addition to over 250 arrests by CBP and HSI.

On June 5, 2023, CBP launched Operation Artemis, the next phase in CBP's counter-synthetics strategy, leveraging intelligence derived from Operation Blue Lotus for targeted operations to counter the emerging fentanyl epidemic. The focus of Operation Artemis is to further disrupt and degrade the flow and supply chains that feed the production of fentanyl and other synthetic drugs through coordinated enforcement, investigative, interdiction and scientific identification efforts. The operation's end goal is to stem the flow of fentanyl, its precursors, and enabling paraphernalia such as pill presses and dies through strategic enforcement actions not only at the Southwest land border, but with expansion to the express consignment, IMFs, air and sea cargo environments. This six-week operation is an integrated law enforcement enterprise that utilizes personnel with specialized skill sets: CBP Officers, CBP Import Specialists, Intelligence Analysts, Chemist and Forensic Scientists from the CBP Laboratories and Scientific Services, and HSI Special Agents.

Additionally, on June 12, 2023, HSI launched Operation Blue Lotus 2.0 to build on the success from the first phase of Operation Blue Lotus by strategically leveraging its administrative, civil, and criminal law enforcement authorities. Operation Blue Lotus 2.0 will deploy 65 Special Agents and smaller numbers of support staff, such as Criminal Analysts, via temporary duty assignments to support fentanyl suppression efforts.

The United States Coast Guard (USCG) leads maritime interdictions of narcotics in the Western Hemisphere. The USCG disrupts illicit trafficking where it is most vulnerable – at sea in the transit zone, often far from U.S. shores – before bulk quantities reach the shore and are divided into small, hard-to-detect loads. The USCG is continuing to enhance cooperation with partner nations in South and Central America to combat the flow of narcotics before they reach U.S. shores. USCG intelligence personnel and Coast Guard Investigative Service Special Agents are fully integrated across the Department and at the Joint Interagency Task Force (JIATF) South, allowing for maximum counterdrug coordination across the hemisphere. These efforts directly enable target identification and development that prioritize law enforcement investigations—perpetuating the interdiction continuum, the removal of multi-ton quantities of drugs from the supply chain, and the collection of critical evidence for the prosecution of TCO members. In FY 2022, the USCG removed approximately 152 metric tons of cocaine, 60,000 pounds of marijuana, and 7.7 metric tons of other narcotics, including methamphetamines, heroin, and hashish. In addition to these drug removals, a USCG-led multi-agency effort in FY 2022 tied their maritime law enforcement operations to the indictment and extradition of a consolidated priority organizational target to Puerto Rico for prosecution.

The Department appreciates Congress extending for two years the statutory authority to establish and operate Joint Task Forces (JTFs) in the FY 2023 NDAA. JTFs provide a direct operational coordination layer to enhance the multi-faceted challenges facing DHS. Today, JTF-East is responsible for ensuring Departmental unity of effort in the southern maritime approach to the United States and demonstrates the tangible, positive impacts that JTFs can have on enhancing DHS-coordinated operations for national security, public health, and protecting the homeland.

Border Security and Immigration

Securing the Border

Through the Southwest Border Coordination Center, established in February 2022, DHS led a comprehensive whole-of-government planning effort for more than 18 months to prepare for the termination of the Title 42 public health Order. This effort included record deployments of personnel, infrastructure, and resources to support our frontline personnel, as well as the development of a series of policy measures intended to disincentivize unlawful entries at the land border while incentivizing migrants to use safe, orderly, and lawful processes and pathways to come to the United States. In the weeks since May 12, 2023, DHS has continued to lead a successful whole-of-government effort to ensure the safe, orderly, and humane management of our nation's borders and the continued enforcement of U.S. immigration laws.

The end of the Title 42 Order allowed DHS to fully return to processing all noncitizens under its longstanding Title 8 immigration authorities. Consequently, DHS has been able to impose significant consequences for those who are apprehended crossing the border without prior authorization, who are now subject to the Circumvention of Lawful Pathways rule on asylum eligibility. Under this rule, migrants who do not use the expanded lawful pathways and processes to come to the United States in a safe and orderly manner are subject to a rebuttable presumption of asylum ineligibility unless they meet an exception or are able to rebut the presumption.

These measures build on our broader efforts to secure and manage our borders while building a safe, orderly, and humane immigration system. In April 2022, I issued the DHS Plan for Southwest Border Security and Preparedness, laying out a six-pillar plan to manage an increase in encounters once the Title 42 public health Order was no longer in effect. DHS updated this comprehensive plan in December 2022 and continues to build upon the impact DHS has seen as a result of these efforts. Under this plan, DHS:

- Surged personnel to reinforce the more than 24,000 USBP and Office of Field Operations (OFO) personnel at the border, with approximately 1,000 law enforcement officers from across the DHS network and other federal agencies, thousands of contract personnel, 1,500 active-duty military personnel, and hundreds of volunteers from across DHS and the interagency.
- Enhanced surveillance capacity by adding 81 new autonomous surveillance towers since the start of FY 2022, for a current total of 223.

- Expanded CBP temporary holding capacity at the border by nearly 50 percent, from 13,230 in January 2021 to over 19,000 today.
- Made available several thousand detention beds in the ICE network by updating guidelines to reflect the latest Centers for Disease Control and Prevention guidance regarding congregate settings in detention facilities.
- Increased contracted medical personnel by 75 percent since the start of FY 2022.
- Arrested nearly 14,000 smugglers and disrupted thousands of human smuggling operations, such as raiding smuggler stash houses, impounding tractor trailers that are used to smuggle migrants, and confiscating smugglers' information technology.
- The President's FY 2024 budget also requests more than \$500 million in border security technology.

We are also supporting local governments, nongovernmental organizations (NGOs), and faith-based organizations in border and interior cities that are receiving noncitizens in their communities. In June 2023, FEMA and CBP stood up the new Shelter and Services Program, awarding more than \$290 million to 34 non-federal entities for temporary shelter and other eligible expenditures for migrants who have been processed and provisionally released from DHS custody while awaiting the outcome of their immigration proceedings. An additional \$73 million will be made available later this summer. Since passage of the Consolidated Appropriations Act of 2023, DHS has allocated more than \$400 million to support communities receiving migrants across the country, including \$332.5 million in May 2023 and \$75 million in December 2022 under the Emergency Food and Shelter Program – Humanitarian (EFSP-H).

As a result of the Department's preparations, unlawful entries between POEs along our Southwest border have decreased by more than 50 percent compared to the peak of 10,800 prior to the lifting of Title 42. We are cognizant, however, that conditions driving unprecedented numbers of people to leave their homes and make the dangerous journey to other countries, including towards our Southwest border, are still present. Furthermore, we understand that TCOs and human smugglers will continue to spread disinformation in order to prey on the desperation of these migrants. We will not get complacent. DHS will continue to fulfill our duty to secure America's borders to the best of our ability, making adjustments to ongoing efforts as needed.

Expanding Lawful Pathways

DHS has taken innovative policy steps that seek to change the calculus for intending migrants. These measures impose consequences on certain individuals who cross the border without prior authorization, while significantly expanding the availability of safe, orderly, and lawful pathways to come to the United States, to incentivize noncitizens to use such pathways without having to put their lives in the hands of smugglers. As part of these efforts, we have overseen the largest expansion of lawful pathways in decades even as we have set records for repatriations.

In order to combat sharp increases in the encounters of Venezuelan nationals from FY 2021 to FY 2022, in October 2022 DHS developed—in close coordination with the Government of Mexico—an innovative approach that provided Venezuelans with a safe, orderly way to come to the United States and imposed new consequences on those who crossed without

authorization. Through this new process, eligible individuals are able to receive advance authorization to travel to an interior POE to seek a discretionary grant of parole for a period of up to two years, on a case-by-case basis. Venezuelans who did not use this new process and were encountered at the Southwest land border could be returned to Mexico.

Building on the success of this process, in January of this year, DHS announced and implemented a similar process for Cubans, Haitians, and Nicaraguans (collectively, the CHNV processes). Nationals of these countries who do not avail themselves of this pathway and attempt to enter the United States without authorization will generally be returned to Mexico. As a result of this new process, encounters between POEs of nationals from Cuba, Haiti, and Nicaragua have declined from a daily average of 952 per day the week ending January 5, 2023—when the new process was announced—to a daily average of 25 per day the week ending July 11.

While encounters between POEs at the Southwest border have plummeted, thousands of nationals from these countries have successfully followed the process for lawful entry. The processes described above have allowed more than 155,000 individuals who have U.S.-based supporters and have passed the requisite national security and public safety vetting to travel directly to the United States. The successful use of these parole processes and the significant decrease in illegal crossing attempts clearly demonstrate that noncitizens prefer to utilize a safe, lawful, and orderly pathway to the United States if one is available, rather than putting their lives and livelihoods in the hands of ruthless smugglers. Combining accessible lawful pathways with consequences for those who fail to use those pathways works.

When it comes to expanding additional lawful pathways, we have:

- Significantly expanded the number of temporary work visas available for migrants in the region, especially in the Northern Central American (NCA) countries of El Salvador, Guatemala, and Honduras, through the H-2A and H-2B programs. As of June 23, 2023, 19,005 H-2B visas were issued to nationals of El Salvador, Guatemala, Honduras, and Haiti. This is a 300 percent increase compared to the entire FY 2019.
- Dramatically expanded refugee resettlement in the Western Hemisphere, working in conjunction with the Department of State. We resettled 2,485 individuals in FY 2022, a 521 percent increase over FY 2021 and an eight-year high for the region. As of April 30, 2023, we have already resettled 3,443 refugees from the Western Hemisphere—a nearly 40 percent increase over the entire FY 2022, with five months left in the fiscal year. With the establishment of Safe Mobility Offices in South and Central America, we will significantly increase the number of individuals processed for refugee resettlement in the coming months and years.
- Significantly expanded capacity to process noncitizens at land POEs on the Southwest border. In particular, the CBP One mobile app, which is available for free download to a mobile device, allows individuals of any nationality in Central or Northern Mexico to schedule an appointment to present at a POE along the Southwest border in a safe and orderly manner. The advance biographic and biometric information captured by the app allows CBP to significantly streamline its processing of noncitizens once they arrive at a POE, which, in turn, has contributed to CBP's ability to increase its capacity to process inadmissible individuals at land border POEs compared to its 2014-2019 pre-pandemic

average. On June 30, CBP expanded the number of available daily appointments to 1,450 per day—almost four times the number of noncitizens processed at POEs prior to the pandemic. These individuals have presented in a safe and orderly manner at a POE each day during their scheduled appointment time. As of June 30, more than 144,000 appointments have been processed thus far at POEs along the Southwest border. This app, available in English, Spanish, and Haitian Creole, effectively cuts out the smugglers, decreases migrant exploitation, and improves safety and security in addition to making the process more efficient.

The United States cannot and should not do this work alone; hemispheric challenges require hemispheric solutions. Twenty-one countries endorsed the Los Angeles Declaration on Migration and Protection in June of last year, affirming that it is our collective responsibility to address the factors causing irregular migration throughout our hemisphere. DHS is working closely with the Department of State and partner countries—including Mexico, Guatemala, Costa Rica, Colombia, Ecuador, and Panama—to expand efforts to humanely secure borders and remove individuals without a lawful basis to remain, counter human smuggling organizations, increase labor mobility, and expand protection and lawful pathways for intending migrants.

We are strengthening our relationships with partners in Mexico and Central and South America to ensure a holistic response to this challenge, including the following actions:

- In October 2022, DHS announced joint actions with Mexico, reinforcing our coordinated enforcement operations to target human smuggling organizations and bring them to justice. That campaign includes new migration checkpoints, additional resources and personnel, joint targeting of human smuggling organizations, and expanded information sharing related to transit nodes, hotels, stash houses, and staging locations.
- DHS officials have traveled throughout the region to strengthen partnerships with our counterparts. As Secretary, I have traveled to Mexico four times, including most recently with the President for the North American Leaders' Summit in January to discuss regional cooperation on migration, security, and other vital issues. I have visited Honduras, Guatemala, Panama, Ecuador, Colombia, and Costa Rica to advance our bilateral and regional partnerships and forge strengthened cooperation on migration management.
- We are also working with regional partners to implement the U.S. Strategy for Addressing the Root Causes of Migration and the hemispheric Los Angeles Declaration on Migration and Protection with historic U.S. Government investments, totaling nearly \$1 billion in assistance, according to the Department of State. We have also concluded bilateral arrangements with Costa Rica and Panama, agreeing to humane border security measures, support with counter-smuggling, and repatriation assistance. The United States is planning to offer additional assistance to support regional partners to address the migration challenges in the Darién.
- DHS and the Department of State are continuing to deliver on our commitments by establishing Safe Mobility Offices (SMOs) in South and Central America. In Guatemala and Costa Rica, processing through SMOs began on June 12, 2023, and shortly after on June 28, 2023, processing began in Colombia. SMOs enable eligible individuals to begin

the process of accessing protection and other lawful pathways to the United States or other partner countries, including Canada and Spain.

Enforcing Our Immigration Laws

Under our immigration laws, noncitizens present in the United States can request asylum and other humanitarian protection and, if they qualify, may be granted such protection. Individuals who are not eligible for protection or other relief from removal generally are ordered removed. On May 12, 2023, after a robust regulatory process that included responding to more than 50,000 comments from the public, DHS and the Department of Justice (DOJ) began implementing the Circumvention of Lawful Pathways rule, which is designed to build on the success of the CHNV processes.

The rule is designed to cut out of the process the TCOs that prey on migrants, making migration safer and more orderly. Its provisions incentivize migrants to use the new and existing lawful processes that DHS has established and disincentivize dangerous border crossings by placing a commonsense condition on asylum eligibility for those individuals who fail to do so, and who do not otherwise qualify for an exception.

Under the rule, individuals who circumvent the expanded lawful, safe, and orderly pathways into the United States—including the CHNV processes, the significant expansion of refugee processing and temporary work visas, and the use of the CBP One mobile app to schedule a time and place to arrive at a POE—and also fail to seek protection in a country through which they traveled on their way to the United States, are subject to a rebuttable presumption of asylum ineligibility in the United States unless they meet specified exceptions. Individuals who cannot establish a valid claim to protection under the standards set out in the rule are subject to prompt removal under Title 8 authorities, which carries at least a five-year bar to admission to the United States and the potential to be criminally prosecuted for repeated unlawful entry.

DHS has made clear through these efforts that there are consequences for entering without authorization. From May 12 to July 2, 2023, DHS repatriated over 72,000 noncitizens under Title 8 authorities, including single adults and families, to more than 110 countries.

When it comes to our enforcement priorities, in September 2021 I issued guidance to focus immigration apprehension and removal on the greatest threats to the homeland, which yielded positive results. For example, while the guidance was in place and before it was vacated by a federal court, ICE arrested an average of 855 aggravated felons per month, compared to a monthly average of 687 during the four years of the prior Administration. We applaud the Supreme Court's recent ruling on immigration enforcement and DHS looks forward to reinstating the September 2021 guidelines.

Humanitarian Protection

Finally, we have also responded to humanitarian crises around the world and at the same time returned to the administration of our immigration laws in a manner keeping with our nation's values by:

- Implementing a historic effort across the federal government to support vulnerable Afghans, including those who worked alongside us in Afghanistan for the past two decades, first through Operation Allies Welcome (OAW) and now continuing such support through Enduring Welcome. Afghan nationals paroled under OAW underwent an interagency screening and vetting process that began overseas and was supported by intelligence, law enforcement, and counterterrorism professionals from DHS, DOS, FBI, NCTC, and additional U.S. Government partners. The federal government is leveraging every tool available to ensure that no individuals who pose a threat to public safety or national security are permitted to enter the United States. The continuous screening and vetting process is ongoing to ensure the continued protection of public safety and national security.
- Creating Uniting for Ukraine (U4U), a lawful and orderly process to enable certain eligible Ukrainians and their immediate family members fleeing Russia's unprovoked war of aggression to apply for advance authorization to travel to the United States to seek parole for a period of up to two years. As of the end of June, over 175,000 Ukrainians have been authorized to travel to the United States through this process, which includes interagency screening and vetting both prior to authorizing travel to the United States and upon arrival at a POE. Through available lawful pathways, to include immigrant and nonimmigrant processes, over 349,000 Ukrainians have arrived in the United States since the conflict began.
- Providing Temporary Protected Status (TPS) benefits to nationals of 16 countries, including new designations, redesignations, or extensions for Afghanistan, Burma, Cameroon, Ethiopia, Haiti, Somalia, South Sudan, Sudan, Syria, Ukraine, Venezuela, and Yemen. We rescinded the prior Administration's termination of TPS designations for four additional countries (El Salvador, Honduras, Nepal, and Nicaragua) and extended those designations for 18 months. In addition, President Biden announced Deferred Enforced Departure (DED) for certain Liberian nationals and Hong Kong residents.
- Restoring the historical understanding of a "public charge" ground of inadmissibility that had been in place for decades, so as not to penalize individuals for using the health benefits and supplemental government services available to them.
- Preserving and fortifying the Deferred Action for Childhood Arrivals (DACA) policy through issuance of a final rule codifying the policy, working with DOJ to defend it against legal challenges, and effectively addressing significant processing backlogs inherited from the prior Administration. Despite our efforts, the program remains under threat and hundreds of thousands of Dreamers continue to live their lives from one court decision to the next, with great uncertainty.

We have also sought to ensure just outcomes through the Interagency Task Force on the Reunification of Families, which I proudly chair and which has reunited more than 745 children separated from their families at the Southwest border under the Trump Administration's Zero Tolerance policy. We also initiated the Immigrant Military Members and Veterans Initiative, improving support for noncitizen military members, including returning to the United States previously removed veterans who honorably served our nation so they can return to their families and lives here and access certain Veterans Affairs benefits to which they are entitled as a result of their service.

Human Trafficking and Child Sexual Exploitation and Abuse

Combating the abhorrent crimes of human trafficking and child sexual exploitation and abuse (CSEA) are top priorities for the Department. These crimes target the most vulnerable among us, offend our most basic values, and threaten our national security and public safety.

According to the United Nations' International Labor Organization, human traffickers victimize an estimated 28 million people worldwide, with 80 percent subjected to forced labor and 20 percent in sex trafficking. The United States is no exception. Many trafficking cases in the United States involve workers in agriculture, landscaping, construction, factories, in homes as nannies or other domestic workers, restaurants, elder care, and more — essentially in jobs with low pay and few legal protections in the underground economy and the service industry.

Almost every office and agency in the Department plays a role in our counter-human trafficking mission. The DHS Center for Countering Human Trafficking (CCHT), which was codified by the Countering Human Trafficking Act of 2021, coordinates the counter-trafficking efforts of 16 DHS agencies and offices, reflecting our commitment to combat this heinous crime from every angle: investigations and enforcement, intelligence, public education and prevention, policy innovation, victim protection and support, and more.

HSI and CBP are the primary DHS law enforcement entities that ensure perpetrators are held accountable. HSI leads criminal investigations into sex trafficking and forced labor, making 3,655 human trafficking-related arrests during FY 2022, an increase of more than 50 percent over the previous fiscal year. Our human trafficking investigations led to 638 convictions, an increase of more than 80 percent over the previous year.

CBP is charged with rooting out forced labor-made goods from U.S. supply chains by preventing the importation of such illicit merchandise into the United States. CBP carries out this mission by investigating allegations of forced labor in supply chains and, where allegations are corroborated, issuing Withhold Release Orders (WROs) and forced labor findings pursuant to section 307 of the Tariff Act of 1930. CBP issued six WROs, two findings, and one WRO modification in FY 2022. In June 2022, CBP also began enforcing the landmark Uyghur Forced Labor Prevention Act (UFLPA), enacted by Congress in December 2021.¹ Together with the DHS Office of Strategy, Policy, and Plans, which chairs the interagency Forced Labor Enforcement Task Force (FLETF), and other interagency members including the Departments of Labor, State, Justice, Treasury, Commerce, and the United States Trade Representative, CBP led the UFLPA's successful implementation and is committed to fully enforcing this law to prevent the importation of goods produced, wholly or in part, with forced labor in the Xinjiang Uyghur Autonomous Region in the PRC.

DHS employs a victim-centered approach across all missions, including the Department's programs and operations to counter human trafficking and CSEA. This approach seeks to

¹ UFLPA established a rebuttable presumption that the importation of any goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region of the People's Republic of China, or produced by certain entities, is prohibited by Section 307 of the Tariff Act of 1930 and that such goods, wares, articles, and merchandise are not entitled to entry to the United States.

minimize additional trauma, mitigate undue penalization, and provide needed stability and support to victims. This approach is not only critical to helping survivors begin to repair their lives. It also enables law enforcement to better detect, investigate, and prosecute perpetrators. For this reason, in FY 2022, DHS expanded the HSI Victim Assistance Program (VAP), increasing the number of victim assistance personnel, including victim assistance specialists (VASs) and forensic interview specialists (FISs), by 40 percent. In FY 2023, HSI will grow the program by another 60 percent. These investments have led to increases in the identification of victims of human trafficking, referrals for social services in local communities, and forensic interviews using trauma-informed, victim-centered methods to elicit accurate and complete information while minimizing distress. The VAP assisted 3,326 victims worldwide in FY 2022, including 1,138 victims of child exploitation and 765 human trafficking victims.

Public education is also a critical component of our counter-trafficking work. To name just a few of our achievements in this mission in FY 2022, the DHS Blue Campaign, the Department's national human trafficking public awareness initiative, trained more than 215,000 federal government, NGO, law enforcement, industry, and public participants on how to recognize the indicators of human trafficking. Our Federal Law Enforcement Training Centers trained more than 3,300 law enforcement officers, representing over 90 federal law enforcement agencies, on how to recognize and respond to potential trafficking cases.

The Department is also redoubling efforts to combat online CSEA, which has increased dramatically in scope and severity in recent years. New forms of CSEA have also emerged and grown exponentially, including the live streaming of child sexual abuse and sophisticated sextortion and grooming schemes. The National Center for Missing and Exploited Children (NCMEC), the nation's clearinghouse for child sexual abuse material (CSAM), received over 32 million cyber tips in 2022, corresponding to more than 88 million images and videos of child sexual abuse—a roughly 75 percent increase in just five years. What is worse, these numbers represent only CSAM on the open web; they do not include the massive amount of child sexual abuse content produced and shared on the dark web.

In response, we are strengthening our HSI Cyber Crimes Center (C3), including the Child Exploitation Investigations Unit (CEIU), a global leader in counter-CSEA law enforcement operations. The CEIU Victim Identification Program (VIP) utilizes state-of-the-art technologies combined with traditional investigative techniques to identify and rescue child victims throughout the world. Since its establishment in 2011, the VIP has identified and/or rescued more than 11,000 child victims of sexual exploitation. The CEIU also detects and apprehends producers and distributors of CSAM and perpetrators of transnational child sexual abuse, employing the latest technology to collect evidence and track the activities of individuals and organized groups who sexually exploit children via websites, chat rooms, peer-to-peer trading, and other internet-based platforms. CEIU's Operation Predator targets child sexual predators on both the open web and dark web, and in FY 2022 led to the arrest of 4,459 perpetrators for crimes involving child sexual abuse. During this same period, the CEIU Angel Watch Center issued 4,527 notifications regarding international travel by convicted child sex offenders, resulting in more than 1,073 denials of entry by foreign nations.

The DHS Science & Technology Directorate also develops and deploys leading-edge forensic tools and technologies that enable CEIU agents and other national and international law enforcement partners to identify and locate child victims of online sexual exploitation. These tools include livestream capabilities, advanced facial recognition technologies, and speech and language technologies.

We are also expanding our policy, public education, and strategic engagement infrastructure to elevate and enhance the Department's counter-CSEA capabilities. DHS remains steadfast in advancing and leveraging our full breadth of authorities and resources to end these heinous crimes, and we urge you to support our efforts to expand this critical work to fight the rapidly escalating crisis of online child sexual exploitation and abuse.

Conclusion

I am grateful to this Committee for your continued support of DHS, both from a resource perspective and for the provision of key authorities that allow the Department to adapt to an ever-changing threat landscape. I look forward to our continued work together and to answering your questions.

Chair JORDAN. Thank you, Mr. Secretary.

The Chair now yields to the gentleman from California, Mr. McClintock.

Mr. MCCLINTOCK. Mr. Secretary, what is the maximum number of illegal migrants you believe we should admit into this country?

Secretary MAYORKAS. Congressman, it is our responsibility to enforce the laws that Congress has passed, and that is, indeed, what we are doing. Individuals who do not have—

Mr. MCCLINTOCK. So, is there a limit? Yes or no?

Secretary MAYORKAS. Congressman, individuals who make a claim for relief under our laws and who do not succeed—

Mr. MCCLINTOCK. Well, you've already released more than 2.1 million illegal immigrants into this country since you took office. That's a population the size of the State of Nebraska. While the Border Patrol has been consumed by taking names and changing diapers at the border, 1.5 million known gotaways have illegally entered the country as well. That's an additional illegal population the size of the State of Hawaii.

So, once again, I would ask you, what is the limit? Or is there one?

Secretary MAYORKAS. Congressman, last year, we expelled or removed approximately 1.4 million people who did not have a legal basis to remain in the United States, the largest number in recent history.

Mr. MCCLINTOCK. Well, actually, you testified that 72,000 illegal migrants were removed in 2022. In 2019, there were 267,000 removals. So, removals are down under your administration by more than 75 percent.

Meanwhile, in 2019, there were 458,000 border encounters. Yet, under your policies, we're now up to 2.3 million encounters. That's five times as many.

So, while encounters were up five times, removals are down by 75 percent. How do you account for this?

Secretary MAYORKAS. Congressman, a few points.

(1) Our approach of expanding lawful pathways for people to reach the border and delivering consequences for those who arrive at our border irregularly is working. The number has dropped.

You'll also recall, Congressman, that last year Title 42—

Mr. MCCLINTOCK. Well, whoa, whoa.

Secretary MAYORKAS.—the public health authority was in place. Under that authority, we could not remove individuals or expel them.

Mr. MCCLINTOCK. Well, again, I'm short on time.

You announced the CBP One app this year. It allows migrants to bypass the Southern border and enter directly into the United States at ports of entry. This program began with up to a thousand illegal migrants a day. It's been amped up to as many as 1,500 a day. That's more than 540,000. That's the population equivalent of adding a new State of Wyoming every single year.

That's why the numbers are dropping. Instead of them coming in through the Southern border, you're bringing them directly into ports of entry. So, please don't, don't dissemble.

Now, I've got a very important concern for the people of my region. In January, a family of six people were executed in the rural

town of Goshen. That's not far from my district. According to the Tulare County Sheriff, it was a cartel hit. The victims ranged from age 72 down to a 10-month-old who was shot in his mother's arms.

Two weeks ago, the FBI Director warned us in this Committee that the open border is a "huge driver" of cartel presence in the United States. Those were his words—"huge driver."

The Jalisco, a new generation of cartels, now established hubs in Los Angeles, Denver, Phoenix, and Chicago. Millions have fled from Mexico to escape these conditions, and the cartels have followed them into the United States.

So, how long before we can expect the same kind of gun battles here as have become routine in Mexico?

Secretary MAYORKAS. Congressman, we are taking it to the transnational criminal organizations, the cartels, that peddle in death and destruction, to an unprecedented degree. We have—

Mr. MCCLINTOCK. They're following the mass migration into this country. That's what the FBI Director told us.

Secretary MAYORKAS. We have a number of lawful investigative actions and operations that are disrupting and dismantling those transnational criminal organizations.

Mr. MCCLINTOCK. Director Wray also testified that we have no idea how many terrorists are among the 1.5 million known gotaways that have entered under your policies, but that there's been a significant increase in terrorists apprehended at the border.

When your administration abandoned Afghanistan, it released 5,000 terrorists that were being held at Bagram. Ten days later, one of them killed 13 U.S. servicemembers at Kabul Airport. Wray said we don't know where the other 5,000 are. It's clear to me that we're in growing danger of a coordinated terrorist attack because of your policies.

Have you given any thought to how you're going to explain yourself when that happens?

Secretary MAYORKAS. Congressman, the safety and security of the American people is our highest priority. That is what is the genesis of the creation of the Department of Homeland Security.

Mr. MCCLINTOCK. Well, obviously, it is not your highest priority. The numbers speak for themselves.

Secretary MAYORKAS. It most certainly is, Congressman.

Mr. MCCLINTOCK. I yield back.

Chair JORDAN. The gentleman yields back.

The Chair recognizes the Ranking Member, Mr. Nadler.

Mr. NADLER. Mr. Secretary, I want to address some of the outlandish claims my colleagues have made and put them to rest at the outset of this hearing.

My Republican colleagues claim that the border is open. Is the border open, Mr. Secretary?

Secretary MAYORKAS. No, it is not.

Mr. NADLER. Thank you, Mr. Secretary.

The border is not open, and to say so is not only false, but it is really an insult to the brave men and women of the Border Patrol who work every day to keep us safe.

Next, Mr. Secretary, my colleagues on the other side of the aisle have been extremely focused on an exchange you had with Mr. Roy the last time you appeared before this Committee. They claim that

you liked to the Committee about whether we have operational control of the border. The Homeland Security Committee even wrote about it in Phase 1 of their investigation into potentially impeachment.

It is my understanding that DHS and its components use different definitions the term “operational control.” For example, the U.S. Border Patrol previously defined “operational control” as “the ability to detect and interdict illegal activity.”

CBP, in their 2020 U.S. Border Patrol Strategy, defined “operational control” as, quote,

The ability to perceive and comprehend the operating environment; mobilize assets, infrastructure, and barriers to prevent criminal activity, and respond to and resolve any illicit cross-border incursions.

Furthermore, in May 2023, a transcribed interview, Chief Patrol Agent Aaron Heitke of the San Diego Sector affirmed that, quote,

Border Patrol has operated under different definitions of operational control than what is listed in the Secure Fence Act.

So, can you describe what happened in that exchange last year?

Secretary MAYORKAS. Ranking Member Nadler, the Congressman did not allow me to complete my answer. The Secure Fence Act, specifically, the statute, defines “operational control” as “not having one individual cross the border illegally.” Under that statutory definition, no administration has achieved operational control.

Last year, we had approximately 1.7 million different individuals cross the border, the Southwest border. So, under that definition, no administration, under the Secure Fence Act, no administration has achieved operational control. We have provided data with respect to the number of encounters experienced at the Southwest border every month to Congress.

Mr. NADLER. Last, my Republican colleagues claim you are abusing your authority. However, Congress gave the executive branch wide latitude over immigration laws, including writing a provision in the Immigration and Nationality Act that allows for individuals to be paroled into the United States for urgent humanitarian or public benefit purposes.

For more than 70 years, administrations of both parties have used parole for categories of people. Some of my colleagues have criticized these programs, as well as the ones recently implemented by the Biden Administration for Haitians, Venezuelans, Cubans, and Nicaraguans, alleging that parole is not being granted on a case-by-case basis. Is that particular criticism accurate, Mr. Secretary?

Secretary MAYORKAS. Congressman, I very well know in my 22 years of Federal service, including 12 years as a Federal prosecutor, that we are a Nation of laws, and I take our obligation to follow the law scrupulously. I adhere to it strictly.

Our parole authority is being used consistent with the law. It is a discretionary authority that the statute provides. We exercise it on a case-by-case basis, and our parole program has at least three significant benefits.

- (1) It has driven down the number of encounters at the Southwest border.
- (2) It allows us to screen and vet individuals before they arrive at the Southwest border.

(3) Very importantly, we are cutting out the smuggling organizations that wreak such tragedy and trauma on the lives of vulnerable individuals.

Mr. NADLER. It appears to me that the administration is merely saying certain categories of people are eligible to be considered for parole. Is that correct?

Secretary MAYORKAS. Yes. We evaluate parole on a case-by-case basis.

Mr. NADLER. Our adjudicators still conduct a case-by-case determination to see if to grant parole is appropriate. You just said that. This is very much in line with historical use of parole by administrations of both parties?

Secretary MAYORKAS. To my knowledge, yes, Congressman.

Mr. NADLER. Thank you. I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from California is recognized, Mr. Issa.

Mr. ISSA. Mr. Secretary, we've known each other for a long time, including your time as a U.S. Attorney. I'm going to ask you some tough questions and they go back all the way to that time and before.

Was the immigration system—well, you said it in your opening statement; “it was broken.” Was the immigration system broken when you were a U.S. Attorney?

Secretary MAYORKAS. Congressman, it is broken. It has been broken for as long as I can remember.

Mr. ISSA. Does broken include the fact that there's virtually no penalty for being a coyote or for entering this country illegally; that, for all practical purposes, it's a slap on the hand and that U.S. Attorneys, historically, have a difficult time justifying their time, when, in fact, it's a revolving door for people who come into this country illegally and the coyotes who bring them? Isn't that one of the challenges you face?

Secretary MAYORKAS. Congressman, if you are referring to my time as a Federal prosecutor—

Mr. ISSA. No, I'm not referring to you personally. I'm referring to the broken, the broken immigration law. You said it was broken; I agree it was broken. I agree that it's broken today. I just want to make sure that, for the record, we get into what's broken.

I asked you a specific question. You might remember that dismissal of Carol Lam, when she said that it just wasn't worth prosecuting coyotes who weren't carrying weapons because they were going to be back out in weeks. So, isn't one of the problems that there is no real penalty for human trafficking, and there certainly is virtually no penalty for coming here illegally?

Secretary MAYORKAS. There are penalties for immigration violations. Title 8 of the United States Code, Section 1324, deals with smuggling of individuals—

Mr. ISSA. Right, and isn't it true, isn't it true that, within a matter—if you come here illegally, you're going to, essentially, be sent back out of the country in a very short period of time? If you traffic without weapons or drugs, you're going to be removed again.

Let me go on to something else. A broken immigration system. Isn't one of the biggest parts of the broken immigration system the part that we've all been talking about, at least on this side of the dais; the fact that, if you present yourself at the border and make

a claim—one, often, that has been taught to you by your smugglers, taught to you by NGO's—if you make a claim, more than nine out of ten of those claims are false? You will get into the country, and you will be here for an extended period time.

Isn't, in fact, a system that allows the vast majority of people making a claim to be lying, to be knowingly giving you a false story, one that, after adjudication, is proven to be false, isn't letting them in the country inherently part of our broken system?

Secretary MAYORKAS. Congressman, let me—

Mr. ISSA. That was a yes or no.

Secretary MAYORKAS. No, let me, let me—

Mr. ISSA. Give me a yes or no, and then, give me the rest.

Secretary MAYORKAS. Congressman, I respectfully disagree with your data, the statistic you cited. One of the problems in our broken immigration system is the length of time it takes between the time of the encounter—

Mr. ISSA. I understand the length of time. Isn't it true that most countries do not simply admit and release people, waiting, and tell them to come back when they adjudicate them? Aren't we an exception, for the most part, around the world?

Secretary MAYORKAS. Congressman, we are not alone in some of the infirmities of the immigration system that we have.

Mr. ISSA. So, today, as the Chief Security Officer for the United States, would you say that it is reasonable to release people for months or years rather than adjudicating them immediately at the border? Isn't it true that, if we were doing our job in Congress, and you were able to do your job, people would be adjudicated before they came into the United States? Those found to be credible would be admitted; those not found to be credible would be discarded back to the countries they came from, as appropriate?

Secretary MAYORKAS. Congressman, in the absence of Congressional action, we have actually issued a regulation, the first of its kind, that has reduced the time between encounter at the border and the final adjudication of an asylum claim.

Mr. ISSA. OK. For the record, there has been, in fiscal year, let's say, 2020, you had three at the Southwest border encounters with people on the Terrorist Watchlist. So far this year, it's 140. Can you give us the whereabouts of those 140? Are they all incarcerated? Have they all been removed? Or is it a mixture of incarceration, removal, and release?

Secretary MAYORKAS. Congressman, let me say this: The safety and security of the American people is our highest priority—

Mr. ISSA. So, prove it to me. What is the status of those 140?

Secretary MAYORKAS. Individuals who present a national security or public safety threat are detained and are priority removed—

Mr. ISSA. By definition, Mr. Secretary, if you're on the Terrorist Watchlist, you represent a threat. So, 140 people on the Terrorist Watchlist so far this year. For the record, would you please give us the status of each of those individuals, so we know what you did with people who were on a Terrorist Watchlist, who were apprehended—many got away—but were apprehended, where they are today? So that Congress can know.

Secretary MAYORKAS. Congressman, I would be pleased to provide you with that information with respect to the individuals encountered at the service women.

Mr. ISSA. Thank you.

I yield back.

Chair JORDAN. The gentleman yields back, but could the Secretary answer that question? What is the status of those 140?

Secretary MAYORKAS. Mr. Chair, I communicated—

Ms. JAYAPAL. Mr. Chair, what is the—

Mr. ISSA. Point of order.

Ms. JAYAPAL. By what authority—or point of order.

Chair JORDAN. The gentlelady will State her point of order.

Ms. JAYAPAL. Mr. Chair, under what authority are you speaking right now? Whose time? Whose time is it? Are you being recognized for five minutes?

Chair JORDAN. I was just asking what I thought would be a question—

Ms. JAYAPAL. Mr. Chair, it's not, it's—

Chairman JORDAN. —every single Member of Congress would want to know.

I'll do it on my time or some other time.

Ms. JAYAPAL. Thank you. I appreciate that. Thank you.

Mr. ISSA. Point, point of, point of—Mr.—

Chair JORDAN. He had asked the question and there wasn't an answer to the status of the 140 people apprehended—

Ms. JAYAPAL. Mr. Chair, he did—

Chair JORDAN. —on the Terrorist Watchlist—

Ms. JAYAPAL. The witness provided an answer. If you want to use your five minutes—

Chair JORDAN. I don't think he did, but I'll do it on my time.

Ms. JAYAPAL. I think that's great. Thank you.

Chair JORDAN. That's fine.

We recognize the gentlelady from California.

Ms. JAYAPAL. Thank you, Mr. Chair.

Ms. LOFGREN. Thank you, Secretary Mayorkas, for being here today and for your service to our country, first, as a U.S. Attorney and now as Secretary of Homeland Security.

We all know that Congress has not acted in many, many years to update our immigration laws. In fact, it's been, really, if you want to take a look at it, we're still operating under the outlines of the 1965 Act, which no wonder it doesn't work that well for the United States of America in 2023.

So, I'd like to ask, first, do you agree that it would be better to have a legal framework wherein people could actually enter the United States with visas, and the like, instead of a mishmash of asylum claims, and the like, at the border?

Secretary MAYORKAS. Congresswoman, I do. I see other countries with systems that are more advanced than ours that actually can match the need for labor with the supply for labor. In fact, Canada is one of those countries immediately to the North.

Ms. LOFGREN. I would just note that the Canadian government has now opened-up an official government effort to poach the most educated and the most talented postdocs and doctors in the tech-

nology field in Silicon Valley. Ten thousand of the best and the brightest applied on the first day. So, that is a loss to our country.

I'd just like to note that we have a bill, bipartisan bill, called the Farm Workforce Modernization Act, that would streamline the H-2A program and regularize the status as an agricultural worker visa for farm workers, half of whom are here without their papers.

Do you think that would help regularize our situation at the border?

Secretary MAYORKAS. I do. I do, Congresswoman. There are approximately, I believe, 10 million open jobs in need of workers. I hear from executives across this country about the need for labor. It is proven that lawful labor pathways cause a reduction in the number of irregular arrivals at our border.

Ms. LOFGREN. I'd like to just touch again—the Ranking Member has mentioned the use of parole. It's one of the few tools that you have under the existing Immigration and Nationality Act. I note that it's been used by Presidents of both parties over many, many years.

President Eisenhower oversaw parole of over 30,000 Hungarian refugees escaping communism. President Ford and President Carter oversaw the parole of hundreds of thousands of Vietnamese fleeing the communists. We have used parole for people fleeing communism in Cuba, in fleeing communism in Nicaragua, and now, fleeing communism in Venezuela.

Would you say that the use of parole today by category, but then, case by case, is any different than what prior administrations have done?

Secretary MAYORKAS. Congresswoman, we have used our parole authority consistent with the law and consistent with past practices of different administrations.

Ms. LOFGREN. I'd just like to note that the idea that we should cutoff this way to rescue to people who are trying to escape from communism today is completely wrong and contrary to our history as a country. We have always welcomed those who are fleeing from communist oppression, going back many decades. I will strongly object if we turn our back on those refugees from communism today. That would be very wrong.

I just want to talk briefly about the refugee process. As we know, in the last administration, basically, the refugee program was destroyed. How are we doing in rebuilding the refugee processing, as well as the processing centers in the United States and the nonprofits who are helping refugees come into the United States? Can you tell us how we're rebuilding the refugee process?

Secretary MAYORKAS. Congresswoman, we, under the President's leadership, have recommitted ourselves to the refugee process. It is a process that benefited my family in fleeing the communist takeover of Cuba, and it's what drove me, quite frankly, to public service, the opportunities that this country provided for my parents, my sister, and me.

Ms. LOFGREN. I yield back, Mr. Chair. My time is expired.

Chair JORDAN. The gentlelady yields back.

The gentleman from Colorado is recognized.

Mr. BUCK. Thank you, Mr. Chair.

Secretary Mayorkas, last time you were here, I told you that my constituents consider you a traitor. Today, I'd like to explain why they believe this and ask you a few questions.

I'd like to introduce, first, my constituent Stephanie Granados. She lives in Loveland, Colorado with her mother Monica and younger brother Axel. She is 24 years old, bilingual in English and Spanish, a Christian woman who works as a restaurant server, and is a loyal friend to those around her.

Unfortunately, Mr. Secretary, that's only what I wish I could tell you about Stephanie. Stephanie is dead. A year ago, this young woman was poisoned. She never made it to age 24. Her mother's only glimpse of her now is in old photographs, and her brother misses his older sister.

Stories like that are normal conversations in Colorado. Stories like this begin with fentanyl. Where does fentanyl begin? Many times, it starts among chemical manufacturing firms in China—companies like the recently indicted Hebei Sinaloa Trading Company from the Hebei Province in China.

It manufactures and advertises the drug's ingredients to buyers in Mexico, using common mail and import fraud tools, like forged customs documents and falsely labeled packages. Firms ship the product, on purchase, to drug dens in cities like Guadalajara.

After preparation, these facilities finish the product and smuggle it by truck, by car, and by humans across our Southern border—chopped into counterfeit pills that are pressed to look exactly like legitimate pharmaceuticals, are mixed with cocaine or other substances. Americans buy those drugs, and it's like a walking mine field. These illegal drugs are, then, used to kill American citizens.

According to the CDC, over 150 people are dying every day because of synthetic opioids like fentanyl. The CDC's National Center for Health Statistics reported 79,770 opioid-involved overdose fatalities in 2022, and over 80 percent of opioid deaths are attributed to fentanyl.

In my home State of Colorado, fentanyl deaths remain near record levels. According to *The Denver Post*, more Coloradans have died of ingesting the drug in 2022 than overdosed on all drugs in 2016.

According to the Department of Justice's latest report on the subject, 64 percent of Federal arrests involve noncitizens committing crimes, despite them comprising only seven percent of the population.

Secretary Mayorkas, I'm going to ask a couple of questions and answer them for you before I give you a chance to respond.

Is China responsible—oh, I'm sorry. Recently, you spoke at the Aspen Security Forum and stated that China bears responsibility for this.

Is China responsible for keeping the Southern border open to smugglers? No.

Is China responsible for the Mexican cartels' emboldened attitude in the American drug trade? No.

Is China responsible for the impunity of more and more illegal aliens committing crimes in America? No.

Is China responsible for the record high 98 aliens on the Terrorist Watchlist crossing the Southwest border in 2022? No.

Is China responsible for the 856 illegal aliens who died while crossing the Southwest border last year? No. That's more than 300 deaths, by the way, in 2021, and more than three times as many in 2020.

Is China responsible for the 9,200 aliens with criminal convictions crossing the border illegally just this year to date? No.

Is China responsible for the estimated 1.5 million illegal alien gotaways that crossed the border undetected under your watch? No.

Is China responsible for the 1.2 million removable aliens who have been told by a judge that they must leave the U.S., but insist on staying?

Secretary Mayorkas, it is your responsibility to secure our border against fentanyl trafficking. The fentanyl killing thousands of Americans every year is a direct result of your dereliction. When people die of fentanyl poisoning, it is your fault.

What would you say to Stephanie Granados' family if they were here right now?

Secretary MAYORKAS. Congressman, we grieve the loss of any life as a result of the toxicity, the devastation of fentanyl. The challenge of fentanyl is not new. It has been escalating for more than five years. I believe there were more than 50,000 overdose deaths from fentanyl in 2020.

This is a scourge that all of us have to work together to combat. We in the Department of Homeland Security, with our Federal partners, are taking it to the traffickers to an unprecedented degree through innovative operations targeting criminals.

I stand by my statement at Aspen that China does bear responsibility, because many of the precursor chemicals and the pill press equipment that are used to manufacture fentanyl does originate from there.

This is a complex problem. We are taking it to the criminals, and I look forward to working with you, Congressman, to address this challenge, which has been only building over many years in this country.

Mr. BUCK. I yield back, Mr. Chair.

Chair JORDAN. The gentleman yields back.

The gentlelady from Texas is recognized.

Ms. JACKSON LEE. Good morning, Mr. Secretary.

You have repeatedly been before us and indicated your humble beginnings and the passion and commitment in which you serve America and take very seriously your job here as Secretary of Homeland Security.

On that basis, I have a number of quick questions, and I'm going to ask for a sense of urgency in wrapping this, so that I can assure that all have been answered.

First, I want to make clear that this is an oversight hearing, not an impeachment hearing. This is a hearing to address the questions of the work that has been done.

So, to that end, just as a factual basis, there's been a lot of hollering about the entry on the border, operational control. I'm asking for—a brief question: We know that the Federal Government ended Title 42. Have crossings gone down?

Secretary MAYORKAS. Yes, they have. The approach that we have taken, Congresswoman, of expanding lawful pathways, safe, orderly, and lawful pathways for individuals, and at the same time delivering consequences to those who do not take advantage of those lawful pathways has been working.

Ms. JACKSON LEE. Part of that—

Secretary MAYORKAS. The challenge, of course, remains.

Ms. JACKSON LEE. My numbers suggest 70 percent that they've gone down. It also suggests that the Biden Administration has put in stricter requirements for asylum, is that correct?

Secretary MAYORKAS. We did. We are delivering consequences for those who do not take advantage of the lawful pathways.

Ms. JACKSON LEE. You still believe in the humane infrastructure of America that started with the Statue of Liberty, and realizing people flee persecution, political dynasties, if you will, that cause violence and the forcing of leaving. Is that, is that part of our thinking here in the country?

Secretary MAYORKAS. Congresswoman, our laws, our refugee laws, our asylum laws, are one of our proudest traditions as a country of refuge.

Ms. JACKSON LEE. So, would you say, having been asked this over and over again, that the United States, the President of the United States, the Secretary of Homeland Security, and all the hardworking men and women at the border have operational control or have a form of presence that they are aware of what's going on at the border, and that they're working to secure the border every single day?

Secretary MAYORKAS. As we define that term, Congresswoman, we do.

Ms. JACKSON LEE. CISA has been called all things, maybe even not American. Is it an important element of securing elections, as it did in the 2020 election and 2022?

Secretary MAYORKAS. The security of elections, our election system is a component of our country's critical infrastructure. To protect the safety, security, and integrity of the election process is a significant priority of this government. The Cybersecurity and Infrastructure Security Agency works very closely with election officials in State and local jurisdictions to ensure the safety and security of the election system.

Ms. JACKSON LEE. I have two more questions, and I must quickly move forward.

The ADL has indicated that there have been 3,697 antisemitic incidents, a 36 percent increase, from 2021. What is your Department doing to protect the Jewish community, and within the New U.S. National Strategy to Counter Antisemitism, what kind of commitments have you made?

I have another question, but I think this is extremely important.

Secretary MAYORKAS. Congresswoman, there has been a rise in antisemitism in this country, the rise in other ideologies of hate. Our responsibility, as the Department of Homeland Security, is when there is a connectivity between an ideology, whatever that ideology might be, and violence. It is the prevention of violence that really prompts our engagement with local communities around the country.

Ms. JACKSON LEE. Thank you. I want to keep in touch on those issues. We all face communities who are, certainly, targets of that kind of violence.

I want to suggest that immigration is a national and Federal authorized responsibility. We see States like Texas and Florida that have spent billions in Texas; that have bused individuals to the Vice President's home and to other places.

Can you tell me how detrimental and questioning States getting involved in immigration issues, and how confident you feel that you are protecting the American people?

Incidents like that, including incidents at the border—which I'll put in the record, "Texas Trooper Alleges Inhumane Treatment of Migrants by State Officials along the Southern Border."

How are you responding to that responsibility that you have?

Secretary MAYORKAS. Congresswoman, the safety and security of the American people is our highest priority. Law enforcement is most effective when it is executed collaboratively in cooperation.

Chair JORDAN. The time of the gentle—

Ms. JACKSON LEE. Wait. I'd like to ask unanimous consent, Mr. Chair, to place into the record the *CBS News*, July 18, "Texas Trooper Alleges Inhumane Treatment of Migrants by State Officials along the Southern Border."

Chair JORDAN. Without objection.

Ms. JACKSON LEE. *The Washington Post*, "Southern Border Eerily Quiet after Policy Shift on Asylum Seekers." I ask unanimous consent to place that into the record.

Chair JORDAN. Without objection.

Chair JORDAN. The Chair now recognizes the gentleman from Florida for five minutes.

Mr. GAETZ. Two million encounters and releases under your watch. So, not including the Title 42 expulsions, not including violent criminals, of those two-million-plus that you've encountered and released, how many have you told to go home?

Secretary MAYORKAS. Congressman, individuals who are released are placed in immigration enforcement proceedings under the law, where they can make their claim for relief. If their claim for relief is not satisfied, they are subject to removal from the United States—

Mr. GAETZ. Right. "Subject to removal" sounds very different than actually removed. So, I'm not interested in the process. I'm not interested in what people are subject to. Two million people encountered and released—not the expulsions under Title 42, not the criminals—how many of those people have you deported?

Secretary MAYORKAS. So, Congressman, a few points. No. 1—

Mr. GAETZ. Just how many of the people? I just want to know how many. Just a number.

Secretary MAYORKAS. Congressman, we are dealing with a completely broken immigration system.

Mr. GAETZ. I get it. No, no, Mr. Secretary, I'm not going to let you burn my five minutes.

Do you know the answer? Do you know the number of people, out of that two million, that you've removed that aren't criminals?

Secretary MAYORKAS. I do know that we have removed more aggravated felons than—

Mr. GAETZ. Right. I'm not asking about them. I've caveated that away.

Because here's what I'm sort of getting and what your non-responsiveness is demonstrating. The Mayorkas doctrine is this: If you show up at the border and get released into the country, if you don't commit a specific aggravated felony—which, by the way, doesn't include a lot of assault and battery; doesn't include a lot of bad domestic violence—but if you're not one of the people who commit those crimes, you get to stay forever. Is that a fair characterization of your doctrine?

Secretary MAYORKAS. No, that is false.

Mr. GAETZ. Then, tell me how many you're sending home.

Secretary MAYORKAS. No, that is false.

Mr. GAETZ. OK, well, but you don't know the number of how many you've sent home.

Here's another number: 1.2 million people today have been through your entire process, right? They've been through what you call a removal proceeding. It's just an amnesty dance. Because after the 1.2 million people get an order from the judge saying that they don't have a basis to be here, you still don't remove them. Like what's your plan to remove those people?

Secretary MAYORKAS. Congressman, that is false.

Mr. GAETZ. OK. Well, how many of them then? Just give me the number.

Secretary MAYORKAS. Congressman, in this country—in this country—there are between 11–12 million undocumented—

Mr. GAETZ. Right, but I'm asking about a subset that you won't send home. The reason you're smirking about it, and the reason you won't answer my question, is because everybody gets the joke. The sad thing is it's not just us here. It's the cartels who get the joke, too.

So now, what you've done to execute this Mayorkas doctrine—where so long as you don't commit a crime, you get to stay here and burden our hospitals, burden our schools, burden our social services, burden our jails—you've sent the message to the cartels, and then, you've taken this app and you've digitized illegal immigration and you've scaled it to the moon.

Like this app that you've got everybody downloading is like the Disney FastPass into the country, never to be subject to actual removal; just removal proceedings, as you call them. That app doesn't do any search of their criminal history in their home country, does it?

Secretary MAYORKAS. Congressman, I disagree with everything you have said.

Mr. GAETZ. Well, I'm sure, but just answer the question: Does the app that you are out there promoting do any search of people's criminal history in their home country?

Secretary MAYORKAS. Congressman, Customs and Border Protection screens and vets individuals whom they encounter early—

Mr. GAETZ. Your app, it either has the functionality to test their criminal history in their home country or it doesn't. By the way, if it did, you would have already told me. It doesn't.

Then, the other epic failure of this that's empowered the cartels is that, in these processing centers you've set up in other coun-

tries—so, just wave them all in at a rapid pace—you’ve had to shut them down in Nuevo Laredo because the cartels were standing outside extorting people. Isn’t that right?

Secretary MAYORKAS. Congressman, that is false.

Mr. GAETZ. Oh, really? So, why did you shut down that facility in Nuevo Laredo?

Secretary MAYORKAS. Understand that the point of safe, orderly, and lawful pathways is to reduce the number of encounters at our Southwest border—

Mr. GAETZ. Wait a second. You’ve just shifted those encounters. Because, right now, for the first time in modern history, more people are showing up at the ports of entry than running through some bush in Yuma, Arizona. The reason they’re showing up at the ports of entry is because you’ve got the turnstile open—where, so long as they’ve gone and downloaded this app, you just let them in.

I’ve got one final question for you, and it’s an important one. Is Mexico an ally in this fight against illegal immigration?

Secretary MAYORKAS. Yes, it is.

Mr. GAETZ. So, it’s hilarious and somewhat troubling that you say that, because, like, I’m looking at the El Chapo trial, where President Nieto took a \$100 million bribe from the Sinaloa cartel. Do you think that the subsequent Presidents following Nieto weren’t offered a bribe by the cartel, or didn’t take the bribe?

Secretary MAYORKAS. Congressman, I disagree with everything you have said.

Mr. GAETZ. Right, but—

Secretary MAYORKAS. I have worked—

Mr. GAETZ. You can disagree all you want, but what you won’t provide is any number. When you sit there and just kind of ostensibly disagree without any facts, it shows people what the real gig is.

The Mexican government is captive to the cartels. They are doing the bidding of the cartels, and based on your response today, so are you.

Mr. COHEN. Thank you, Mr. Chair.

Welcome, Mr. Ambassador. Appreciate your service and appreciate your testifying today.

Last week Director Wray sat in the hot seat. By the way, is it still warm or did you bring some potholders?

Secretary MAYORKAS. I am prepared to answer the questions of this Committee—

Mr. COHEN. Thank you, sir.

Secretary MAYORKAS. —Congressman.

Mr. COHEN. Director Wray testified that a lot of the animus that has been conjured up against government, in this Congress particularly, but around the country, have given White supremacists of the belief that their actions may be justified, and it has hurt morale at his agency, and it has jeopardized the lives of some of his agents. A situation in Cincinnati where a man went out and—he didn’t kill anybody, but he tried to; was going to go to the Cincinnati base. There have been others. Has your division of government, Homeland Security, been affected, the employees’ morale been affected by these White supremacist threats and statements

and have you been the—any of your agents and sites been the victim of violence?

Secretary MAYORKAS. Congressman, it is the antigovernment sentiments and their connectivity to violence that is the subject of my discussions with many of our front line personnels—personnel and the threats that they have encountered as a result.

Mr. COHEN. Has there been any violence directed at any of your sites?

Secretary MAYORKAS. There has. We have an agency within the Department of Homeland Security, the Federal Protective Service; remarkable men and women in uniform who protect Federal facilities and the personnel who work in them.

Mr. COHEN. There was a court ruling yesterday, and I didn't get into depth, but I believe it suspended a program that the President; and that includes you, tried to have for border entry and who could come to this country and seek asylum and limit it to some extent. It was stayed I believe by a court. Is that correct?

Secretary MAYORKAS. Yes, Congressman. It's the Circumvention of Lawful Pathways Regulation that we promulgated as part of our process to expand lawful pathways for individuals and at the same time deliver consequences for those who do not use those pathways.

Mr. COHEN. Were there similarities to the program that President Biden and you had stayed that President Trump had also tried to implement, or did implement?

Secretary MAYORKAS. It is a different program than the one that President Trump implemented, Congressman.

Mr. COHEN. OK. Did it have any parts of it?

Secretary MAYORKAS. No, the—and I will not speak much about this, Congressman, because the matter is the subject of litigation, but President Trump issued a transit ban on individuals, and our regulation is not a ban. It shifts the evidentiary burden. It raises it and creates a rebuttable presumption, which is quite distinct from a ban.

Mr. COHEN. Could you say that was a middle ground between what President Trump had and what the Court maybe wanted because the Court stayed it and didn't allow it to occur?

Secretary MAYORKAS. Congressman, I'm able to comment any further given the fact that it's a matter of pending litigation.

Mr. COHEN. Thank you, sir. I have had a problem which is more local in nature, I guess, constituents who have complained that the opportunity to get certified by the Global Entry Program in Memphis, Tennessee has been thwarted, that they have been told they need to go to Jackson, Tennessee. Memphis is a city of over a million people. Jackson is a city of about 100,000. Why our folks would have to go to Jackson to get their global entry form is hard for me to comprehend. They said they had to travel there.

We tried to get in touch with the people at Global Entry. I think we got a phone call Friday. We found it very difficult to get in touch. The phone number that we were given by some people with TSA as a kind of speedy number, the number we need to get action. My staff said that they—the phone was hardly ever answered. They mostly stayed on hold.

Could you ask the folks, because they come under you, at Global Entry to look into why citizens in Memphis have to go to Jackson?

They were told it was because some of their people have to work to help FedEx. Everybody should help FedEx. Besides that, they need to help the citizens of Memphis get their global entries as well. So, can you look into that for me?

Secretary MAYORKAS. I will, Congressman. The Global Entry Program is one of two trusted traveler programs. Global Entry is under U.S. Customs and Border Protection and PreCheck is under the Transportation Security Administration. Those are two very successful trusted traveler programs that enhance the security of travel in the United States, as well as facilitate that travel. I'd be pleased to look into that issue.

Mr. COHEN. Thank you, sir. Are you from Miami?

Secretary MAYORKAS. No, I was born in Cuba and fled the communist takeover of Cuba to the United States.

Mr. COHEN. You didn't come to Miami at all?

Secretary MAYORKAS. I did. We lived in Miami for a couple years before my father found work elsewhere.

Mr. COHEN. Thank you. Well, I am in the same status except I didn't go to Cuba first. I did go to Miami and then my father found better employment elsewhere. Thank you and appreciate your work. Yield back.

Mr. ISSA. Mr. Chair, I would ask unanimous consent that the regs of the Secretary's agency dated March 29, 2022, be placed in the record in which a quote contained says,

Full 83 percent of the people who were subject to removal between 2014–2019 were referred to an immigration judge and in fact were not found to have a credible fear.

So, when the Secretary said that I was wrong about the majority, he was wrong. It is 83 percent according to his own documents in the period 2014–2019. Perhaps it is improved, but I doubt it. Yield back.

Chair JORDAN. Without objection.

Chair JORDAN. The Chair now recognizes the gentleman from Louisiana.

Mr. JOHNSON of Louisiana. Secretary Mayorkas, we have the frustrating responsibility on this Committee of providing oversight of your agency, but I have to be honest and tell you I am not sure exactly what you do at the Department of Homeland Security other than great harm.

On your watch the data is pretty clear. We have had record levels of illegal immigration, a rapid decline in deportations, skyrocketing fentanyl deaths across our country. The Secret Service, which is a DHS component, can't determine who left cocaine at the White House.

In the middle of all this you created the Cybersecurity and Infrastructure Security Agency, CISA, which is a division of your—of DHS. It is one of the Biden Administration agencies that colluded with and coerced the social media companies to censor Americans' protected free speech online. That is specifically detailed in a 155-page Court Opinion that came out of the Federal court in Louisiana in the landmark litigation of *Missouri v. Biden*.

Have you read that Court Opinion?

Secretary MAYORKAS. Congressman, I have not. The Cybersecurity and Infrastructure Security Agency does not censor speech.

Mr. JOHNSON of Louisiana. OK. Well, the court found otherwise. It is really curious to me—actually it is quite alarming that you haven't read the opinion because your agency is listed in this opinion. The Federal court looked at volumes of evidence over months of litigation and they determined, among other things, that if the allegations made the plaintiffs, the States in this case, are true—and hold on. The preliminary injunction was granted against your agency, sir, and other Biden Administration agencies, including the DOJ and FBI. The court said it involves the most massive attack against free speech in United States history. You are telling me this opinion issued July 4th has not reached your desk? No one has briefed you on it?

Secretary MAYORKAS. I have been briefed on the *Missouri* litigation.

Mr. JOHNSON of Louisiana. OK. You haven't taken the time to read it yet?

Secretary MAYORKAS. Congressman—

Mr. JOHNSON of Louisiana. No, hold on. Have you read it or not?

Secretary MAYORKAS. I have read parts of it, Congressman.

Mr. JOHNSON of Louisiana. Oh, parts of it? Did you read the parts where it said that this is Orwellian and dystopian and that your agency is involved in a massive coverup of specifically conservatives' free speech online?

Secretary MAYORKAS. Congressman, the Cybersecurity and Infrastructure Security Agency is not involved in such conduct.

Mr. JOHNSON of Louisiana. OK. Well, the court found otherwise. You stand here under oath and you give us these answers that we know are not true, because this is demonstrably untrue. I am suggesting to you that you are saying things to us under oath that are proven by the record to be untrue.

Let me ask you about this specifically: CISA was created to—we call it the Misinformation and Disinformation Subcommittee of CISA. Are you familiar with that?

Secretary MAYORKAS. Congressman—

Mr. JOHNSON of Louisiana. MDM. The MDM Subcommittee. You are familiar with that?

Secretary MAYORKAS. Congressman, I am very well aware of the threat of disinformation emanating from adverse Nation States.

Mr. JOHNSON of Louisiana. Are you familiar with the Subcommittee? Just answer the question.

Secretary MAYORKAS. I am.

Mr. JOHNSON of Louisiana. OK. Does it still exist?

Secretary MAYORKAS. Congressman, are you speaking of the—

Mr. JOHNSON of Louisiana. Does the MDM Subcommittee still exist?

Secretary MAYORKAS. I would have to get back to you on that.

Mr. JOHNSON of Louisiana. OK. All right. Kind of a big deal in your agency. I am kind of shocked that you don't know the answer to that.

Can you define what misinformation is?

Secretary MAYORKAS. Congressman, misinformation is false information that is disseminated to—

Mr. JOHNSON of Louisiana. Excellent. Who determines what is false?

Secretary MAYORKAS. Congressman, our focus—

Mr. JOHNSON of Louisiana. No, who determines what is false in your agency?

Secretary MAYORKAS. Congressman—

Mr. JOHNSON of Louisiana. If you are going to pull something off the internet and collude with a social media platform to make sure Americans don't see it, who determines what is false?

Secretary MAYORKAS. Congressman, we don't do that.

Mr. JOHNSON of Louisiana. That is not true. That is not true. That is not what the court has found. This is not a Republican talking point. This is what the documents show. We have had people testify under oath that say—and you just defined the term. You are telling me that you don't know who determines what is false?

Secretary MAYORKAS. Congressman, what we do at CISA, the Cybersecurity and Infrastructure Security Agency, is identify the tactics that adverse Nation States use to weaponize disinformation—

Mr. JOHNSON of Louisiana. OK. What is disinformation? What is disinformation?

Secretary MAYORKAS. Disinformation is inaccurate information—

Mr. JOHNSON of Louisiana. Who determines what is inaccurate? Who determines what is false? You understand the problem here? The reason the Framers of our Constitution did not create an exception for, quote, "false information" from the First Amendment is because they didn't trust the government to determine what it is. You have whole committees of people in your agency trying to determine what they determine, they define as false or misinformation.

Secretary MAYORKAS. That is not true.

Mr. JOHNSON of Louisiana. Well then what is true?

Secretary MAYORKAS. What we do—

Mr. JOHNSON of Louisiana. Please enlighten us.

Secretary MAYORKAS. —is what we do is we disclose the tactics that adverse Nation States are utilizing to weaponize disinformation.

Mr. JOHNSON of Louisiana. No, sir. No, sir. The court found specifically—it is a finding of fact that is not disputed by the government defendants: The Biden Administration, your agency, the FBI, or DHS. Not in the litigation. They determined you made—you and all your cohorts made no distinction between domestic speech and foreign speech. So, don't stand there and tell me under oath that you only focused on adverse adversaries around the world.

Secretary MAYORKAS. Congressman—

Mr. JOHNSON of Louisiana. Foreign actors. That is not true.

Secretary MAYORKAS. Congressman, the *Missouri* case, the litigation to which you refer, is the subject of continuing litigation.

Mr. JOHNSON of Louisiana. The facts were not disputed. I so, so regret that I am out of time. I hope I get some more yielded. I yield back.

Chair JORDAN. The gentleman yields back.

The Chair recognizes the gentleman from Georgia.

Mr. JOHNSON of Georgia. Thank you, Mr. Chair.

I don't trust the government of Florida to tell teachers how to teach history, particularly Black history, wanting to put a revisionist idea that somehow slaves benefited from being slaves. I

don't think that that is the truth, but I will tell you my friend Donald Trump will have his folks thinking that that is the truth.

At any rate, MAGA Republican extremists want to sell us on an apocalyptic fantasy. They want the American people to believe that the border is out of control, that drugs are flowing in freely, that September 11th-style terrorists are infiltrating with impunity, and that Latino immigrants are coming to rape, rob, and murder our families. In reality the greatest threat facing our homeland is White nationalist ideology that lies beneath such rhetoric.

Experts agree that dangerous speech from elected officials creates a climate that foments violence and threatens public safety. Republicans in the 118th Congress have amplified the White nationalist invasion conspiracy theory over 80 times in their official capacity. Eleven Members of this very Committee pedaled this dangerous anti-Semitic, racist conspiracy theory.

Dr. Heidi Beirich, co-founder of the Global Project Against Hate and Extremism, has said, quote,

When migrants are described as invaders, that leads to violence because how else does one stop an invasion.

Mr. Secretary, as the Ranking Member mentioned, next month is the anniversary of the El Paso shooting. The shooter was inspired by White nationalist theories like the great replacement theory and claimed that there was a Hispanic, quote, "invasion." He drove hundreds of miles to, as he admitted, target Hispanics and to murder 23 people. He is far from the only person inspired to kill as a result of these theories.

In October 2018, a domestic terrorist infiltrated the Tree of Life Synagogue in Pittsburgh, Pennsylvania and murdered 11 congregants during Shabbat services. That man targeted Jewish—he targeted a Jewish community because he believed in the great replacement theory. Unfortunately, this has become a repeated pattern which includes the attack in Poway and Buffalo. Regardless of political views we should all stand for the principle that hate is unacceptable.

Mr. Secretary, what kind of impact does this White nationalist rhetoric of invasion or replacement have on minority communities?

Secretary MAYORKAS. Congressman, when an act of hate occurs, it's not just the community that is impacted. The adverse impact is felt across this Nation. One of the most prominent terrorism-related threats that we face in the homeland is what we term domestic violent extremism. It is—

Mr. JOHNSON of Georgia. It is White nationalist extremism, is it not?

Secretary MAYORKAS. Congressman, there are diverse ideologies that underlie the acts of violence. White nationalism is one of them. We do not focus on the ideology itself. We focus on its connectivity to violence and our effort to prevent that violence. We see a diverse range of ideologies of hate. Antigovernment sentiment, personal grievances, false narratives fuel acts of violence in this country. It is the connectivity to violence.

Mr. JOHNSON of Georgia. Well, when elected officials repeat great replacement rhetoric, including the language of invasion, are they putting a target on the backs of immigrants and people of color?

Secretary MAYORKAS. It certainly fuels the threat landscape that we encounter in the—

Mr. JOHNSON of Georgia. What kind of dangers does this rhetoric impose on law enforcement?

Secretary MAYORKAS. We have seen the number of ambushes of law enforcement officers increase year over year recently. I could provide that data to you.

Mr. JOHNSON of Georgia. Thank you. My time is about to expire, and I will yield it back.

Chair JORDAN. The gentleman yields back.

The gentleman from Arizona is recognized.

Mr. BIGGS. Thank you, Mr. Chair.

Secretary, who must take responsibility for the creation of the Disinformation Governance Board, you as the Secretary of Homeland Security or President Biden?

Secretary MAYORKAS. Congressman, the Disinformation Governance Board, which has been mischaracterized—

Mr. BIGGS. So, did President Biden tell you to do it or did you guys decided to do it? Did you take responsibility for creating that?

Secretary MAYORKAS. Congressman, it is my responsibility, and I will share with that—

Mr. BIGGS. Very good. So, the last four days 5,300 people have been encountered in the Tucson sector. Last four days. Fifty-three hundred. In the last week over 9,000 in the Tucson sector. That is not my made-up numbers. That is from Sector Chief Modlin. Who must bear responsibility for that? You or President Biden?

Secretary MAYORKAS. Congressman, our approach—

Mr. BIGGS. Is it you or President Biden? Who made the policies that—let's get there. Did President Biden tell you to open-up the border or did you?

Secretary MAYORKAS. The border is not open, Congressman.

Mr. BIGGS. Oh, so that is why there is 5,300 in the last four days that illegally tried to enter the country?

Secretary MAYORKAS. Congressman—

Mr. BIGGS. That doesn't include the got-aways in that sector, which is the No. 1 sector three to one. You are saying it is somebody else's fault. It is not open.

Well, let's talk about this then: Recently retired CBP Chief Raul Ortiz has testified under oath that the U.S. does not have operational control of the border as required. Is it your responsibility or President Biden's responsibility to make sure there is operational control?

Secretary MAYORKAS. Congressman—

Mr. BIGGS. These are not hard questions. It is either your responsibility or President Biden's. Whose is it?

Secretary MAYORKAS. Congressman, the men and women of the Department of Homeland Security work tirelessly—

Mr. BIGGS. So, look, I am going to tell you I get down to the border. I love the CBP agents. You know what they keep saying? We just want to enforce the law. So, who is preventing from enforcing the law? Is it you or President Biden? It is that simple. Because your policies are allowing millions of people to get through, across this border. So, since January 20, 2021, millions of illegal aliens have cross the Southern border and have been released by DHS

into the interior of the U.S. Did you implement this catch and release program or was it President Biden?

Secretary MAYORKAS. Congressman, individuals who pose a public security—

Mr. BIGGS. So, look, you and I have had this song and dance before. You never want to answer the question. You never want to answer the question. Look, there is a whole side over there. They want to feed you pabulum so you can say whatever you want, but I think the American people know it is either you or President Biden. I want to know is President Biden giving the directions on the implementation of these policies or are you the one that is creating this?

So, let's go to some of this stuff that you have written. September 30, 2021, you issued guidance that we had a Senior DHS official come and tell this Committee that your guidance from September 30, 2021, led to ICE officers not submitting, quote, "through their chain of command as many cases as they would have submitted previously." It was under your name. Did President Biden tell you to write that memo or is that your policy?

Secretary MAYORKAS. Congressman, the memo that you refer to is the Enforcement Priorities Memo.

Mr. BIGGS. Did you—

Secretary MAYORKAS. Priorities that—

Mr. BIGGS. Is that your policy then or is that President Biden's?

Secretary MAYORKAS. The priorities that we established in that memo—

Mr. BIGGS. I will take it that it must be yours I guess that is all we can take then.

OK. So, since we have been sitting here, since 10, that is the number of drug overdoses due to fentanyl in the country. So, my question for you is who is responsible? Is it Joe Biden as President of the United States or is it you as Secretary of Homeland Security for the open border where fentanyl is coming across and we have American citizens dying? That is since 10 a.m., Eastern Time.

Secretary MAYORKAS. Congressman, the border is not open. The challenge of fentanyl is one that has been escalating for more than five years.

Mr. BIGGS. Look, let's just—you cited a figure that was 50,000. Since you came in it has been more than double every year. Who is responsible for that? Is it you and your policies or is it President Biden? It is a simple thing. You don't want to answer it because you know it is you. You know it is your policies. You are driving it. On October 27, 2021, you issued guidance that restricted the ability of ICE officers to arrest aliens in protected areas such as courthouses where they knew aliens to be. That has made it more difficult and dangerous for ICE officers to go and enforce the law. These are people had already had—generally, many of them had already had their day in court. Did President Biden order you to issue that guidance?

Secretary MAYORKAS. Congressman, our policies are driven to protect the American people, safeguard—

Mr. BIGGS. Who issued that policy? Was it the President? Were you following the President, or did you create the policy?

Secretary MAYORKAS. Congressman—

Mr. BIGGS. Or will you ever give us an answer?

Secretary MAYORKAS. —that is a policy—

Mr. BIGGS. Yield back. Disgusting.

Mr. JOHNSON of Georgia. Mr. Chair—

Chair JORDAN. The gentleman from—

Mr. JOHNSON of Georgia. —I have a unanimous consent to enter into the record.

Chair JORDAN. The gentleman is recognized.

Mr. JOHNSON of Georgia. Thank you. Data from the U.S. Sentencing Commission which shows that 88 percent of the people conflicted for fentanyl trafficking crimes are United States citizens, not immigrants crossing the border.

Chair JORDAN. Without objection.

The Chair now recognizes the gentleman from California.

Mr. SCHIFF. Mr. Secretary, welcome to the Committee. It is wonderful to see you. You and I served together in the U.S. Attorney's Office in Los Angeles now some 30 years ago. I had great admiration and respect for your integrity and your work ethic then and I do today. I am grateful for you taking on what may be the most difficult job in the U.S. Government today. So, thank you for being here. My colleagues have a lot of questions for you, but they don't seem to want to give you the time to answer them.

I would like to ask you about the Cyber Information—Cybersecurity and Infrastructure Security Agency. In 2016, the Russians intervened heavily in our election to try to elect Donald Trump. They intervened with a massive social media campaign run out of St. Petersburg. They intervened by hacking the Democratic Party and its emails and releasing them through cut-outs.

In 2020, the Cybersecurity Agency, having learned from the experience of 2016, I think did an admirable job in protecting our elections infrastructure. Its primary sin, although the Republicans won't say it, is that its then Director asserted after the election that it was the most secure election in our history. That was the sin of the agency, doing its job and doing it well.

As we look forward to the next Presidential election, I want to ask you about what you see as the threats to our elections infrastructure or the threats of misinformation/disinformation from whatever source.

I am particularly concerned about YouTube's recent decision—I think the Republican badgering has had an effect and this is part of the effect. YouTube recently decided to, quote,

Stop removing content that advances false claims that widespread fraud, errors, or glitches occurred in the 2020 and other past U.S. Presidential elections.

YouTube has not decided it is not going to remove content it knows to be false. Other social media platforms like Twitter have decided to fire those that would be in the business of security or looking for misinformation/disinformation campaigns from whatever sources.

So, in light of that changed environment what do you see as the principal threats to our elections in 2024?

Secretary MAYORKAS. Congressman, I would identify at least three threat streams:

- (1) The threat of disinformation propagated by the Nation states of Russia, China, North Korea, and Iran.
- (2) Would be the cybersecurity threat, something that we are always vigilant in guarding against. It is because of that threat that we seek to build redundancies in our election systems to best protect them.
- (3) Third is something that we saw manifested last year, and that is the threat of physical intimidation of individuals at the voting booth.

Those are three threat streams that I can identify right off the bat. We are very focused on each of them. Of course, the physical security is not something that we ourselves provide but work in collaboration with local jurisdictions and give them advice as to how they can best secure the facility and the integrity of the voting process.

Mr. SCHIFF. Today you may have seen it was reported that Rudy Giuliani has acknowledged in a court filing that the statements he was making about these Georgia election workers were just patently false. Those election workers' lives were put at great risk. Some of your own personnel, their lives have been put at great risk by those who would attack our elections or attack efforts to prevent misinformation and disinformation.

What efforts can you make to protect election workers and your own staff from these relentless falsehoods advanced to facilitate the campaigns of some of my colleagues' Presidential hopeful?

Secretary MAYORKAS. Some of the things that we do, Congressman, is we provide information to State, local, Tribal, territorial, and campus law enforcement with respect to the threat streams that we are observing. We also have protective security advisors in each State that give advice to local communities about how best to secure facilities and make them safe areas for people to vote. Those are two examples of the work that we perform.

Mr. SCHIFF. I appreciate what you do, Mr. Secretary, and I hope that these constant and unfounded attacks on you, on your agency, on the Cybersecurity and Infrastructure Security Agency don't make your work that much more difficult. We are grateful to you. With that, I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from Wisconsin is recognized.

Mr. TIFFANY. Mr. Chair, I want to issue a quick correction here. As we started it was mentioned earlier that Congress has not acted in decades to security the border. This House of Representatives in this session of Congress did act. We passed H.R. 2 to secure the border.

How many Afghans, Mr. Secretary, have been admitted to the United States through parole since the fall of Kabul two years ago?

Secretary MAYORKAS. Congressman, I would be pleased to provide you with that data. I don't have it—

Mr. TIFFANY. There were 70,192 Afghans that were brought into the United States. They were brought here on parole for two years. Will you be reviewing each individual status on a case-by-case basis as this expiration happens?

Secretary MAYORKAS. Congressman, you're referring to what we termed Operation Allies Welcome, a program that we are very proud of that we instituted to provide refuge for individuals, many of whom—

Mr. TIFFANY. Will you be reviewing those—they came in on parole. Will you be reviewing them on a case-by-case basis?

Secretary MAYORKAS. We reviewed them on a case-by-case basis. When those parole periods are subject to renewal, we will do so again.

Mr. TIFFANY. The commander down at Fort McCoy in my State, when I interviewed him two years ago, he said they were not interviewed on a case-by-case basis. In fact, in the terror hotbed of the world, Afghanistan, which should have a special immigrant visa process—the previous administration used that to make sure to fully vet—not one of those people that came in from Afghanistan were sent through the special immigrant visa process. They were simply given parole.

Do you know how much damage was done to Fort McCoy during that period when those 12,000-plus Afghans came in?

Secretary MAYORKAS. Congressman, the individuals who benefited from Operation Allies Welcome were indeed screened and vetted by government personnel.

Mr. TIFFANY. They were brought in categorical parole, Mr. Chair. There was \$145.6 million of damage that was done to Fort McCoy. Did you realize that?

Secretary MAYORKAS. Congressman, we're very—

Mr. TIFFANY. The place was virtually destroyed.

I want to move on. The poster behind me. We are seeing all sorts of very serious, very serious criminal threats that come from across the border. That was two weeks ago from FBI Director Wray, in other words saying the border is out of control. You say it is under control. Who is lying, you or FBI Director Wray?

Secretary MAYORKAS. Congressman, we are very proud of our efforts to secure the border. We are relentless in our efforts to strengthen—

Mr. TIFFANY. FBI Director Wray said it is becoming more and more of a priority for us, under oath, just two weeks ago. Who is lying to us, Director Wray or you?

Secretary MAYORKAS. Congressman, we work very closely with the FBI to ensure the safety and security of the American people. That is your highest priority.

[Video plays.]

Mr. TIFFANY. Cartels are the winners. Sheriff Mark Dannels under questioning here a few months ago before this Committee, Cochise County down on the border of Arizona, he said the open border has led to a significant increase in the amount of fentanyl coming into this country. Do you agree with his assessment?

Secretary MAYORKAS. Congressman, we have taken it to the cartels—

Mr. TIFFANY. Do you agree with his assessment? He said the amount of fentanyl has gone up significantly as a result of the open borders policy implemented by this administration January 20, 2021. Is he lying to us? Did Sheriff Dannels lie to us?

Secretary MAYORKAS. Congressman, I respectfully disagree with Sheriff Dannels, whom I know well. I can say—

Mr. TIFFANY. So, Sheriff Dannels is lying to us?

Secretary MAYORKAS. That is not what I said, Congressman, and let me share with you—

Mr. TIFFANY. Someone is not telling the truth here, Mr. Secretary. Someone is not telling the truth. It is either Dannels or it is you.

Secretary MAYORKAS. Congressman, we have interdicted more fentanyl at the ports of entry than in the prior administration.

Mr. TIFFANY. Mr. Chair, I will go to close here.

The most urgent lethal threat in America was in this man's testimony. There is one person in America who can reduce the number of fentanyl deaths in America. By the way, the term fentanyl overdoses are used. That is not the case anymore, is it? It is fentanyl poisonings. We have had them here. The Rachwal family from my State of Wisconsin.

When you hear of fentanyl poisonings here in America, there is one person that can do something about it, and he sits right before us today.

You, sir, are responsible for reducing fentanyl deaths in America. Will you ever do anything about it. I yield back.

Chair JORDAN. The gentleman yields back.

Mr. JOHNSON of Louisiana. Mr. Chair, I have got a unanimous consent request quickly.

Chair JORDAN. The gentleman from Louisiana.

Mr. JOHNSON of Louisiana. Two things actually: I wanted to enter into the record a report, a *Fox News* report, April 27, 2022, which details the testimony of Mr. Mayorkas that created the Disinformation Governance Board within DHS to combat alleged disinformation and misinformation, terms that he is not able to explain here.

The second document is the public statement on the Hunter Biden emails with the 51 former intel agents. That has now been debunked, but they also refer to misinformation. So, it is an important term. Enter those into the record.

Chair JORDAN. Without objection.

The Chair now recognizes the gentleman from California.

Mr. LIEU. Thank you, Chair Jordan.

The House Judiciary Committee is responsible with helping to ensure the rule of law. Unfortunately, the Chair of this Committee ignored a bipartisan Congressional subpoena. The actions of the Chair have undermined the credibility of all Congressional Committees in seeking information from witnesses and damaged the rule of law.

Secretary Mayorkas, thank you for your public service. I would like to discuss with you the history of the Southern border. In September 1969, a few years before Watergate consumed this Presidential Administration, the President launched Operation Intercept which basically shut down the Southern border. Less than three weeks later that operation was stopped because it largely failed to address the issues at the border.

Secretary Mayorkas, who was the Republican President in 1969?

Secretary MAYORKAS. Congressman, I have to think back sequentially in reverse chronology, but I'm sure you know the answer—

Mr. LIEU. He resigned.

Secretary MAYORKAS.—immediately.

Mr. LIEU. I will give you a hint: This Republican President resigned.

Secretary MAYORKAS. Congressman, I know the President, President Nixon.

Mr. LIEU. Thank you. After Nixon resigned in 1974, his Vice President became President, but the issues at the border continued, and in 1976 the President stated, quote, “80–90 percent of the heroin that comes into the United States today comes across from our Southern border.”

Secretary Mayorkas, who was the Republican President in 1976? The Vice President to Nixon.

Secretary MAYORKAS. I’m sorry?

Mr. LIEU. He was the Vice President to Richard Nixon.

Secretary MAYORKAS. Gerald Ford are you speaking of?

Mr. LIEU. Yes, that is correct.

Secretary MAYORKAS. Yes, I’d—

Mr. LIEU. Then—

Secretary MAYORKAS. Congressman, I’d prefer not to answer questions of history right now. My focus is on the—

Mr. LIEU. Right. I am going to help you with it.

Secretary MAYORKAS. —work of the Department of Homeland Security.

Mr. LIEU. I am going to help you with this. In the 1980s the Republican President had promised morning in America again, but the issues at the Southern border continued prompting him to offer a partial shutdown of the border in 1985. This operation aptly named Operation Intercept II was stopped after only a few days because it also failed to address the issues at the border. This was a President that knew about these issues because he was a former of Governor of California.

Secretary Mayorkas, who was the Republican President in 1985?

Secretary MAYORKAS. Ronald Reagan, Congressman.

Mr. LIEU. Thank you. The border issues continued into this century. In 2006, the President, who was also familiar with the border because he was a former Governor of Texas, declared that, quote, “for decades the United States has not been in complete control of its borders.”

Secretary Mayorkas, who was the Republican President in 2006?

Secretary MAYORKAS. President Bush, Congressman.

Mr. LIEU. OK. In the prior administration the Republican President tried to solve the issues at the border and he failed. I would now like to show a video of what was actually happening during the prior administration in 2018.

[Video plays.]

Mr. LIEU. In May 2019, the situation got even worse. *Politico* published an article on June 5, 2019 that was titled, “Border Arrests Rose to Nearly 130,000 in May as the Border Surge Continues.”

Secretary Mayorkas, who was the Republican President in 2018 and 2019?

Secretary MAYORKAS. President Trump, Congressman.

Mr. LIEU. Now we are here in 2023. Secretary Mayorkas, last month in June border crossings declined to the lowest level in over two years, correct?

Secretary MAYORKAS. I’m sorry. Can you repeat the—

Mr. LIEU. Border crossings last month declined to the lowest level in over two years, correct?

Secretary MAYORKAS. Yes.

Mr. LIEU. OK. *Politico* published an article last week that stated approximately 99,545 individuals were apprehended last month, the first time the figure dropped below 100,000 in more than two years. That data is largely correct, right?

Secretary MAYORKAS. I believe so, yes, Congressman.

Mr. LIEU. All right. So, based on the facts that you have testified to here is this chart. Shows that under Trump there were 130,000 border apprehensions in May 2019, and last month under the Biden Administration there were less than 100,000 border apprehensions. The facts show the Southern border is doing better last month than it was under Trump in May 2019.

Thank you, Secretary Mayorkas, for your public service. Now that the Republicans want to impeach you, good luck with that one. I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from Texas is recognized.

Mr. ROY. I thank the Chair.

Secretary Mayorkas, on April 28, 2022, I asked you, quote, “Will you testify under oath right now do we have operational control, yes or no?” You responded with, quote, “Yes, we do.” I then asked we have operational control of the borders? You responded, quote, “Yes, we do.”

Followed up. I read to you the definition of operational control. I actually held up this chart. Operational control as defined under the Secure Fence Act. Put it for plain reading, plain as day. I put up the second part of the same statute which defines operational control. Means the prevention of all unlawful entry into the United States including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.

I said to you do you stand by in your testimony that we have operational control in light of this definition? You responded with, quote, “I do.”

Earlier you testified I didn’t give you a chance to finish, yet you specifically when asked—and held up a statute defining exactly what operational control meant under the Secure Fence Act you said, quote, “I do.” I believe that was purposeful. I believe you want the American people to believe we have operational control of the border when we very clearly do not. Less than a month later in Homeland Security you testified, quote, “Under that strict definition this country has never had operational control.”

This year House Homeland Security. Then Border Patrol Chief Raul Ortiz testified before the Homeland Committee that DHS did not have operational control of the border either by the statutory definition or not. Now, that is an honest answer.

In the Senate Judiciary Committee shortly thereafter you testified with respect to the definition of operational control, I do not use the definition that appears in the Secure Fence Act. The Secure Fence Act provides statutorily that operational control is defined as preventing all unlawful entries into the United States, and by that definition no administration has ever had operational control.

If you will recall when you testified here in front of me, when I asked that question, when you very clearly stated we do have operational control. When presented with the actual definition of operational control, you didn't hesitate. You said I do. You, in fact, then referred back and said I believe that my predecessors would have said the same thing.

I asked Chad Wolf that question in this room and Chad said,

Well, no, we didn't use that framing to say we have operational control. We are striving to achieve operational control.

You didn't do that. You looked straight at the American people, straight at me, straight at every person on this Committee, and said, "we have operational control." Why?

Secretary MAYORKAS. Congressman, two points: (1) You did not let me complete my answer.

Mr. ROY. Hold on. Or give me your second point. Go ahead.

Secretary MAYORKAS. Thank you. (2) The Secure Fence Act defines operational control as not a single individual crosses the border—

Mr. ROY. I am aware. I read it. I read it to you. You read it. In fact, you said, "I do." You didn't hesitate. You didn't say I do. I need to explain what I mean by I do. You said I do over and over again.

Here is the problem with that: This is a pattern. Did you lie another time when you said on September 24, 2021, at a press conference, quote,

We know that those images painfully conjured up the worst elements of our Nation's ongoing battle against systemic racism.

When responding to the alleged whipping incident by the bipartisan agencies who report to you, when in fact on October 22, 2022, it was reported that 2½ hours before that press conference Marsha Espinosa, Assistant Secretary of DHS Public Affairs emailed you and CC'd other DHS leadership alerting you all that the photographer who took the images did not see any whipping occur invalidating the initial claim?

It wasn't until May of this year that you corrected the record to say well, let me just correct you right there because actually the investigation concluded the whipping did not occur.

Don Rosenberg in this very room testified a few weeks ago that you lied. It is a perpetual pattern. The fact is, there are real people that are impacted by that.

We have now since you testified, we have had something like 200 people a day dying from fentanyl death, which would amount to 90,000 people. I showed you before when you were here the lost voices of fentanyl, the hundreds, the thousands of Americans that continue to die. Ninety thousand since you came into this Committee and lied to us saying we have operational control. I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from California is recognized.

Mr. SWALWELL. Mr. Secretary, you have a serious job and occasionally you have to deal with some very unserious MAGA colleagues of mine. Your serious job is to secure the border of the greatest country in the world, a country that is neighbor to some

of the most violent and economically insecure countries in the world where people are willing to risk everything to come here. Somehow you have to secure the border, but also make sure we are not pushing little girls back into the river so they can drown.

It is a hard job. If it was an easy job, we wouldn't have asked you to do it, but you were asked to do it because you are qualified, you are competent, you care, you show compassion, and you show up every day and you deal with this.

Frankly, sir, I think sometimes you are too nice because if I had a Chair who failed to honor his own lawful subpoena about 500 days after it was submitted to him, I would say catch me when you are serious. Come talk to me when you are going to follow the law about whether you think I follow the law. That is not how you are. You take your job seriously even in front of a lot of unserious people.

In fact, the Chair that you are sitting in, you may not know this, but the last person who sat in that Chair was called by the Chair an anti-vaxxing, anti-Semitic witness, in RFK, Jr. So, you have brought immediate credibility to the Chair that you are sitting in by just being here.

They are not serious people. They chide people for their pronouns, they obsess and display in this Committee and other Committees a private citizen's nonconsensual nude images. We are not talking about serious people. We are not talking about people who are on the level.

So, what do we want to do? We want to acknowledge the seriousness of your job and hopefully one day in the majority give you the tools to deliver on what we believe ultimately can put us in the most secure place, which is comprehensive immigration reform.

In the spirit of that I want to as you, because I believe in that and my colleagues believe in that, in January, DHS established a new set of processes for lawful entry of Cubans, Haitians, Nicaraguans, and Venezuelans that drastically reduced encounters of those nationals at the Southern border. This freed up department resources to combat drug trafficking and other cartel crimes. Democrats applauded the measure while Republicans scrambled to find a new way to turn it into campaign fund raising emails.

Last Congress Democrats proposed increases to funding for CBP personnel to patrol the Southern border and investments in technology to interdict smuggling through ports of entry. Again, my Republican colleagues failed to support common-sense measures to secure the homeland. My colleagues on the other side of the aisle, they don't have solutions. They want the chaos.

So, Mr. Secretary, they have put forth proposals to defund the CBP One app, which has helped alleviate strained manpower at the Southern border. What impact would that have on our homeland security?

Secretary MAYORKAS. Congressman, the CBP One app is one element of our approach of building and expanding lawful pathways for people to reach the United States in a safe, orderly, and lawful way, as well as delivering consequences at the border for those individuals who do not use them.

The CBP One app,

- (1) Reduces the number of irregular encounters at our Southern border.

- (2) Critically, cuts out the smuggling organizations that impose such tragedy and trauma on vulnerable individuals purely for the sake of profit.
- (3) Allows us to screen and vet individuals before they arrive at our border.

It is of tremendous utility to us, and its results have proven productive.

Mr. SWALWELL. Thank you, Mr. Secretary. As I said, you have a serious job. Border crossings are down despite my MAGA colleagues constantly saying we have an open border which only invites people South of the border to believe that they should try and come here. They are rooting for that chaos. You are trying to bring solutions to stop that. Fentanyl seizures are up. Congratulations to the brave men and women who wear the badge every day and walk the beat at CBP. That should be celebrated, but rather it is used by my MAGA colleagues as a political weapon to suggest that they would rather the fentanyl get past CBP, past the ports of entry and into our schools and our communities. You have got a tough job, you are a serious person, and we are grateful that you are doing it. I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from Kentucky is recognized.

Mr. MASSIE. I thank the Chair.

Secretary Mayorkas, the Department of Homeland Security issued a national terrorism advisory system bulletin this year in February. It said the United States remains in a heightened threat environment fueled by several factors including an online environment filled with false or misleading narratives and conspiracy theories and other forms of mis-, dis-, and malinformation. Can you define malinformation for us?

Secretary MAYORKAS. Congressman, we're dealing with false information that is used for a particular purpose.

Mr. MASSIE. Isn't malinformation actually true information that may be inconvenient to the establishment orthodoxy?

Secretary MAYORKAS. I'm sorry, Congressman.

Mr. MASSIE. Isn't malinformation a made-up word that refers to information that is actually true, but just inconvenient to the government narrative?

Secretary MAYORKAS. That is not true, Congressman.

Mr. MASSIE. Let me ask you this: You said that the proliferation of false or misleading narratives sow discord and undermine public trust in U.S. Government institutions. Is it illegal to undermine public trust in U.S. Government institutions?

Secretary MAYORKAS. Congressman, we become involved as we believe in the First Amendment right, and we have safeguards to protect it. We actually have a statutorily created Office for Civil Rights and Civil Liberties. We become involved not with respect to a particular ideology. We are ideology-neutral. It's the connectivity to violence.

Mr. MASSIE. Isn't larger government an ideology, the bigger government? Let me ask you my original question: Is it illegal to undermine public trust in U.S. Government institutions?

Secretary MAYORKAS. Congressman, we understand First Amendment principles. We embrace and protect them.

Mr. MASSIE. Doesn't the—

Secretary MAYORKAS. Individuals can espouse whatever ideology they believe it.

Mr. MASSIE. So, it is—

Secretary MAYORKAS. That is a—

Mr. MASSIE. So, let me ask you the question. If you would just answer it directly. Is it illegal to undermine public trust in U.S. Government institutions? Isn't that in fact what we are doing here today when we point out that you have released a million or two million people into this country without trying to deport them? Are we in fact undermining trust in U.S.—in your institution? Aren't we doing that? Isn't that actually healthy when we point that out?

Secretary MAYORKAS. Congressman, may I share with you what the Department of Homeland Security does with respect to ideologies?

Mr. MASSIE. I need to ask you another question since you haven't answered any of these yet.

You say that there is widespread online proliferation of false or misleading narratives regarding COVID-19. Is the claim that natural immunity is real—is that a false or misleading online narrative?

Secretary MAYORKAS. Congressman, we do not evaluate particular ideologies or particular narratives. We're focused—

Mr. MASSIE. How about the claim that vaccines don't stop the spread of the virus? Was that a false or misleading COVID narrative?

Secretary MAYORKAS. Congressman, what we do is we are involved when there's a connectivity between an ideology, whatever that ideology—

Mr. MASSIE. I am not talking about ideology. I am talking about COVID-19. Is the notion that masks were ineffective in stopping transmission—was that a false or misleading narrative?

Secretary MAYORKAS. Congressman, allow me to repeat. What we engaged in is a connectivity to violence. It is our responsibility to prevent violence from occurring. We work very closely—

Mr. MASSIE. I want you to give me an example of a false or misleading narrative that encouraged violence. You say that there were grievances associated with these themes inspired violent extremist attacks during 2021. Did hydroxychloroquine—did that inspire violent extremist attacks? What are you talking about in this document when you say that false or misleading narratives about COVID-19 inspired violent extremist attacks during 2021? Can you give us a single example? I have given you some questions. Was it the narrative that this may have leaked from a lab in China? Was that the thing? If so, what did it inspire? What is the violence?

Secretary MAYORKAS. Congressman, would you like an example?

Mr. MASSIE. Yes.

Secretary MAYORKAS. Yes. COVID-19 is caused by 5G cell towers, an attack on a cell tower. That attack on a cell tower triggers the involvement of the Department of Homeland Security. That is an example. It is the connectivity to violence. We do not condone violence—

Mr. MASSIE. You think COVID-19 caused attacks on cell towers?

Secretary MAYORKAS. Congressman, that is a—

Mr. MASSIE. I think you are chasing ridiculous things.

Mr. SCHIFF. Mr. Chair?

Mr. MASSIE. People watching this at home—

Mr. SCHIFF. Mr. Chair?

Mr. MASSIE. —they have got to be just amazed that you would espouse this.

Mr. SCHIFF. Mr. Chair, can the witness be allowed to answer?

Mr. MASSIE. He is not—he said that false or misleading narratives about COVID-19 need to be censored. He is implying that they need to be censored because getting out this information—free speech is somehow dangerous to our country—

Mr. NADLER. Mr. Chair, he didn't say that.

Mr. MASSIE. —in the context of COVID-19. I completely disagree. He didn't give us an example.

Mr. SCHIFF. Mr. Chair, can he answer—

Mr. MASSIE. I yield back the balance of my time.

Mr. NADLER. Mr. Chair, can he answer the question because he is being misquoted.

Chair JORDAN. The time belongs to the gentleman. He has yielded back. The time now goes to—and before I yield to the gentlelady from Washington, I am sure she will be willing to yield to you, Mr. Secretary.

We have been going almost two hours. If you need a break, just let us know, but we will keep going.

I will yield to the gentlelady for her five minutes. If you want to respond to Mr. Massie in that five, go right ahead. The gentlelady from Washington is recognized.

Ms. JAYAPAL. Thank you, Mr. Chair.

Mr. Secretary, thank you for coming here today. I am going to give you a brief opportunity, because I have a full five minutes, but a brief opportunity to respond to the gentleman.

Secretary MAYORKAS. I don't even know where to begin with the grotesque distortion of information. I just don't even know where to begin.

Ms. JAYAPAL. Mr. Secretary, I want to thank you for your service, for your leadership. I am sorry what you are—for what you are experiencing today. As the Ranking Member of the Immigration Subcommittee, I want to take a step back and just remind everyone of the mess that you inherited from the previous administration and the steps that your department under your leadership is taking to move us in the right direction.

Let's be really clear: The Trump Administration considered every undocumented immigrant a priority for removal. The Trump Administration separated children from their parents. Perhaps what escaped attention the most was that the Trump Administration simply did not believe in legal immigration. The previous administration enacted over 400 changes designed to shut down legal immigration.

The truth is that it is our job in Congress to fix this. We have not updated the immigration system in over three decades. In that time America's population has grown by 80 million people. The economy is five times larger. Our inability to modernize American laws, immigration laws has resulted in record-level backlogs for the legal immigration system making it nearly impossible to come to the United States.

A decade ago, the U.S. Senate passed with 68 bipartisan votes a comprehensive immigration reform bill only to be stymied by Republicans in the House who refused to bring it up for a vote because they knew that it would pass if they did. Today, thanks to a concerted Republican strategy to vilify immigrants, it is hard to imagine a bill like that garnering that kind of bipartisan vote in either chamber.

So, given that the Republican-controlled House will not move forward meaningful reform, Mr. Secretary, you and the Biden Administration have used your legal authorities granted by Congress to add additional legal pathways. Much to some of my colleagues' chagrin, with much success. You are working to provide order and relief to immigrants.

The administration announced the opening of regional processing centers across the Western Hemisphere that will allow migrants to have their protection and benefits claims assessed in a humane way without having to make the dangerous journey to the U.S.-Mexico border.

The administration has embraced the use of parole following a bipartisan tradition of Presidential Administrations going back 70 years. In addition, the administration also formally announced new family reunification parole processes for El Salvador, Guatemala, Honduras, and Columbia. These are modeled after the Cuban family reunification process which Republicans have supported in the past.

In addition, you have increased the number of appointments that will be available under the CBP One app, which, while far from perfect, will increase CBP's ability to process more migrants.

As you know, Mr. Secretary, I have serious concerns about some policies including a new asylum regulation which was just declared unlawful in Federal court that I fear undermine due process and right to seek asylum. Despite that, despite that I am very clear about the Republican opposition to any sensible and humane immigration system and who the good guys are in this situation.

That is you, Mr. Secretary. The good guys are you, the Democrats, and this administration who understand the great importance of immigration to America on every level and are determined to take steps to expand pathways for entry and move us forward. For that I am tremendously grateful to you and I thank you for your service and for your leadership.

Now, Mr. Secretary, Republicans projected terrible things after Title 42, but in fact *Politico* has called it the migrant crisis that still hasn't arrived.

Mr. Chair, I seek unanimous consent to enter an article into the record with that exact title.

Chair JORDAN. Without objection.

Ms. JAYAPAL. Can you talk about the administration's attempts to expand legal pathways and why you think it is so important?

Secretary MAYORKAS. Congresswoman, our approach is to expand lawful pathways so that individuals who qualify for relief under the laws of this Congress do not have to place their lives and their life savings in the hands of unscrupulous smugglers who only exploit them for profit, to bring greater security and strength to our border, and to allow our agencies to screen and vet individuals before

they arrive here in the United States. Those are three very significant benefits of our lawful pathways.

I know you and I disagree on the other element of our approach, which is to deliver consequences for those who do not use those lawful pathways.

Ms. JAYAPAL. I thank you, Mr. Secretary. I hope we always hold up the Constitution and I thank you for your service.

I yield back, Mr. Chair.

Chair JORDAN. The gentlelady yields back.

The Chair recognizes himself.

Mr. Secretary, you know what the number is, don't you, the number that Mr. Gaetz was trying to get an answer—get a response from? You know what that number is, right?

Secretary MAYORKAS. Congressman, I would—

Secretary MAYORKAS. Congressman, I would be pleased to provide this Committee, you, Mr. Chair, with—

Chair JORDAN. You don't know now? You don't know what that is? I mean, again just to—because what Mr. Gaetz is trying to get at, I think what the country would like to know is, we know that there's been an influx of people coming in, over two million encountered in our Southern border, inadmissible aliens on our Southern border.

We know that number has come in since Joe Biden has been President. We know it's a big number. All he was asking was: How many of that two-point something, over two million, how many have went through the adjudication process and actually been removed?

Secretary MAYORKAS. Mr. Chair—

Chair JORDAN. You're telling the Judiciary Committee today you don't know what that number is?

Secretary MAYORKAS. Mr. Chair, what I am sharing with you is that we will provide you with whatever data you request.

Chair JORDAN. No, no, that's not what—I want to go right—that's a simple—we've had kind of two simple questions that you didn't get an answer to. I just want to know—give you a second chance here if you'll do it. What is that number out of that two-point something universe of inadmissible aliens encountered on our Southern border who have come into the country, been released in the country. How many have gone through the adjudication process and then been removed?

Secretary MAYORKAS. Mr. Chair, I'd be pleased to provide you with that.

Chair JORDAN. Can you guess?

Secretary MAYORKAS. Mr. Chair, it is—

Chair JORDAN. Can you give an estimate?

Secretary MAYORKAS. Mr. Chair, I will not—

Chair JORDAN. Why will you not give an estimate to the American people? Because they would like to know because that sort of frames it. Here's what's come in. Here's who you've allowed in since Joe Biden has been President. Here's the ones who've actually been removed.

Secretary MAYORKAS. I would say two things, Mr. Chair. First, I will provide that data to you. We will do so.

Chair JORDAN. You're not really good at that because you've said that other times here, and you don't give us the data. We asked that information about the disinformation governance board and all we get is redacted documents. So, you're not really good about that.

It's a simple question and frankly a question we ask you to be prepared for. We wrote you two letters in the last several weeks to be prepared to answer that kind of question. I think probably that specific question, and you won't give us an answer.

Secretary MAYORKAS. Mr. Chair—

Chair JORDAN. So, the fact that you won't is bad, and the fact that you don't know is just as bad because it's the one question the country kind of would like to know what's really happening. When you say all these pathways and things and border security and all the things you say, we kind of like to know what's really happened with the two-point something million people who've been released into the country since Joe Biden has been presented. How many have gone through the adjudication process and been removed?

Secretary MAYORKAS. So, now I—

Chair JORDAN. Simple question.

Secretary MAYORKAS. So, now I have three points.

(1) We will provide the data to you.

Chair JORDAN. God bless you.

Secretary MAYORKAS. Two—

Chair JORDAN. God bless. I hope you do it this time.

Secretary MAYORKAS. (2) We have been cooperating with this Committee. We have made countless documents and people available to you. We have provided briefings.

Chair JORDAN. Yes, and here's what those—by the way, just so you know, I'll let you finish with your third point. Here's what those documents look like. Here's the one you sent to us. It's Policy and Responsibilities in the Departments, Information Manipulation Mission.

That sounds scary enough, Information Manipulation Mission. It's all redacted. This is the kind of stuff you gave us when we were trying to figure out who was responsible for putting together the Disinformation Governance Board and I think my colleague, Mr. Johnson, was asking.

Now, we're asking a simple question about a number. The fact that you won't give it to us or don't know it is a concern for all of us. I would say both sides because the Democrats probably want to know too. That's something that should be so obvious, and you won't communicate it. Make your third point.

Secretary MAYORKAS. Mr. Chair, we'll provide that information to every Member.

Chair JORDAN. Will it be like this or will be a real number? Will be like that? Will it be a real number?

Secretary MAYORKAS. Mr. Chair, the third point I—

Chair JORDAN. Let me ask really quick. Can you get that number to us, like, tomorrow? Or do you have to go back and is it going to take weeks and months and haggling back and forth and all the letters we do? Congress writes letters to agencies, and we haggle back and forth, all that dance we have to do. Or can you just get us the number?

Secretary MAYORKAS. Mr. Chair, we'll provide that data to you as promptly as possible.

(3) Would be the most fundamental point of all when we speak of immigration. We are dealing with a fundamentally broken system. We have between 11–12 million—

Chair JORDAN. OK. I've got 50 second. So, I appreciate that. You've said that before, so I got that point. Don't mean to cut you off, but I got to get this.

Now, in your testimony, you said you've arrested 14,000 smugglers. Seems like a big number to me. What happened to those guys?

Secretary MAYORKAS. Those individuals, Mr. Chair, are, if the evidence so supports, prosecuted for smuggling.

Chair JORDAN. You've referred them to DOJ. You've arrested them. You've given them over to DOJ. What's happened to them? Have they been indicted, taken to trial, found guilty? Are they in prison somewhere? What's the status?

Secretary MAYORKAS. Let me—

Chair JORDAN. That is a huge number, 14,000 smugglers. God bless you for getting them. I'd like to know what happened to them.

Secretary MAYORKAS. I'm very pleased to provide that data to you. Let me provide some examples.

Chair JORDAN. You just told us a couple minutes ago you work closely with the FBI. We'd like that information, too. That's important. Have you arrested any of them multiple times?

Secretary MAYORKAS. Congressman, I'll provide that information.

Chair JORDAN. You think there's a possibility some of those smugglers you've arrested more than once?

Secretary MAYORKAS. Congressman, when I prosecuted immigration crimes in the 1990s, we saw individuals who had repeated violations of criminal laws of the United States and repeated removals from the United States and prosecuted—

Chair JORDAN. You think a smuggler, you catch someone smuggling people, smuggling drugs, you wouldn't—that guy would be prosecuted, and you'd think you would again know that answer too.

Ms. JAYAPAL. Mr. Chair—

Chair JORDAN. We hope you get those answers to us. I yield now to—

Ms. JAYAPAL. Unanimous consent request, Mr. Chair.

Chair JORDAN. Oh, gentlelady from Washington is recognized.

Ms. JAYAPAL. Thank you, Mr. Chair. I wanted to ask unanimous consent to enter into the record *The New York Times* article called, "Burning Cell Towers Out of Baseless Fear They Spread the Virus." This is a conspiracy theory linking the spread of the coronavirus to 5G wireless technology that spurred more than 100 incidents in just one month.

Chair JORDAN. Without objection.

Ms. JAYAPAL. Thank you, Mr. Chair.

Chair JORDAN. The Chair now recognizes the gentleman from California.

Mr. CORREA. Thank you, Mr. Chair and Secretary. Welcome. Thank you for a good job. I really believe you have a thankless job. You've done a hell of a job.

When I became Ranking Member of the Homeland Security Border Subcommittee, I made it my priority to visit every major port of entry on the Southern board. I visited, met with men and women and uniform, both blue and green uniforms. Wanted to see what the job was about, what the challenges were.

Mr. Secretary, let's talk refugees. COVID-19 has changed the world. Today, we're probably seeing the biggest movement of refugees in recent history, if not in the history of the world.

Title 42, when Title 42 was about to be lifted, everybody was expecting total chaos at the border. A week before that, a few days before that event, I went to San Ysidro, myself and the Border Port Director, visited Mexico. We met with Mexican officials, Federal, State, local, as well as Mexican stakeholders interested in making sure everything went well at the border.

Everybody expected chaos. Title 42 was lifted, no chaos. Everything went unexpectedly well. I think you were the architect of that policy, carrots and sticks. You made sure that people had a pathway, had incentives to come legally. You also put criminal sanctions on those that would break those laws.

Of course, you also worked with some of our partners South of the border to make sure that this job was not just United States, but that the burden was shared with other people like Mexico, Columbia, and other Nations around the world. Mr. Mayorkas, you're doing a good job. So, my question to you today is how can we, U.S. Congress, assist you in doing a better job for the United States?

Secretary MAYORKAS. Congressman, thank you. We are taking the actions that we think will strengthen the security of our border, uphold our values as well to the best of our abilities, operating within a broken immigration system. The most fundamental benefit that we could receive from Congress is legislative reform.

Mr. CORREA. I'd like to see us move to immigration reform. You were trying to say earlier we have 12 million undocumented workers working in this country, some having been here for 10, 20, or 30 years. No hope of an adjustment of status. We have another 10 million job openings in this country today.

Let's quickly, my last minute or two, talk about fentanyl. It's ruining Main Street back home, deaths. The 80-90 percent of the fentanyl comes through our ports of entry, yet right now you only have enough funding to maybe inspect two percent of the vehicles coming through our ports of entry. Does that sound about right?

Secretary MAYORKAS. Congressman, we have harnessed advanced technology, most notably the nonintrusive inspection technology, to be a force multiplier for our personnel. We rely on funding from Congress for not only that technology but also the personnel who operated the extraordinary people of U.S. Customs and Border Protection, both our Border Patrol agents and our Office of Field Operations personnel and—

Mr. CORREA. Mr. Secretary, if we wanted to stop more fentanyl from coming into the country, I'd say you need more personnel, more technology, more of those drug sniffing dogs that are so effective. You need more funding. You want to go from two percent of inspections to 4-10 percent of those vehicles being inspected. You need the funds.

Secretary MAYORKAS. We do, Congressman. It is a two-part challenge. It is addressing the supply which your question is focused on, of course. We also have to address the issue of demand in this country.

The scourge of drugs has been a long enduring one. I will say I prosecuted many narcotics trafficking cases in my time as a prosecutor. The toxicity of fentanyl is something I've never seen before.

Mr. CORREA. Mr. Secretary, thank you very much for your good work. We want to partner with you to make sure we protect America on those negative elements coming into this country. Mr. Chair, I yield.

Chair JORDAN. The gentleman yields back. The gentleman from North Carolina is recognized.

Mr. BISHOP. Thank you, Mr. Chair. Mr. Secretary, let me focus on CISA a moment and something very specific. Jen Easterly, the Director of CISA, testifying before an appropriation's Subcommittee here in the House earlier this year said, quote,

We don't flag anything to social medial organizations at all. We are focused on building resilience to foreign influence and disinformation.

Is that true or false that CISA does not flag anything to social media organizations at all?

Secretary MAYORKAS. I believe that is true, Congressman. I will verify that, but I believe that is true.

Mr. BISHOP. Are you familiar with Brian Scully. Do you know who that is?

Secretary MAYORKAS. I do not, Congressman.

Mr. BISHOP. He was, the MDM—person responsible for MDM as you call it. He testified about switchboarding, that CISA was engaged in switchboarding, in which, for example, it was essentially an audit official to identify something on social media that they deemed to be disinformation aimed at their jurisdiction. They could forward that to CISA, and CISA would share that with the appropriate social media companies.

Now, that was a quote from his testimony. That sounds like flagging to me, flagging to social media companies, and all his testimony was of similar import. How does that reconcile with what you just said Ms. Easterly correctly answered before the appropriations Subcommittee?

Secretary MAYORKAS. Congressman, a few points on switchboarding.

Mr. BISHOP. No, no, no, no, no. Would you—

Secretary MAYORKAS. Yes?

Mr. BISHOP. Would you reconcile those two statements, please?

Secretary MAYORKAS. Yes.

Mr. BISHOP. I don't really have enough time to go from dissertation.

Secretary MAYORKAS. Yes, I will.

Mr. BISHOP. OK.

Secretary MAYORKAS. If you'll allow me.

Mr. BISHOP. Quickly, thank you.

Secretary MAYORKAS. That practice—my understanding is that practice was in 2018, in 2020 is no longer employed by CISA. What it amounted to was serving as an intermediary between election of-

officials and social media companies. We were not making a judgment. Back in 2018 or 2020—

Mr. BISHOP. I get your point. I get your point. I know you were going to elaborate, and I appreciate that. I think the point you just said, and I'd like to inquire further, you said is no longer the practice. When did it stop?

Secretary MAYORKAS. I'd be pleased to provide that information to you, and I will defer to the Director Easterly. We will provide that information to you.

Mr. BISHOP. You do not know when they stopped doing it?

Secretary MAYORKAS. I do not.

Mr. BISHOP. You have said in your testimony here today several times that we are taking it to the cartels to an unprecedented degree dismantling those criminal organizations. Those are two things you said. Have Mexican drug cartels become stronger or weaker during your tenure as Secretary?

Secretary MAYORKAS. Congressman, we are taking it to the cartels to an unprecedented—

Mr. BISHOP. You already said that. In fact, I just repeated it to you. Have they become stronger or weaker on your watch?

Secretary MAYORKAS. Congressman, the cartels have been a challenge for not only this country, but many countries around the world.

Mr. BISHOP. Are you not able to say whether they're stronger or weaker on your watch?

Secretary MAYORKAS. We through our efforts, our efforts have weakened those cartels by the investigations and prosecutions that we have conducted with our international—

Mr. BISHOP. The cartels are weakened under your tenure?

Secretary MAYORKAS. When we—

Mr. BISHOP. Is that what your testimony is, sir?

Secretary MAYORKAS. When we disrupt a cartel, when we arrest an individual with our partners, we have weakened them. That is what the men and women of the Department of Homeland Security are dedicated to doing.

Mr. BISHOP. How much revenue have the cartels received during your tenure?

Secretary MAYORKAS. Congressman, I don't have that data.

Mr. BISHOP. You have no estimate about that whatsoever that you bear in your mind what revenues Mexican drug cartels have received during your tenure as Secretary?

Secretary MAYORKAS. Congressman, the cartels are very profitable. They were very profitable three years ago, and they were very profitable six years ago.

Mr. BISHOP. Are they making more or less revenue under your tenure now that under previous administrations?

Secretary MAYORKAS. I will tell you this, that we are unrelenting in our attack against the cartels.

Mr. BISHOP. More or—I understand your effort, sir. What I'm talking about are your results. Are they making more or less revenue under your tenure than your predecessors?

Secretary MAYORKAS. We have arrested more criminals involved in cartel activity than in the prior—

Mr. BISHOP. Do you not know whether they're making more revenue? Or are you simply evading my question?

Secretary MAYORKAS. Congressman, I believe I answered your question that I do not have that data.

Mr. BISHOP. Our drug deaths—

Secretary MAYORKAS. I will say this.

Mr. BISHOP. —due to penetrating the Southern border the United States increased or reduced during your 30-month tenure over prior periods?

Secretary MAYORKAS. The cartels outside of the United States have also stretched their jurisdiction to other countries around the world.

Mr. BISHOP. How does your record on achieving operational control compare to other administrations, worse than any other?

Secretary MAYORKAS. No, Congressman. The approach that we are taking, expanding lawful pathways—

Mr. BISHOP. You've had larger numbers of entries in violation of that statutory definition, have you not, sir?

Chair JORDAN. The time of gentleman—

Secretary MAYORKAS. Congressman, the approach that we are taking of expanding lawful pathways and delivering consequences for those who do not use them are proving results. It continues to be a challenge as the border has been in the absence of legislative action. We are achieving results.

Mr. BISHOP. I yield back, Mr. Chair.

Chair JORDAN. Gentleman yields back. Mr. Secretary, we'll go a few more rounds, if that's all right, then we'll get a break.

Mr. GAETZ. Mr. Chair, I have unanimous consent.

Chair JORDAN. Unanimous consent from gentleman from Florida.

Mr. GAETZ. Yes, from *Reuters*, "U.S. Suspends Asylum Appointments in Texas Border City After Extortion Reports." From *U.S. News & World Report*, "U.S. Halts Online Asylum Appoints at Texas Crossing After Extortion Warnings." The *Associated Press*, "U.S. Halts Appoints Using Migrant Phone App at Texas Border Crossing," seems to be in direct contradiction of the Secretary's testimony. I seek unanimous consent to enter it.

Chair JORDAN. Without objection. The Chair now recognizes the gentlelady from Pennsylvania.

Ms. SCANLON. Thank you, Mr. Chair. Thank you, Secretary Mayorkas, for being here. As you well know, immigration and border security are complicated issues that require comprehensive solutions to address national security, humanitarian concerns, workforce issues, gun and drug smuggling in both directions, and fidelity to the rule of law which is, of course, the foundation of our country.

Our colleagues across the aisle have made clear with their tone and questions today that their primary interest is in scapegoating you and the Biden Administration for the consequences of Congress failing for decades to address either the root causes of immigration at our Southern border, including climate change, corruption, and poverty, or the underfunding and all but complete collapse of the U.S. immigration system which hasn't been updated for decades to respond to current conditions. Instead of investigating and proposing real solutions to these immigration issues, our colleagues

prefer to push and sometimes create apocalyptic scenarios to scare Americans. So, chaos, anger, and fear with heated rhetoric and political theater designed to cast blame rather than solve problems.

So, this is allegedly an oversight hearing, and there's an issue I would like to address. First, I appreciate your clarity and your nuance even when responding to some of the more outrageous rhetoric from our colleagues. Can we just clarify one more time in case it's gotten lost? Have you or the Biden Administration ever tries to adopt an open border policy?

Secretary MAYORKAS. No, we're not.

Ms. SCANLON. OK. I didn't think so. Just wanted to make sure we were clear there. In the interest of conducting actual oversight and finding solutions, I'd like to turn your attention to an issue that I've been following since I first participated in a multi-year ABA investigation on the topic almost 20 years ago, and that's access to counsel by immigrants when they're seeking legal entry into our country.

It's critical to ensuring the fidelity of our country to the rule of law as well as improving functioning of the asylum system. Studies have consistently shown that access to counsel is critical to successfully navigating our laws. Those seeking asylum are often unable to access counsel even if they can afford a lawyer or volunteers are willing to take their cases. This past spring when your agency launched expedited asylum screenings at Border Patrol facilities, a commitment was made to provide access to such counsel to all immigrants.

According to recent reporting by advocates, that promise has remained unfulfilled. The thousands of migrants screened at these facilities, only a small number have been able to consult, however unpredictably, with attorneys by phone. Even fewer have been able to complete formal legal representation.

So, I know that the failure to ensure uniform or consistent access to counsel when available is not a new issue. The problem appears to be worsening despite commitments to do better. So, moving forward, is your agency able to better guarantee attorney access for asylum seekers screened at Border Patrol facilities or held in detention facilities?

Secretary MAYORKAS. Congresswoman, when we built this approach of lawful pathways and the delivery of consequences, one element of it was the screening of individuals in Border Patrol facilities. A sub-element of that effort was, in fact, to safeguard access to counsel. I have visited the border approximately 20 times.

My last visit, I saw the consultation booths that we developed, we built in a Border Patrol processing facility deliberately to provide that access to counsel. I am aware of the concerns that some have raised with respect to our success in ensuring access to counsel. We are reviewing those concerns.

Ms. SCANLON. I appreciate that, and I echo Mr. Correa's offer to please let us know how we can assist you in making sure that your efforts are more effective and what we as Congress need to do at this belated time to help address the issue at the Southern border. Mr. Chair, I would request unanimous consent to insert into the record an article from *The New York Times* titled, "Lawyers Say Helping Asylum Seekers in Border Custody is Near Impossible."

Chair JORDAN. Without objection.

Ms. SCANLON. Thank you. I yield back.

Chair JORDAN. Gentlelady yields back. The gentleman from Texas, Mr. Gooden.

Mr. GOODEN. Thank you, Mr. Chair. Countless NGO's, non-government organizations, provide ways and means to illegal immigrants to cross the border and stay here indefinitely. Some of the ones that we are most familiar with because they're the biggest and have the largest presence are Jewish Family Services, Lutheran Immigration and Refugee Services, and Catholic Charities.

Secretary, you've often spoken about your partnership with these NGO's. Many of these are activity encouraging and enticing poor illegal immigrants to cross our border with the promise of assistance. They promise to provide financial, logistical, and transportation assistance in the form of money, food, lodging, and transportation to anywhere in the country.

I've seen this with my own eyes. I've been to these organizations, facilities, and our borders. They are welcoming folks and sending out the message that the border is open and that we'll provide assistance. Their help comes even with legal guidance and cheat sheets for what to do when they get to wherever it is they'd like a free plane ticket to. My question to you, since they seem to not be interested in respecting our laws, are you aware of who's funding them?

Secretary MAYORKAS. Congressman, the pernicious enticement of individuals to come to the border at great danger is perpetrated by the smuggling organizations. They are the ones that traffic in misinformation and seek to exploit vulnerable people exclusively for profit.

Mr. GOODEN. So, you didn't open-up an operation where you're saying if you get here, we'll pay for your way to wherever you want to go? We'll put you up in a hotel. We'll give you debit cards with money on it. You don't think that's an enticement?

Secretary MAYORKAS. Congressman, I believe that you are mischaracterizing the work of nonprofit organizations.

Mr. GOODEN. So, they don't do that. So, is it your testimony that nonprofit groups at the border do not provide financial assistance? They do not provide transportation across the United States, and they don't put them up in housing?

Secretary MAYORKAS. That is not my testimony, Congressman. As I have said—

Mr. GOODEN. OK. So, you agree that they do. Let me go back to my original question which was who's paying for this? Are you aware of who's funding these NGO's?

Secretary MAYORKAS. Congressman, to what NGO's do you refer? Because if—

Mr. GOODEN. I'll give you an example, Catholic Charities, Jewish Family Services, Lutheran Immigration and Refugee Services. My question is are you aware of who is funding them and their operations at the border?

Secretary MAYORKAS. Congressman, we are grateful—

Mr. GOODEN. Are you aware of who's funding them was my question.

Secretary MAYORKAS. Yes, and I'm answering your question.

Mr. GOODEN. OK. Who's funding them?

Secretary MAYORKAS. We are grateful for the appropriations that Congress have issued.

Mr. GOODEN. So, the United States taxpayer is funding them is what you're saying. Just to be specific, Catholic Charities received over 1.4 billion dollars from the United States taxpayers for their operations encouraging illegal immigration. Lutheran Immigration and Refugee Services reported it received 179 million dollars in U.S. Government grants.

That makes over 80 percent of their total support. So, let me ask you this question. Since they're receiving this money, do you believe the number of grants and contracts awarded to NGO's is something that should be made known to the American taxpayer? Should that be public information? Should we know how much money they're receiving for their operations?

Secretary MAYORKAS. Congressman, we do make that information public. What we do is when an individual makes a claim of credible fear under the asylum laws of the United States—

Mr. GOODEN. So, the American should know how many grants and contracts are awarded to the NGO's. That's a fair request, right?

Secretary MAYORKAS. As I mentioned, we do make that information—

Mr. GOODEN. So, the American taxpayer should be aware of that information, right?

Secretary MAYORKAS. Yes.

Mr. GOODEN. OK. Let me ask you this. If I wanted to know where these NGO's are sending illegals that coming across that they're helping facilitate with financial support, is that a fair ask? Is that something the American people should know, where these folks are going?

Secretary MAYORKAS. Congressman, you are mischaracterizing—

Mr. GOODEN. No, no. I'm not characterizing anything. I'm asking a question. Should the American people, should we know where they're being sent when they're entered into these organizations that are providing the assistance? Is that a fair ask?

Secretary MAYORKAS. Congressman, your question misstates the underlying facts. If I can explain what occurs.

Mr. GOODEN. Let me explain to you what occurred. I have requested for years, over two years, this information from Homeland. I've requested this information from Catholic Charities, Jewish Family Services, Lutheran Immigration and Refugee Services, FEMA, three different airlines, and even hotels.

Each request has gone unanswered. It seems to me that if our taxpayer dollars are being used to fund an operation whereby we're encouraging illegal immigration, we're encouraging through funding these organizations people to make these deadly treks across our Southern border, it seems to me that we should be able to get some answers to questions. I'm really disappointed that I can't get answers to those questions. I can't even get acknowledgment from you about what's happening there when you've stated that you're partners with these organizations, and I yield back.

Chair JORDAN. Gentleman yields back. If you can, Mr. Secretary, we'll go two more fives and then we'll take a break if that's OK

with you guys? So, let's go—I think the gentlelady from Pennsylvania is next.

Ms. DEAN. Thank you, Mr. Chair. I appreciate that. Thank you, Secretary Mayorkas. Please express my thanks to all the good people under your watch and under your guidance in the Department of Homeland Security for what you do to keep us safe.

Three hundred people a day, in this country on average, 300 people a day die of overdose. We know that 80 percent of those, fentanyl poisoning. We have a serious problem.

I thank you for taking it seriously and doing what you can to interrupt and interdict the poisoning of Americans and interdict illicit drugs coming across our country. It wasn't so long ago; it was back in May that I joined Representative Escobar at the border in El Paso. Got to meet with really terrific folks doing this work. What I'd like to say is we have a serious problem. We don't have folks on the other side of the aisle serious about solving it.

When they blame you, you are responsible for every one of the fentanyl deaths, what a disservice and a disgrace to the families in my district have lost children and who will lose children to this fentanyl poisoning. It is a disgrace for folks to just demonize you, demonize those coming across our border seeking refuge. Can you tell us on average what are the facts about what's coming across our border through ports of entry in terms of illicit drugs, specifically fentanyl?

Secretary MAYORKAS. Congresswoman, the U.S. Customs and Border Protection data evidence shows that more than 90 percent of the fentanyl that is brought into this country is trafficked through the ports of entry which is why we have surged operations to those ports of entry to increase the interdiction of fentanyl that is causing so much death and destruction in our country.

Ms. DEAN. Who is bringing it across?

Secretary MAYORKAS. I believe the data suggests that approximately 70 percent of the people arrested are U.S. citizens.

Ms. DEAN. Which makes perfect sense. Would you put your resource for the cartels and those who are selling this? Would you put that resource on the back of a migrant likely not to make it across so that you would be able to sell this valuable deadly resource?

It makes perfect sense coming mostly through ports of entry, coming mostly by way of Americans, American citizens. It's shocking. The seriousness that is lacked on the other side, they don't want to hear the facts. They don't want to solve this problem.

They don't want to save lives because if they did, they'd stop demonizing you and they'd stop demonizing the migrant. Can you tell us about what you said in your testimony? In your words, you said fentanyl is one of the most urgent and lethal threats to American communities today. Could you tell us about Operations Blue Lotus and Four Horsemen that stopped nearly 10,000 pounds of fentanyl from entering the U.S.?

Secretary MAYORKAS. Congresswoman, these operations reflect a surge of personnel and technology to enhance or interdiction capabilities and to arrest the perpetrators of this trafficking. I served as a prosecutor for 12 years. I prosecuted cocaine traffickers, methamphetamine traffickers, and even black tar heroin traffickers.

We have not seen a drug as dangerous as fentanyl and other synthetic opioids. Their toxicity makes it extraordinarily challenging as well as the profitability and ease of manufacture. It is because of the extraordinary work of U.S. Customs and Border Protection personnel, Homeland Security Investigations personnel, other personnel throughout the Department of Homeland Security working with our law enforcement and international partners that we have been able to enhance and increase our interdiction and arrest capabilities. We are seeing the results.

Ms. DEAN. I'd like to say again on the topic of seriousness, if my friends on the other side of the aisle were serious about saving lives from this fentanyl crisis, they would've voted for the Infrastructure Investment and Jobs Act, which included 430 million dollars of investment to modernize our ports of entry and to help improve CBP. Maybe they would've—not a single person on the other side of the aisle voted for the 2023 Omnibus Bill, all House Judiciary Republicans opposed. It funded additional staffing for CBP's ports of entry.

They're not serious people. They don't want to solve this problem. I wear this band for Jake, the son of a friend of mine who died from fentanyl poisoning. They said, "please do something about it." I thank you for what you and your Members are doing about it.

Chair JORDAN. The gentlelady yields back. The Chair recognizes the gentlelady from Indiana.

Ms. SPARTZ. Thank you, Mr. Chair. I'll be brief and yield my time since kind of wasting my time here. I'll be honest with you. Secretary Mayorkas, do you take full responsibility for all decisions of action or inaction made at your agency? Do you personally take full responsibility for all the decisions made at your agency?

Secretary MAYORKAS. I am the Secretary of the Department.

Ms. SPARTZ. So, that means yes.

Secretary MAYORKAS. I bear ultimate responsibility for the decisions made.

Ms. SPARTZ. So, yes. Yes, OK. So, you mentioned earlier that in your definition, you have operational control of the border. Can you define what you mean by that?

Secretary MAYORKAS. What we mean because under the Secure Fence Act, it means that not a single individual would cross the border under that definition. No administration has operational control.

Ms. SPARTZ. So, what number do you have, five million, 10, less than five or 10 or let a couple hundred thousand get away? What is your definition?

Secretary MAYORKAS. What we do, Congresswoman, is we—

Ms. SPARTZ. Do you have a number?

Secretary MAYORKAS. What we do is we look at the resources that we have available to us and ask ourselves, are we deploying those resources to achieve the most effective results for the American people. That is what we do, and we are hopeful working with you and other Members of this Committee to increase the funding for the Department of Homeland Security—

Ms. SPARTZ. I've been at the border, and you've been at the border too. How would you grade your job on a scale of zero to ten? How would you grade yourself?

Secretary MAYORKAS. Congresswoman, I am immensely proud—

Ms. SPARTZ. How would you grade yourself?

Secretary MAYORKAS. Congresswomen, I am immensely proud to work with the men and women of the Department of Homeland Security.

Ms. SPARTZ. No, yourself, your job. Not all the women. I'm sure there are a lot of great men and women in your department. How would you rate your job as a head of your agency?

Secretary MAYORKAS. It is the honor of my life—

Ms. SPARTZ. From zero to ten. So, you can't grade it. How about grade your preparedness to this Committee meeting on a scale from zero to ten. We ask information. You—all these promises.

I'm not wasting my time. I'm sorry. I don't want to use bad word, what you can do with all this status because we keep giving money and sending lad. You tell us BS back. So, how would you rate yourself, your preparedness to this Committee?

Secretary MAYORKAS. It is the honor of my lifetime to work with the men and women—

Ms. SPARTZ. From scale zero to ten, how will you say how prepared you came to this hearing?

Secretary MAYORKAS. I will repeat what I said.

Ms. SPARTZ. You're not answering any questions. You're not answering any Republican question. Is it something that your intent to not respond to any questions of Republicans? You came with that intent.

Secretary MAYORKAS. That is incorrect, Congresswoman.

Ms. SPARTZ. You're not answering any questions.

Secretary MAYORKAS. It is—

Ms. SPARTZ. Every time I hear, you say, we will, we will, we shall, yes, I don't know. You don't know any numbers. You don't even know how many people you actually prosecuted, how many people you deported. You have nothing. How can you say you know how your department is run? As an Executive, you don't know those numbers?

Secretary MAYORKAS. Congresswoman, let me share with you—

Ms. SPARTZ. You haven't shared anything useful here.

Secretary MAYORKAS. Let me share with you—

Ms. SPARTZ. I'm sorry to tell you, I'll yield to Chair Jordan because I'm not going to waste any time with this charade and circus. You do not have an intent to do that, and it is a serious national security issue. This border and cartels are stronger.

A lot of money, NGO's are making who knows what and probably a lot of corruption over there. We have a national security crisis. You sit here and say looking at us with a very smiley face. It's unacceptable, but I yield to Chair Jordan.

Chair JORDAN. I thank the gentlelady for yielding. Mr. Secretary, the 140 illegal aliens you've encountered who are on the terrorist watch list, again, this is Mr. Issa's question earlier in the day. What is the status of those 140 individuals?

Secretary MAYORKAS. First, let me allow the record to reflect that I'm not smiling, nor have I smiled. Mr. Chair, will you repeat your question, please?

Chair JORDAN. The 140 individuals who've been encountered on the border who are on the terrorist watch list, what's the status of those individuals?

Secretary MAYORKAS. I believe that question already has been posed. I mentioned to the Chair that we will provide that data to you.

Chair JORDAN. Have any of them been released I guess is another way of framing that?

Secretary MAYORKAS. Mr. Chair, let me say this. Individuals who pose a threat to public safety or national security are detained pending their removal.

Chair JORDAN. Well, that's not what the Inspector General said. He said, CBP released a migrant on the terrorist watch list and ICE faced information sharing challenges planning and conducting the arrest. This is from Mr. Cuffari, the Inspector General, DHS. Do you disagree with Mr. Cuffari?

Secretary MAYORKAS. We respectfully do.

Chair JORDAN. You do? OK. I would yield my time to the gentleman from Louisiana.

Mr. JOHNSON of Louisiana. I've only got 25 seconds. I'll just say I don't have time for a question because you'll be illusive. Just for the record, since we're stating things for the record, I've been in Congress seven years.

I think you're the most dishonest witness that has ever appeared before the Judiciary Committee. I think I speak for a lot of my colleagues. This is such a frustrating exercise for us because our constituents want answers. They're tired of the open border. They're tired of people dying from fentanyl overdoses and it's your fault.

Mr. IVEY. Mr. Chair.

Mr. JOHNSON of Louisiana. It's my time.

Mr. IVEY. Mr. Chair, point of order.

Mr. JOHNSON of Louisiana. No, there's no point of order in the middle of this. This is my opinion. I think it's shared by millions of American people.

Mr. IVEY. Based on the standard that Chair set out in previous hearings. Calling a witness dishonest is over the line that you drew at a previous hearing.

Mr. JOHNSON of Louisiana. I'm not pulling the words down. That speaks for the American people.

Chair JORDAN. The Chair now recognize—is said to the Secretary we would go five more minutes and then give you a break. I know you've been at this 2½ hours. I believe the gentleman from Florida is recognized for five minutes.

Mr. IVEY. I don't have a winter house yet, Mr. Chair.

Chair JORDAN. I knew it was Maryland.

Mr. IVEY. Thank you, Mr. Chair. Secretary Mayorkas, I want to thank you for being here today. I do want to say a couple of things, though. I'm not trying to get too deep into this.

I know this is an oversight hearing. Unfortunately, the larger picture is this is really about the effort to impeach you. I also serve on the Homeland Security Committee.

One of the Members of that Committee talked explicitly about the Republican effort to impeach you, working—the two Committees working in coordination. He said something about, pay atten-

tion. We can get the popcorn and watch this because it's going to be a lot of fun.

Unfortunately, you've been sort of thrust into the middle of that and it's not your doing. That's where we are. There are also efforts obviously to impeach President Biden.

I've seen Articles of Impeaching with respect to that. The articles—the first articles to impeach, you came out two years ago. I'm not even sure you started unpacking in your office yet. I do appreciate the fact that you're doing a very tough job under very difficult circumstances.

I want you to continue working forward on that. There's a couple of things that I hadn't really wanted to get into. My Republican colleagues have made so much about it, and that's this disinformation issue.

I know there are differing views about that. We've done this on Homeland Security as well. I do want to point out that I think there's an important role for the Federal Government to play in dealing with disinformation.

By that, I mean false information. The Republican election deniers including former President Trump, that's disinformation that needs to be addressed by the government. Not just to deal with it in the past, but because of upcoming elections.

I know there are election officers across the country at the State and local level who have been trying to put together a plan to deal with these issues. A lot of the disinformation comes from overseas, but we get some of it here in the United States even by national elected officials. Some are Members here in the Congress.

I think it's important for us to address that to make sure that the elections that are done in 2024 and are done in a way that's consistent with the law and it allows people to base their decisions on real information. Also, I want to say this too. The election deniers and the false information that's been put out there has put a lot of individuals at risk.

Sometimes their lives have been threatened. These people are volunteer election judges, the State and local level across the country. Some of them have had to move. There was one in Arizona I read about who his life had been threatened.

It's not just the election workers either. Nina Jankowicz who actually worked at DHS briefly got the same kind of treatment. So, she came under attack again by in some instances Members of the House Republican Caucus to the point where she ended up having to not only resign her job, but she had to hire a consultant to help her with personal protection, and this is while she was pregnant.

She had to go to some of her appointments with her doctor in disguise because her life had been threatened to such an extent. I'll close with this. I think that there are a lot of things that I would love to see this Commission address.

I made a personal appeal several months ago to my colleagues on the other side of the aisle about gun violence. I think you mentioned an aspect of that which is domestic terrorism that's in some instances let the lone wolves committing mass killings. We've got a larger problem with it than that.

I can't get anybody to help me with the ghost guns issue. I've got a bill about raising the age for assault weapons from 18–21 which

I thought would be a reasonable place to go since we already have the raise the age place for handguns from 18–21 in the previous Congress that got bipartisan support. It would be important, too, to look at some of the other critical issues the country is facing.

Cybersecurity, if we're going to dabble in the Homeland Security world, China just hacked our Commerce Secretary. In May, CISA was breached, Microsoft, and the NSA. So, these are very important issues to the American people.

I hope we can take a look at these. One last point on the immigration piece. I was in a meeting on Friday with a venture capitalist in New York.

One of the things he said was that he's having trouble getting the visas taken care of to bring Talon over from overseas. These are high tech jobs, engineers, and the like. So, since he can't get it done in the United States, he's now setting up offices in Canada because they can get the job done there.

I would love to see us address the immigration issue in a comprehensive way. So, I mentioned H.R. 2 earlier which I thought was kind of funny because Senate Republicans were telling us that was going to be DOA when it got over there. So, we know that's not a real solution. With that, I yield back.

Chair JORDAN. The gentleman from Maryland yields back. Mr. Secretary, we don't have to take a break unless you want it. If you want to keep going, we'll keep going. If you want a short break, we'll take a break.

Secretary MAYORKAS. I defer to the Chair.

Chair JORDAN. OK. Well, we can sit right there and take questions. We appreciate that. The gentleman from Wisconsin is recognized for five minutes.

Secretary MAYORKAS. May I reserve my right to be seated?

Chair JORDAN. Of course.

Mr. FITZGERALD. Mr. Secretary, I want to go back to the operational control issue that came up first by the Ranking Members when Congressman Nadler brought it up. You've addressed it. I know that Mr. Roy worked through that again. It's so important. I think it's such a source of frustration because every time you turn on the TV, there is this imagery that continues which is people coming across the border.

Whether I was in McAllen or in San Diego Sector, wherever I was, when you talk to Border Patrol or you talk to your employees, Homeland Security, none of them say, yes, everything is going well and there is certainly an operational control in place. So, even by the definition which you brought up a couple times, the Secure Fence Act, I don't think anybody asked you again today directly. Do you believe that we have operational control at the border right now?

Secretary MAYORKAS. Under the statutory definition.

Mr. FITZGERALD. Right, under the statutory definition, do we have it?

Secretary MAYORKAS. Under the statutory definition, Congressman, not a single individual can cross the border if one has operational control. Last year, approximately 1.7 million people crossed the border. We provide that information to Congress on a monthly basis.

Under that definition, no administration has had operational control. What we do is ensure that the resources that we have are deployed most effectively to gain the greatest amount of control that we can. I will tell you that the greatest resource that we have are the men and women of the Department of Homeland Security.

Mr. FITZGERALD. What I think I just heard you say was right now. I heard about the previous administrations. You already established, I guess, that there was not operational control. So, right now, we do not have operational control of the border. Can you tell me that right now in this Committee?

Secretary MAYORKAS. Under the definition of the Secure Fence Act—

Mr. FITZGERALD. Right.

Secretary MAYORKAS. —we do not, and no administration has because that means that not a single individual crosses the border.

Mr. FITZGERALD. OK, OK. So, we established that we do not have operational control right now.

Secretary MAYORKAS. Under the definition of the Secure Fence Act.

Mr. FITZGERALD. All right. So, let me ask you a couple other questions because I think there's an—certainly, we're acquiring numbers right now that I think are changing the dynamic of where we're at. Are unlawful entries between the ports of entry down right now do you believe? Or are they being measured differently than they had been prior to Title 42?

Secretary MAYORKAS. Prior to Title 42, the numbers are down, Congressman. That is a function of the approach that we have taken to expand lawful pathways and then deliver consequences for individuals who do not avail themselves of those pathways.

Mr. FITZGERALD. So, is that number only migrants stopped by Border Patrol agents? Is that the number that you're focused on? Or is it a number of individuals beyond those that even have contact with Border Patrol?

Secretary MAYORKAS. When we speak of, for example, the two-weeks—let's just pick a period of time, the two-weeks immediately preceding the end of Title 42 on May 12th. When we take those two weeks and we compare the numbers that we are experiencing now, we include not only the apprehensions in between the ports of entry, Congressman. We also include individuals who are entering through the ports of entry using one of the critical lawful pathways that we include.

Mr. FITZGERALD. Found inadmissible at any ports of entry. Categorical parole, illegal aliens would also be part of that group. Is that not accurate? Then finally, gotaways. So, there's three categories of individuals as well.

Secretary MAYORKAS. We don't—our parole authority which is a discretionary authority codified in statute in the Immigration and Nationality Act is a discretionary authority that we employ on a case-by-case basis. What we do is we define categories of individuals who can access that. We make the parole decisions on a case-by-case basis.

Mr. FITZGERALD. Then so the actual total, these are the numbers that have been presented, 294,000 or 9,500 roughly a day right now are coming across. So, do you think at any point that that number

is being padded? I don't know how else to describe it. Maybe that's not the best term. It's changed significantly than the way things were being counted prior to Title 42.

Secretary MAYORKAS. Congressman, we don't pad numbers. We provide numbers. We act to the Department of Homeland Security with integrity and honor.

Mr. FITZGERALD. I yield back.

Chair JORDAN. Gentleman yields back. The gentlelady from Texas is recognized.

Ms. ESCOBAR. Mr. Secretary, thank you for your honorable and selfless public service to our Nation. As the only representative on this Committee who was born, raised, and has lived on the border her entire life, I can say with absolute certainty that if we want to blame anyone for our broken immigration system, we should blame Congress. Those who yell the loudest about this issue in Congress need to take a long, good look in the mirror.

For 37 years, Congress has failed to address our country's need for comprehensive immigration reform. Instead, we have followed the Republican playbook which focuses on immigration solely as a border issue. We've spent hundreds of billions of dollars securing the border, and it has been an expensive failure.

Amidst an historic hemispheric refugee crisis coupled with Congressional inaction, the situation has only grown more challenging. The longer we wait to pass comprehensive immigration reform, the more challenging this issue will become. It doesn't have to be this way.

Over the past three decades, the Federal Government has chosen to narrow and limit legal immigration pathways which has shifted the pressure to the border and communities like mine. The Biden Administration has proven, however, that when we open up legal pathways for asylum seekers and other migrants, the border can be better managed. The proof is in the data.

The problem we face today is that the majority of my colleagues on the other side of the aisle are only interested in performance, which is why they yell so loudly and try to turn the Nation's attention away from their own lack of solutions. That's what this hearing is ultimately about. While this is an oversight hearing, we know that the spectacle you're seeing on the other side is part of the Republicans ultimate distraction strategy, impeachment.

They aren't just focused on impeaching you, Mr. Secretary, despite the fact that apprehensions at the border are down by 70 percent. They have also promised the extremists in their party that they will impeach Attorney General Merrick Garland and even President Biden. In fact, from the complaints we hear about Catholic Charities, I'm surprised that they aren't trying to impeach the Pope.

Secretary Mayorkas, I'd like a simple yes or no, if possible, on the following questions. I have a chart here from the American Immigration Council that uses CBP data, historical data on border apprehensions. Isn't it true, Mr. Secretary, that according to CBP data, apprehensions of families started significantly climbing around January–February 2019 during the Trump Administration?

Secretary MAYORKAS. Yes, Congresswoman. They did.

Ms. ESCOBAR. Isn't it true according to CBP data that after a drop of apprehensions that were largely a result of COVID closures in 2020, apprehensions began increasing again significantly around May 2020 after the Trump Administration initiated the use of Title 42?

Secretary MAYORKAS. Congresswoman, I would have to defer to Customs and Border Protection—

Ms. ESCOBAR. Well, I have it right here. Actually, I'd like to enter into the record the American Immigration Council's data, border apprehensions, October 2015–June 2023.

Chair JORDAN. Without objection.

Ms. ESCOBAR. Isn't it true—and for the record, May 2020 when we began seeing an increase once again post-COVID, that was a full six months before the 2020 general election, before President Biden's victory, and eight months before President Biden's inauguration. Isn't it true, Mr. Secretary, that opening-up legal pathways as DHS has done via the CBP One app that that has proven successful in helping manage the border?

Secretary MAYORKAS. It is one element of an approach that has proven successful, Congresswoman.

Ms. ESCOBAR. Isn't it true, Mr. Secretary, that the one legislative body that can further open-up legal pathways to best manage the border is Congress?

Secretary MAYORKAS. Yes, Congresswoman.

Ms. ESCOBAR. My Republican colleague, Maria Salazar, and I introduced the Dignity Act which is a bipartisan comprehensive immigration reform bill. I'd encourage my colleagues who are seeking a true solution to join our effort to address our broken system. Anything short of that is a dereliction of Congress' responsibility and obligation. All this scapegoating on the Biden Administration and on you, in particular, Mr. Secretary, is nothing but performance. Mr. Chair, I yield back.

Chair JORDAN. Gentlelady yields back. The gentleman from Oregon is recognized.

Secretary MAYORKAS. Mr. Chair, may I impose and accept your kind offer for a brief break.

Chair JORDAN. Oh, sure, sure, sure, sure.

Chair JORDAN. We'll take a brief five-minute break. We're trying to go as quickly as we can because we got votes and 1:30 p.m. and we'd prefer not to come back. I'm sure that's the same with you. If we have to, we'll come back. So, we'll take a five-minute recess now, and then we'll be back in action.

[Recess.]

Chair JORDAN. The Committee will come to order.

The Chair recognizes the gentleman from Texas for five minutes.

Mr. MORAN. Mr. Chair, I yield my time to the gentleman from Oregon, Mr. Bentz.

Chair JORDAN. The gentleman is recognized.

Mr. BENTZ. Thank you, Mr. Moran.

Mr. Secretary, before I start, I just want to talk briefly about what I heard earlier. One of my colleagues from across the aisle suggested that we Republicans were somehow manufacturing outrage. The phrase was "right-wing outrage machine," was the phrase that he used.

I thought, what? Are the folks across the aisle not outraged about the millions of people that are coming across the border under, of course, your watch, most of whom probably don't qualify for asylum?

Yes, don't you think that all of us should be outraged about the thousands dying from fentanyl that's coming across the border under your watch?

Don't you think that we should be outraged about cartels moving into American cities on this side of the border under your watch?

Don't you think we should be outraged about the billions of dollars the cartels are raising from the most unfortunate and vulnerable from Central America and other places under your watch?

Don't you think we should be outraged about the hundreds dying in the desert?

It's hard to argue that we're manufacturing outrage when we look at these incredible, sad things happening under your watch.

Now, I want to go how we can fix, perhaps, some of that which you've been talking about for the last couple of hours. Because you said earlier, in response to a question from Congressman Issa, that we, the USA, is not, quote, "alone in some of its infirmities in its immigration system." I'm just quoting from you. I scribbled it down quickly. "infirmities in our immigration system." What? Give us a couple.

Secretary MAYORKAS. I'm sorry, Congressman—

Mr. BENTZ. "Infirmities in our immigration system," is how you put it when you were comparing our immigration system to others across the world. Just share two.

Secretary MAYORKAS. Let me give you one example in the economic arena: That the market needs of our country, the economic needs of our country, are not taken into account when we admit economic migrants. We have statutory caps, statutory limits on the number of people we can admit, despite perhaps a greater need at a particular time. We do not calibrate the number according to need.

Mr. BENTZ. Right.

Secretary MAYORKAS. So, for example—

Mr. BENTZ. That's—and I understand what I actually understand what you're saying. Forgive me for cutting you off, but it leads very nicely to how we might address immigration as a comprehensive system.

Don't you think that, politically at least, a secure border is an essential prerequisite to any comprehensive solution? Because what you were just starting to talk about was one of the adjustments, we might make to our visa systems.

By the way, I'm enthusiastic about trying to improve those visa systems. I will tell you this much: If I go back home to all my constituents, as I'm going to be doing this Friday—and I'm going to be talking to them on Monday at a Chamber of Commerce meeting—guess what? They're outraged about the things I mentioned earlier, and they're not going to want to listen to me talk about the details that you just suggested.

So, tell me, how do I—what can we do? Those infirmities, do they include anything when it comes to fixing the border, so it works better?

Secretary MAYORKAS. Yes.

Mr. BENTZ. Tell me.

Secretary MAYORKAS. So, for example, Congressman, one of the measures that we have taken to address this infirmity is to issue a regulation that empowers our asylum officers to make the ultimate asylum adjudication and shrink the time in between an encounter at the border and the ultimate asylum adjudication. That duration now, historically, has been six-plus years.

Mr. BENTZ. Thank you for your thoughts on it.

Secretary MAYORKAS. That is an eternity.

Mr. BENTZ. Thank you for your thoughts on that. I'd like to followup with you on it, if you would. I'm serious. Share with me your thinking on that issue.

Isn't it correct, as we heard—I've been to the border three times. The folks down there suggest that the cartels are extracting between \$3–\$5 thousand, maybe more, per person that presents illegally at the border. Is that true?

Secretary MAYORKAS. Yes, Congressman.

Mr. BENTZ. So, that would mean, as the millions of people come in, we can multiply that times four or five thousand, is that correct?

Secretary MAYORKAS. Congressman, that is correct, which is precisely why one of our efforts is to cut the smugglers out of the equation, because of the profits they make; because of their ruthlessness; because of their criminality. So, while—

Mr. BENTZ. Forgive me for cutting you off, but I agreed to yield the balance of my time to the Chair, Mr.—

Chair JORDAN. I appreciate the gentleman yielding.

Mr. Secretary, is the number of people removed and through adjudication—

Ms. ROSS. Objection, Mr. Chair. This isn't Mr. Bentz's time.

Chair JORDAN. That's right.

Ms. ROSS. It was yielded to Mr. Bentz.

Chair JORDAN. I know. I thought we could get away with it because it was an important question.

[Laughter.]

Ms. ROSS. Well, Mr. Chair, you can have the next person yield.

Chair JORDAN. We're going to do that, yes. All right.

The gentleman yields back.

The Chair now recognizes the gentlelady from North Carolina.

Ms. ROSS. Thank you, Mr. Chair, and that was not done with any ill will. It was out—

Chair JORDAN. No, I knew that from the get-go.

Ms. ROSS. Yes.

Mr. Secretary, I know it's been a long day already. I want you to know that I'm here today to use my five minutes in support of a group of 250,000-plus young people in our country who are referred to as "the documented dreamers." They are a too often forgotten population of talented young adults who are American in every way, except on paper.

As I'm sure you're aware, since we've talked about them a few times, the documented dreamers are dependent children of long-term employment visa holders who are brought to the United States with documentation when their parents move here to work.

Often, these children come to the United States when they're still babies, but because they were not born here, they don't have citizenship or a real path to citizenship before they become 21.

While many of these young adults are in line for green cards with their parents, the backlog at USCIS is so long that they often face a decades-long wait. As a result, they risk having to self-deport when they turn 21 and age out of their dependent visas, if they cannot find another status to stay in the United States legally.

I have a bipartisan, bicameral bill to provide these children and young adults with a pathway to permanent residency protections for aging out of the immigration system. I'm working hard to get that through the House and Senate. We got it through in two different forms last Congress, through the House.

However, today, I want to hear about what your Department is doing to protect these deserving young people and enable them to stay here. We've educated them using our tax dollars, which their parents pay. They often self-deport to countries that compete with us at age 21, after having a few years of college. So, I'll get into at least one of my questions.

In a 2014 decision on whether the Child Status Protection Act requires a priority date for retention for children who have aged out of their visa, the Supreme Court deferred to agency interpretation of CSPA, which does not provide for a priority date retention for most individuals who turn 21 while waiting for green cards sought by their parents.

However, Justice Kagan, writing for the plurality, emphasized that CSPA permits, not that it requires this narrow interpretation of the statute that USCIS currently holds. Allowing documented dreamers to retain their original priority date and keep their place in line after they age out of their dependent visas could significantly improve the lives of this population.

Why has USCIS not adopted a priority date retention for these individuals, given that the Supreme Court determined that the agency possesses this authority?

Secretary MAYORKAS. Congresswoman, I will consult with the Director of the U.S. Citizenship and Immigration Services and get back to you. I'm not familiar with that precise issue.

Ms. ROSS. OK.

I only have about a minute left. So, when I met with the documented dreamers, which I do quite frequently because they have learned how to petition the government for redress of their grievances, I am struck by the love of the country, of this country, and their eagerness to contribute to all our welfare. Their stories are some of the most compelling that I've heard during my time in Congress.

Does your Department have any plans to protect these deserving young adults who have done everything right, been here legally, and are losing their ability to live in this country through no fault of their own?

Secretary MAYORKAS. Congresswoman, I share your concern for these individuals who have, indeed, contributed so much to this country and who know no other country, but this one. I can assure

you I will followup with vigilance on the questions that you have posed and respond as promptly as possible.

Ms. ROSS. Thank you, Mr. Secretary.

Thank you, Mr. Chair. I yield back.

Chair JORDAN. The gentlelady yields back.

The gentleman from Oregon is recognized.

Mr. BENTZ. Thank you, Mr. Chair. I yield my time to you.

Chair JORDAN. I thank the gentleman.

Mr. Secretary, is the number greater than zero? Can you tell us that? The number of people who have been encountered on the border, over the two million number encountered on the border, put in removal proceedings, adjudicated, and then, removed, is that number greater than zero?

Secretary MAYORKAS. Yes.

Chair JORDAN. Is it greater than a hundred?

Secretary MAYORKAS. Yes.

Chair JORDAN. Greater than a thousand?

Secretary MAYORKAS. Congressman—or Mr. Chair, forgive me—Mr. Chair, as I have stated before, the data that you wish to have we will provide to you as promptly as possible. What I don't want to do is misspeak when it comes to data. I do not want any—

Chair JORDAN. I can appreciate that, but we have a history where we've asked questions before in a hearing, and you told us the same thing, and you don't get it back to us. So, we're trying to get as much as we can on the record in a public hearing. You've now told me it's greater than a hundred, but you don't know if it's greater than a thousand out of the 2.1-something million who've come to the country, been encountered, and put in removal proceedings. So, we know it's greater than a hundred. You say you're going to get back with us, but the history has been not too good on your part in getting us those answers.

Secretary MAYORKAS. Mr. Chair, of course, it's more than a thousand, but what I want to assure you of, because—

Chair JORDAN. Is it more than 100,000?

Secretary MAYORKAS. Because, quite frankly, Mr. Chair, we have been cooperative with this Committee.

Chair JORDAN. No, you haven't.

Secretary MAYORKAS. We have provided you with documents. We have provided you with data.

Chair JORDAN. I can keep putting up the redacted documents, but you have not.

I would yield back to the gentleman—I appreciate the time—so, he can yield to another Member.

Mr. BENTZ. Thank you, Mr. Chair.

I yield my time to Mr. Johnson from Louisiana.

Mr. JOHNSON of Louisiana. Thank you.

Mr. Mayorkas, in answer to my questions earlier today, you defined misinformation and you acknowledged that CISA created, in 2021, the Misinformation and Disinformation Committee.

On April 27, 2022, you testified in the House Appropriations Committee that your Department created, then, another agency, or another subdivision, the Disinformation Governance Board, and you said under oath it was to combat misinformation ahead of the 2022 elections.

Earlier this month, the Federal Court in the landmark case of *Missouri v. Biden* affirmed lengthy findings of fact to justify its preliminary injunction, and in the ruling found at page 94, the White House and your agency pressured and encouraged social media companies to suppress free speech that you determined—you and your employees determined—to be misinformation.

However, a couple of hours ago, when I asked you about this, you said under oath, “We don’t do that.” Which time were you telling the truth, today or on April 27, 2022?

Secretary MAYORKAS. Congressman, we do not suppress free speech.

Mr. JOHNSON of Louisiana. Did you or anyone working for you work with the social media companies prior to the 2022 election to pull things off the internet, suppress things off the internet, that your folks determined to be false or misinformation?

Secretary MAYORKAS. Not to my knowledge, Congressman.

Mr. JOHNSON of Louisiana. So, you had no idea what the Misinformation and Disinformation Committee was doing during that period?

Secretary MAYORKAS. Congressman, I have answered that question previously. Let me assure you that we safeguard the First Amendment rights of individuals. That is what we do.

Let me explain to you what the Cybersecurity and Infrastructure Security Agency—

Mr. JOHNSON of Louisiana. I know all about CISA. What I’m concerned about is this Committee and dystopian Disinformation Governance Board and put Nina Jankowicz in charge of for about three weeks, until the public blew their tops over that, and you—that suddenly disappeared and she resigned.

How were you—how did you instruct Nina Jankowicz to discern what is misinformation and false information that the government should pull off the internet?

Secretary MAYORKAS. You are assuming facts that actually did not exist.

Mr. JOHNSON of Louisiana. Tell me what the facts are. What guidance did you give her?

Secretary MAYORKAS. Congressman, the reality is that disinformation is a tool that adverse Nation-States use to undermine our democracy.

Mr. JOHNSON of Louisiana. OK.

Secretary MAYORKAS. Four adverse Nation-States include—

Mr. JOHNSON of Louisiana. No, no. Hold on.

Secretary MAYORKAS. —North Korea—

Mr. JOHNSON of Louisiana. Hold on. Don’t talk about foreign adversaries because the court and the witnesses on your behalf in the court testified under oath different than what you’re saying today; that they made no distinction between foreign people who put things on the internet and domestic voices. Do you disagree with that statement?

Secretary MAYORKAS. Congressman, can you share with me the context of that statement?

Mr. JOHNSON of Louisiana. It would be awesome if you had read the Federal Court opinion that directly says that your agency is involved in the greatest coverup of free speech in U.S. history.

I'll tell you what the court says. It says people involved with your agency were meeting regularly with the social media platforms and giving them lists of persons and information that they said should be pulled off the internet, suppressed. That means turned down, volume censored, so no one saw it.

The court said millions—millions—of free speech protected postings where not seen by the American people prior to the 2022 election because your employees subjectively determined that they shouldn't see it. That's the problem.

The idea that you would sit here in front of us and pretend like you don't know that was happening is just alarming. I'm out of words to describe how frustrated we are with you and your department.

I'm out of time.

Chair JORDAN. The gentleman from Oregon yields back.

The gentlelady from Georgia is recognized.

Ms. MCBATH. Thank you, Mr. Chair.

Good afternoon, Secretary Mayorkas. It's a pleasure to have you with us today. Thank you so much for your time. We appreciate your patience and your testimony.

Mr. Secretary, as you know, DHS is responsible for the public safety of the United States of America, and the men and the women at DHS work very hard every day, so that Americans can pursue the freedoms of their everyday lives. The mission of DHS is somewhat ubiquitous; be it at airports or disaster sites, that many overlook the fact that much of it is the same Federal agency.

In addition to these crucial areas, DHS has also been active in combating America's gun violence epidemic, which, of course, I am extremely invested in. It's an issue that is very important to me, as many other survivors around the country as well.

Studies have shown that between 70–90 percent of weapons recovered from crime scenes in Mexico can be traced back to the United States of America. With weapons of war commercially available at low levels of individual scrutiny, gun traffickers have been taking immense advantage of our guns lack—our Nation's gun laws, which are very lax, to arm drug cartels that also fuel a lot of organized crime.

In addition, we have seen that payment for these gun traffickers has at times resulted in opioids that have helped our communities be torn apart as well.

DHS has been swiftly, as you have mentioned over and over again today, combating this kind of illicit dealings through its joint efforts with the ATF-led Operation Southbound. Mr. Secretary, DHS has taken a collaborative approach with the ATF-led Operation Southbound. Can you tell us just a little bit more about this operation? I believe a lot of people don't really know that it exists and DHS's role in it. We'd like to hear about that and the results of this operation.

Secretary MAYORKAS. Congresswoman, one of the concerns that law enforcement has is that the firearms that are in the hands of the transnational criminal organizations just South of our border actually emanated from the United States. We in the Department of Homeland Security, through our Homeland Security Investigations, working in collaboration, as you have noted, with other Fed-

eral agencies, are conducting operations to interdict the flow of firearms outside—from within the United States external, to external countries, and to prevent them from reaching the hands of criminals.

I would be very pleased, given the law enforcement sensitivity of the operations, to provide you with greater details about how we are accomplishing that objective.

Ms. MCBATH. Thank you so much.

With weapons of war, such as high-capacity automatic firearms easily available in far greater quantities in the United States than ever before, can you illustrate how these firearms trafficking—how the firearm trafficking contributes to organized crime and gun violence in the United States?

Secretary MAYORKAS. Well, the trafficking in the guns themselves is a criminal activity that is a for-profit activity. So, when the criminal organizations gain greater profits, they only, tragically, expand their criminality.

In addition, the transnational criminal organizations that receive the weaponry from the United States conduct violent acts that impact individuals who seek to enter the United States, as well as Americans themselves.

Ms. MCBATH. Thank you.

Can you tell us a little bit more about how the export of these weapons of war directly relate to the opioid crisis in our communities in the United States?

Secretary MAYORKAS. The criminality of these organizations is inextricably intertwined with one another. They conduct their operations by protecting themselves and addressing law enforcement through criminal means. That includes violent acts, and those violent acts are perpetrated with firearms. Sometimes those firearms originate from the United States.

It is a web of criminality, and we are unrelenting in our efforts to disrupt and dismantle every aspect of that criminality. I'm intensely proud of the men and women who dedicate their lives to their effort in the Department of Homeland Security and throughout our law enforcement partner community.

Ms. MCBATH. Well, thank you so much. We appreciate your dedication and those that serve right along with you in this manner. We really appreciate you.

I yield back.

Chair JORDAN. The gentlelady yields back.

The gentleman from Virginia is recognized.

Mr. CLINE. Thank you.

Mr. Secretary, I have rarely been more gobsmacked by the lack of cooperation and information from a witness than I have by you today. It is truly appalling when you consider that lives are at stake—the lives of children being trafficked across this border who are being sacrificed on an altar of radical policies being pushed by your Department.

You talked about it. You threw out a good one-liner in your testimony about child sex trafficking, human smuggling. Do you know what does immense damage to our efforts to combat human trafficking, sex trafficking, and child sex trafficking? A porous border. Your policies have directly led to that porous border, Mr. Secretary.

This is ridiculous that I have had to sit here and listen to you and your denials, your deflections, and your obfuscations. The mendacity that I am hearing from you is not just appalling to me; it is appalling to my constituents.

I echo the comments from across this country, Members who represent people from across this country, over the last two hours—plus, really echoing their constituents and the frustration that they have actually shown and talked to them about.

Back in April, we had a Committee hearing where there was a witness, a whistleblower, who said that the U.S. Federal Government has, essentially, become a middleman in a multibillion dollar human trafficking operation targeting unaccompanied minors at the Southern border. I'm sure that that makes you upset. It sure as heck made me upset.

But when U.S. Customs and Border Protection encounters 435 unaccompanied minors per day, drug cartels and traffickers exploiting 60 percent of these children in prostitution, forced labor, and child pornography—to make matters worse, in June, the Biden Administration released 344 children to nonrelated adults in the United States, most of whom already had multiple children in their care.

These children are prime targets for traffickers for sex or for labor. In fact, a February *The New York Times* article published showing migrants found laboring, in violation of child labor laws—notably, half of the U.S. Immigration and Customs Enforcement's most wanted criminals for child trafficking, guess where they come from? Mexico. Imagine that.

So, when you actually take actions that reduce operational control of the border, these are actions that are taken in contradiction of your official duty to execute the laws enacted by Congress and your oath to support and defend the Constitution. You have abandoned the successful border policies of the previous administration. You've ignored laws requiring detention of certain aliens; reduced detention capacity; ended migrant protection protocols; halted border wall construction; diverted Border Patrol from law enforcement duties; encouraged a mass illegal immigration with the use of easily exploitable, credible fear processes; illegally expanded parole; reinstated catch and release and provided illegal aliens valid work permits and public benefits during an economic downturn.

You should be ashamed. More so, you should be held accountable. This Committee will do just that, and I am committed to making that happen as well.

With that, I'm going to yield the remainder of my time to the Chair.

Chair JORDAN. I appreciate that, the gentleman yielding. I would yield—well, actually, Mr. Cline, can you yield to Mr. Roy, and then, maybe to Mr. Bishop?

Mr. CLINE. I'll yield to Mr. Roy.

Mr. ROY. I thank the gentleman from Virginia.

Despite enormous levels of encounters—I believe last month it was about 146,000, far, far exceeding what Obama DHS Secretary Jeh Johnson said that crisis of being a thousand a week—we can agree, I think that it's possible there may be a decrease from Fiscal Year 2022 to Fiscal Year 2023 for total Border Patrol encounters,

right? They're going down maybe 20 percent, according to data I see, at current levels. Does that sound right?

Secretary MAYORKAS. I think they, Congressman, I think they're going down further, in light of the approaches that we implemented in a post-Title 42.

Mr. ROY. OK. Well, assuming they're going down, and accepting that they may be going down by Border Patrol encounters, hasn't there simultaneously been a significant and continuing increase at the ports of entry, which more than offset the reductions and illustrate the shell game?

OFO encounters from Fiscal Years 2022–2023, the data I have, at current pace, is a 100 percent increase; Fiscal Years 2020–2023, a 356 percent increase from 241,000 to 1.1 million.

In other words, the American people need to be told the truth about what's actually happening. The total numbers, if you look at the nationwide encounters, Fiscal Years 2020–2021, a 202 percent increase; Fiscal Years 2020–2022, a 328 percent increase; Fiscal Years 2020–2023 at current pace, a 364 percent increase. In the last 24 hours, for Border Patrol alone, nationwide encounters are 6,000.

That's the data I have. Is that correct?

Secretary MAYORKAS. Congressman, our approach of expanding lawful pathways and delivering consequences is working.

Mr. ROY. Is that data, correct? Are those the numbers?

Secretary MAYORKAS. I'd have to confirm the numbers that you have cited.

Mr. ROY. Well, those are the numbers that we have, and this is what the American people are tired of.

I yield back.

Chair JORDAN. The gentleman yields back.

The Chair recognizes the gentlelady from Missouri.

Ms. BUSH. Thank you, Mr. Chair.

Thank you for being here, Secretary Mayorkas.

St. Louis and I are here today, as always, to ask hard questions about real issues. Secretary Mayorkas, I'm concerned that the department, and the Office of Intelligence and Analysis, in particular, encourages the targeting of protesters, activists, incarcerated people, and progressive moments.

For example, in 2020, under the prior administration, Intelligence and Analysis individuals—or labeled individuals protesting police brutality and racial injustice after the killing of George Floyd as domestic violent extremists, and Department leadership instructed officials to create and share intelligence dossiers about, quote, “everyone participating in Portland protests,” as part of a discredited effort to link protesters to a nonexistent terrorism plot. These issues still continue to this day.

Secretary Mayorkas, do you acknowledge that the department has referred to opponents of the Atlanta Public Safety Training Center, or what we call “Cop City,” as alleged domestic violent extremists and militants, comprising violent far-left occupation? That's a yes or no.

Secretary MAYORKAS. Well, Congresswoman, a few things I must say.

First, I'm immensely proud of the men and women who work in the Office of Intelligence and Analysis under the superb leadership of Kenneth Wainstein. They do tremendous work in making sure the American people are safe and secure.

I am familiar with activities in Atlanta that are lawful, and I am also familiar with activities to which you refer that are unlawful. We do not condone violence. We do safeguard and protect the free expression of speech.

Ms. BUSH. So, what you're saying is that this alleged domestic violent extremist or militants that you're saying that you condemn that language, and you condemn—I'm just, I'm just trying—

Secretary MAYORKAS. Congresswoman—

Ms. BUSH. —to be clear because we can't "both sides it" when people are actually being hurt. I can speak to it as an actual activist myself, and I've been there. I've seen what actually happens to protesters and what actually makes the media, and what actually makes the reports.

So, I just want to make sure that we're saying that we, that you're—are you saying you—domestic violent extremists, because I have the report here. Are you saying that you condemn that or that this is part of the work?

Secretary MAYORKAS. Congresswoman, lawful protest is a proud tradition in this country. There cannot be a connectivity between an ideology and the expression of that ideology through violent means. That is when we get involved to prevent violence.

Individuals are free to express their ideologies, whatever we might think of those ideologies.

Ms. BUSH. OK, OK.

Secretary MAYORKAS. I cannot express any—

Ms. BUSH. Let me—I have limited time—let me reclaim my time. Let me just go to my next question.

So, are you aware that Georgia law enforcement officials have used those characterizations to support their charges of domestic terrorism against opponents of Cop City?

Secretary MAYORKAS. I am not, Congressman. I can't speak to State activities, State law enforcement. What I can do is speak of what we in the Department of Homeland Security do.

Ms. BUSH. Because when we don't call it out, when we don't address it, that's what happens. I get it; you're not a part of the State and you can't tell the State what to do. Or you're not as intricately involved in that. When we don't speak up to it, and we know it's happening, then they are able to do those things. That's what this report is about, and it actually affects real people.

Let me just, also, say the people that show up to protests are usually the ones that care about the issue and are trying to save lives. Folks don't show up to protests, usually, unless they are sent there, and I know that happens, too. Generally, the people that are at the protest, we care. Those folks are showing up because they want to see something done about policing in this community, in this country.

They want to stop the fact that every single year we have a rise in police killings, and nobody is doing the actual work to fix it. So, by saying, "Hey, we're going to show up and put our bodies on the line," and then turning that around to make as though those are

the folks who are violent; those are the folks who are extreme—if you stop the police violence in this community, in this country, then nobody has to show up for a protest. Let me just say that.

Last, I will say, that I'm concerned about the department's policies against, related to immigration enforcement. I will make sure that we get this documentation to you because I am out of time.

Last, I would like, Mr. Chair, I ask unanimous consent to enter into the record all the documents that I just spoke of.

Chair JORDAN. Without objection.

The Chair—the gentlelady yields back. The Chair now recognizes Ms. Lee, and then, we'll go to Mr. Van Drew.

Ms. LEE. Secretary Mayorkas, Florida's Attorney General has sued the Department of Homeland Security in the Northern District of Florida, asserting that the policies of your administration violent existing Federal law. Federal Judge Alan Wetherell, who has heard evidence and testimony related to your policies, described your parole with alternatives to detention policy as follows:

The evidence establishes that the administration have effectively turned the Southern border into a meaningless line in the sand and little more than a speedbump for aliens flooding into the country, by prioritizing "alternatives to detention" over actual detention and by releasing a million aliens into the country—on "parole" or pursuant to the exercise of "prosecutorial discretion" under a wholly inapplicable statute—without even initiating removal proceedings.

Thereafter, after additional proceedings and evidence and testimony, the judge heard about your "parole with conditions" revision, which allows illegal migrants to be paroled into the U.S. under the expectation that they will "check in" in 60 days and receive a Notice to Appear at a hearing, where we can initiate removal proceedings in court.

There, the judge noted that, all totaled, only 18 percent of the aliens released under the parole with conditions policy after it was enjoined by the court have been issued a Notice to Appear and placed in removal proceedings. The additional 82 percent are either awaiting an issuance of an NTA or their whereabouts are unknown.

Secretary Mayorkas, can you tell us, as we sit here today, where are the people who have entered this country and been released under your, what you refer to as, "a parole program"? Where are they today?

Secretary MAYORKAS. Congresswoman, the individuals who are released, because we do not have the detention capacity—we are not funded for the detention capacity to detain everyone. Let me assure you that individuals who pose a threat to—

Ms. LEE. Do you know where they are, Secretary Mayorkas?

Secretary MAYORKAS. Congresswoman, if I may, I want to assure you that individuals who pose a threat to public safety or national security are detained. That is how we prioritize our detention authorities. Otherwise, we place individuals who are not such a threat on alternatives to detention.

Ms. LEE. Do you know where those individuals are?

Secretary MAYORKAS. Those individuals also—

Ms. LEE. That would be a yes or no, Secretary Mayorkas.

Secretary MAYORKAS. Those individuals are supervised—

Ms. LEE. I'll take it that, in this case, you do not.

Now, about those who do not show up for failure to appear proceedings, for these notices to come to court, what are the consequences that those individuals face?

Secretary MAYORKAS. Those individuals face the consequence of apprehension and removal.

Ms. LEE. Is it not true that it would be necessary to know who they are and where they are to actually initiate removal proceedings from the United States?

Secretary MAYORKAS. There are those individuals who we do know where they are, and we do initiate removal proceedings. If individuals abscond, which is a concern that long predates this administration, Congresswoman—we have had absconders for many, many administrations. We have between 11–12 million undocumented people. When those individuals are apprehended, they are also subject to immigration—

Ms. LEE. Secretary Mayorkas, what I will note is this: In addition to it being clear that the department has failed to timely respond to requests for information and data about the policies of this administration and the status of all these individuals who have been released into our country, it is also clear, from reviewing a record of the proceedings in the Florida Federal Court that the department is failing to comply with orders of that court.

With that, Mr. Chair, I yield the balance of my time to the Chair.

Chair JORDAN. Would the gentlelady—would the gentlelady yield to the gentleman from North Carolina?

Ms. LEE. Yes, I will yield the balance of my time to the gentleman from North Carolina.

Mr. BISHOP. I thank the gentlewoman.

Mr. Mayorkas, you've spoken a lot about lawful pathways you've created. I think you rely on your parole authority to do that, is that right?

Secretary MAYORKAS. That is one of the methods, yes, Congressman.

Mr. BISHOP. What other method besides parole? What other source of authority besides parole?

Secretary MAYORKAS. That is the primary, the primary—

Mr. BISHOP. Well, but what's the other one, then, if it's the primary one?

Secretary MAYORKAS. Well, refugee processing is a lawful pathway.

Mr. BISHOP. OK. That's established by statute, the refugee program.

Secretary MAYORKAS. Yes, and the parole authority is also codified in statute. It's a discretionary—

Mr. BISHOP. Right. So, here's what it says. It says,

The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission in the United States.

You've spoken today—it was interesting; it really struck my attention—you spoke about case by case being an individual determination. What is the source of authority that allows you to define categories or classes to, then, operate to bring people in, and then, look at them case by case?

Secretary MAYORKAS. Congressman, as I've stated, we exercise that parole authority on a case-by-case basis.

Mr. BISHOP. You define these categories or classes. What allows you to do that? What authority do you rely on?

Secretary MAYORKAS. That defines the perimeter of individuals who may become eligible for the case-by-case adjudications.

Mr. BISHOP. It seems intentioned to me.

I yield.

Chair JORDAN. Yes, good point.

The gentlelady from Vermont is recognized.

Ms. BALINT. Thank you, Mr. Chair.

Before I begin, I ask unanimous consent to request to enter into the record DHS data on U.S. Immigration and Customs Enforcement.

Chair JORDAN. Without objection.

Ms. BALINT. Thank you, Mr. Secretary, for being here. Thank you for your public service.

I'm going to just shift gears a little bit here. As you know, Vermont has recently experienced the worst flooding in our State since the 1920's. Farms, houses, apartments, mobile homes, businesses, and shared community spaces have been devastating, including nearly every single small business in our downtown of our State capital Montpelier. I've seen the destruction firsthand and can tell you the recovery is going to be long and hard.

Related to this, a larger issue I'd like to highlight with my time today is the lack of options for small businesses that cannot take on additional debt to rebuild. SMA loans, of course, are a great help, but they are still loans. We are a rural State made up primarily of small businesses. Of the 79,000 small businesses in our tiny State, 78 percent are independent contractors or nonemployer businesses.

So, it is incredibly challenging for these small businesses to rebuild and take on more liabilities, but their presence in these communities is absolutely vital. We are a rural State made up of small cities and towns and villages—all in these little river valleys which are, essentially, isolated from each other. We need the ability to rebuild these small businesses.

So, I've heard directly from these folks that they're having a really hard time imagining how they will rebuild. FEMA has been incredible. They were on the ground just a few days after the emergency. I was able to tour with FEMA leadership, as well as folks from Region 1. We are grateful for that help, but I want to make sure that over the long term we are committed to working with FEMA and DHS to make sure that we find some long-term solutions for small businesses, in particular, to fill in this gap in the recovery.

Along these lines, Mr. Secretary, what can Congress do to aid DHS and FEMA in continuing to react to natural disasters like this, like the flooding in Vermont, which was supposed to be a 100-year flood cycle, and it happened as recently as 12 years ago. So, what can we do to partner with you to be more prepared for these?

Secretary MAYORKAS. Thank you very much, Congresswoman. I look forward to partnering with you and other Members of the Committee to address the challenges that our Nation faces.

One critical need is, of course, funding for the disaster relief services and assistance that we provide, whether that is financial relief, so that businesses and individuals alike can rebuild and recovery. We also have critical grant programs that really contribute to the resilience of local communities. That is one very significant way in which we can partner together, and I very much look forward to working with you.

Ms. BALINT. Thank you.

Just to put a finer point on it, I was speaking with FEMA Administrator Criswell when she came up to Vermont. Is it accurate to say that FEMA's primary funding source, the Disaster Relief Fund, is going to go into the red as soon as August? Is that correct?

Secretary MAYORKAS. That is correct, Congresswoman.

Ms. BALINT. Can you talk about the importance of DRF funding, especially as we prepare for another hurricane season and these increasingly intense storms that we are bound to see continually, as the air warms?

Secretary MAYORKAS. The Disaster Relief Fund is the nucleus of our efforts to assist communities in recovering from natural disasters, which are only increasing in frequency and severity. That is the core fund through which we provide such needed relief for communities across this country, whether it's for hurricanes, earthquakes, wildfires, flooding, the natural disasters that we are seeing more and more often.

Ms. BALINT. Thank you. Just two more questions.

Is there a role for the agency in mitigating future disasters? We often move emergency supplementals after the fact. Is there value to more focused funding for pre-disaster work, and what would that look like?

Secretary MAYORKAS. Well, one of the takeaways that I had when I visited Mayfield, Kentucky with Congressman Comer following a devastating tornado is assisting communities in revising their building codes, so that they are ready for the weather that we encounter today and not the weather that we encountered 10 years ago. We really, as a Nation, have to reform our infrastructure architecture to be ready for the extreme weather events that we are encountering today and will encounter tomorrow.

Ms. BALINT. Thank you.

I know I'm just about out of time. I just want to make the final point here, is that I think it's going to be important for all of us long term to think about how FEMA, also, can be a partner in dealing with the mental health consequences of these disasters, especially as they're happening more frequently.

Thank you, Mr. Secretary.

Chair JORDAN. The gentlelady yields back.

Mr. Secretary, we'll do one more, and then, we've got to go to votes on the floor, and then, we'll come back after that.

Mr. Van Drew is recognized for five minutes.

Mr. VAN DREW. Thank you, Mr. Chair.

Secretary Mayorkas, we stand here yet again to address a crisis that you've continued to make worse. As Secretary of Homeland Security, the American people have entrusted you with the security of their communities and the security of their Nation. You have failed them.

Our Southern border has been turned into a revolving door for illegal immigration, drug trafficking, human trafficking, and threats to our national security. Is this the America we want—an America where every town is a border town? An America where our communities, infrastructure, and resources are strained under the weight of unchecked illegal immigration? We know the answer. Our constituents know the answer. The answer is no.

The reality is that, under your leadership, you've created the largest border crisis in the history of the United States of America—a crisis so badly handled that the International Organization—and I want everybody to listen to this—the International Organization for Migration labeled our Southwest border as, quote, “the deadliest land crossing in the world.” Unbelievable for America.

Are you aware of how many illegals have been encountered at our border and how many known gotaways have escaped into America? I just want the numbers.

Secretary MAYORKAS. Congressman, you speak of the Southwest border, and—

Mr. VAN DREW. Sir, I just want the numbers.

Secretary MAYORKAS. The challenge of migration that we face at the—

Mr. VAN DREW. Thank you. I appreciate your answer. It's 5.6 million illegal alien encounters and 1.5 million known gotaways.

How about the number of aliens on the terrorist screening data base who've been caught, not the ones who haven't been caught, but the ones who've been caught just in the last nine months? Do you know that number?

Secretary MAYORKAS. I'm very pleased to provide that to you—

Mr. VAN DREW. I do. It's 140. Thank you.

How about the number of unaccompanied minors processed in Fiscal Year 2023? Do you know that number?

Secretary MAYORKAS. Similarly, Congressman, I'd be very pleased to provide—

Mr. VAN DREW. I thank you. I know that number myself. It's 152,000.

We have seen a continuous surge of fentanyl coming from China, being distributed by Mexican drug cartels, and destroying countless American lives. Are you aware of how many Americans died, how many Americans died in 2021 at the hands of fentanyl?

Secretary MAYORKAS. I am aware of those numbers, Congressman.

Mr. VAN DREW. Seventy-one thousand. Seventy-one thousand human souls.

These numbers are staggering, and they are a direct result of your actions as Secretary—actions that have dismantled effective immigration policies and broken the rule of law; your lies to Congress and the American people that put American citizens in danger every single day, and in my mind this makes your actions criminal.

All of us, all of this leaves us at a crossroads, a moment in time where our actions will define the future of the United States of America. This is a call to action; a call to restore sanity at our bor-

ders and safety in our communities; and a call to ensure that every town in America is no longer a border town.

In the words of Ronald Reagan, quote, “A Nation that cannot control its borders is not a Nation.”

The time for action is now. Congress cannot stand by. So, we arrive at an inevitable conclusion that I do not take lightly. Secretary Mayorkas, you must resign. Will you resign?

Secretary MAYORKAS. No, I will not. I am incredibly proud of the work that is performed in the Department of Homeland—

Mr. VAN DREW. I understand. Secretary Mayorkas, if you will not resign, that leaves us with no other option: You should be impeached.

I yield back to the Chair.

Chair JORDAN. We will stand in recess, Mr. Secretary, for approximately 30 minutes. So, I'd like to get started at 2:10–2:15, and then, we have, I think, four, possibly five, more, but that should go pretty quick.

I think we've got sandwiches and things back for you, if you need that.

We'll back in approximately 30 minutes.

[Recess.]

Chair JORDAN. Mr. Secretary—or the Committee will come to order.

I apologize for the whole Congress; we're 10 minutes later than I wanted to be here.

The gentleman from Texas is recognized for five minutes.

Mr. NEHLS. Thank you, Chair.

Mr. Mayorkas, Members of this Committee, please turn your attention to the video screens.

[Video played.]

Mr. NEHLS. Mr. Secretary, I can understand why you didn't stand with me and my colleagues and clap. You didn't want to clap at that because you and Joe Biden believe just the opposite of what President Clinton just said. You believe in open borders and complete chaos.

Did you notice the bipartisan support in the chamber, as the video was played? Everybody was clapping in that chamber. If I were in Congress in 1995, I would have also stood. Because I wasn't, I stand here today.

Other than President Donald J. Trump, the greatest President in my lifetime with the most safest and secure border, I believe President Clinton understood just how important border security is to our Nation.

Boy, have times changed. Twenty-eight years later, the left has gone off the rails. They've gone completely nuts. They've done just the opposite of what the leader of the Democrat Party, President Clinton, stood for on border security in 1995.

This Committee's Ranking Member, he was in Congress in 1995. I assume he stood. I assume he stood. It seemed like the majority, if not all, of the entire chamber, they stood.

Matter of fact, Mr. Clinton delivered his speech in the third year of his first term, and he was reelected in 1996. He beat Bob Dole, won by over eight million votes; won the Electoral College,

379–159. He had the support of the American people, and I'm going to assume the Ranking Member also voted for Bill Clinton in 1996.

We have two other Members, Ms. Jackson and Ms. Lofgren, they were both freshmen at the time. I will assume they stood during that powerful speech as well.

Do you know why they supported and voted? They voted for legislation in 1996 strengthening our immigration laws. I applaud them for that.

So, what's changed, folks? What's changed with the Democratic Party? I'll tell you what's changed. If you wouldn't have heard President Clinton's voice or seen his face, you would have thought Donald Trump delivered that speech. I don't believe that President Clinton was called a racist, a White supremacist who hated immigrants, as the left and the dishonest media has painted Donald J. Trump to be.

Mr. Mayorkas, there's a reason why you and Joe Biden have allowed 5.5 million people to cross our Southern border. This is about votes and elections.

I have a report from the *Heritage Foundation* titled, "Tracking Movement of Illegal Aliens from NGO's to Interior of the USA." Why do you think NGO's have moved illegal immigrants to 431 of the 435 Congressional Districts? The truth is—hear me—it's because the Democrats' progressive policies are not acceptable to Americans.

The *Heritage* obtained a sampling of approximately 30,000 cell phones that were tracked to NGO's along border States. They tracked approximately 22,000 devices at 20 NGO locations in January 2022. The same devices were later traced to 431 separate U.S. Congressional Districts, and of the 52 with the highest rate of tracked devices, 71 of them were Republican Congressional Districts. The report revealed that it's not a coincidence, folks.

The flood of illegal immigrants means the continued rise in supply—surplus laborers. That surplus drives down the wages of existing middle- and lower-class job holders until they leave the job forces, and then, they're forced to go on welfare—with the hopes that they will become loyal supporters of the Democrats. That's what this is all about.

If this isn't about votes, if this isn't about votes, one-party rule, keeping the Democrats in power, I make this suggestion: If you put the American people first, you should refer back to Trump's border policies. You won't because you hate him. You despise the man.

So, give Bill Clinton a call, and then, he can help you with the border crisis. As President Clinton stated, "we are a Nation of immigrants, but we are also a Nation of laws."

You, sir, have betrayed Constitutional order, neglected your duty, and violated the trust of the American people. As a Nation of laws, I look forward to your impeachment.

With that, I yield back.

Mr. MOORE. [Presiding.] The Chair recognizes the gentleman from California, Mr. Kiley.

Mr. KILEY. Mr. Secretary, last year you testified before this Committee that this administration's policies were not responsible for the surge of illegal border crossings. Today, you've testified that

this administration's policies are responsible for what you claim is a decline in illegal border crossings.

So, why is it that you deserve credit when numbers go down, but not blame with numbers go up?

Secretary MAYORKAS. Congressman, two points. First, the approach that we are taking, expanding lawful pathways and delivering consequences for those who do not use them, is working. I want to communicate that the challenge remains. The challenge is a persistent one at our Southern border. It has been for decades. What we need is legislation—

Mr. KILEY. OK, Mr. Secretary, you're speaking in general terms. I think this is why many of us on the Committee are frustrated with the lack of accountability, is that you have shattered all records in terms of illegal border crossings, which you say that has nothing to do with the dramatic change in policies you had. Then, there's a brief decline, and you cite that as evidence that you're doing a good job. I think that's why so many Americans have lost faith in this administration's ability to secure the border.

I want to, actually, reference some remarks you made that I found somewhat encouraging. This was on the topic of detainees. You made these remarks early in your tenure, April 2021, at a UCLA discussion with the Immigration Law and Policy Center.

You said this. You referred to an example of someone who crossed the border illegally and went on to commit sex offenses. You said, "I do not believe that individual should be released into the community." You said, "I think the State, the State facility should turn that individual over to ICE directly." You added, "I think that is a public safety need."

You went on to say that, after such a person had served their sentence, if they were citizens, there might be no way to keep them out of the community. You said, "I have a tool at my disposal with respect to an individual who unlawfully entered the country." You said, "I feel strongly about this. This is a tool that I have at my disposal. It is a tool I feel obligated to employ. I am going to protect the public," you said.

It's a very strong statement in favor of detainees. Yet, over the last couple of years, we have seen the actual use of detainees decline dramatically. Fiscal year 2021, there were 65,000; Fiscal Year 2022, 78,000. That's about half the average during the Trump Administration, about $\frac{1}{3}$ the average during the Obama Administration.

So, if detainees are such a powerful tool, why have you used them so sparingly?

Secretary MAYORKAS. Congressman, let me communicate a very important point; that individuals who pose a threat to public safety or national security are detained. That is the immigration policy of the Department of Homeland Security under my leadership.

Mr. KILEY. Why are you detaining much less than your predecessor—

Secretary MAYORKAS. Individuals—well, (1) is our detention capacity is limited, which is why we prioritized public safety and national security threats.

(2) Detainers are sometimes not honored by particular jurisdictions—

Mr. KILEY. I want to move on to that in a second, but just briefly, has the White House directed you to limit the use of detainers?

Secretary MAYORKAS. Congressman—

Mr. KILEY. That's a yes-or-no question. Has the White House—

Secretary MAYORKAS. Congressman, no, they have not.

Mr. KILEY. OK. Thank you.

So, on this topic of jurisdictions not honoring detainers, you have been critical of these so-called sanctuary jurisdictions. In a 2022 speech to the U.S. Conference of Mayors, you said,

Some of your cities have declined to cooperate with immigration authorities in the removal, the apprehension and removal of individuals, even if those individuals pose a public safety threat.

You said,

I will be coming to you and asking you to reconsider your position of non-cooperation. The public safety, the public's well-being, for which we are all charged, is, I think, at issue.

So, Mr. Secretary, you agree that sanctuary policies threaten public safety?

Secretary MAYORKAS. Congressman, what do you mean by "sanctuary policies," because—

Mr. KILEY. The definition that you gave right there where you said,

... declined to cooperate with immigration authorities in the removal, the apprehension or removal, removal of individuals, even if those individuals pose a public safety threat.

Are those sanctuary policies, as you define them, a threat to public safety?

Secretary MAYORKAS. So, sanctuary policies are defined differently by different communities—

Mr. KILEY. To your definition?

Secretary MAYORKAS. If I may—

Mr. KILEY. Is it a threat to public safety?

Secretary MAYORKAS. I do not consider it in the service of public safety to release an individual into the community when that individual can be released to Immigration and Customs Enforcement for prompt removal.

Mr. KILEY. Thank you.

Do you oppose State policies that forbid local authorities from cooperation, cooperating with ICE?

Secretary MAYORKAS. I am aware of some that I do oppose.

Mr. KILEY. So, you oppose California's sanctuary State law?

Secretary MAYORKAS. I am not familiar with the particulars of that law.

Mr. KILEY. Have you encountered California's restrictions on cooperation with local—with Federal immigration authorities?

Secretary MAYORKAS. Congressman, I believe it is imperative that we cooperate with one another, jurisdictions cooperate with us, when it serves the public safety need.

Mr. KILEY. Thank you. I'm out of time, but I would like to restate for the record that the policies you said that you oppose, overriding the ability of local jurisdictions to cooperate, that's exactly what California's sanctuary State law does.

Thank you, and I yield back.

Mr. MOORE. The Chair recognizes the gentleman from Colorado, Mr. Neguse.

Mr. NEGUSE. I thank the Chair.

Mr. Secretary, thank you for being here. Thank you for your testimony. I know it has been a long day today and I am certainly grateful to you for your service to our country. I have some questions about FEMA. As you may recall, we have spoken previously with respect to some natural disasters that we have faced in the State of Colorado, which I have the honor of representing in the Congress, particularly wildfires, and have very much appreciated the partnership with the department and your subagencies.

Before I do that, I just want to give you an opportunity; I know it has been a very contentious hearing, to the extent that you would like to clarify anything or perhaps expound on a prior answer that you didn't have ample opportunity to do so.

Secretary MAYORKAS. Congressman, I very much appreciate the invitation. I can recall there were quite a number of times I have not been able to complete my responses, but I look forward to the opportunity to answer your questions.

Mr. NEGUSE. I do think it is important for those Americans who are watching to perhaps provide them with some context about the various ways in which you have served our country. Maybe you could just talk a bit about—before you were appointed and confirmed as Secretary of Homeland Security what kind of work did you do?

Secretary MAYORKAS. Congressman, I am in I think it's my 22nd or 23rd year of Federal service. I joined the Federal Government because this country has given so much to my family. We came here seeking refuge from the communist takeover of Cuba.

I began my Federal service as an assistant United States Attorney, as a Federal prosecutor. I worked in that capacity for almost nine years before I was appointed by President Clinton—

Mr. NEGUSE. Fighting crime?

Secretary MAYORKAS. Yes.

Mr. NEGUSE. Taking on organized crime, taking on cartels, taking on gang violence?

Secretary MAYORKAS. Yes. Smugglers. All sorts of crimes. It was the largest Federal judicial district in the country, the Central District of California. I was then nominated—appointed and nominated and Senate confirmed as United States Attorney.

Mr. NEGUSE. On a bipartisan basis?

Secretary MAYORKAS. Yes, it was unanimous. I returned to Federal service in 2009 as the Director of U.S. Citizenship and Immigration Services and then moved from that position after approximately four years. I became the Deputy Secretary of Homeland Security. I returned to Federal service after that as the Secretary of Homeland Security. It's been about 22 years or so.

Mr. NEGUSE. I will say, Mr. Secretary, what I said previously, we are grateful for your service in law enforcement. While we have many disagreements with my colleagues on the other side of the aisle from a policy perspective, perhaps ideological differences, I would hope that they would show the appropriate respect and recognition of the work that you have done as a law enforcement offi-

cer, someone who has worked in law enforcement for the last 25 years or so.

I want to talk a bit about FEMA. As I mentioned, we had in Colorado some of the most destructive wildfires in our State's history; all happened in the last several years, and in particular in my district in Colorado, as you will well remember, the Marshall Fire, which was the most destructive wildfire in the history of our State, economically and tragically. We lost the lives of two community members.

There have been recent concerning reports that FEMA's Disaster Relief Fund, the DRF, which is the main funding source, as you know, through which you provide support to State, local, and Tribal governments responding to natural disasters, is in danger our running out of funding before the end of this year, potentially even next month.

I wonder if you can elaborate on what that shortfall is, when you predict it may run out of funding, and how that would impact the agency's ability to support communities in the event of a disaster. Because of course there are many of us in Congress, myself included, who are championing efforts to ensure that this shortfall doesn't happen.

Secretary MAYORKAS. Congressman, we are seeing an increase in both the frequency and severity of natural disasters: Hurricanes, tornadoes, fires, and floods. The Disaster Relief Fund that FEMA administers is the primary vehicle that enables FEMA, the Department of Homeland Security through FEMA, to distribute individual and public assistance to communities devastated by those natural disasters.

If that were to run out, our ability to assist communities, our neighbors, our friends, our loved ones to recover from and rebuild after a natural disaster would be virtually eliminated, almost eliminated. We are hopeful that the Disaster Relief Fund will receive the requisite funding because the money we expect to run out as early as perhaps August.

Mr. NEGUSE. Thank you, Mr. Secretary. I couldn't agree more, and we will do everything in our power to ensure that this fund is replenished. On that you have my word.

With that, Mr. Chair, I thank you for the indulgence and I yield back.

Mr. MOORE. Thank you, sir.

The Chair yields to Ms. Hageman for five minutes.

Ms. HAGEMAN. Thank you.

The First Amendment to the United States Constitution rests on the principle that no person or institution, including the government, has a monopoly on the truth and that viewpoint-based suppression of speech by the government is dangerous and may even spell the death of a constitutional republic.

Under the First Amendment the government has no power to restrict expression because of its message, its ideas, its subject matter, or its content. As the Supreme Court has explained, if there is any fixed star in our Constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.

Labeling speech misinformation does not strip of its First Amendment protection. That is so even if the speech is untrue. As some false statements are inevitable if there is to be an open and vigorous expression of views in public and private conversation.

In refusing to carve out a First Amendment exception for false speech, the Framers of our Constitution recognized the significant danger in making the government the ultimate arbiters of truth. It is axiomatic in the words of the Supreme Court that the government may not induce, encourage, or promote private persons to accomplish what it constitutionally is forbidden to accomplish.

Secretary Mayorkas, it was reported in May that the DHS through the Targeted Violence and Terrorism Prevention Grant Program is funding groups targeting conservatives and equating them to domestic terrorists. Originally intended to combat foreign terrorist organizations' operations in the U.S., it has become yet another government tool weaponized against citizens to violate First Amendment protection—protected affiliations and speech.

One grant to the University of Dayton for a program titled “PREVENTS-OH” hosted a seminar titled, “Extremism, Rhetoric, and Democratic Precarity.” One of the speakers, a known Antifa member, as part of his presentation shared a pyramid of far-right radicalization, which likened the Republican Party to the *Heritage Foundation*, the *American Conservative Union*, *Fox News*, *Breitbart News*, the *National Rifle Association*, *Prager University*, *Tea Party Patriots*, the *MAGA Movement*, and the pro-police *Blue Live Matter Movement*, and the *Christian Broadcasting Network* as the first steps on path leading to Nazism and militant neo-Naziism, among other appalling ideologies and groups.

This presenter reportedly also taught tactics on how to pressure the removal of conservatives from platforms and he even put it as saying a lot of things we are doing are illegal and a lot of involves breaking the law.

Secretary Mayorkas, does the affiliation with conservative or Christian beliefs make someone a Nazi or a domestic terrorist?

Secretary MAYORKAS. Of course not.

Ms. HAGEMAN. OK. Then if that is so, why is your agency targeting Americans who are Christians and conservatives?

Secretary MAYORKAS. We are not.

Ms. HAGEMAN. OK. Secretary Mayorkas, when did you become aware that the University of Dayton was implementing your grant funding program to target conservatives and Christians?

Secretary MAYORKAS. It is my understanding that it is not.

Ms. HAGEMAN. When did you become—so you are not aware of that?

Secretary MAYORKAS. No, it is my understanding that it is not.

Ms. HAGEMAN. You are unaware of the information that has been produced? Have you even seen the pyramid that is up on the screen right now?

Secretary MAYORKAS. I learned about the individual speaker's comments with which I profoundly disagree.

Ms. HAGEMAN. OK. So, when did you find out about the speaker's comments?

Secretary MAYORKAS. I don't quite recall, Congresswoman.

Ms. HAGEMAN. All right. Well, you know what, Mr. Mayorkas, I actually really want to thank you as well for coming here today, for your performance. I have watched with absolute fascination as you have danced and dodged and lied. Yes, lied. We know you have lied. You know you have lied. More importantly the American public knows that you lied throughout your testimony today. Yet, you believe that you and your fellow architects of the censorship industrial complex think that you should be able to determine what is and isn't true, and what is and isn't untrue.

You are the walking, talking epitome of the very tyrant that our Forefathers recognized would gravitate toward government service, and it is because of people like you that they drafted the First Amendment.

I thank them for their foresight. I thank them for recognizing that you and people like you would do everything in your power to control speech, to control freedom, to take away our rights. They have written a document that isn't going to allow you to do that.

Fortunately, we still have courts and judges who recognize that you don't have the power that you are attempting to take, that you do not have the right to limit our freedom of speech, our freedom of association, and our right to communicate. Thank God we have the First Amendment so that we can stop you from doing what you have been doing. With that I yield back.

Secretary MAYORKAS. Your accusations are false.

Mr. MOORE. Thank you. The Chair yields to Mr. Hunt from Texas for five minutes.

Mr. HUNT. A country without borders, sir, is not a country at all. A home without a roof and a home without a door, sir, is not a home at all. I have three young children at my home. They are all under the age four years old. My home is secure because I lock it up every single night, because I care about their safety.

Actually, the No. 1 role of our Federal Government is to keep our citizens safe. I am a combat veteran. I am willing to give my life for that. West Point guy. Flew Apaches in Baghdad. Safety is something that is paramount to me. It is actually the reason why I am in this room right now, is to figure out ways to keep our citizens safe.

When you are at your home, sir, do you lock your doors?

Secretary MAYORKAS. Congressman, thank you very much for your service in the military.

Mr. HUNT. Yes.

Secretary MAYORKAS. It's the highest form of service.

Mr. HUNT. Thank you. Do you lock your doors at your home?

Secretary MAYORKAS. Congressman, I take care of the safety of my family—

Mr. HUNT. Understood.

Secretary MAYORKAS. —and we in the Department of Homeland Security work every day to protect the safety and security of the American people.

Mr. HUNT. So, you would agree that the American public should be afforded the exact same level of safety and security that you provide for yourself and your own family?

Secretary MAYORKAS. That is what 260,000 people dedicate their careers to, Congressman.

Mr. HUNT. Understood, sir. Can you tell me the number of unaccompanied minors who have crossed our Southern border during your tenure as secretary?

Secretary MAYORKAS. Very pleased to provide that data to you, Congressman.

Mr. HUNT. OK. I have also heard that there are proponents of this administration that say that the fentanyl that is coming across our Southern border is coming through legal ports of entry. Does that mean that no fentanyl is being smuggled across our border other than legal ports of entry?

Secretary MAYORKAS. Congressman, the U.S. Customs and Border Protection data evidences that more than 90 percent of the fentanyl that enters this country is coming through the ports of entry.

Mr. HUNT. So, that means that there are parts of the border where fentanyl is pouring into our country?

Secretary MAYORKAS. That is precisely why we have dedicated increased resources, both personnel and technology, to interdict more fentanyl in these past years and in prior years.

Mr. HUNT. So, I hear that, but I am really speaking for the American public and the people that are in my district. That is not what we are seeing because we are seeing an increased number of people being murdered by fentanyl every single day. You understand these numbers, correct?

Secretary MAYORKAS. Well, I do. Congressman, those numbers have been escalating for more than five years.

Mr. HUNT. They have escalated exponentially during your tenure. Chip Roy went through these numbers. I was sitting here watching him, actually appalled at just how much this has happened.

Secretary MAYORKAS. It is a tragedy, the devastation that fentanyl wreaks on our communities, and I look forward to working with you and with all the Members of this Committee addressing this challenge.

Mr. HUNT. Understood.

Secretary MAYORKAS. This requires a united effort. This is not a partisan issue.

Mr. HUNT. Unfortunately,—

Secretary MAYORKAS. This is a—

Mr. HUNT. —sir, it has become a partisan issue. I feel like we on this side are the ones that are truly trying to defend the lives of our fellow Americans.

Switching gears on this one: Sir, this woman is Kamala Harris. She is the current Vice President of our country. She is also the border czar. Now, that was dubbed by your boss. You see on March 21, 2021, President Biden tasked Vice President Kamala Harris with solving the border crisis and finding the root causes of illegal immigration because as Biden said, “she is the most qualified person to do the job.”

I would like to make a motion to submit the transcript of Joe Biden’s March 24th Press Conference to the record, Mr. Chair.

Mr. MOORE. So moved.

Mr. HUNT. It has been 855 days since Joe Biden named Kamala Harris the border czar. Has she solved the root cause of illegal immigration in your opinion?

Secretary MAYORKAS. Congressman, you have mischaracterized the Vice President's role. The Vice President is—

Mr. HUNT. No, no, no. I have not mischaracterized. Actually, that was the job that was given to her by the President of the United States of America.

Secretary MAYORKAS. Congressman—

Mr. HUNT. How did I mischaracterize that?

Secretary MAYORKAS. Congressman, the Vice President—

Mr. HUNT. OK. That is fine. So, she has not solved the issue. I think that is actually pretty clear and I think my colleague Chip Roy did a very good job of articulating that.

I want to go to my next topic, and this is something that the American public is really frustrated with, because it has been brought to my attention, and I think I have known it for a very, very long time. For those who are not watching, the Secret Service is an agency that is within the Department of Homeland Security. This has been the case since March 1, 2003. Now, sir, I am assuming that you are aware that cocaine was found by the Secret Service in the White House a couple weeks ago. Is that right?

Secretary MAYORKAS. Yes.

Mr. HUNT. According to the Secret Service marijuana was also found in the White House twice last year. Twice. We don't know who brought the drugs into the White House, which is the most secure building on earth. If we can't secure the White House, then how can we secure the border? Without proper leadership I am so fearful that we have turned our beloved White House into a trap house. The American public deserves more—far, far more than that, sir. Thank you for your time. I yield back the rest.

Chair JORDAN. [Presiding.] The gentleman yields back.

The gentleman from South Carolina is recognized.

Mr. FRY. Thank you, Mr. Chair.

Mr. Secretary, I have listened both in here and in my office today your testimony before this Committee. I think the frustration that I have as the clean-up crew at the very end of this Committee is that you seem to answer very eloquently all the questions that the other side of the aisle pose, but when posed with questions, specific questions about the border on this side of the aisle, you seem to not have—you seem to dance and dodge, as Ms. Hageman talked about, the true answers, that you talk about—you filibuster, if you will, what people really are asking. These aren't questions that are hatched out of some think tank. These are questions that our citizens have, because they see what is going on.

What is remarkable to me since day one of this administration, you have terminated construction of the border wall. You restricted the ability of immigration officers to deport aliens who violate U.S. law. You terminated the MPP, the Remain in Mexico Policy, despite people on the ground talking about how successful that it was. You abuse parole authority to release illegal aliens en masse into the United States and creating categorical parole programs in violation of the INA's case-by-case basis.

You refuse to follow Federal law requiring aliens to be detained during the pendency of their asylum proceedings. You terminated asylum cooperative agreements with Guatemala, El Salvador, and Honduras. You refuse to comply with the provisions of the INA that require the detention of asylum seekers. You cut immigration judges, ICE attorneys, and the process of the asylum system itself. You support sanctuary city policies by giving them grants. You implemented until it was enjoined a 100-day moratorium on alien removals.

You have misused, as has been talked about here, the CBP One app that has institutionalized mass parole and release policies in this country. It has been described as a shell game, pretty fairly stated, that you otherwise shift things around. You create definitions within your department that you think that are appropriate. You create law, which isn't your function. Then you come before Congress and you say that everything is fine.

Well, we have been to Yuma, Arizona, sir, and we have seen the devastation down there. We have talked to people. Seventy sheriffs just last year said that there is no border at all. We simply have no border left in Arizona, New Mexico, Southern California, and Texas. That is the National Sheriffs Association.

You have been held to account by courts. *Texas v. Biden*. DHS' position, quote,

Position that the crisis at the border is not largely of their own making because of their more lenient detention policies is divorced from reality and belied by the evidence.

Florida v. The United States in the Northern District of Florida, quote,

The Biden Administration have effectively turned the Southwest border into a meaningless line in the same and little more than a speed bump for aliens flooding into the country by prioritizing alternatives for detention over actual detention and by releasing more than a million aliens into the country.

Really quick let's play a video.

[Video playing.]

Mr. FRY. So, the numbers don't lie; 5.6 million illegal immigration, or illegal alien encounters; 1.5 million known gotaways; more than 2.2 million illegal immigrants—aliens into this country, meaning that 3.6 million illegal aliens are in this country since the start of your tenure. That is astronomical. A hundred and sixty countries—the people on the terror watchlist that we know about, 140 just this year. It is at an all-time high.

So, look, this doesn't lie. These are the stats, Mr. Secretary. So, you come up here and you blame the former President and you say that they have gutted the immigration system. You blame Congress for not acting. These numbers weren't here for Obama. They weren't here for Trump. They seem to be here for you. So, you like to blame other people for your failures in not doing your job. Quite frankly, the American people want to know how qualified are you to even carry out your mission?

Because everybody else seems to indicate, from local law enforcement, to sheriffs, to ranchers, to farmers, to citizens on the border, when I ask them is the border more secure, they say resoundingly no. That is on your watch, sir. I yield.

Chair JORDAN. The gentleman's time is expired. The gentleman yields back.

The gentleman—if we could maybe just wait until the sign is taken down there, Mr. Moore, and then we will let you have your five minutes with the Secretary.

The gentleman from Alabama is recognized.

Mr. MOORE. Thank you, Mr. Chair.

Thank you, Mr. Secretary, for being here today. I am certainly appalled at what is happening at the Southern border and I know my constituent are, too. Your border policies make every State a border State. I said my constituents are appalled about what is happening, but I know a family who has personally been suffering the consequences of your actions.

In my district, the Second Congressional District in Alabama, the Autauga County Sheriff's Department arrested Grevi Zavala, a 29-year-old illegal alien from Honduras, for the rape of a teenage girl in Prattville, Alabama in a restaurant. The interesting thing is that Mr. Zavala identified I guess as a minor, is what I am being told, but he was a 29-year-old.

Mr. Secretary, why do you think it is; and I have been to the border a few times myself, that we are finding so many IDs thrown down South of the border? Just it is almost like if these people are coming here for—to apply for asylum, they would want us to know who they were and what they were up to. For some reason ID after ID are just piling up South of the U.S. border. Why do you think that might be?

Secretary MAYORKAS. Congressman, first, I am very sorry of course to learn of the tragedy that occurred, that was inflicted on a constituent of yours.

Mr. MOORE. I understand that, Mr. Mayorkas. Let me say this, sir: We have been apologizing to a lot of people for a long time, at least in the last few months, the last few years, even when the other party was in charge. They have the White House, the House, and the Senate. We are continuing apologizing to parents for losing their children to fentanyl and for people getting raped in restrooms, and for DUIs or people who are killing people with cars who have no driver's license. I understand the apologies, but my people, the constituents in this country are getting tired of apologies and they want action.

So, who is responsible for the death—or let's say the rape of this 14-year-old? Is that you, Mr. Mayorkas, or is that President Biden, or is it Congress? Who is responsible for that?

Secretary MAYORKAS. Congressman, the criminal who committed the act is responsible. I look forward to working with you to address the scourge of fentanyl that is causing so much devastation and death. I look forward to working with you to fix what has long been a broken immigration system.

Mr. MOORE. I hear you, but let me say this, sir; and you are aware of this, too. This administration has created two things on the Southern border: Drug mules and human trafficking. It is the policies of this administration. Because we talked about it earlier in here and you said \$4,000–\$5,000. Yes, that is just South of the U.S. Southern border. In Yuma, Arizona there is 109 different countries came through that small town. Further South of the bor-

der they are paying the cartels \$7,000–\$8,000. Syrians are paying \$19,000. So, the cartel is getting rich, and the American people are paying the price in the form of crimes and drug deaths.

So, we can sit here and talk and—for four hours now, three hours, however long this has gone on—there are a lot of apologies, but not a lot of answers. We need answers for the American people. I think you are to be held responsible for that. Believe me, it is not fun to have parents in here telling us how they lost their child to fentanyl poisoning, but it is on your watch, sir. It is on our watch. We have a responsibility to do something about that.

So, it just—again the policies, we are turning a blind eye and people are pouring in here. Sheriff Dannels said himself in testimony a few months ago—he said the safest he has ever seen the U.S. Southern border; he has four decades on the U.S. Southern border, was around 2018. He said the worst he has ever seen is now. So, we have a responsibility to these people.

Let me ask you another question. This is an individual—I just got this information. Reports in November 2021, DHS encountered Esem Basi, an alien on the terror watchlist. Now, “Mr. Basi, despite,” quote, from the FBI, “highly derogatory information”; this was in the FBI’s data base,

DHS decided to release him into the U.S. because he was overweight and may have been susceptible to the COVID–19.

Are overweight terrorists not a threat to the U.S.?

Secretary MAYORKAS. I’m sorry, Congressman?

Mr. MOORE. Are overweight terrorists—we turned Mr. Basi loose because he was overweight was afraid he might get COVID. He was on the FBI’s list. So, are they a threat, overweight terrorists?

Secretary MAYORKAS. Congressman, individuals who pose a threat to national security or public safety are detained. That is the policy—

Mr. MOORE. Unless they are overweight?

Secretary MAYORKAS. —of the Department of Homeland Security. That is false.

Mr. MOORE. Well, that is what the report is.

Secretary MAYORKAS. I’m not familiar with that report. I look forward to reading it. Congressman, the weight of an individual is not relevant to their profile as a threat to the United States, to the American—

Mr. MOORE. It is to catching COVID though, apparently.

Secretary MAYORKAS. Congressman, allow me to repeat myself. Individuals who pose a public safety threat or a national security threat are priorities for detention. That is the policy of the Department of Homeland Security.

Mr. MOORE. Who is to blame for the flood gates being opened on the Southern border, Mr. Mayorkas?

Secretary MAYORKAS. Congressman, I look forward to working with you to fix what is clearly a broken immigration system. The issue of migration, the increase in migration is not exclusive to the United States. During World War II, there were 60 million displaced people around the world. Now, there are over 117—

Mr. MOORE. We just had a report earlier today. Somebody said that there is no border anywhere in the globe that is more porous,

if you will, than the United States border, and more unsecure. It is on your watch, sir.

With that I will yield back, Mr. Chair.

Chair JORDAN. The gentleman yields back.

Thank you, Mr. Secretary. Just a couple things to remind you. I know you have some sharp people there sitting behind you who work at the department. There are a number of things we want responses to and I have been keeping a list throughout the thing, so I just want to reiterate that and then we will adjourn the hearing, let you get back to your office.

We want to know the number of removals, obviously. We have asked that several times, so if you could please get us that number. We will put this in some kind of written correspondence to you, but we just want to emphasize we want that number.

We want to know the status of the 14,000 smugglers you referenced in your opening statement. What has happened? Is DOJ prosecuting? Have you referred them? What is the status? Have any of those individuals been arrested multiple times?

We want to know the status of the 140 on the terrorist watchlist this year. The 238 total over the last two years, what their status is? Specifically, when you said the IG's report was wrong and the IG's report said that one of these individuals on the terrorist watchlist has been released into the country. We want to know specifically how you interpret it and why you say the IG is wrong.

Then we want to know the parole categories that Mr. Bishop raised in his questioning, how you can categorize someone and then still—categorize a whole group of individuals and then say you are still going case by case to meet the law when it comes to parole.

Then, finally, actually two last things: The Mis-, Dis-, Malinformation Committee within CISA, within DHS, we want to know the activities of that group. We will have specific questions about that. We want to know who is involved in that group, and if it is still meeting and working with social media companies in light of the court decision on July 4th from the Western District of Louisiana.

Finally, to the gentleman Mr. Moore's question about the tragic situation of the young lady in Alabama. We wrote you about that specific situation. Mr. McClintock and I wrote you on behalf of this back on May 24th and you have not responded to that. So, we would like a response to that previous request as well.

So, I think that is seven things that the Committee, both Republicans and Democrats, I believe, would like answers to. We will get that to you in some kind of written letter ASAP, but now you know and you can begin working on that and get it back to us, if you could.

Secretary MAYORKAS. Thank you, Mr. Chair.

Chair JORDAN. You bet. Thank you for being here today.

Without objection, all Members will have five legislative days to submit additional written questions for the witness or additional materials for the record.

Without objection, the hearing is adjourned.

[Whereupon, at 3:09 p.m., the Subcommittee was adjourned.]

All materials submitted for the record by Members of the Committee on the Judiciary can be found at: <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=116272>.



TERRORIST ENTRY THROUGH THE SOUTHWEST BORDER

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION INTEGRITY,
SECURITY, AND ENFORCEMENT

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

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TERRORIST ENTRY THROUGH THE SOUTHWEST BORDER

Thursday, September 14, 2023

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY,
AND ENFORCEMENT

COMMITTEE ON THE JUDICIARY

Washington, DC

The Committee met, pursuant to notice, at 10 a.m., in Room 2141, Rayburn House Office Building, Hon. Tom McClintock [Chair of the Subcommittee] presiding.

Members present: Representatives McClintock, Jordan, Buck, Biggs, Tiffany, Roy, Spartz, Van Drew, Moore, Hunt, Jayapal, Nadler, Correa, Escobar, Ross, and Swalwell.

Mr. MCCLINTOCK. The Subcommittee will come to order. Without objection, the Chair is authorized to declare a recess at any time.

I want to welcome everyone to today's hearing on Terrorist Entry Through the Southwest Border. I will now recognize myself for an opening statement.

Three days ago, we marked the 22nd Anniversary of the Taliban-backed terrorist attack on the United States. Two weeks ago, we marked the 2nd Anniversary of the administration's surrender to the Taliban, turning over billions of dollars of military equipment and releasing more than 5,000 of the most dangerous terrorists on the planet from Bagram-Parwan detention facility. On January 20th, we will mark the 3rd Anniversary of the Biden Executive Orders that opened our borders to the world by halting construction of the border wall, rescinding the remain in Mexico policy, and forbidding ICE from enforcing court-ordered deportations.

Since that day, more than 5.7 million illegal aliens from over 160 countries have illegally crossed our border. Mr. Biden has released over 2.6 million of them, a population larger than the entire State of New Mexico, into the United States in violation of our immigration laws. While the Border Patrol has been overwhelmed by this unprecedented mass illegal migration, another 1.7 million known got-aways have entered as well. That is an additional illegal population the size of West Virginia.

Now, since we have no access to most foreign criminal data bases, we know little of the foreign criminal records of these 2.6 million illegal immigrants as they have been released into our com-

munities and of course, we know nothing of the 1.7 million got-aways.

We know from a recent GAO report that many have already disappeared into our communities without a trace. Of 981,000 alien records they surveyed they found that, “addresses for more than 177,000 were either missing, invalid for delivery, or not legitimate residential locations.”

According to the GAO, the lack of valid addresses means that ICE, “cannot locate migrants to enforce immigration laws including to arrest or remove individuals who are considered potential threats to national security.”

Of much greater concern, of course, is the 1.7 million known got-aways, people the Border Patrol has observed entering this country, but could not stop because our resources are overwhelmed.

Under the open border policies of the Democrats, if you illegally enter this country, seek out a Border Patrol agent and make a false asylum claim, you will almost certainly be released into our country. You will get taxpayer-funded travel wherever you want to go and lots of free stuff including cash, food, free medical care, and even education. After six months, you can get work authorization and when your asylum claim is finally heard and denied, years from now, and you are ordered deported, that deportation order most likely won't be enforced.

So, why would 1.7 million illegal aliens want to invade the Border Patrol? The only two reasons I can think of are that they are either hiding criminal records or they are conducting criminal acts. We do know that among those aliens the Border Patrol has apprehended, the number of suspected terrorists has increased exponentially. In 2021, we stopped 15 of them. That was five times the number encountered in 2020 and as many as we had stopped in the four previous years combined. By 2022, that number grew to 98 and in the first 10 months of this year that number has already grown to 146, a tenfold increase in two years.

In June, FBI Director Chris Wray testified before this Committee that there has been an uptick in “known or suspected terrorists coming across the Southern border,” and that “the Southern border represents a massive security threat.” Those are his words, a massive security threat.

In August, we learned that a foreign national with ties to ISIS helped smuggle over 120 nationals from Uzbekistan, Russia, Georgia, and Chechnya into the United States through the Southwest border. Russian reports indicated that the FBI was “scrambling to find the smuggled individuals since the Biden Administration had released them into the U.S.” Of course, this begs the question if illegal aliens are so carefully vetted, as Mr. Mayorkas has repeatedly assured this Committee, why would the FBI be scrambling to find them? Clearly, very bad actors are entering our country through our open Southwest border and I am afraid something terrible is brewing, either a coordinated terrorist attack by elements that have entered over the last few years, or the kind of cartel violence that has now become so common in Mexico.

Now, the Democrats' witness will tell us not to worry our pretty little heads about this, it hasn't happened yet. Well, that is precisely the attitude that the 9/11 Commission excoriated as the cata-

strophic failure public policy that made us vulnerable to such a horror on 9/11.

Our other witnesses though have a very different perspective. They have seen first-hand what is happening at the border and they are desperately trying to sound the alarm before it is too late. I hope that we will all heed their warnings today. With that, I am pleased to recognize the Ranking Member for five minutes.

Ms. JAYAPAL. Thank you, Mr. Chair. Welcome and good morning to our witnesses.

It appears that this Subcommittee has found a new angle to have the same border hearing that we have had six times already this Congress, another hearing where we hear the same tired and untrue talking points about the Southern border and actions by President Biden and Secretary Mayorkas. I am not going to repeat them because guess what, these claims by my Republican colleagues, actually, empower smugglers to convince desperate migrants to pay for their services.

When I read the *CNN* article that came out at the end of last month about migrants from Uzbekistan crossing the Southern border with the help from somebody allegedly linked to ISIS, I wanted to learn more. Everyone on this panel wants to keep Americans safe and the idea that individuals with ties to terrorists might be crossing our border and intending to do our country harm is deeply concerning. This potential issue is one that should be approached with an eye toward gathering the facts and information so that we can act accordingly.

Unfortunately, that is not what this hearing is about. This hearing appears to be nothing more than political theater with little new information. What bothers me the most is that my Republican colleagues use these hearings to weaponize the emotions of the American public to score cheap political points as we head into the next election. This is not about telling the truth or getting to the facts. This hearing is purely intended to scare the public, to demonize immigrants, and to score cheap political points as we head toward that next election.

If the majority was serious about getting to the facts on this issue, instead of holding this hearing, the Subcommittee would have first let the Department of Homeland Security and Federal Bureau of Investigation give Members a classified briefing on the topic, something that both the FBI and DHS has offered to provide us. My understanding is that the FBI and DHS have even offered specific dates on when this briefing can take place in the near future. Instead, the majority is once again holding a hearing with no government witnesses, not a single government witness where we will hear a lot of innuendo, hearsay, and scary-sounding rhetoric intended to play politics on the issue of immigration. This is not the way to conduct oversight, especially over a national security issue that belongs in a classified setting. This is not a serious hearing intended to gather facts and get to the truth, but while we are here, I think it is important for us to get some facts out there.

- (1) In the last 48 years going back to 1975, the number of Americans killed by a terrorist who crossed the Southern border unlawfully is zero. That is right. Not a single American has been injured or killed by a terrorist who crossed our Southern border without authorization. So, don't fall for Republican fearmongering.

- (2) The only foreign-born terrorists who cross the Southern border unlawfully were three brothers from Macedonia who came to the United States while Ronald Reagan was President. Twenty years later, they were arrested while planning an attack in New Jersey. Our systems worked then, but you certainly won't hear Republicans on this Committee raise either of those facts.
- (3) Yes, there has been an increase in the number of migrants apprehended who are on the "Terrorist Screening Data Set." These people have been apprehended and they receive additional vetting and interviews from DHS as a result. There is also coordination with the FBI on the appropriate action that should be taken when responding to these individuals. If it is determined that these individuals pose a serious threat to national security or public safety, they may be denied admission, detained, removed, or turned over to another agency for prosecution as appropriate.

All of this could have been discussed with a classified briefing, but that is not the path that the majority chose because they are not interested in the facts. As is my refrain every single time we have these hearings, if the majority was at all serious about addressing immigration in America, they would be working with us to pass bipartisan immigration reforms that would finally update our outdated immigration system so that we have real legal pathways for people to enter the United States, to be with their families, to escape terrible situations in their countries, and to contribute to our economy, our communities, and our country. That is what would decrease the number of people coming to the Southern border. That is what would allow Border Patrol agents to focus on true security threats. That is what would allow more people to go through detailed vetting before ever coming to the United States. That is how we can improve our national security.

Instead, some Republicans have openly said that they want to defund the Department of Homeland Security and the FBI. Last year, almost every one of them voted against the Bipartisan Infrastructure Bill which provided additional funding to ports of entry for nonintrusive inspections to combat smuggling of people and drugs, modernization, and additional staffing. Unfortunately, we have another hearing today that prioritizes cheap political points and outrage over action. So, let the show begin.

Mr. McCLINTOCK. Just to correct the record, we did request a classified briefing from DHS and the FBI on this subject and they said the earliest they could get to it was September 29th and we look forward to them meeting that request.

I see that the Chair of the Full Judiciary Committee is here and I would recognize him for five minutes for an opening statement.

Mr. NADLER. Well, thank you for elevating me to Chair again. I hope that is true next year.

Thank you, Mr. Chair. On Monday, we commemorated the 22nd Anniversary of the horrific attacks on September 11th. None of us will ever forget the terror of that day or the bravery of the first responders who rushed toward danger to save countless lives. To so many people, the wounds from 9/11 still feel fresh. The grief and pain is ever present.

Among the many ways that our lives changed after the events of that terrible day, September 11th served as the catalyst for a sea change in our immigration system. The 19 hijackers who carried out the attack came to this country legally on visas. In response to the intelligence failures that allowed them to enter, plan, and

execute the attacks, we created the Department of Homeland Security. This led to massive increases in funding, vetting, and enforcement within the immigration system. As a result, immigration became inextricably linked with national security.

While in many ways we are safer today, there are also many problematic aspects to this approach, not the least of which is that asylum seekers are too often treated like criminals by our government. However, one thing is certain, the Federal Government is deeply focused on keeping Americans safe from threats domestic and foreign and attacks by foreign-born terrorists on U.S. soil since 9/11 are vanishingly rare. I am sure that my Republican colleagues will do their best to scare people into believing that the next 9/11 is just around the corner. This time, they will claim, it will be planned by someone who snuck over the Southwest border. The fact remains that there has never been a successful attack planned by someone who illegally crossed our Southwest border.

Even the cherry-picked examples that we will likely hear about today tell a story about the rigorous vetting done by DHS and our intelligence agencies to keep us safe. For example, much has been made about recent reports that asylum seekers from Uzbekistan were aided by a smuggler with ISIS sympathies. What we know about those alleged ties is precisely because of investigative work done by intelligence agencies in coordination with immigration enforcement agencies working together, as they should, in a case like this.

The FBI is continuing to identify and vet this group of individuals even after the National Security Council stated publicly that there is no indication that any of the people who actually entered the U.S. have any connection to a foreign-terrorist network.

Of course, we won't learn anything new about these migrants today. That is because this slap-dash hearing was pulled together to make headlines, not progress. As has become commonplace in this Subcommittee, there are no government witnesses today, no one who can provide a thorough accounting of what the government is currently doing to address potential threats. Yet, DI and DHS have offered to provide Members of the classified briefing about this incident, but the classified briefing doesn't get anyone a spot on *Fox News*.

So, here we are, about to commence yet another hearing to demonstrate just how unserious my colleagues are about fixing the problems plaguing our immigration system. If they wanted to improve things, they would have joined the Democrats when we appropriated hundreds of millions of dollars to provide new technology inspection systems and CBP offices to the border in last year's omnibus spending bill. Not a single Republican Member of this Committee voted in favor of that bill.

Now, many of them want to defund DHS, DOJ, and the FBI or else they will shut down the government. These extreme MAGA priorities are dead wrong, and the American people are watching.

I thank the witnesses for appearing in front of us today and I yield back the balance of my time.

Mr. McCLINTOCK. The gentleman yields back. The Chair recognizes the arrival of the Chair of the House Judiciary Committee. Mr. Jordan is recognized for an opening statement.

Chair JORDAN. Well, I will be brief. I thank you, Mr. Chair. Thank you for doing this hearing. I just wanted to respond to the Ranking Member of the Full Committee's statement that no one from the government is here to give us answers. We have been asking for answers from those guys for I don't know how long. We wrote to Secretary Mayorkas before he came in front of this Committee seven weeks ago. We wrote to him the week before saying, hey, here are questions we want you to be prepared to answer. This is like the professor telling you hey, these are the questions I am going to ask you on the exam. He came to the Committee and wouldn't answer the questions.

We asked him multiple—we asked him a question, not even on the terrorist issue. We asked him a simple question. We said how many of the over two million people who have been accounted on the border, how many of them have been adjudicated and when removed from the country? He wouldn't answer the question. Mr. Gaetz asked him. Mr. Roy asked him. I asked him a couple of times. Finally, I said is the number greater than zero? He would agree to that, but he wouldn't tell us the number.

We then followed up with a letter to him. What's the answer? Still no response. So, the idea that we don't want answers and someone from the government can give them to us is baloney. We have tried and tried and tried. That is why we are probably going to have to do some compulsory resources to get some—try to get some answers for the American people. Appreciated the leadership of the Subcommittee Chair on so many important issues that have been in front of this Committee and I would yield back.

Mr. MCCLINTOCK. Thanks. Without objection, all other opening statements will be included in the record, and I will now introduce today's witnesses.

Our first witness will be Mr. Todd Bensman. Mr. Bensman is the Texas-based Senior National Security Fellow for the Center for Immigration Studies. Prior to that, he led counterterrorism intelligence for the Texas Department of Public Safety's Intelligence and Counterterrorism Division. He has written about and routinely reports on the U.S. border crisis. Mr. Bensman holds an MA in Security Studies from the Navy Post-Graduate School, Center for Homeland Defense and Security, and an undergraduate degree in Journalism from Northern Arizona University.

Our second witness will be Mr. Charles Marino. Mr. Marino is a national security expert who served as Senior Law Enforcement Advisor to DHS Secretary Janet Napolitano from 2009–2011. He was a career Secret Service officer during three different administrations. He is a graduate of the National War College in which he received an MS in National Security Strategy and is currently Adjunct Professor at the University of South Carolina.

The minority, of course, gets to choose a witness. They did not choose any administration officials, but we have with us today at their invitation Mr. Alex Nowrasteh, do I have that right?

Mr. NOWRASTEH. Nowrasteh.

Mr. MCCLINTOCK. Nowrasteh. Thank you.

Mr. NOWRASTEH. Thank you for asking.

Mr. MCCLINTOCK. Mr. Nowrasteh is the Vice President for Economic and Social Policy Studies at Cato Institute. He has written

on the economic impacts of immigration on the economy. Mr. Nowrasteh received a BA in Economics from George Mason University and an MS in Economic History from the London School of Economics.

Then, finally, returning to the Subcommittee is Chief Rodney Scott who served 29 years in the United States Border Patrol before retiring as Chief of the Border Patrol in August 2021. During that time, he held numerous leadership positions at various stations and sectors along the Southwest border, as well as several leadership and specialized assignments at U.S. Customs and Border Protection Headquarters.

I want to welcome all our witnesses and thank them for appearing today. I will begin by swearing you in. Will you please rise and raise your right hand?

Do you swear or affirm under penalty of perjury that the testimony you are about to give is true and correct to the best of your knowledge, information, and belief so help you God?

Let the record reflect that the witnesses have answered in the affirmative. Thank you. Please be seated.

Please know that your written testimony will be entered into the record in its entirety, so accordingly, we will ask you to summarize your testimony in five minutes.

Mr. Bensman, we will begin with you.

STATEMENT OF TODD BENSMAN

Mr. BENSMAN. Thank you for holding this hearing about the national security consequence of the worst mass migration crisis ever to have stricken America. The consequence of this threat is the threat of terrorist entry over that border and evidence demonstrates the mass migration crisis has elevated that threat as I will explain.

After 9/11, DHS developed border counterterrorism programs that did prevent terrorist infiltration into the United States, a threat by the way that the 9/11 Commission expressly warned about. Programs established in 2004, perhaps aided by sure luck, have thwarted numerous border crossers for 20 years as I documented in my book "America's Covert Border War."

The sole illegal entrant who has carried out an attack since 9/11 was a Somali who sympathized with ISIS and crossed illegally at San Ysidro and was released and went on later to strike Edmonton, Alberta, and Canada in 2017. The ongoing border crisis has rendered those counterterrorism programs unviable now. One of the most impactful of those systems directed Border Patrol agents to tag migrants as special interest aliens if they hailed from listed countries where terrorist groups operated. ICE would detain special interest aliens until Federal agents could interview and debrief them as part of enhanced security investigations. Derogatory results led to many deportations which kept Americans safe.

A recent *CNN* report, however, revealed just the latest evidence that this interview program has broken down. DHS went into red alert after discovering a human smuggler tied to ISIS had brought at least a dozen Uzbekistani special interest aliens over the border. They were all quickly freed into the interior like most other illegal immigrants of late without being interviewed. We know this be-

cause *CNN* also reported that U.S. authorities mounted a nationwide manhunt for the Uzbekistanis so that they now could conduct the interviews.

This episode is only the latest revealing failures in our border screening systems. If you won't believe me, review the July report of DHS's Office of Inspector General which detailed how Yuma Sector Border Patrol agents accidentally freed a Colombian national on the terror watch list. Authorities found the man in Tampa two long weeks after he was accidentally released. Why did this happen? The IG blamed the mass migration chaos for the alien's release. Yuma agents let him go because they, and I quote:

We're busy processing an increased flow of migrants. Because the increase in Yuma apprehensions had created pressures to quickly process migrants and decrease the time available to review each file.

Expect those screening programs to be degraded indefinitely because vast numbers of special interest aliens are currently pouring through the Darién Gap between Colombia and Panama. Usually, 10,000 migrants or less pass through the Gap. In 2023, however, 300,000 plus have gone through the Gap, and whereas only 3,000 or 4,000 special interest aliens among them reached our Southern border annually, *The Daily Caller* just reported that 75,000 came in just the last nine months.

DHS cannot possibly vet or even interview a fraction of these numbers, raising the terrorism risk. Whereas about 20 aliens on the Terror Watch List were caught at the Southwest border in prior years, since this crisis began in 2021 through the end of July, Border Patrol apprehended an almost implausibly large number of them, 258 as of now. Those Watch List at 258 are just the ones Border Patrol managed to catch. Border Patrol failed to apprehend a record-breaking 1.8 million migrants who slipped into the interior.

Mass migration related system failure is indicated in Mexico, too. In July 2021, Mexico released a Watch List of Yemeni to clear their overcrowded detention centers and that set off another manhunt. I don't know if he was ever found.

The case of a Lebanese Venezuelan who cross from Matamoros to Brownsville in December 2021, who was flagged on the FBI Watch List, is another one. Against FBI recommendations to hold the Venezuelan, ICE ordered his release on grounds that he might catch COVID. Last I heard, he was in Detroit pursuing an asylum claim. These incidents above and others described in my written testimony reveal the system is blinking red, so fingers crossed.

[The prepared statement of Mr. Bensman follows:]

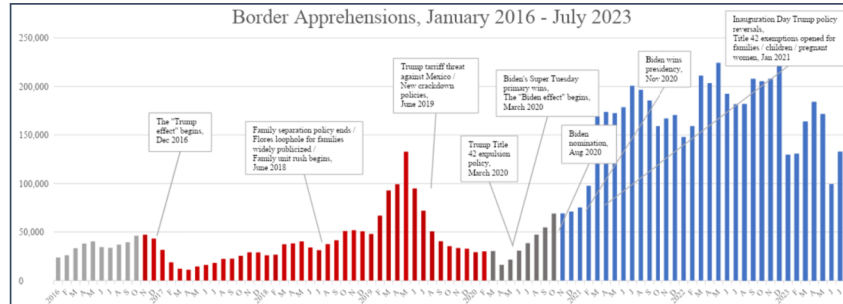
Testimony of Todd Bensman
Senior Fellow, Center for Immigration Studies; Former Manager, Counterterrorism Intelligence
Texas Department of Public Safety Intelligence and Counterterrorism Division
To the Subcommittee on Immigration Integrity, Security, and Enforcement
United States House of Representatives
Committee on the Judiciary

For a Hearing Regarding
“Terrorist Entry Through the Southwest Border”
September 14, 2023
10 a.m.
Rayburn House Office Building
Washington, DC 20515

Chairman McClintock and Ranking Member Jayapal, and members of the subcommittee, thank you for the opportunity to testify and for holding a hearing about this underreported national security consequence of the worst mass migration crisis ever to have stricken the American southern border.

By every recordable government metric, the American Southwest Border is the scene of the illegal worst mass migration in American history, now well into its third year. At least 4.3 million foreign nationals have entered the United States in 30 months over the border, as of this hearing date, with millions more coming and a Border Patrol debilitated by the overwhelming workload. Border policies that emphasize catch-and-release that began in January 2021 unleashed a seemingly unbounded human wave over the southern border that has not relented 30 months later and has broken every illegal immigration record in the nation’s contemporary history.¹

In a recent opinion on border policy litigation brought by the State of Florida against the administration of President Joe Biden, US District Judge Thomas Kent Wetherell concluded the administration caused the mass migration that began in early 2021 “by establishing policies and practices that all-but-guaranteed the vast majority of aliens arriving at the Southwest Border ... would not be detained and would instead be quickly released into the country where they would be allowed to stay...”²



Center for Immigration Studies

Among the many serious consequences that this mass migration crisis has created – unfunded burdens in U.S. cities on housing, social welfare systems, health care, crime, and public education – is one that should transcend partisanship and rally all Americans in bipartisan spirit, which hopefully this hearing will facilitate.

This crisis has elevated and exacerbated the homeland security threat of terrorist border infiltration to discomfiting levels when, by my estimation, the national security enterprise had reasonably contained and managed this threat for nearly two decades.³

This mass migration crisis has clearly broken down and degraded a set of counter-terrorism programs first stood up in 2004 at the land borders, which thus far has largely prevented the most serious outcomes from US-designated terrorists who would cross the southern border and attack inside the United States.

None have attacked to date from this direction (although an ISIS operative who crossed from Mexico into California did later attack in Edmonton, Canada on September 30, 2017).⁴

The threat of such a tragedy happening is much elevated now, however, because border counterterrorism programs to be described below are no longer protecting Americans as well as they have for 20 years, if at all. This is especially demonstrated, in small part, by the crossings of more immigrants on the FBI's Terrorist Screening Database watch list than ever before recorded – more than 260 since Inauguration Day, when fewer than 20 per year were caught in prior years (zero in 2019) on both sides of the border.

That these hundreds of foreign nationals on US terrorism watch lists were caught has sometimes been cast as good news, of a system that is working. But these captures are neutralized by four counts of decidedly bad news, which are that:

- Illegal aliens on national security watch lists are coming in *monthly* numbers that dwarf the numbers caught during many (if not all) past *full* years.

- They come while historic numbers of “got-aways” (approaching two million) who evaded detection as Border Patrol agents were busy processing in the “give-ups,” heightening the probability that watch-listed individuals were among the got-aways and now are among *us*.
- As border counterterrorism programs crumble, opportunities to catch and deport others pass unexploited.
- Terrorist actors abroad are by now well aware that the US southern border poses far less of an impediment or deterrent to illegal entry than in years past.

Government report faults overwork for release of terror suspect and system failure

A particularly emblematic case-in-point illustrating how the mass migration crisis has damaged border counterterrorism capabilities comes to us by way of the Department of Homeland Security’s Office of Inspector General. On June 28, 2023, the office issued investigative findings from the accidental April 2022 release of a Colombian who crossed the border in the Yuma, Arizona Border Patrol Sector despite being flagged on the terrorism watch list.⁵

The report, titled “*CBP Released a Migrant on a Terrorist Watch List, and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest*,” explains that Border Patrol agents struggling to process into the country overwhelming numbers of give-ups inside a central processing center released the suspect two days after his crossing even though he initially flagged in a database check as a suspected terrorist.

The OIG report lays out established government processes for handling illegal border-crossers who appear on the US watchlist. Cases involving aliens flagged on the watchlist are forwarded for general reporting purposes (or confirmation) to the FBI’s Terrorist Screening Center in Virginia. Analysts at the center work the case, signaling to FBI or other agents that the person of interest is in custody at the border, and contacting other nations or information, such as a Mexican intelligence group known as Grupo Conjunto de Inteligencia Fronteriza, which works closely with the American agencies on these cross-border travel cases. The most valuable backstop is the practice of dispatching federal agents, including the FBI, but also the Border Patrol’s “Tactical Terrorism Response Teams” (TTRTs), who conduct face-to-face interviews with terrorism suspects to suss out their intentions and to collect intelligence information.

But instead of triggering TTRT interviews for this Colombian national, the agents handled the suspect like most other border-crossers. They handed him personal recognizance parole papers and released him with a GPS tracking device on a promise that he would voluntarily report in later to an ICE office in the city he chose to settle in.

Why was a Colombian on the terror watch list released like anyone else? The report describes a cavalcade of multi-agency communication mishaps, all attributable to distractions by the record 28,681 aliens who crossed that April of 2022 in that sector (compared to 298 the same month in 2020) through an unfinished, “paused” section of the border wall.

The oversight occurred because Border Patrol agents and others in the system “were busy processing an increased flow of migrants,” didn’t send or open critical email about the watch list

hit because they “were busy processing an increased flow of migrants,” and let the migrant go because “the increase in Yuma apprehensions had created pressure to quickly process migrants and decreased the time available to review each file,” the DHS-OIG report states.

He would remain free to do as he pleased in Florida for the two weeks it took for an urgent manhunt operation to regain custody of the terror suspect. But even that took at least eight days longer than necessary because Border Patrol was too busy to send ICE officers in Florida a critical paper file. That’s because Border Patrol’s Yuma Sector operation was too busy to sort, box, and ship any more than a thousand files “once or twice a week,” to ICE offices across the country, the OIG report found. They were tens of thousands behind.

Border counterterrorism programs implemented in 2004 for ‘special interest aliens’

“A known or suspected terrorist — KST is the acronym that we use — individuals who match that profile have tried to cross the border, the land border, have tried to travel by air into the United States, not only this year but last year, the year prior and so on and so forth. And it is because of our multi-layered security apparatus, the architecture that we have built, since the commencement of the Department of Homeland Security, that we are in fact able to identify and apprehend them and ensure they do not remain in the United States. And so we actually deny them entry based on our intelligence and based on our vetting procedures, which have only grown in sophistication throughout the years.”

--U.S. Department of Homeland Security Secretary Alejandro Mayorkas, March 17, 2021 hearing before the House Homeland Security Committee.

America is at greater risk of attack from aliens who have crossed the southern border because these all-important interviews with aliens of national security interest are no longer being conducted to the extent they would have when fewer migrants were crossing.

Aliens who are on a watch list, in normal times, would rank as a five-alarm national security fire triggering face-to-face interviews with well-trained American law enforcement agents. But the counterterrorism regimen also requires interviews with far more aliens of special interest who are not on any watch list (and may never be) and who are, instead, from designated countries of special security interest. These often show up with no identification or verifiable back stories.

OBP 50/Rb-P

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U.S. Department of Homeland Security
Washington, DC 20219
U.S. Customs and Border Protection

MEMORANDUM FOR: ALL SECTOR CHIEF PATROL AGENTS

FROM: *David V. Aguilar*
Chief
U.S. Border Patrol

SUBJECT: Arrests of Aliens From Special Interest Countries

The following 35 countries and the territories of the West Bank and the Gaza Strip have been designated as special interest countries:

Afghanistan	Kuwait	Somalia
Algeria	Lebanon	Sudan
Bahrain	Libya	Syria
Bangladesh	Malaysia	Tajikistan
Djibouti	Mauritania	Thailand
Egypt	Morocco	Tunisia
Eritrea	North Korea	Turkey
Indonesia	Oman	Turkmenistan
Iran	Pakistan	United Arab Emirates
Iraq	Philippines	Uzbekistan
Jordan	Qatar	Yemen
Kazakhstan	Saudi Arabia	Territories of Gaza and West Bank

For any person taken into Border Patrol custody from one of above countries or territories, at a minimum, the following actions will be taken:

This important counterterrorism program was established in November 2004, when then-Chief Border Patrol Agent David Aguilar issued a memorandum requiring agents to follow strict protocol whenever an alien from one of about 35 “special interest countries” he listed showed up at the border.⁶ Anyone from these countries would be tagged as a “special interest alien,” requiring agents to take the following steps:

1. Filing a “Significant Incident Report to the CBP Situation Room within one hour to flag any SIA at least 14 years old.
2. Contacting sector communications for records checks.
3. Contacting the National Targeting

Center for additional records checks.

4. Contacting the local FBI Joint Terrorism Task Force for “follow-on” interviews.
5. Copying pocket litter for possible additional intelligence.
6. Completing and forwarding a G-392 Intelligence Report through Border Patrol intelligence channels.
7. Enrolling all SIAs 14 years old or older into various biometric identification systems.

The national security enterprise has kept to the foundations of that original 2004 document using the FBI, CBP’s TTRT groups, ICE intelligence officers, Defense Intelligence Agency officers, and Texas Department of Public Safety intelligence analysts under my authority through at least 2018.

But that was in the years before the Biden border crisis overwhelmed the American frontier, during a period when the number of border-arriving special interest aliens ranged from some 3,000 to 4,000 in a year. Even then, not all special interest aliens could be put through the enhanced interview and security paces before they were released into the country.

If adhering strictly to the regimen was difficult with lower pre-crisis numbers, doing so would become all but impossible once special interest aliens began arriving by the anomalously large tens of thousands after 2021. The Biden administration has taken steps to obscure the numbers of special interest aliens from the US public, ending routine reporting of these “apprehensions by nationality” at the last year, 2019.⁷

Some of those numbers have recently leaked out, revealing unprecedented growth in special interest alien traffic since. Between just October 2022 and August 2023, for instance, Border

Patrol encountered nearly 75,000 special interest aliens, according to a report by The Daily Caller Foundation's Jennie Taer.⁸

A question that must be raised is why CBP's public-facing website of monthly apprehension statistics, which tracks migrants by 21 country citizenships, includes only one identified special interest Muslim-majority nation in the Middle East vicinity – Turkey.⁹ Citizens of Turkey who crossed the border exceeded 30,000 between 2021 and the end of July 2023. The answer is begged as I personally meet and interview migrants during my reporting on routes south of the border from Uzbekistan, Dagestan, Kyrgyzstan, Tajikistan, Mauritania, Sudan, Senegal, Indonesia, Iran, Bangladesh, Pakistan, Syria, Jordan, Egypt, Iraq, and Lebanon, all designated countries.

Key indicator points to elevated risk longevity

This exploding number of special interest alien and confirmed suspected terrorist traffic come to the US border very often via a jungle route that connects South America to Central America called the Darien Gap. At extraordinary, historic scale, migrants from 150+ countries as of now are still making their way into South America and then northward through the Darien Gap passage. Colombia and Panama to facilitate that flow out of national self-interest, since neither country is an ultimate destination or wants to care for these transiting migrants.

Local Panamanian and Costa Rican authorities have on occasion arrested suspected terrorist travelers from countries like Somalia and Pakistan who crossed amidst the Darien Gap flows, and made them available to US intelligence and law enforcement officers stationed in the region before deporting them.¹⁰

But the higher the human tide through the Darien Gap rises, the higher the flows of those on US terror watch lists, which helps explain the nearly 260 of those on the watch lists apprehended at the border as of July 2022.

Current trend lines indicate longevity to the current higher risk, which becomes more dangerous as probabilities increase with time. Consider that, in any normal year, migrant flows through the gap averaged less than 10,000. FY 2021 was the last time the numbers came in so low.¹¹

But the numbers of foreign nationals from 150+ countries, attracted by Biden's quick release policies, ballooned to a previously unimaginable 250,000 for the first time during 2022 and then past 300,000 through August 2023.¹²

This voluminous traffic stands as a warning that an already elevated infiltration threat will be prolonged as migrants from special interest countries move through and are replaced by high volumes of new travelers coming in behind them. The high volumes from so many parts of the world will place ever more pressure – for longer periods – on border-related counterterrorism and security programs.

Decreasing ability to conduct counterterrorism work

Another recent terrorism scare episode exposed system failure yet again. In late August 2023, CNN reported that a human smuggler operating in Mexico with “ties” to the terrorist group ISIS moved at least a dozen special interest alien Uzbekistanis over the southern border.¹³ Uzbekistan has been on former Chief Aguilar’s special interest nation list since he issued his 2004 memorandum.



Uzbek migrants in Tapachula, Mexico after crossing from Guatemala on their way to the US southern border. January 2022 photo by witness Todd Bensman

The episode so alarmed the Biden administration that “an urgent classified intelligence report was circulated to top Cabinet officials in the morning briefing book” and a nationwide manhunt for the Uzbeks was ordered to get them interviewed and eliminated as terror suspects. At American behest, Turkish authorities even arrested the smuggler, who was said to be cooperating.

Administration officials boasted of success about their quick decision to mount a nationwide manhunt for the smuggled Uzbeks. But rather than reflecting success, this operation actually was evidence of failure in the system Chief Aguilar established because, in past years, federal agents would have interviewed most or all Uzbekistanis *before* their releases into the United States, never *after* their releases.

Uzbeks are special interest aliens for good reasons. Among them is the Halloween night attack in 2017 by 29-year-old Uzbek immigrant Sayfullo Habibullaevic Saipov. He plowed a truck into a crowd of bicyclists and pedestrians in lower Manhattan, crushing eight to death and terribly disfiguring many others, just blocks from the World Trade Center in the name of the ISIS. A judge sentenced Saipov to life in prison in March 2023.

That Saipov attack occurred just four days after a judge issued a 15-year prison sentence to Abdurasul Hasanovich Juraboev, another Uzbek immigrant found guilty of terrorism charges for

supporting ISIS. Authorities said Juraboev posted an online threat to kill then-U.S. President Barack Obama for ISIS and spoke of planting a bomb on Coney Island if the group ordered it. The FBI arrested him in February 2015 after Jurboev bought a plane ticket to Istanbul, Turkey, on his way to join Islamic State in Syria.

Neither of these Uzbeks entered illegally across the southern border. They flew into the United States with visas. But the fact that they entered that way only underscores the elevated threat of infiltration by border in the new crisis circumstances. Had they tried to enter illegally even two years ago, these Uzbekistani nationals would have faced deep interrogation as tagged special interest aliens about their lives and personal histories at the hands of trained homeland security officials, plus a national security investigation. Today, those two might well have recalibrated their odds and chosen the border as posing the lesser possibility of discovery.

Breakdowns in counterterrorism border interviews, security vetting and perimeter vigilance is clearly not only happening on the US side of the border since the mass migration also has afflicted Mexico. There is evidence of breakdown on the Mexican side now too.

Breakdown of counterterrorism systems in Mexico

Nothing illustrates what counterterrorism program degradation looks like quite like the April 2021 capture by Mexican immigration officials of a US watch-listed Yemeni national named Ahmed Mohammed Ahmed just as he was about to cross into Del Rio, Texas.¹⁴ In 20 years of normal flow times, U.S.-Mexico collaboration on terrorist travel issues ran deep.

Indeed, it can be argued that collaborative successes in Mexico have kept Americans safer; between 2014 and 2019, for instance, Mexico deported 19 suspected migrant terrorists, no doubt in collaboration with the FBI and other US agencies stationed in-country.¹⁵ A recent *Milenio* newspaper investigation based on leaked classified Mexican Ministry of National Defense documents revealed a number of cases where Mexican and US intelligence agencies, working together, discovered Islamic terrorists inside Mexico in 2015, 2016, and 2017.¹⁶

But not so much during the ongoing mass migration crisis. Mexico ended up deporting Ahmed, but he returned in July 2021, the busiest month in the history of both nations up to that time.¹⁷ When he returned, there was a breakdown in the bilateral collaboration. Rather than deporting Ahmed a second time, the Mexican government released him, likely to clear overcrowded detention facilities. In a hint that this news alarmed and surprised US authorities, CBP issued a "Be On the Lookout!" bulletin for Ahmed to law enforcement throughout Texas.¹⁸ An urgent manhunt for him ensued, but it's unclear whether anyone ever found the Yemeni.

Indifference to a special interest alien shelter in Tijuana

So many special interest aliens are arriving at the southern border and gaining quick release that a Muslims-only migrant shelter opened in Tijuana in June 2022 to cater to the new high demand – and to provide waystation support on their border crossings within eyesight of the border wall. In November 2022, I visited the Albergue Assabil/Mesquijta Taybah shelter and interviewed its visitors and shelter management. There, I met Chechens, Uzbeks, Tajikistanis, and Syrians, the latter three special interest aliens.¹⁹

In no other single shelter would special interest alien immigrants planning border crossings be drawn to congregate as they had in this one, or invite immediate US and Mexican intelligence and law enforcement interest.



“I would be all over this place,” James G. Conway, a former FBI supervisory special agent who created and led special interest alien programs in Mexico after 9/11, told me.

“The fact that terrorist organizations are based in some of those countries and want to bring harm to the United States, and that this shelter that specifically caters to citizens from special interest countries two blocks from the U.S. border is helping to funnel them into the United States should certainly be a concern to law enforcement and the intelligence community,” Conway told me. “I’m sure 99 percent of those who are being helped are fine but it’s that small element that could be related to a terrorist organization that is the concern.”

Yet the shelter’s director, a Mexican-American convert to Islam named Sonia Garcia, told me that no American or Mexican intelligence agency had reached out to collect information in all of its

seven months’ existence up to that time, which included internal records she kept on all guests and was willing to hand over if any agency asked.²⁰

“If somebody’s on the list and they want to find out if they came from the shelter, well they’re welcome to come to the shelter and ask us,” Garcia told me. “We have no problem in giving the information or interest in hiding the information, no. If he is on the watch list and he came into the shelter, well it’s very good because we’ll give them [the Americans] the information. We’re not hiding the information.”

I asked an active-duty DHS intelligence officer who worked on transnational human smuggling crime in a US duty station on the border if their agency was interested in the shelter.

“No. We are not,” the individual answered. Interest in special interest aliens preparing to cross the southern border waned when President Biden took office. Asked why, the DHS officer responded that the shelter’s work was regarded as humanitarian and therefore protected from U.S. law enforcement interest.

“That is no longer within the scope of our criminal investigations. Because they are doing humanitarian work, they get to operate basically with impunity,” the individual told me.

Other inexplicable migrant terrorist suspects mishandlings reinforce system breakdown

Less explicable foul-ups involving migrant-terrorists have also occurred during the Biden border crisis.

In early December 2021, a Lebanese-Venezuelan migrant swam the Rio Grande from Matamoros to Brownsville, Texas, and was flagged on the FBI terror watch list, according to a report by former *New York Times* Pulitzer Prize winner Charlie LeDuff.²¹ Amid the border chaos

that month, the FBI recommended ICE keep him locked up until deportation due to "substantive high side derogatory intelligence," labeling him a "high risk" and a "flight risk."

Instead, ICE headquarters overrode FBI recommendations and ordered the man released for fear that, due to his weight, he might be susceptible to Covid-19, the leaked records showed. To this day, there is no explanation or known government inquiry as when the Venezuelan was accidentally freed in the crush of migration.

On February 16, 2022, Republican members of Congress asked House Democrats for permission to hold a hearing about a decision to release this suspected terrorist from Venezuela. Rep. Andy Biggs (R-Ariz.), ranking member of this subcommittee penned the request to subcommittee Chair Sheila Jackson Lee (D-Texas), in part on grounds that, "There is no known case in which a foreign national who pinged on a terror watch list was simply released on his own recognizance."²²

"The facts in the case strongly suggest that the Biden Administration failed to follow appropriate protocols with respect to suspected terrorists."

Eight GOP lawmakers on the subcommittee signed the letter.

But the request went unfulfilled. I am happy to bring this matter to at least some attention now in this hearing.

Foreign terrorist awareness of faltering border defenses

A recently concluded federal prosecution in Ohio indicates probable broader terrorist actor interest in using the southern border to illegally cross into the country and attack the homeland.

The FBI's Ohio field office arrested a local Iraqi asylum seeker and former al Qaeda fighter Shihab Ahmed Shihab in May 2022 for orchestrating a credible international plot to assassinate former President George Bush in Texas using a remarkable tactic that would have exploited the mass migration crisis.²³ Shihab pled guilty to planning to smuggle at least four Iraqi terrorists over the southern border for the Bush assassination.²⁴

A former al Qaeda fighter who killed many US soldiers during the early phases of the Iraq War, Shihab himself somehow managed to fly into an American airport with a tourist visa under intelligence radars in September 2020, before this mass-migration crisis began.

He overstayed his tourist visa, lodged an asylum claim forestalling deportation, and began contemplating the border, an arrest-warrant affidavit shows. The plot unfolded as border defenses were collapsing. Shihab must have realized that crossing terrorist operatives among the millions of migrants had become less risky than the tourist-visa-overstay method he'd used. He claimed to undercover FBI informants that he'd successfully smuggled in two Hezbollah operatives over it, the records allege, without elaboration, then turned to replicating that ostensible success for the Bush assassination.

Shihab reached out to his former terrorist comrades with whom he'd killed Americans in Iraq, a unit once known as "Thunder" in Arabic, and began working with a new unit leader in Qatar.

Fortunately, the FBI introduced informants into Shihab's circle.

His plans called for at least four of eight Thunder terrorists to pay \$40,000 each for travel into Brazil on fraudulently obtained visas, who would then go up through the Darien Gap jungle-smuggling passage between Colombia and Panama.

From Central America, Shihab's terrorists would meld unnoticed with the multinational masses moving north to the US-Mexico border, then cross, possibly wearing faux Border Patrol uniforms, the informants reported. As the plot progressed, Shihab actually flew to Texas and conducted surveillance of Bush's homes in Dallas and at a central Texas ranch. He was also assessing how to provide the arriving operatives with the weapons they would need to stalk and kill Bush.

Shihab's May 2022 arrest certainly foiled the plot but sounded an important alarm that must be heard as the historic multinational mass migration continues into its third year at record heights.

What this case demonstrates, beyond the fact these particular malefactors saw the border as more vulnerable to entry than before, is that appropriate homeland security thinking now must assume the rest of the jihadist universe also sees the US-Mexico line as unusually penetrable.

Who they are

In addition to withholding disclosures of special interest alien numbers, CBP under Biden also does not disclose the nationalities of immigrants who were a match for the terror watchlist, nor even general information about their group affiliations.

The Center for Immigration Studies is seeking nationality and group affiliation information through the Freedom of Information Act in an effort to bring the public more clarity about the nature of those attempting to gain entry into the United States at its land borders.

What limited information about those apprehended during the Biden border crisis has become public through leaks or in some court filings, however, does not bode well for effective national security.

They are a mix of Islamic jihadists and, as if that were not disturbing enough, members of the blood-drenched Revolutionary Armed Forces of Colombia, or "FARC," a Marxist-Leninist guerilla group that waged war on Colombia's government from 1964 until agreeing to a peace deal in August 2016.²⁵

Among the first suspected terrorists apprehended during the Biden administration were three from Yemen and one from Serbia, DHS Secretary Alejandro Mayorkas testified in March 2021.²⁶ A separate disclosure in a CBP press release the following month had it that two Yemenis on the watch list crossed near Calexico, California. One crossed in January 2021 and a second crossed at the same spot in March 2021. That CBP press release was quickly removed but never disavowed.²⁷ A variety of violent extremist groups operate in Yemen's civil war, including al-Qaeda.

Both Yemenis, the press release said, also were on the FBI's rarified No Fly list, normally reserved for individuals that U.S. intelligence deem so dangerous that their ability to travel must be curtailed.

One of the Yemenis had secreted a cell phone sim card in his shoe insole, the release said without elaboration.

In the Shihab case discussed earlier, he told undercover informants that he had successfully transported two Hezbollah operatives into the country. Hezbollah is a Lebanese Shia group designated as a Foreign Terrorist Organization.

Separately, in December 2021, Yuma Sector Chief Border Patrol Agent Chris Clem announced on Twitter the apprehension of a “potential terrorist” from Saudi Arabia caught entering illegally near Yuma. He was wearing a New York County ambulance jacket.²⁸

“The 21-year-old migrant from Saudi Arabia is linked to several Yemeni subjects of interest,” Chief Clem wrote in his Tweet, which was quickly deleted. No further details were available on this case, although the Saudi embassy later denied the man was not a citizen of that country.

Especially disturbing were public disclosures by the *Washington Examiner*²⁹ that dozens of watch-listed immigrants caught at the border were members of FARC.

Colombia's FARC groups

In November 2021, the Biden administration de-listed FARC as a Foreign Terrorist Organization (FTO) following a peace agreement with the Colombian government and demobilization. But many of its members are still considered dangerous and so remain on the watch list.

Other Colombians crossing may well belong to two FARC splinter groups that remain designated FTOs: the Revolutionary Armed Forces of Colombia – People's Army (FARC-EP) and a rival of FARC-EP, the Segunda Marquetalia.³⁰ It's unclear which suspected terrorists who are crossing belong to which of the three groups but what is clear is that all must be considered a significant threat to US national security, national interest, and public safety as they seek to join the Colombian diaspora inside the country.

Naturally, any former operative of the main delisted FARC group or its remaining still-listed splinter groups would remain on US terror watchlists given the violent lifestyles and organized criminal violence in which so many engaged for years. While it is true that some former FARC members are fleeing targeted violence against them, the idea that former FARC members or current members of the remaining two foreign terrorist groups are entering the United States at the border should give no American peace of mind.

FARC-EP's 2,000 operatives conduct armed assaults, assassinations, extortion operations, and hostage-takings. The group also focuses most of its attacks on Colombian government and military targets, but also on US military personnel in the country, according to the Director of National Intelligence. The 2,500 members of the Segunda Marquetalia FARC dissident group conduct bombings, violence against civilians, kidnappings, attacks on utilities infrastructure and against military and police facilities, according to the US State Department.³¹

Joseph Humire, Executive Director of the Center for a Secure Free Society and expert on Latin American security matters, explained to me recently that current and former FARC members pose a particular threat to Colombian immigrant communities inside the United States.

“Those illegally coming now from nefarious groups are going to embed themselves in their communities and control them like a mafia. It will be social control through intimidation.”

Humire told me. “In those communities, you’ll see practices foreign to the US but native to homelands. The FARC has their own code of conduct. It has a lot of nasty ***t. Vigilante justice, so yeah, they’ll probably try to impose their justice here. A lot of Colombian families still have relatives back home and the FARC can still reach out and touch those relatives.”

Furthermore, Humire told me, Iran, Cuba and Venezuela could use FARC operatives inside the United States “as a cut-out to be able to do attacks on US infrastructure with a level of deniability.

“They don’t have that vitriolic anti-US hate. They’re not going to be screaming Allah Akbar while they’re trying to kill Americans. But for money, they’ll do it. That’s the FARC, man.”

Conclusion

Skeptics of the border infiltration threat like to point out that the FBI’s terrorism database includes a mix of family members or associates of actual terrorists who may not themselves be directly implicated in killing and so question why Americans should concern themselves about listed individuals attempting to cross.³²

But it is important to remember that no one other than those intimately familiar with investigative case files is in a position to judge or dismiss watch-listed migrants as appropriately worrisome on grounds that one might merely be an “associate” or “family member,” since much-improved nomination-to-approval processes are more analytically rigorous, based on evidence and intelligence information.

Short of direct examination of government case files, pundits and members of the public with no special access swing beyond their qualification to advocate that watch-listed migrants crossing the border pose no serious threat. History proves that the more obviously prudent choice is to always presume the opposite, that all are potentially dangerous and that high flows of human traffic over the border should be reduced so as not to aid and abet their unwanted entries.

Furthermore, many if not most special interest aliens may remain unknown to intelligence agencies as terrorists and are therefore not be present on any watch list, when in fact they *are* involved. Therefore, the prudent default position for those without access to case files and intelligence is to presume that any watch-listed migrant or special interest alien poses a distinctly higher national security risk than those crossing who fit neither category. Casually dismissing watch-listed migrants and special interest aliens as a more unique threat problem comes at unnecessary national peril.

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² Opinion and Order in State of Florida versus United States of America, US District Judge Thomas Kent Wetherell, 8 March 2023, https://storage.courtlistener.com/recap/gov.uscourts.flnd.405819/gov.uscourts.flnd.405819.157.0_1.pdf

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⁴ Jonny Wakefield, "Everything we know about the man charged in Edmonton's truck attack from the woman who knows him best," The Edmonton Journal, 28 September 2018, <https://edmontonjournal.com/news/crime/who-is-abdulahi-hasan-sharif-one-year-later-everything-we-know-about-the-alleged-edmonton-attacker>

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⁷ US Border Patrol Nationwide Apprehensions by Citizenship and Sector FY2007-FY2019, https://www.cbp.gov/sites/default/files/assets/documents/2020-Jan/U.S.%20Border%20Patrol%20Nationwide%20Apprehensions%20by%20Citizenship%20and%20Sector%20%20FY2007%20-%20FY%202019%29_1.pdf

⁸ Jennie Taer, "Feds Flagged Nearly 75,000 Illegal Migrants as Potential National Security Risks," The Daily Caller Foundation, 1 September 2023, <https://dailycaller.com/2023/09/01/illegal-migrants-national-security-risk/>

⁹ CBP Nationwide Encounters website, <https://www.cbp.gov/newsroom/stats/nationwide-encounters#>

¹⁰ Todd Bensman, Video Report: How America Filters for Terrorists in Distant Lands, Center for Immigration Studies, 12 December 2018, <https://cis.org/Bensman/VIDEO-CIS-Panama-and-Costa-Rica-How-America-Filters-Potential-Terrorists-Distant-Lands>; Todd Bensman, Video Report: A US Counterterrorism Strategy in Costa Rica, 17 December 2018, <https://youtu.be/Olldjt8jA6k>

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¹⁵ "Se identificaron a 19 extranjeros vinculados con terrorismo: INM," 3 November 2019, <https://www.elsoldemexico.com.mx/mexico/sociedad/informe-2014-2018-19-extranjeros-migrantes-vinculados-terrorismo-inm-4405229.html>

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Mr. McCLINTOCK. Thank you for your testimony.
We will next hear from Mr. Marino.

STATEMENT OF CHARLES MARINO

Mr. MARINO. Thank you, Chair McClintock, Ranking Member Jayapal, and Members of the Committee. Thank you for the opportunity to appear today to testify about this important topic.

On the heels of the 22nd Anniversary of the horrific attacks against this country on September 11, 2001, we are all reminded of the sacred responsibility that the U.S. Government has to safeguard the homeland by creating and implementing effective policies to prevent another such act of terrorism. It is in this spirit that I served within the Department of Homeland Security to help protect this country for two decades under both parties and continue my work in national security today as an Adjunct Professor at the University of South Carolina where I teach future generations the important process of developing comprehensive national security strategies.

While the current volume of threats against the United States are undoubtedly robust in number, they are also more diverse and originate from more places than at any time in our history. While the threat environment is constantly evolving, what must remain consistent is the indisputable need for both border security and immigration enforcement as essential strategic elements necessary to prevent bad actors from entering the country in the effort to best secure the homeland and ensure the sovereignty of the United States. This is most certainly not happening now.

So, it is disappointing that I appear before you today to State the obvious. The border and immigration policies of the Biden Administration have made the country less safe since 9/11 by directly undercutting the very purpose for creating the Department of Homeland Security under the 2002 Homeland Security Act and by further subverting the statutory responsibilities of the Border Patrol, ICE, and practically every other agency has with protecting the homeland.

After the U.S. Government was criticized for a failure of imagination by the 9/11 Commission, our government promised all Americans that never again, never again would the country fall victim to future terrorist attacks on its soil. Despite that promise, it is blatantly obvious that the Biden Administration is suffering from the same failure of imagination that took place then and foolishly under estimating how easily our adversaries, including terrorist groups, can and will exploit our open borders with the help of the Mexican cartels to kill innocent Americans. We must do something before it is too late.

We are all aware of the catastrophic amount of fentanyl entering our country killing approximately 70,000 Americans per year and the unprecedented level of human trafficking, modern-day slavery, as well as the unsustainable influx of undocumented migrants that fleece Americans of their resources without paying back into the system. We must also start paying attention to the imminent terrorist threat that the cartels and others pose to the country. After all, if the cartels will work with China to kill thousands of Americans via fentanyl, shouldn't we assume that they would also work

with other adversaries and terrorists for the right price to facilitate illegal entry into the country? If anyone is not thinking this way, let me respectfully suggest they start immediately.

With almost 200 migrants on the Terror Watch List which have been apprehended while trying to sneak across the border, the natural question is so how many on that list have made it in?

Recently, more than a dozen Uzbekistan nationals smuggled in by a suspect with connections to ISIS were released into the United States with some missing, just as many of those from the Afghanistan withdrawal debacle who were ushered on to our soil without thorough vetting. While I was in my role at DHS, these types of situations were always on top of our minds and would have been cause for alarm. It is time to allow law enforcement to do their jobs and reestablish deterrence through enforcement. Thank you.

[The prepared statement of Mr. Marino follows:]

Charles Marino Testimony on “Terrorist Entry Through the Southwest Border”

Chairman McClintock, Ranking Member Jayapal, and Members of the Committee.

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On the heels of the 22-year anniversary of the horrific attacks against this country on 9/11/2001, we are all reminded of the sacred responsibility that the U.S. government must safeguard the homeland by creating and implementing effective policies to prevent another such act of terrorism. It is in this spirit that I served within the Department of Homeland Security to help protect this country for two decades under both parties and continue my work in national security today as an Adjunct Professor at the University of South Carolina, teaching future generations the important process of developing comprehensive national security strategy.

The Threat Environment

While the current volume of threats against the United States are undoubtedly robust in number, they are also more diverse, and originate from more places than at any other time in our history.

But while the threat environment is constantly evolving, what should remain consistent is the indisputable need for both border security and immigration enforcement as essential strategic elements necessary to prevent bad actors from entering the country to best secure the homeland and ensure the sovereignty of the United States. This is most certainly not happening now!

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After the U.S. government was criticized for a “failure of imagination” by the 9/11 Commission, our government promised all Americans that “Never Again”---“Never Again”---would the country fall victim to future terrorist attacks on its soil. Despite this promise, it is blatantly obvious that the Biden Administration is suffering from the same “failure of imagination” and foolishly underestimating how easily our adversaries, including terrorist groups, can and will

exploit our open borders with the help of the Mexican cartels to kill innocent Americans. We must do something before it's too late.

We are all aware of the catastrophic amount of fentanyl entering our country, killing approximately 70,000 Americans per year; the unprecedented level of human trafficking—modern day slavery—as well as the unsustainable influx of undocumented immigrants that fleece Americans of their resources without paying back into the system. But we must also start paying attention to the imminent terrorist threat that the cartels pose to the country. After all, if they will work with China to kill thousands of Americans via fentanyl, shouldn't we assume that they will work with other adversaries and terrorists for the right price to facilitate illegal entry into the country and other ways to possibly kill even more? If anyone is not thinking this way I suggest they start, immediately!

According to the U.S. Border Patrol's monthly reports, it nabbed 98 people on the Terrorist Screening Database (TSDB) at the southern border in 2022, an increase from 15 arrested in 2021. And it's only getting worse. So far in 2023, almost 200 on the watchlist have been apprehended while trying to sneak across the border.

Recently more than a dozen Uzbekistan nationals, smuggled in by a suspect with connections to ISIS, were released into the United States. Some are now missing, just as are many of those from the Afghanistan withdrawal debacle who were ushered onto our soil without thorough vetting. While I was in my role at DHS, these types of situations were always top of mind and would have been cause for alarm. However, thanks to more effective policies and programs, like Secure Communities, these instances were lower because we also maintained a semblance of order by allowing law enforcement to do their jobs! Thereby establishing Deterrence through Enforcement!! Under this administration, we have lost all elements of deterrence, a primary causation of this crisis.

In fact, according to a recent DHS OIG report entitled “DHS Does Not Have Assurance That All Migrants Can be Located Once Released into the United States” “... of 981,671 migrant records documented by USBP from March 2021 through August 2022, addresses for more than 177,000 migrant records were either missing, invalid for delivery, or not legitimate residential locations.” So now not only do we not know the full backgrounds of many migrants, but we also don't know where they ARE! All because vetting is only as good as the systems we are vetting against. This is a recipe for disaster.

Since the Biden Administration's tenure in office, approximately 8 million immigrants have been encountered on the border with a mind-boggling deportation rate of only 15% overall; what is most concerning are the estimated 2 million "got aways" who have crossed into America without being detained. And then there are the "never seen" - the illegal aliens who *haven't* been detected at all while crossing the border, and who are currently hiding within our communities, doing God knows what. What we do know is *how* the most nefarious of them—from adversarial countries including China, Russia, and Iran—are buying passage into the United States. They're going through Mexico's powerful cartels, whose businesses are booming!

The Administration's inept policies, combined with the growing power of the cartels, Mexico's poverty and corruption, and the ability of terrorist cells to infiltrate our weak borders have culminated to create a perfect storm; If we don't take drastic action now, our nation's days of prosperity—the very reason people by the millions risk their lives to come here—will come to an end.

The Origin of a Crisis

Let's remember how this all began:

“We are not saying, ‘Don’t come.’ We are saying, ‘Don’t come *now*”

With these calculated words from DHS Secretary Alejandro Mayorkas during an official White House Press Corps address on March 1, 2021, the message was sent to the world that America’s Southwest border would soon be wide open to anyone wishing to enter.

Just think about the global messaging for a moment: First immigrants heard Biden would be tearing down the border wall; then they heard “we *should* come.” To most anyone, the message was tantamount to laying out a welcome mat.

There is no doubt that this crisis is by design and intentional, no matter how the administration attempts to “spin” it. The border is most definitely NOT secure. To say otherwise is an outright insult to the intellect of the American people. The real question isn’t, “is there an immigration crisis?” but rather, “Why would the Administration say there is not a crisis?”

Sadly, ladies and gentlemen of Congress, we don’t have time to explore the motive for this administration’s outright dereliction of its duty to secure the border. Rather, we must take steps to fix it immediately.

The good news is the solution isn’t really all that complicated ... if the goal is narrowly focused on protecting Americans. What we cannot be lured into doing, however, is to install policies that prioritize any other group over the safety and security of American citizens.

Solutions

First and foremost, we must gain the will of Congress to use every asset, resource, capability, technology, and diplomatic strategy to secure our southern border. If this means bringing in the military to stand shoulder to shoulder, so be it. After all, our troops' first priority is to protect America's homeland.

We must reinstate the dismantled Remain in Mexico Policy as potential immigrants are vetted. To allow everyone into the United States while they wait years for immigration hearings—all based on the honor system to show up—is flat out dangerous.

We must also remember that “asylum,” as the U.S. immigration law currently defines it, doesn't mean “an escape from poverty.” Sadly, there are billions of innocent people around the globe suffering from abject poverty, and we simply don't have the capability to save them all. Rather, “asylum” means to provide special safe haven for those people who are fleeing dire government persecution due to race, religion or other political reasons. America is a nation of laws, and our leaders' policies must follow the law, even if they do not personally agree with them.

Second, we must combat the cartels, even if Mexico won't help us. For years the cartels have officially been classified as Transnational Criminal Organizations, or TCOs. But considering glaring evidence transpiring daily on our unsecured borders, it is evident that the cartels have greatly increased their overall capabilities and tactics. While reclassifying them as Foreign Terrorist Organizations, or FTOs is not entirely necessary, we do need to change our strategy and go after them as such. This will give us more options for mitigating the national security dangers they clearly present. We should use law enforcement, intelligence, and the military if we must and take the fight to the cartels; we should consider placing both economic and diplomatic pressure on Mexico if it chooses not to help us diminish the cartels. Either Mexico's government is with us or against us; it can no longer play both sides of the fence.

Third, we must prosecute those found guilty of breaking our laws, from those who attempt to cross the border illegally to those importing deadly fentanyl and those on the terror watch list. We must end sanctuary cities that encourage illegal immigration; meanwhile the American people must elect judges, DAs and officials who put criminals behind bars.

Finally, a country cannot be considered sovereign or safe without secure borders; and immigration reform is certainly not possible without secure borders, first. That's why the Senate should immediately pass HR 2, the Secure the Border Act of 2023. This commonsense approach of restoring border security and immigration enforcement through a layered approach of physical barriers, technology, and overall enforcement of the law will restore order and security to our country through deterrence and accountability.

I'd hope we can all agree on this so that we may implement effective policies and security measures moving forward. For if we fail, history is destined to repeat itself, even after Americans were promised "Never Again."

Mr. MCCLINTOCK. Thank you for your testimony.
Next, we will hear from Mr. Nowrasteh.

STATEMENT OF ALEX NOWRASTEH

Mr. NOWRASTEH. Chair McClintock, Ranking Member Jayapal, and distinguished Members of the Subcommittee, thank you for the opportunity to testify.

Over many decades, the Cato Institute has produced original research on immigration and sober evaluations of the realistic threat of foreign-born terrorism. Terrorism is a serious topic, so serious that we should focus laser-like on data and facts. We cannot let ourselves be distracted by fiction or speculation. This focus on data and facts requires looking at the past, which is the source, of course, of all data about terrorism.

The title of this hearing is “Terrorist Entry Through the Southwest Border.” When I first heard that was the title, my reaction was, what terrorist entry through the Southwest border?

Zero people have been murdered in attacks committed by terrorists who entered as illegal immigrants. Zero people have been murdered—injured in attacks committed by terrorists who entered illegally. Zero attacks have been carried out by immigrants who entered illegally.

Now, nine terrorists have entered the United States illegally since 1975. Five of them illegally crossed the U.S.-Canada border; one was a stowaway on a ship, and three of them, Dritan Duka, Eljvir Duka, and Shain Duka, entered illegally through the U.S.-Mexico border in 1984. At the time of entry, Dritan Duka was five years old; Eljvir Duka was three years old, and Shain Duka was one year old. In 2007, they were convicted as part of the Fort Dix plot, which was broken up by law enforcement during the planning stage.

Zero asylum seekers who became terrorists entered through the U.S.-Mexico border. Thirteen terrorists have entered as asylum seekers and they are responsible for nine murders and about 669 injuries and attacks on U.S. soil since 1975, but none of them crossed the Southwest border.

There have been zero attacks by illegal border crossers who were flagged by the Terrorism Screening Data base, also called the Watchlist. Federal prosecutors have not filed charges related to a terrorist plot on U.S. soil against anyone who entered between a port of entry and who was flagged by the Watchlist.

Almost all individuals listed in the Watchlist are not terrorists. Data released by the *Washington Examiner* showed that 25 out of the 27 Watchlist hits encountered by Border Patrol in the first months of 2022 were citizens of Colombia. If they were even members of a foreign terrorist organization, they are likely members or former members of the Revolutionary Armed Forces of Colombia (FARC), FARC offshoots, or other insurgents in Colombia. There has never been a terrorist attack committed on U.S. soil by these Colombian foreign terrorist organizations. There is no publicly available evidence that they have ever intended to target the U.S. homeland in a terrorist attack, and no foreign-born person from Colombia has ever committed, planned, attempted, or been convicted of attempting to commit terrorism on U.S. soil.

Special Interest Aliens, or SIAs, are a supposed terrorism concern along the U.S.-Mexico border. DHS has a fancy definition of SIA, but the reality is that the SIA designation is a label for illegal immigrants from a country that could have terrorists, and nothing more. SIA is not a meaningful metric to understand the threat of terrorism along the border or anywhere else.

Although terrorists who cross the U.S.-Mexico border have never murdered or injured anyone in a terrorist attack on U.S. soil, there is, of course, a chance that a foreign-born terrorist could cross the U.S.-Mexico border and commit an attack at some point in the future. It's got to be above zero.

A way to reduce that threat is to vastly expand the legal immigration to diminish the numbers of illegal immigrants down to very low levels. Such a liberalization and deregulation of immigration would allow Border Patrol Agents to focus their efforts more fully on deterring security threats, instead of trying to centrally plan international labor markets.

Thank you.

[The prepared statement of Mr. Nowrasteh follows.]



Statement

of

Alex Nowrasteh

**Vice President for Economic and Social Policy
Cato Institute**

before the

**Subcommittee on Immigration Integrity, Security, and Enforcement
Committee on the Judiciary
United States House of Representatives**

September 14, 2023

“Terrorist Entry Through the Southwest Border”

Chairman McClintock, Ranking Member Jayapal, and distinguished members of the subcommittee, thank you for the opportunity to testify. My name is Alex Nowrasteh, and I am the Vice President for Economic and Social Policy Studies at the Cato Institute, a nonpartisan public policy research organization in Washington, D.C. It is an honor to be invited to speak with you today about “Terrorist Entry Through the Southwest Border.”

Over many decades, the Cato Institute has produced original research on the benefits of immigration to Americans, the problems of illegal immigration and chaos along the southwest border caused by the restrictive legal U.S. immigration system, and sober evaluations of the realistic hazard of foreign-born terrorism. In my research, I use a broad definition of terrorism: the threatened or actual use of illegal force and violence by non-state actors to attain a political, economic, religious, or social goal through fear, coercion, or intimidation.¹ Drug cartels and other criminal organizations are not terrorists even though those other criminals engage in heinous crimes, commit far more murders, destroy much more property, and injure more innocent people. Terrorism is not synonymous with “bad crimes.” It is a specific type of crime based on the motivations of the criminal.

Foreign-born terrorists seeking to commit attacks on U.S. soil pose a hazard to the life, liberty, and private property of Americans and the lawful operation of the U.S. government. Reducing the risk of foreign-born terrorism is a legitimate function of the U.S. government. Nonetheless, terrorism committed by foreign-born attackers is a manageable hazard. The threat of terrorist entry through the southwest border is minuscule even when compared to the overall manageable hazard posed by foreign-born terrorism.

Illegal Immigrants, Asylum Seekers, and Foreign-Born Terrorism on U.S. Soil

In my research, I have identified 219 foreign-born terrorists who committed attacks on U.S. soil, intended to commit attacks on U.S. soil, threatened attacks here, or tried to fund domestic terrorism.² Those 219 foreign-born terrorists were responsible for 3,046 murders and 17,077 injuries in attacks on U.S. soil from 1975 through the end of 2022.³ The annual chance of being murdered in a terrorist attack committed by a foreign-born terrorist from 1975-2022 is about 1 in 4.3 million per year.⁴ The annual chance of being injured in such an attack is about 1 in 774,000 per year. By comparison, the annual chance of being murdered in a criminal non-terrorist homicide in the United States was about 1 in 20,134 during the 1975-2022 period. The chance of being murdered in a normal homicide is about 316 times greater than being killed in an attack committed by a foreign-born terrorist.⁵ During that time, 97.8 percent (2,979) of all those murdered in terrorist attacks were murdered on 9/11, and 86.9 percent (14,842) percent of all people injured in foreign-born terrorist attacks were injured on 9/11.

During that time, the number of people murdered in attacks on U.S. soil committed by a foreign-born terrorist who entered illegally was zero. The number of people injured in an attack committed by a foreign-born terrorist who entered illegally was zero. Suffice to say, the number of people killed or injured by an illegal immigrant who entered illegally across the U.S.-Mexico border is also zero.

However, nine foreign-born terrorists entered the United States illegally during the 1975-2022 period. Three of the nine convicted illegal immigrant terrorists entered illegally by crossing the U.S.-Mexico border. They are Dritan Duka, Eljvir Duka, and Shain Duka, and they entered illegally

in 1984 when they were aged 5, 3, and 1, respectively. They were arrested almost 23 years later, in 2007, while plotting to attack Fort Dix, New Jersey. Of the other illegal immigrant terrorists, five illegally crossed the U.S.-Canada border (Kabbani, Thurston, Mezer, Ressam, and Abdi) and one was a stowaway on a ship (Meskini).

The Duka brothers were "got aways," which is defined as an unlawful border crosser who (1) is directly or indirectly observed making an unlawful entry into the United States; (2) is not apprehended; and (3) is not a turn back.⁶ There have been many got aways in recent years, likely over 1.2 million in total.⁷ There is little evidence that a larger population of illegal immigrants in the United States, a population augmented by more got aways, poses an increased risk of terrorism. The Department of Homeland Security (DHS) should be vigilant to the possibility, and the situation could always change, but there is little reason to worry more than usual.

Thirteen terrorists were allowed to enter as asylum applicants, and they are responsible for 9 murders and about 669 injuries in attacks on U.S. soil during the 1975-2022 period. The annual chance of being murdered by a foreign-born terrorist who entered as an asylum applicant or who was granted asylum shortly after entering is about 1 in 1.5 billion per year. The annual chance of being injured in an attack committed by a foreign-born terrorist who was present as an asylum seeker is about 1 in 20 million per year. None of the asylum seekers who became terrorists entered by crossing the U.S.-Mexico border. Only one was from the Western Hemisphere; Eduardo Arocena from Cuba, and he committed his last attack in 1980.⁸

Table 1

Name of Terrorist	Year	Fatalities	Injuries	Immigration Status Upon Entry	Country of Birth	Ideology
Kabbani, Walid	1987	0.00	0.00	Illegal Immigrant	Lebanon	Foreign Nationalism
Thurston, Darren	1996	0.00	0.00	Illegal Immigrant	Canada	Left
Mezer, Gazi Ibrahim Abu	1997	0.00	0.00	Illegal Immigrant	Palestine	Islamism
Meskini, Abdelghani	1999	0.00	0.00	Illegal Immigrant	Algeria	Islamism
Ressam, Ahmed	1999	0.00	0.00	Illegal Immigrant	Algeria	Islamism
Abdi, Nuradin M.	2003	0.00	0.00	Illegal Immigrant	Somalia	Islamism
Duka, Dritan	2007	0.00	0.00	Illegal Immigrant	Macedonia	Islamism
Duka, Eljvir	2007	0.00	0.00	Illegal Immigrant	Macedonia	Islamism
Duka, Shain	2007	0.00	0.00	Illegal Immigrant	Macedonia	Islamism
Arocena, Eduardo	1980	2.00	0.00	Asylum	Cuba	Right
Berberian, Dikran Sarkis	1982	0.00	0.00	Asylum	Lebanon	Foreign Nationalism

Yousef, Ramzi	1993	1.00	173.67	Asylum	Pakistan	Islamism
Ajaj, Ahmed	1993	1.00	173.67	Asylum	Palestine	Islamism
Khan, Majid Shoukat	2003	0.00	0.00	Asylum	Pakistan	Islamism
Siraj, Shahawar Matin	2004	0.00	0.00	Asylum	Pakistan	Islamism
Ferhani, Ahmed	2011	0.00	0.00	Asylum	Algeria	Islamism
Tsarnaev, Dzhokhar	2013	2.50	140.00	Asylum	Kyrgyzstan	Islamism
Tsarnaev, Tamerlan	2013	2.50	140.00	Asylum	Kyrgyzstan	Islamism
Fathi, El Mehdi Semlali	2014	0.00	0.00	Asylum	Morocco	Islamism
Rahimi, Ahmad Khan	2016	0.0	29.0	Asylum	Afghanistan	Islamism
Artan, Abdul Razak Ali	2016	0.0	13.0	Asylum	Somalia	Islamism
Shihab, Shihab Ahmed Shihab	2022	0.0	0.0	Asylum	Iraq	Islamism

Source: Alex Nowrasteh, *Terrorism and Immigration A Risk Analysis, 1975–2022*, Cato Institute, 2023.

Abdulahi Hasan Sharif is the closest example of a possible asylum seeker or illegal immigrant having crossed the U.S.-Mexico border and then committing an attack. He entered along the U.S.-Mexico border in 2011 and was immediately apprehended by Border Patrol. He may have possibly applied for asylum, but an immigration judge ordered him to be removed and Sharif never appealed that decision. Instead, he went to Canada and wounded five people years later in a vehicle attack in Edmonton in 2017.⁹

Terrorism Screening Database Encounters on the Southwest Border

Customs and Border Protection (CBP) publishes statistics on the number of encounters of non-U.S. citizens encountered by Border Patrol between ports of entry (POE).¹⁰ People encountered by Border Patrol are screened through the Terrorism Screening Database (TSDB). CBP updates the number of positive hits frequently as part of its data releases. Although the published data only go back to 2017, there is a long-term increase in the number of non-U.S. citizens encountered by Border Patrol who produce positive hits in the TSDB, rising from 2 in 2017 to 146 through the end of July 2023 (Table 2).

Table 2
Terrorism Screening Database Encounters on the Southwest Border, 2017-2023YTD

Fiscal Year	Southwest Border (SWB)	Northern Border	Total	Border Patrol Encounters, SWB
2017	2	0	2	303,916
2018	6	0	6	396,579
2019	0	3	3	851,508
2020	3	0	3	458,088
2021	15	1	16	1,734,686
2022	98	0	98	2,378,944
2023YTD	146	3	149	1,973,092

Source: Customs and Border Protection.

There are several reasons why these data do not indicate a threat of increased terrorist attacks on U.S. soil. First, the data quality is suspect and includes many false positives. For instance, the Texas Department of Public Safety (DPS) arrested a 29-year-old Iranian national named Alireza Heidari at a traffic stop in Val Verde County, Texas, in late 2022 or early 2023 as he was being smuggled with other illegal immigrants.¹¹ DPS handed Heidari over to Border Patrol, who then initially identified Heidari as a match for somebody on the TSDB, which the media reported as such.¹² After further data analysis, DHS announced that Heidari was not a match and was a false positive.¹³ It is unclear whether Heidari's false positive was reported in CBP's published statistics on TSDB hits. Errors such as "[f]alse positives are an inevitable consequence of any screening program," and have been known to exist in the TSDB, although there is not much recent research on this issue.¹⁴ Most government investigations of errors in the TSDB are primarily concerned with reducing false negatives and they pay less attention to reducing false positives.¹⁵

Second, almost everyone in the TSDB is not a terrorist. TSDB includes known and suspected terrorists (KSTs, which is a group of people less dangerous than it sounds. According to the FBI, a known terrorist is "an individual whom the U.S. Government knows is engaged, has been engaged, or who intends to engage in terrorism and/or terrorist activity, including an individual (a) who has been charged, arrested, indicted, or convicted for a crime related to terrorism by U.S. Government or foreign government authorities; or (b) identified as a terrorist or member of a designated foreign terrorist organization pursuant to statute, Executive Order or international legal obligation pursuant to a United Nations Security Council Resolution."¹⁶ A suspected terrorist is "an individual who *is reasonably suspected* to be, or has been, engaged in conduct constituting, in preparation for, in aid of, or *related* to terrorism and/or terrorist activities based on an articulable and *reasonable suspicion* [emphasis added]."¹⁷

The inclusion of individuals in the TSDB who have undertaken actions that are "related to terrorism and/or terrorist activities" leads to more people being added to the TSDB than is warranted. After all, "related to" is open ended and causes vague talk of "ties" or "links" between people being mistaken for actual evidence of terrorism. Even worse, the process of adding an individual to the TSDB inflates the numbers. Originators at federal agencies nominate individuals for inclusion as KSTs in the TSDB. Next, analysts at the National Counter Terrorism Center (NCTC) or the FBI vet the nominees. NCTC has access to another database known as the Terrorist Identities Datamart Environment (TIDE) which is the government's "central repository of information on international terrorist identities."¹⁸ Not all identities in TIDE are included in the

TSDB. To make it into the TSDB, a nomination vetted by the NCTC or FBI must 1) meet the “reasonable suspicion watchlisting standard” and 2) have sufficient identifiers to distinguish between individuals. Those sufficient identifiers must include at least one piece of biographic information like a first name or birthdate.¹⁹ The Terrorism Screening Center (TSC) verifies whether the person should be included under some circumstances.

The reasonable suspicion standard and its exceptions are well summed up by the Congressional Research Service:

Articulate facts form the building blocks of the reasonable suspicion standard undergirding the nomination of suspected terrorists. Sometimes the facts involved in identifying an individual as a possible terrorist are not enough on their own to develop a solid foundation for a nomination. In such cases, investigators and intelligence analysts make rational inferences regarding potential nominees. The TSC vets all nominations, and when it concludes that the facts, bound with rational inferences, hold together to form a reasonable determination that the person is suspected of having ties to terrorist activity, the person is included in the TSDB. In the nomination process, guesses or hunches alone are not supposed to lead to reasonable suspicion. Likewise, one is not supposed to be designated a known or suspected terrorist based solely on activity protected by the First Amendment or race, ethnicity, national origin, and religious affiliation.

Christopher Piehota, the former director of the TSC, testified that individuals can be included in the TSDB without a reasonable suspicion. He said, “There are limited exceptions to the reasonable suspicion requirement, which exist to support immigration and border screening by the Department of State and Department of Homeland Security.”²⁰ In other words, the TSDB includes individuals who did not meet even this flimsy reasonable suspicion standard. Of the 1,558,710 nominations to the TSDB from FY2009-FY2013, 14,183 (0.9 percent) were rejected.²¹ As of February 2017, TIDE contained about 1.6 million people and 99 percent were neither U.S. citizens nor permanent residents.²² From 2011 to 2017, NCTC deleted about 228,000 people from TIDE.²³

Third, many individuals who are in the TSDB are not affiliated with foreign terrorist organizations (FTOs) that pose a threat to the U.S. homeland. CBP does not disclose the nationalities of immigrants who were a match for the terror watchlist. However, data released to the *Washington Examiner* showed that 25 of the 27 KSTs arrested by Border Patrol in the first six months of 2022 were citizens of Colombia and likely members or former members of FARC (the Revolutionary Armed Forces of Colombia, which was delisted as an FTO in 2021), Segunda Marquetalia, the United Self Defense Forces of Colombia (delisted as an FTO in 2021), or the National Liberation Army.²⁴ For instance, Border Patrol apprehended Isnardo Garcia-Amado in Arizona in early 2022 and released him into the country on April 18, 2022.²⁵ Three days later, Garcia-Amado was flagged by the TSC as a positive hit on the TSDB. Immigration and Customs Enforcement (ICE) arrested him on May 6, 2022.²⁶ There is no indication that he intended or was involved in any terrorism.

There has never been a terrorist attack committed on U.S. soil by these groups, there is no evidence that they have ever intended to target the U.S. homeland, and no foreign-born person from Colombia has ever committed, planned, attempted, or been convicted of attempting to commit terrorism on U.S. soil.

Fourth, prosecutors have not filed terrorism charges against anyone who entered between a POE and who was flagged by the TSDB. There have been no attacks committed or thwarted by an individual who was flagged by the TSDB and entered between a POE.

Special Interest Aliens

DHS defines special interest aliens (SIA) as:

[A] non-U.S. person who, based on an analysis of travel patterns, potentially poses a national security risk to the United States or its interests. Often such individuals or groups are employing travel patterns known or evaluated to possibly have a nexus to terrorism. DHS analysis includes an examination of travel patterns, points of origin, and/or travel segments that are tied to current assessments of national and international threat environments.²⁷

According to a recent *Daily Caller News Foundation* article, Border Patrol agents encountered 25,627 SIAs in FY2022, with 60 percent of them coming from Turkey.²⁸ Every Turk encountered by Border Patrol in FY2022 was counted as an SIA if the *Daily Caller* report is to be believed—all 15,356 encountered along the U.S.-Mexico border or all 15,360 of them encountered nationwide. It is likely that every illegal border crosser from Uzbekistan, Bangladesh, Syria, Iraq, and perhaps other countries was counted as an SIA.²⁹

Another *Daily Caller* article claimed that CBP flagged 74,904 illegal migrants nationwide for potentially posing risks to national security between October 2022 and August.³⁰ That is almost the same number of illegal immigrants who are from specifically listed countries outside of the Western Hemisphere who were encountered nationwide by Border Patrol (75,549).³¹ The difference is likely a result of a rounding error by *Daily Caller's* source or the reporter. In practice, the SIA definition corresponds to illegal immigrants from specific countries of origin.³² In other words, the SIA designation is a fancy label for “illegal immigration from a country that could have terrorists” and nothing more. The SIA designation is not the result of serious analysis, an understanding of individual behavior being correlated with terrorist activity, or anything deeper. As a result, SIA is not a metric that should seriously be considered when analyzing terrorist threats along the border.

As DHS makes clear:

This does not mean that all SIAs are “terrorists,” but rather that the travel and behavior of such individuals indicates a possible nexus to nefarious activity (including terrorism) and, at a minimum, provides indicators that necessitate heightened screening and further investigation. The term SIA does not indicate any specific derogatory information about the individual – and DHS has never indicated that the SIA designation means more than that.³³

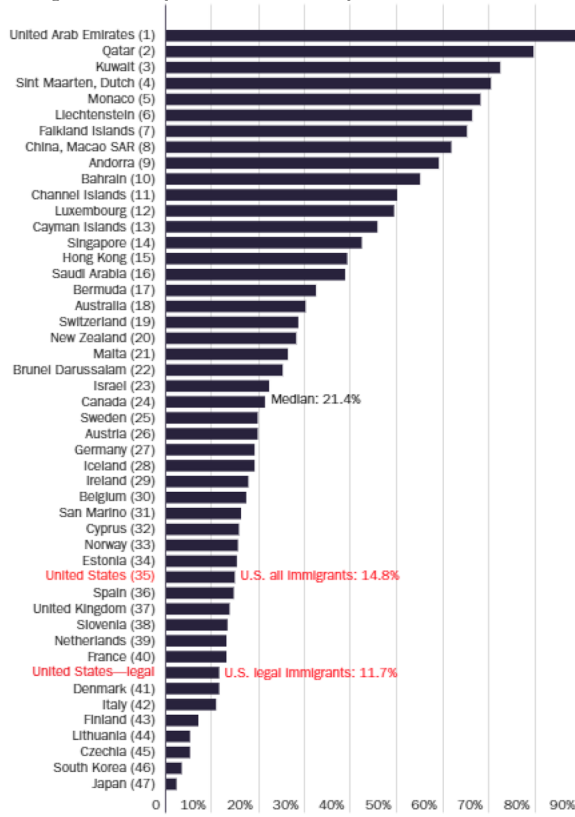
No SIA apprehended by Border Patrol has committed an attack on U.S. soil, which means that nobody has been killed or wounded by an SIA terrorist.

Reducing Illegal Immigration and Border Chaos

The chaos caused by illegal immigration is still a problem along the U.S.-Mexico border. The solution is to expand legal immigration for workers at every skill level, families, refugees, lawful permanent residents, temporary migrants, and other categories. The United States has a very restrictive legal immigration system.³⁴ Compared to other developed countries, the foreign-born share of the U.S. population is 35th out of 47 (Table 3). Only counting legal immigrants, the United States is in 40th place. The median foreign-born share of the population in rich countries is over 21 percent, but just below 15 percent here. By increasing lawful immigration, the U.S. government would drive would-be illegal immigrants into the legal market. A shrunken black market would allow Border Patrol and other law enforcement agencies to focus on actual problems rather than trying to interrupt market forces. Furthermore, more legal immigration would allow the government to regulate and control the flow of immigrants to the United States. Congress can't regulate an illegal market; it can only regulate a legal one.

We know expanding legal immigration works because of recent experiences with parole. The parole program Uniting for Ukraine, which was implemented in May 2022, reduced the total number of Ukrainians coming to the U.S.-Mexico border by 99.9 percent from April 2022 to July 2023. Almost the entirety of that collapse occurred in May 2022, the first month of the program. Similar parole programs for migrants fleeing Venezuela, Cuba, Nicaragua, and Haiti also reduced illegal entries. Venezuelan illegal entries fell 66 percent from September 2022 to July 2023. From December 2022 to July 2023, illegal entries from Haitians fell 77 percent, 98 percent from Cubans, and 99 percent from Nicaraguans.³⁵ Parole is a great short-term stop-gap measure. Immigration liberalization is the only sustainable long-term fix to border chaos and illegal immigration.

Table 3
Immigrant Stock by Destination Country



Sources: "International Migrant Stock 2019," Population Division, Department of Economic and Social Affairs, United Nations, August 2019; World Population Prospects 2019: Highlights (New York: Department of Economic and Social Affairs, United Nations, 2019); "Per Capita GDP at Current Prices - US Dollars," UNData, United Nations Statistics Division, February 26, 2023; "GDP per Capita (Current US\$)," World Bank, 2020; and "Real GDP per Capita," Central Intelligence Agency, updated 2022.

Note: Countries include semi-autonomous regions with independent immigration policies. The UN data include foreign-born people who received citizenship at birth through their parents to allow for cross-country comparisons with different citizenship rules. Also included are people born in the overseas territories of Denmark, the United Kingdom, France, the Netherlands, New Zealand, and the United States (e.g., Puerto Rico). These people were excluded in this analysis because they are not considered "born abroad" for purposes of the home country. These overseas territories were also not treated as separate countries except in cases where immigrants from the parent country are not considered citizens of the overseas territory, such as in the Netherlands' territories.

Conclusion

Terrorism poses a risk to Americans' lives, liberty, and private property. However, there is very little evidence that foreign-born terrorists have crossed or are crossing the U.S.-Mexico border. The evidence that terrorists are crossing the border is of such low quality that we can safely discount much of it. This fact could always change, and the future is unknowable, but available information indicates that foreign-born terrorists seeking to cross the U.S.-Mexico border is *at most* a very small and manageable threat. The scale of this small threat becomes especially obvious when compared to the myriad threats that face the United States internationally and domestically, or even the threat of normal homicide. The chaos along the U.S.-Mexico border is a travesty, but it will only be solved by expanding legal permanent immigration and temporary migration opportunities for families, humanitarian immigrants, and workers of every skill level. Only then will the flow of illegal border crossers diminish and allow Border Patrol to get control over the border, which will further reduce the already small chance of terrorists trying to cross the U.S.-Mexico border.

Appendix

Those 219 foreign-born terrorists include those who committed attacks on U.S. soil, those who planned or conspired to commit attacks and were thwarted by law enforcement before carrying out their attacks, those who committed violent crimes domestically to fund terrorism even if they never committed the actual terrorist attack or planned to do so, and threatened attacks if they made an actual effort to commit an attack, had bombmaking experience, or if they made it appear as if they committed the attack through a hoax.³⁶ Their immigration status is determined by their initial immigration status when they first arrived on U.S. soil, a choice necessary because immigrants and migrants often adjust their statuses multiple times after arrival. I made this methodological choice because their initial immigration status is the first and most important point of potential security failure that could expose Americans to harm. For example, Faisal Shahzad is counted in my data as on a student visa because he initially entered on that visa and then obtained an H-1B visa before his unsuccessful attempt at setting off a car bomb in Times Square in 2010.

The only exception to my methodological rule is for those seeking asylum in the United States—they are counted under the asylum visa if they applied for asylum shortly after entering the United States. That exception is important because those individuals usually make their asylum claim at the U.S. border or after they have entered on another visa, often with the intention of applying for asylum.

The number of murders and injuries committed by foreign-born terrorists includes those murdered or injured in the attacks, those who died afterward because of their injuries, and those accidentally killed or injured by police or security forces responding directly to the terrorist attack. The terrorists who died or who were injured in the attacks are *not* included as victims. If a foreign-born terrorist commits an attack with the aid of a native-born American, the foreign-born terrorist is credited with all the deaths and injuries committed in the attack. If multiple foreign-born terrorists commit an attack, I divide all the deaths and injuries equally among the foreign-born terrorists. Data on the identities of those terrorists, their visa status upon entry, countries or origin, ideology, the number of their victims, and other information comes from many different data sources.³⁷

- ¹ Definition from the Global Terrorism Database: <http://www.start-dev.umd.edu/gtd/using-gtd/>; the narrower legal definition: 18 U.S. Code § 2331.
- ² See Appendix for how these numbers are calculated.
- ³ Alex Nowrasteh, “[Terrorism and Immigration: A Risk Analysis, 1975–2022](#),” Cato Institute Policy Analysis no. 958, August 22, 2023.
- ⁴ Alex Nowrasteh, “[Terrorism and Immigration: A Risk Analysis, 1975–2022](#),” Cato Institute Policy Analysis no. 958, August 22, 2023.
- ⁵ Alex Nowrasteh, “[Terrorism and Immigration: A Risk Analysis, 1975–2022](#),” Cato Institute Policy Analysis no. 958, August 22, 2023.
- ⁶ 6 U.S. Code § 223.
- ⁷ “Department of Homeland Security Border Security Metrics Report: 2022,” DHS Office of Immigration Statistics, July 3, 2023. https://www.dhs.gov/sites/default/files/2023-07/2023_0703_plcy_fiscal_year_2022_border_security_metrics_report_2021_data.pdf
- ⁸ Alex Nowrasteh, “[Terrorism and Immigration: A Risk Analysis, 1975–2022](#),” Cato Institute Policy Analysis no. 958, August 22, 2023.
- ⁹ “Man charged in Edmonton attacks crossed into U.S. from Mexico, records show,” *CBC News*, October 4, 2017. <https://www.cbc.ca/news/canada/edmonton/edmonton-attacks-abdulahi-sharif-hasan-attempted-murder-border-crossing-united-states-1.4330527>.
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- ¹⁷ “Terrorist Screening Center: Frequently Asked Questions,” U.S. Department of Justice, April 11, 2016. <https://ucr.fbi.gov/nsb/tsc/terrorist-screening-center-frequently-asked-questions-032416.pdf>
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Mr. McCLINTOCK. Thank you for your testimony.
Finally, we hear from Chief Rodney Scott. Chief Scott?

STATEMENT OF CHIEF RODNEY SCOTT

Chief SCOTT. Chair, Ranking Member, Members of the Subcommittee, good morning.

I would like to share with you three critical facts that I learned while serving as a Border Patrol Agent.

The most critical fact is that border security is national security. It's not a political talking point. It's a fact.

Over my career, I was honored to participate in the transition from an uncontrolled, chaotic Southwest border to a border that was, arguably, more secure than ever. Unfortunately, I also witnessed the rapid and systematic destruction of decades of improving border security in just the first few weeks of the Biden Administration. To be blunt, the systematic destruction of border security and the predictable consequences scare the hell out of me, and they should scare you, too.

As a young, frontline agent, I routinely observed smugglers coordinate distractions to get illegal aliens past the Border Patrol. A common distraction was as simple as a couple of very fast, teen-aged males making a highly visible illegal entry, and as agents shifted to chase that bait, the real group of illegal aliens would rush across the border through the gap that was created.

This same tactic was used by drug smugglers. Agents would respond to a group of illegal aliens or a vehicle illegally entering, and as soon as they responded, a more significant load of narcotics would come through just out of their reach.

Mexican drug cartels over my career have increasingly asserted control over all crossings between the ports of entry. Their sophisticated tactics and techniques continually improve, but the basic concept remains the same: Create a distraction too good for agents to ignore, and then, exploit the gap that it has created.

Any alien with something to hide will routinely pay to evade law enforcement, to be in that second wave. That's the second critical fact, that the most serious threats to America are more commonly in that second wave.

People don't understand that U.S. law enforcement records checks/searches U.S. data bases. Crimes committed by a foreign national outside the U.S. rarely appear in these data bases. That's the third critical fact, that records checks are just a tool to support a meaningful interview.

Earlier this week, America paused to remember 9/11 terrorist attacks. The 9/11 attack had a profound impact on my understanding of border security. In the years following, I was honored to represent Customs and Border Protection on several interagency teams, and we were tasked with improving America's antiterrorism capabilities.

Then, we knew that terrorist organizations were going to increasingly seek to use operatives that were unknown. We could not rely solely on records checks.

CBP improved situational awareness through intelligence and expanded capabilities of officers and agents, so that they could solicit information and determine intent through effective interviews.

Additionally, Border Patrol improved surveillance and doubled down on deterring illegal immigration, and it was working.

Fewer illegal entries and an expanding smart wall system bought agents more time. With more time to invest in interviews, the benefits cascaded quickly. The agents were able to identify imposters, fraudulent families, gang members, various criminals, and even potential terrorist ties that records checks had not revealed.

In contrast, every single border security and immigration action that the Biden Administration has taken has resulted in an increase in illegal immigration, overwhelming CBP capabilities, and surrendering control of our Southwest border to the cartels. Every illegal alien released into the United States is free advertisement for the cartel and ensures an endless wave of customers to overwhelm agents.

Of great concern is the increasing number of Border Patrol encounters with illegal aliens on the National Watchlist. From 2017–2020, Border Patrol encountered 14 illegal aliens on that Watchlist. From 2021–2023, that number jumped to 263—with 149 of these being in just this year alone. This is a serious national security threat, but it only represents the known. What threats were in the 1.7 million known got-aways? What about the unknown got-aways?

Compounding this threat, overwhelmed officers and agents no longer have time to conduct meaningful interviews. The Border Patrol is overwhelmed with illegal aliens from several countries that are known to be affiliated with terrorism, but those agents cannot get timely language translation support to conduct the most basic processing, let alone a meaningful interview.

This continues even after the discovery of the ISIS-associated smuggler that helped the Uzbekistanis enter the U.S. illegally. The release of those Uzbekistanis demonstrates the vulnerability of overlying on data systems for our national security.

The key to effective law enforcement and border security will always be face-to-face interviews. The ongoing mass of illegal immigration is a threat to our national security. Didn't we all promise after the 9/11 to never forget?

I look forward to your questions.

[The prepared statement of Chief Scott follows:]

Written Statement

of

Rodney S. Scott

Senior Distinguished Fellow, Border Security and Immigration

Texas Public Policy Foundation

Retired Chief, US Border Patrol

before the

Subcommittee on Immigration Integrity, Security, and Enforcement
Committee on the Judiciary United States House of Representatives

September 14, 2023

Hearing Titled

“Terrorist Entry Through the Southwest Border”

Texas Public Policy Foundation, 901 Congress Ave., Austin, Texas 78701

www.texaspolicy.com

Chairman McClintock, Ranking Member Jayapal, Members of the Subcommittee, good morning and thank you for inviting me to testify before you.

I am currently a Distinguished Senior Fellow for Border Security and Immigration at the Texas Public Policy Foundation (TPPF). However, more people know me from the time I served as Chief of the US Border Patrol (USBP).

While I am proud of both positions, I am here today to talk to you about my firsthand experiences as a U.S. Border Patrol agent for over 29 years. That firsthand experience taught me that border security is national security. That is not a catch phrase or a political talking point, that is just a commonsense fact.

Earlier this week, people across this nation paused to remember the thousands of innocent souls that were murdered, and the lives that were forever changed on September 11, 2001, by a group of foreign nationals, driven by their shared hate for America. While the names of foreign terrorist organizations and their leaders continue to change, the hate and ideologies that drive them to kill and destroy anything they don't agree with, especially America, isn't going away in our lifetime. There are thousands, if not millions, of foreigners around the globe today that are conspiring about how to get inside America's borders and kill and destroy as much as they can.

Please understand, I am not asserting that every threat to America comes from outside our borders. Today, as we will likely observe during this hearing, our nation is increasingly divided and fractured. In this body that divide manifests as arguments, insults and inaction. Outside the walls of Congress, that divide is increasingly resulting in acts of violence by one American against another. I argue that while this is unfortunate, we have existing laws, regulations, processes and entire agencies that are tasked to manage and mitigate these internal issues as they become public safety threats or individual criminal acts.

However, I also argue that it is exponentially more difficult and complicated to manage and mitigate internal conflicts when you allow an unabated influx of external influences, conflicting cultures and countless different languages to overwhelm our communities. Since the founding of this great nation, various Legislatures have acknowledged this reality and established immigration laws and agencies to enforce those laws to ensure that new immigrants are welcomed and assimilated into American culture.

Consistent with the intent of this hearing and my professional expertise, my testimony is focused on the role that border enforcement plays to keep Americans safe from the external threats. I beg each of you to please put your party affiliation aside for a minute to listen and consider my firsthand experiences. My intent is to help you understand why I adamantly believe that border security is national security and what that really means. I hope to help you understand the severity of the threats we are facing and how the current border security and immigration policies have dramatically increased the vulnerabilities at the border. Thus putting every American and immigrant at increased risk. If you have the slightest doubt about any of the information I provide to you, I highly encourage you to seek out any experienced border patrol agent and ask them if they agree with my assessments and assertions.

My firsthand experiences taught me that border security and immigration policy are two distinctly different, yet interrelated issues. Border security is simply knowing and controlling who and what enters our homeland. Immigration and customs laws set the legal entrance criteria. However, these laws are completely irrelevant if the US government cannot or chooses not to control the initial entry.

To claim any meaningful level of border security the United States government must take every reasonable action to control who and what enters our homeland. Every decision to allow a foreign national or a foreign product to enter our home must be an informed and intentional decision. If either of these criteria are missing, then we cannot honestly assert that our borders are secure. Many would argue that it is malfeasance, or at a minimum nonfeasance, for authorities to knowingly and willfully ignore threats and vulnerabilities. Unfortunately, this is exactly what is occurring.

My firsthand border experience began in 1984 when I moved to a small border town in southern Arizona. This was well before I joined the US Border Patrol in 1992 as a GS-05 Border Patrol agent trainee. I competitively progressed through the Border Patrol ranks and was ultimately promoted to Chief in February 2020. I chose to retire in August 2021. Over my non-partisan career, I was honored to participate in the transition from an uncontrolled chaotic SW border to a border that was increasingly secure. Unfortunately, I also witnessed the rapid and systematic destruction of decades of progressive border security in just the first few weeks of the Biden administration. To be a bit blunt, this systematic destruction of border security and the very predictable consequences scare the hell out of me. And, if you are willing to put emotions aside for just a few minutes to evaluate the entire situation on our borders from a holistic perspective, I assure you that the emotion that will emerge is fear. Hopefully, there is also a sense of urgency to fix this before more people, Americans, or migrants, die.

As a frontline Border Patrol agent in San Diego, CA from 1992 through 1998, I routinely spent 10 hours a day, five days a week directly patrolling the US/Mexico border between the Pacific Ocean and base of Otay Mountain. Nearly every day I observed experienced smugglers, low level uneducated foot guides and even average illegal aliens, coordinate distractions to create opportunities for other illegal aliens to get past Border Patrol and into the US. A common distraction would be a couple very fast individuals, normally gang affiliated teenage males, who would make a very visible illegal entry serving as bait to entice agents to chase them. If agents didn't initially take the bait, they would increase the likelihood of a chase by assaulting agents with rocks, sling shots or other debris. Once an agent took the bait, the individuals would routinely run a short distance north then angle east or west to remain within safe retreating distance to the actual border. As agents shifted to chase the bait, the real group of illegal aliens would "banzai" rush into the US through any enforcement gap they identified. Sometimes this second group would be 5-10 illegal aliens and sometimes it would be more than a hundred at a time. If the agents were quick enough to catch the bait it was of little consequence as the US Attorney would not prosecute minors so they would be repatriated to Mexico and the cycle would continue.

This same tactic was used by drug smugglers with significant success. Routinely agents would respond to a large group of illegal aliens crossing the border or even a single vehicle drive

through smuggling illegal aliens only to realize that as soon as they responded, several vehicles drove across the border in another area. In one such case, early in my career we were prepared for the distraction. We made it look like we were taking the bait, but other agents covertly held back and interdicted three pick-up trucks shortly after they illegally entered the US through what appeared to them to be an enforcement gap. Each truck was loaded with approximately 1500 lbs. of narcotics. This success came at a cost. To make that enforcement action work we had pulled agents from another area and accepted increased risk there instead. In those days we had less than 5000 agents nationwide and did not have any meaningful border barriers or technology to improve the agent effectiveness, so we have no idea what that operation actually cost in terms of goaways in the area we chose not to patrol that day.

Over my career, the Mexican drug cartels increasingly asserted control over any border crossings between ports. The sophistication of their tactics and techniques continued to improve while the basic concept remained the same: create a distraction too good for law enforcement to ignore, then exploit the gap in border security that is created. After transferring to Arizona in 1998 I observed the local drug cartels leveraging this tactic to new extremes. Within the city limits of Nogales, in addition to sending over the traditional distractions, the local drug smugglers would routinely stage massive rock assaults on agents near the border. In more rural areas they would resort to what we commonly referred to as "give-a-way" loads. The "give-a-way" would be a small load of narcotics or groups of illegal aliens. In an extreme example, a local cartel faction sent a thirteen-vehicle caravan across the border in broad daylight, each vehicle was severely overloaded with illegal aliens. If my memory is correct, one full size Ford van held over 25 illegal aliens. As it turned out the thirteen-vehicle caravan was designed to simply be a distraction to conceal a fourteenth vehicle that was loaded with narcotics and illegally entered a few minutes later. The tactic would have likely worked if it had not been for a couple of alert plain clothes taskforce agents that responded from outside the area to help the overwhelmed Border Patrol and observed the narcotics laden vehicle entering a highway.

To fully comprehend this strategy, one must recognize that in the smuggling business model, most humans are seen by the smugglers as recyclable. When an illegal alien without a known criminal history is arrested by US law enforcement, one of two things routinely happens. The alien is processed, removed from the US, likely to be used again by the cartels/smugglers or the alien is set up for an immigration hearing and then routinely released into the US. They then effectively serve as a human advertisement to entice other would-be illegal aliens to use their smuggling services. Either is a win for the cartel's business.

There are several important exceptions to the above. This can include any alien with a known significant criminal history, active arrest warrants, an Interpol notice or if the alien is on the National Watchlist. Historically, criminal aliens have been held in custody, prosecuted, jailed for an appropriate time and then formally deported. Even the Biden administration still does this occasionally for extremely significant criminals. Any interdicted narcotics or contraband are seized and eventually destroyed so the cartels limit their losses in this area to the maximum extent possible.

Most aliens, and most Americans for that matter, do not understand what criminal history and other information US law enforcement can access. Even more important for this discussion is

the fact that most people do not seem to understand what US law enforcement can NOT access. When law enforcement officers at any level in the US use a person's biographical and biometric information to run records checks, that freshly collected information is being compared to existing records in specific US agency databases. It is extremely rare for any information about criminal acts committed by a foreign national outside the US to be documented within these US criminal history databases. When Secretary Mayorkas or any US official asserts that aliens are properly vetted, they are really telling you that they checked US databases to see if the alien had any known criminal history inside the US or if the alien had been identified and placed in the Terrorist Screening Database or Data Set.

To ensure there is no confusion here, running records checks on any alien that has not been arrested by US law enforcement in the past or is not currently known by US intelligence is like looking for something on an empty hard drive. There is simply no data to compare it with. The alien could be a saint, or he/she could be serial killer. There are a few ways to find out more about who the alien really is. One way is to request information from officials in the alien's home nation. At best, that is extremely time-consuming and requires US State Dept. support. In many cases this is not even an option due to a lack of diplomatic relations or a lack of capabilities in the other nation. Another way to solicit more information is for a skilled interviewer to conduct an in-depth face-to-face interview in the alien's native language.

Many illegal aliens assume that the US knows more about them than we do. Any alien with something to hide will routinely pay more to ensure that they can evade law enforcement. That means they pay extra to be in the second wave which increases the probability of successfully getting past US Border Patrol. Today, instead of fast teenagers taunting agents, the cartels simply use large groups of illegal aliens that have been coached to seek out Border Patrol and claim asylum. In my experience, the second wave of illegal entries is more likely to contain the most significant threats to the safety and security of America regardless of what the records checks do, or do not reveal.

Now let's address the aftermath of the terrorist attacks that took place on September 11, 2001. The 9/11 terrorist attacks had a profound impact on my understanding of border security. From 1992 to September 11, 2001, terrorism was not part of the US Border Patrol's daily considerations, planning or even dialogue. That changed as the Nation realized that foreign terrorists had exploited vulnerabilities in our border security and hit us hard on our own soil.

Congress responded in part by creating the Department of Homeland Security. I responded by accepting an opportunity to help build the CBP Office of Anti-Terrorism. I quickly found myself immersed in classified intelligence briefings and interagency planning to mitigate immediate terrorist threats and improve our capabilities to detect and prevent future threats. I was honored to be part of several interagency and interdisciplinary teams that analyzed government wide capabilities, modified processes, integrated information and drafted operational and investment plans to improve Americas border security. The terrorists that perpetrated 9/11 entered the country through ports of entry. As such, improving inspections at ports was initially our top priority. But we acknowledged that as we mitigated vulnerabilities at ports, terrorists, and other threats would predicably shift to entering illegally in between the ports. We also had reason to believe that terrorist organizations would increasingly seek to use operatives that were unknown

to US law enforcement or intelligence agencies. We could not rely solely on records checks. Building a solid foundation of CBP Officers and Border Patrol Agents with specialized interview skills was critical. Investments were made in assignments to the FBI Joint Terrorism Taskforces across the country, specialized intelligence training, security clearance upgrades and specialized interview and observation techniques training. This enhanced agents' and officers' ability to illicit a response and detect deception. CBP also invested in upgraded data systems to store and analyze these vast amounts of information.

The Border Patrol strategy evolved with an increased focus on situational awareness through intelligence and physical surveillance. To sustain and improve our border security gains without significant increases in personnel, we needed to buy more time. However, deterring illegal immigration through a certainty of arrest and application of consequences remained a fundamental pillar.

When I was selected as Chief, the capabilities of the Border Patrol to detect and interdict illegal entries were better than ever and rapidly improving. As a result, illegal entries were dropping. Fewer illegal entries combined with the construction of the new border wall system was making every agent more efficient. In simple terms, that bought us more time. One agent was increasingly able to maintain security over more border area than ever before. This allowed agents to not only expand patrol areas but to spend more time interviewing anyone that was arrested. The security benefits began to cascade quickly. Agents had a better opportunity to verify every alien's identity, as well as their intent. Agents identified fraudulent families, gang members, various criminals, and even potential terrorist ties that routine records checks had not revealed. Intelligence on transnational criminal network's operations, tactics and techniques was increased. USBP enhanced data systems to better track and analyze operational and criminal activity. Increasingly that information was used to further enhance operational effectiveness and to support the investigations of various agencies targeting human traffickers, narcotics smugglers, and terrorism.

In contrast, starting on January 21, 2021, I watched the border security gains that were made over three decades vanish and the safety of border communities spiral backwards. With each border security and immigration related executive action that the Biden Administration took, the volume of illegal immigration rapidly increased, overwhelmed Border Patrol and effectively transferred control of our southwest border to the Mexican drug cartels.

The publicly available numbers are readily available at www.CBP.gov/newsroom/stats/nationwide-encounters so I won't waste time reciting all of them here. However, the published numbers only tell part of the story. While the Biden administration and mainstream media try to tell America that what they are seeing on TV is simply families from Mexico and Latin America seeking a better life, they ignore the fact that since the Biden administration took office, there have been well over one million illegal aliens encountered by CBP from outside the Western Hemisphere. The vast majority of those being single adults. While CBP routinely encounters illegal aliens from over 150 nations each year, they only publish the actual number of aliens encountered from 21 select nations. CBP lumps all other nationalities into the general category of "other". Per the CBP website, under the Biden

administration over 400,000 illegal aliens have been encountered from counties lumped into the "Other". For perspective, in Fiscal year 2021 that number was only 28,252.

Of great concern, is the increasing number of encounters in between the ports of entry with illegal aliens on the Terrorist Screening Data Set (TSDS), commonly known as the National Watchlist. From fiscal year 2017 through fiscal year 2020 only 14 illegal aliens on this watchlist were encountered by US Border Patrol. From fiscal year 2021 through July 31, 2023, 263 illegal aliens on this watchlist were encountered by US Border Patrol. 149 of these encounters were in fiscal year 2023 alone.

What all those numbers fail to adequately show is what America has lost and what the cartels, terrorists and even nations hostile toward American have gained. Policy makers must understand that this is not simply an immigration issue. This is a serious national security threat. Today the cartels have mastered the tactic of using the endless flow of illegal aliens to overwhelm law enforcement to create controllable gaps in border security. In many areas they simply coordinate a massive illegal entry. At other times they force aliens to cross the border in extremely remote dangerous areas. In the Rio Grande River and other maritime environments, it is not uncommon for the cartels to throw an alien into the dangerous waters. These tactics are all designed to elicit the desired law enforcement response and to create a controllable gap in border security. These gaps are then exploited to smuggle anything they want into the US. To think that well-resourced terrorist networks and hostile nations are not exploiting this vulnerability is naive.

This well-known and effective tactic is getting easier for the cartels to pull off and harder for law enforcement to mitigate every day. Each policy decision that results in an illegal alien being released into the US is free advertisement for the cartel. This ensures that they will have an endless wave of humans eager to pay them and be used as distractions as long as they have a chance of getting into America.

If the sheer numbers were not bad enough, the current administration has directed border patrol to prioritize immigration processing over enforcement. This means that many agents never leave the station and those that are deployed at the beginning of the shift are directed to prioritize transporting surrendering aliens to processing centers. Agents are spread so thin that they often lack the capability to make an interdiction even after an illegal entry is detected. These events are reported as known gotaways. Unfortunately, CBP refuses to post this number on their web site. Court documents and local sector reports indicate that there have been nearly 1.7 million known gotaways under the Biden Administration. This does not include the unknown gotaways along the hundreds of miles of border that lack persistent surveillance and go unpatrolled for days and even weeks. In my professional assessment, U.S. Border Patrol has lost the ability to know who and what is entering our homeland. The Mexican drug cartels now get to pick and choose who, and what gets to enter America.

But I am not done. It gets worse. Due to the massive numbers of illegal aliens overwhelming CBP, in-depth face to face interviews are all but nonexistent. CBP is experiencing stations overcrowded with illegal aliens from several countries that are known to sponsor and support terrorism. Even so, they cannot get any language translation support to conduct even the most basic processing, let alone a meaningful interview. This continued even after it was discovered

that a smuggler associated with ISIS had helped at least fifteen illegal aliens from Uzbekistan enter the US. Public reporting also indicates that these fifteen were released into the US and remain at large. Please remember that the border is simply a transit point to every town, city, and State throughout the United States.

As the incident with the Uzbekistanis demonstrates, we cannot rely on biographic or even biometric records checks alone to decide what foreign nationals are allowed to roam freely around the US. These tools are great resources that were developed and intended to assist our law enforcement officers. However, there is simply too much information that these systems will never contain.

The key to effective border security has always been the trained officers and agents interacting face-to-face to conduct meaningful evaluations. The massive illegal immigration that was invited and encouraged by the policies of the Biden administration has effectively removed the officers and agents from this role. We are relying solely on severely limited data systems for our national security. But it does not need to be this way.

I look forward to answering your questions.

*Rodney Scott
Retired – Chief U.S. Border Patrol
Senior Distinguished Fellow for Border Security and Immigration
Texas Public Policy Foundation*

Mr. McCLINTOCK. I want to thank you and all the witnesses for their testimony.

We will now proceed under the five-minute rule with questions, and we will begin with Mr. Biggs.

Mr. BIGGS. Thanks, Mr. Chair.

It is good to see that we are having this hearing.

So, this notion that being concerned about terrorists entering through the Southwest border, which is absolutely open, that somehow is “fiction or speculation” is probably one of the most asinine pieces of testimony I have heard in Congress. It’s astounding. I found myself saying, have you never been to the border? Have you seen what’s going on at the border? Do you know what’s going on at the border?

I go down often, really often, and I look at data constantly. The biggest piece of data that you have ignored is the 1.7 million known got-aways. Those are known got-aways. The unknown got-aways probably match it one-for-one minimum.

Have you ever stood in a group of individuals, as I have, and you say, “Where are you from?” “Russia.” “Oh, really?” There’s 40 of you. You’re all about 25 years old. Then, we bring a translator in, and all of a sudden, they don’t speak Russian. They say they’re from Georgia. We bring a different translator in. They say, “Oh, well, yes, we really are Russian.”

The number of people coming across that we can’t even vet through the process when we encounter them, or through CBP One, where we’re sending them to the ports of entry. I find it astounding that anybody would—this is the problem. This is the problem: We’ve got people that just say—they’re the ones that are engaged in “fiction and speculation.” Actually, it’s not “fiction and speculation.” It’s a great big dream, and it’s a hope and a wish, because it’s going to be people like you who get to say, “Yes, we were wrong,” when a terrorist does engage in activity in the homeland.

I’m astounded, flabbergasted by that testimony. I’ve heard a lot of weird testimony in here since I’ve been here.

Chief Scott, tell us a little bit about this notion—so, we were also told that, if somebody’s on the Terrorist Watchlist, it’s no big deal. Right, it’s really no big deal because they haven’t committed an act of terrorism. Why do we have a Terrorism Watchlist and why is that important and relevant?

Chief SCOTT. It’s important and relevant because our intelligence agencies and law enforcement are always looking to put Border Patrol, to put law enforcement in general, in a better position to keep America safe. So, any kind of derogatory information, links to terrorism—and obviously, there’s other agencies that could testify to this more—are looked at. People that meet certain criteria, there’s reasonable suspicion to believe that they’re tied to these threats to America, are put on that list. By the way, that’s only, again, the knowns.

Mr. BIGGS. Right. So, we get to this point: Are there Nations in the world that we have no information whatsoever about? We can’t get any background on these people, even if we do encounter them, and actually have a chance—which we don’t really have very often—to interview them.

Chief SCOTT. That would be the vast majority of the globe.

Mr. BIGGS. Yes.

Chief SCOTT. We have very little information. We act on what we have. When you think about the total population of the world, we have very, very minuscule data on anyone.

Mr. BIGGS. How about with Mauritania?

Chief SCOTT. I'm sorry?

Mr. BIGGS. How about with the country of Mauritania?

Chief SCOTT. No.

Mr. BIGGS. Yes. So, the reason I say that is because we're now starting to see groups of Mauritians come in through Arizona.

I got a call from a CBP agent last week. I said, "What's going on?" and he said, "A group of 250 Mauritanians." I said, "Well, how are we doing there? Do we have any way to vet them?" He replied, "No, no way to vet them."

Mr. Bensman, you get down to the border often; I know that. Tell us about the Darién Gap. Is any vetting going on there before they move on from the Darién Gap up through the Northern Triangle states on up to the U.S.?

Mr. BENSMAN. In the Darién Gap right now, there must be, you know, 50,000 pouring through. Michael Yon and some other reporters are there right now sending us video. It's unbelievable what's happening, the numbers coming through.

In normal times, when it's 10,000 or less, American and Panamanian officials have a biometric program where they try to fingerprint and photograph, and take some collection on almost everybody that crosses through there. Impossible to do that right now—impossible. The numbers are just flabbergasting, huge. We can't collect a bit.

Mr. BIGGS. So, as we go here and I close here, Cato's position is for an open border. It supports an open border. This is what an open border looks like.

I yield back.

Mr. MCCLINTOCK. Ms. Jayapal?

Ms. JAYAPAL. Thank you, Mr. Chair.

As I said earlier, I and everyone on this panel want to keep Americans safe from real security threats. That's why I'm disappointed that we didn't wait just the two-weeks that we know we have, so that we can get an actual classified briefing from the Department of Homeland Security and the FBI.

Having a hearing where the Republican majority tries to scare the public and demonize immigrants is not how we're going to make America safer. It's only going to serve to further divide us and prevent us from working together to find common-sense, bipartisan solutions that improve our national security.

One way to do that is to expand legal pathways for people who come to the United States lawfully. Unfortunately, the Trump Administration decimated our refugee and legal immigration systems, increasing migration from all over the world to the Southern border.

The Biden Administration has worked hard to rebuild the refugee program and has tried to expand legal pathways using parolee, but only Congress can provide permanent solutions.

So, Mr. Nowrasteh, let me turn to you. Congress has not expanded the number of legal immigrants that we accept in over 30

years. You mentioned in your testimony that the expansion of legal pathways would help improve our national security. Can you describe how that is so?

Mr. NOWRASTEH. Yes. Expanding legal pathways will vastly improve security. Being able to vet immigrants before they arrive would absolutely increase domestic security and further discourage terrorists or other bad actors from even trying to come to the United States in the first place.

Many people who come here unlawfully today would love to come through a legal system, where they can work lawfully. By expanding legal opportunities, it will drive the vast majority of them into the legal system, and then, that will allow Border Patrol and these other agencies to focus on a small number who remain.

Ms. JAYAPAL. You mentioned in your written statement some examples of how the Biden Administration has used parole to expand lawful pathways. Can you discuss some of those examples here in more detail and how they actually contributed to decreased numbers at the Southern border?

Mr. NOWRASTEH. Yes. We know for a fact that expanding legal immigration works because of recent experiences with parole. Specifically, parole allows Americans to sponsor, at least in these cases, to sponsor foreigners from specific countries that come to the U.S. to work and live for a period of time. There's the Uniting for Ukraine example, which was implemented in May 2022. It reduced the total number of Ukrainians showing up at the U.S.-Mexico border by 99.9 percent from April 2022–July 2023.

Then, there are similar parole programs that the administration put in effect for people fleeing Venezuela, Cuba, Nicaragua, and Haiti, that also reduced illegal entries. So, for example, Venezuelan illegal entries fell 66 percent from September 2022, the month before the program was put into effect, to July 2023. Then, from December 2022–July 2023, illegal entries from Haiti fell 77 percent; 98 percent from Cuba, and 99 percent from Nicaragua.

Parole is a great, short-term, stop-gap measure. It has proven, empirically, once and for all, that increasing legal pathways reduces illegal immigration, increases border security. Immigration liberalization, though, is the only sustainable, long-term fix to border chaos.

Ms. JAYAPAL. Thank you.

One of the other places that the President can act unilaterally is by increasing the number of refugees that the administration accepts. I'm happy to see that the Biden Administration is on pace to welcome the highest number of refugees since 2016.

Very briefly—because I have one other question for you that I want to get to—what are some additional ways that the Biden Administration can expand and grow the refugee program?

Mr. NOWRASTEH. Yes. So, the Welcome Corps is a great opportunity for Americans to sponsor folks, modeled on the Canadian system. We worked on that at Cato.

I think the easiest, No. 1 way to do is for him to expand parole to other countries—for Guatemalans, Hondurans, Salvadorans, Colombians, and others fleeing dangerous, despotic, socialist, poor, or cruel regimes, and to allow Americans to sponsor folks and to increase the cap for the Cubans, Haitians, Nicaraguans, and Ven-

ezuelans (CHNV) countries. I think they should be numerically uncapped. They should only be capped by the generosity and willingness of Americans to sponsor people.

Ms. JAYAPAL. Thank you.

Last, I know you've studied the nexus of tourism and immigration quite extensively, and your testimony is very different from some of the people that are sitting right next to you. Why do you have such different perspectives?

Mr. NOWRASTEH. I think it comes from our different approaches to studying topics in general. I like to look at the data. I like to zoom out to take a look at the big picture, to take a look at the actual risk; to use normal analysis, risk analysis, used by the government in other areas, by insurance companies, by others, to look at that; to read through some of this other research out there. A lot of it is anecdote-driven. We need to be data-driven. Terrorism is too important to ignore the data.

Ms. JAYAPAL. Data-driven. Thank you so much.

I yield back.

Mr. MCCLINTOCK. The gentlelady's time has expired.

The Chair recognizes Mr. Tiffany for five minutes.

Mr. TIFFANY. Thank you, Mr. Chair.

Mr. N—if I may address you that way—do you believe in the rule of law?

Mr. NOWRASTEH. Yes.

Mr. TIFFANY. OK. So, parole is a very specific concept in the law here in the United States of America that is supposed to be done on a case-by-case basis. That has been wiped out by fiat without passing a law to change the law that enabled parole back in 1954. They have been breaking the law.

Eighty thousand Afghans came in, all waived in via—virtually all waived in via parole. So, in other words, the reason illegal entries, as you've been saying, have been going down; it's because they've ignored the law. So, you want us to be a lawless country, is what we're hearing from you.

By the way, from the other side, that fearmongering conservative who has been talking about this regularly is Mayor Adams from New York City; that "his city is being destroyed"—his quote, not mine.

The Ranking Member talks about no government witness that we've heard from. Oh, yes, we have. We heard from Mayorkas back in July. We heard from the FBI two weeks prior to that, from Mr. Wray. We heard from Sheriff Mark Dannels from Arizona. Let's share a couple of quotes.

FBI Director Wray, "We are seeing all sorts of very serious threats that come from across the border." He closed by saying, "It is becoming more and more of a priority for us."

Sheriff Mark Dannels, in regard to fentanyl, "The border's not effectively managed right now, and until it is, the cartels, they are the winner in this."

I asked Secretary Mayorkas about that. "Who's telling the truth, FBI Director Wray or you?" He wouldn't answer the question.

I asked him, "Who's telling the truth, Sheriff Mark Dannels, who is seeing the fentanyl flowing in since January 20, 2021 in numbers that have skyrocketed?" Secretary Mayorkas says, "Nah,

there's not a problem here." I asked, "Who's telling the truth?" He wouldn't answer the question.

It's this whole approach that we're hearing—there's nothing to see. For those of you of a certain age like me, you'll recognize it as the Sergeant Schultz approach: "I see nothing."

For those of you that are a little bit younger than I, you'll recognize it as the Harry Potter story with the Ministry of Magic.

Mr. Marino, it is said that we have done nothing here. The House of Representatives passed H.R. 2. "We have not proposed solutions." Is H.R. 2 a solution to the border crisis that we have?

Mr. MARINO. Yes, it is. It restores a layered approach overall to border security and immigration enforcement. It restores law and order.

As I previously said, the major causation of this crisis has been the Biden Administration's abandonment of law and order, and we are seeing this perfect storm of poor policies at the Federal level to the local level—poor policies, abandoning law and order at the Federal level, and then, it's exploiting the poor policies of abandoning law and order in sanctuary cities. It's leading to chaos.

The one thing that the Biden Administration has proven to us is that, when you remove all structure through law and order, it results in chaos.

Mr. TIFFANY. Mr. Chair, I want to highlight here for the American public that may be watching at this point, this body has passed legislation to secure the border, to bring a solution forward.

Mr. Bensman, I really appreciate that Representative Biggs brought up the Darién Gap. I was there a little over two years ago. There were lots of people coming through there at that point. The people in Bajo Chiquito, a little Indian village right on the edge of the Darién Gap, we're talking about being destabilized. I have a text from the last couple of days from someone who is down there, "The scene is truly apocalyptic. Bajo Chiquito was completely overrun—thousands." They had about 500 when I was there that had rolled through that date, and they viewed it as destabilizing. Thousands now. Possibly more arriving every second.

Is this destabilizing the country of Panama?

Mr. BENSMAN. Actually, Panama has a policy in place called "controlled flow." So, they are moving all those migrants through into Costa Rica as fast as possible by bus, so that they do not destabilize the country. They've always done that. Costa Rica does the same thing.

They, essentially, the governments are the smugglers in that case. They are moving them through rather quickly. However, the numbers that are passing through right now, I don't know and I don't think we've seen anything like this particular number right now that's happening—that's going through. It will certainly overwhelm the Panamanian and Costa Rican capacity to move them through like normal.

Mr. TIFFANY. So, they send them here?

Mr. BENSMAN. They're all coming here.

Mr. TIFFANY. I yield.

Mr. BENSMAN. Everyone's coming here.

Mr. MCCLINTOCK. Thank you. The gentleman's time has expired.

Mr. Nadler?

Mr. NADLER. Thank you, Mr. Speaker—Mr. Chair, rather.

Since the mayor of my city was invoked, let me say that he is incorrect in saying that this is destroying the city. He is trying to get Federal aid because it's properly a Federal, not a city, expense. The fact is, the \$12 billion figure he mentions is over four years, a \$3 billion annual expense, which is three percent of the city's budget, which we can absorb—with difficulty—although it's properly a Federal responsibility, which the mayor is pointing out.

Mr. NOWRASTEH, I want to discuss some of the terms that are being thrown around by the witnesses and my colleagues. We've heard a lot about migrants who are encountered who are on the Terrorist Screening Dataset, or the TSDS. Can you discuss this dataset in more detail? Who's on this list? Does it only include known or suspected terrorists?

Mr. NOWRASTEH. It does not only include known and suspected terrorists. There's a reasonable suspicion standard for being included in these, but there is an exception to this, based on a rational inference, which, as far as we can tell, is just when somebody says they should be on there, and they put them on there.

This is true because 99 percent of people nominated to be on this list by other agencies, by other people in the government, are included there. There is no rigorous test or screening to put people on this list.

Mr. NADLER. Thank you.

In your testimony, you mention that the TSDS includes many false positives. Can you explain what a false positive is and why they appear in the TSDS data base?

Mr. NOWRASTEH. So, it's, basically, an erroneous match, a mistaken identity. To be on this list, you have to have one biographical piece of information and that's it. So, a lot of people get caught up in this list, false flagged, because of that.

We had a recent case of this with Alireza Heidari, an Iranian national arrested along the border. He was flagged on the Watchlist. There are a lot of scary news stories about this that came out very rapidly about this Iranian national who was on the Terrorist Watchlist, and then, whoops, it was the wrong guy.

Mr. NADLER. Thank you.

During the Biden Administration, we've seen an increase in the number of people on the TSDS data base who have been apprehended along the Southwest border. While this is still less than one percent of all apprehensions, can you discuss some of the potential reasons for this increase over the last couple of years? For example, do migration patterns in the hemisphere, including increased migration from Colombia, have something to do with this increase of migrants on the TSDS apprehended on the Southwest border?

Mr. NOWRASTEH. Not only is it very small, but it is minuscule, 0.0—oh, let me count the zeroes—0.007 percent of people apprehended by Border Patrol in 2023 so far have been on this Watchlist. I think that you hit on it directly, sir. Colombians explain a lot of this.

I ran a regression analysis this morning about the number of Colombians coming to the border, and it's the best predictor of the number of hits on this Watchlist. The CBP does not release the nationalities of people who are on the Watchlist who come up as hits,

but a great *Washington Examiner* piece that has some leaked data. So, the 25 out of 27 of those folks in the first half of 2022 were from Colombia. As I said in my written remarks, “there’s never been a terrorist attack by a Colombian. They don’t target the U.S.”

There’s also a wrinkle in this data, which is, when you take a look at Border Patrol apprehensions that lead to these hits and those through Customs, the number has actually gone down since 2019.

Mr. NADLER. OK. Thank you.

I have a number of questions which I would like to answer quickly because we only have a minute.

We’ve also recently heard the term “Special Interest Aliens.” Can you describe what a Special Interest Alien is?

Mr. NOWRASTEY. Yes. DHS defines it as a non-U.S. person, based on analysis of their travel patterns—and, well, it’s a long definition. A lot of other things are put on this list. A lot of words. In practice, an SIA is just somebody from a country that could have a lot of terrorists in it. It’s not a meaningful metric.

Mr. NADLER. Are Special Interest Aliens terrorists? Are they even suspected of terrorism?

Mr. NOWRASTEY. No, in fact. As DHS—

Mr. NADLER. Thank you.

According to one source—

Mr. NOWRASTEY. Yes?

Mr. NADLER. —Border Patrol Agents encountered 25,000 Special Interest Aliens in the Fiscal Year 2022. That’s a lot of people. Has an SIA apprehended by the Border Patrol ever committed an attack on U.S. soil?

Mr. NOWRASTEY. No, and DHS explicitly says being an SIA does not mean that you are a terrorist.

Mr. NADLER. Thank you.

My last question: Is it possible that the number of SIAs have increased in recent years because the decimation of our legal immigration and refugee systems have led people around the world to believe that the only way to immigrate to the United States is via the Southwest border?

Mr. NOWRASTEY. Not only is it possible, I think it is extremely likely and the best explanation for why there has been an increase in illegal immigration and border crossers from around the world and from Central and South America.

The U.S. immigration system is extremely restrictive. It is very difficult to come here. The idea that we have an open border is ludicrous. It is totally contrary to all the facts and to what’s happening.

If we have an open border, why are people paying \$5–\$20 thousand to be smuggled here? In the U.S., Virginia and Maryland have an open border. I don’t have to pay \$20,000 to go from my home in Virginia to Maryland. Where is this open border that we keep hearing so much about?

Mr. MCCLINTOCK. The gentleman’s time—

Mr. NADLER. Thank you very much. My time has expired. I yield back.

Mr. MCCLINTOCK. Mr. Roy?

Mr. ROY. Mr. Nowrasteh, prior to September 11, 2001, how many individuals had flown airplanes into the World Trade Center and killed 3,000 people?

Mr. NOWRASTEH. Zero.

Mr. ROY. Thank you.

Mr. Scott, how many got-aways have there been?

Chief SCOTT. There is 1.7 million known. That means there's evidence, video, whatever, but I can't give you an estimate on how many we don't know in the hundreds of miles of border that are not being patrolled.

Mr. ROY. Mr. Nowrasteh, where are those 1.6 million got-aways?

Mr. NOWRASTEH. They are most likely at different places in the United States working and living.

Mr. ROY. Who are they, who are they?

Mr. NOWRASTEH. Well, there are probably people from different countries around the world, sir.

Mr. ROY. Probably, probably. People from all over the world.

Mr. NOWRASTEH. Well, they are from different countries around the world, yes, sir.

Mr. ROY. Right, yes. How many different countries?

Mr. NOWRASTEH. Well, if the data that we have about those who are apprehended is any indication, a large number of countries. Probably about 150—

Mr. ROY. A 162 of them from all over the world.

Mr. NOWRASTEH. Probably, yes, sir.

Mr. ROY. Right. You are willing to bet your family's life, my family's life on the safety in our country, irrespective of who these individuals are when you don't even know who they are?

Mr. NOWRASTEH. Yes, sir. The chance of dying from a foreign-born terrorist attack since 1975 is—

Mr. ROY. I am sure, Mr. Nowrasteh—

Mr. NOWRASTEH. —one in 4.4 million per year.

Mr. ROY. Mr. Nowrasteh, I am sure that is great comfort to the families of the people from 9/11. Because when you sit here and testify that zero people have committed a terrorist attack from crossing our border, I am sure that is comfort to the people who had terrorist attacks committed by people who came here and overstayed their visas.

Mr. NOWRASTEH. It is no comfort—

Mr. ROY. The fact of the matter is when you talk about having an open border and you minimize the open border by saying that people have to pay \$5,000 to come here in that open border, you're ignoring the fact of what that does to human beings. When it is in fact so open that that is exactly what is happening.

I am sure that your position is great comfort to the man in Baltimore who was being held up for ransom for \$23,000 so that his little girl wouldn't be raped in a stash house in Fort Worth. Have you talked to that little girl or that father?

Mr. NOWRASTEH. Was he a terrorism suspect?

Mr. ROY. Have you talked to that father, Mr. Nowrasteh?

Mr. NOWRASTEH. No, I am not aware of that terrorism case. What was his name?

Mr. ROY. Have you talked to that father whose little girl was being raped in a stash house?

Mr. NOWRASTEH. No, I haven't. Is this a terrorism-related issue?

Mr. ROY. Right, and so do you know—I am answering the questions, and this is the subject matter I want to talk about in this hearing, Mr. Nowrasteh. Because you are the one sitting here trying to tell the American people that our border is perfectly fine.

That it is perfectly OK. That it is, oh, not open because people are paying five or ten thousand dollars to get here. So, it is very much relevant that a little girl is getting raped in a stash house because of the policies of you and radical leftists who don't give a damn about it.

Because it is more politically expedient for you to saddle up to the libertarian Cato Institute or a bunch of radical leftists and talk about, oh, how important it is for people to free flow across borders.

Mr. NOWRASTEH. I have talked about the chaos repeatedly, sir—

Mr. ROY. That is the truth.

Mr. NOWRASTEH. The way to reduce the chaos is through legalization and liberalization—

Mr. ROY. Right.

Mr. NOWRASTEH. Not cracking down more—

Mr. ROY. Right. Which will—

Mr. NOWRASTEH. If you cared about the border chaos, that is the way to do it.

Mr. ROY. Which will perpetuate the lawlessness, and you know it.

Mr. Bensman.

Mr. NOWRASTEH. The exact opposite.

Mr. ROY. Mr. Bensman, can you please expand on your testimony about dozens of terror watch list foreign nationals apprehended at the Southern border being members of the Revolutionary Armed Forces of Colombia (FARC), and how dangerous that is to this country?

Mr. BENSMAN. Right. One of the most disturbing aspects of the border crisis has been the recent development of FARC-related terror watchlisted suspects crossing that border. Those are people who have spent years and years involved in murder, kidnaping, drug trafficking, extortion, and bombings. They are experts in weaponry.

These are people who the United States absolutely would never countenance coming across the border and never provide a visa for certainly. The fact that FARC members, former of the delisted faction, but also there are two FARC factions that are still listed, that those people would cross our border and come into this United States is anathema to all our homeland security values. A terrible development that we should pay a lot of attention to, because a lot of Colombians are coming across.

It is true that so far, we haven't seen an attack. This is a relatively new thing for FARC. One thing that we have to worry about is that when FARC members cross into the United States successfully, they will embed themselves in Colombian emigre communities. Very probably begin intimidation tactics, vigilante justice.

This is a terrible thing for Colombian communities inside the United States in general. Plus, these people are professional drug traffickers their whole lives, so we are going to be hearing a lot about FARC people over the next decade.

Mr. MCCLINTOCK. The gentleman's time—

Mr. ROY. Yield back, thank you.

Mr. BENSMAN. This is not a reason—

Mr. MCCLINTOCK. The gentleman's time has expired.

Mr. ROY. Thank you, Mr. Bensman.

Mr. MCCLINTOCK. Next is Ms. Escobar.

Ms. ESCOBAR. I would like to thank Mr. Correa for yielding to me, switching with me. I want to thank our witnesses.

This is actually an important opportunity for us as Congressmembers to look at facts versus fiction for us to truly solve the issue at hand.

I am the only a Member of this Subcommittee and the larger Committee on Judiciary who was born, raised, and lives on the border. I raised my two children on the border. I am a very proud border resident.

There is nobody in the country who wants a safe, secure border more than those of us who have invested our lives living there, creating community there and wanting to make sure our kids can come back to living there.

It is so important for us to realize and acknowledge this is not an issue related to President Biden. Honestly, every time I hear that, it undermines the credibility of the person telling me, because I live on the border, and I know for a fact because I went to facilities during President Trump's Administration that were overcrowded, and I saw the daily numbers at our shelters.

The only time the numbers dropped was immediately after COVID and only for a few months. They went right back up in May 2020, long before the November 2020 election, long before President Biden was elected, even longer before he was sworn in. So, we really, we do ourselves and the issue an injustice by politicizing it and blaming the President.

Frankly, if there's anyone to blame for the challenges at our border, it is the U.S. Congress. The U.S. Congress has failed to reform immigration law for 37 years. I will tell you, it is absolutely ridiculous for either side to think that 1 day, if we just wait long enough, we will get everything we want.

That is not going to happen. The only solution is bipartisan compromise.

I want to inform my colleagues on the other side of the aisle and on my side of the aisle, we have a bipartisan, comprehensive immigration reform compromise right now. It is a bill that I worked on a filed with my colleague Representative Maria Salazar, a Republican from Miami.

It certainly is not a perfect bill. It is not everything I as a Democrat want. It is not everything Republicans want. It is the first bipartisan, comprehensive immigration reform bill that has been filed in the House of Representatives in a decade.

Where I will agree with critics of the status quo, this is unsustainable. In fact, I get daily reports about how many people are in our shelters in El Paso, how many people have been apprehended. I am consistently speaking with migrants, with law enforcement, and with NGO's.

Congress has to do something. I would invite everyone to begin focusing on what we should be doing within the realm of what is

real and achievable in Congress in this political environment, so that we can create not just safety and security for all, but those key legal pathways that are critical not just to better managing our border, but critical to us as a country.

What is so distressing about hearings like this is that immigrants are intended to be demonized. Immigrants made this country great. Immigrants have built this country. We need immigrants to ensure that we have a sustainable economy. We should be embracing immigrants and fixing broken systems to help achieve real solutions.

Thank you, Mr. Correa, and thank you, Mr. Chair. I yield back.
Mr. MCCLINTOCK. The gentlelady yields back. Ms. Spartz.

Ms. SPARTZ. Thank you, Mr. Chair.

Mr. Nowrasteh, do you believe we should have unlimited immigration to our country?

Mr. NOWRASTEH. Unlimited, no.

Ms. SPARTZ. So, you believe that we need to limit number of immigrants.

Mr. NOWRASTEH. Yes, I especially believe security threats, people convicted or responsible for crime—

Ms. SPARTZ. So, we should have some limits. Do you believe we should look at our immigration, how we can better serve our national interest?

Mr. NOWRASTEH. Oh, yes, absolutely. Immigration to the U.S., legal immigration, absolutely does that.

Ms. SPARTZ. So, we agree with you, in some issues. Do you believe that our system is overwhelmed right now, and it is extremely difficult to immigrate to this country legally?

Mr. NOWRASTEH. It is extremely difficult and restricted—

Ms. SPARTZ. So, we have some agreement.

Mr. NOWRASTEH. It is like a Soviet-style system.

Ms. SPARTZ. Good, that is we have some agreement. Do you believe that what is happening in the border and how overwhelmed the border, it exposes national security risks?

Mr. NOWRASTEH. There are absolutely risks that are posed by it. They are—

Ms. SPARTZ. We have a problem over there. Do you believe the border needs to be secured?

Mr. NOWRASTEH. Yes, absolutely. The way to do that is by expanding I think legal immigration.

Ms. SPARTZ. Well, that is part of it because we need to have a better look at that. Do we also need to make sure that we have proper border security, the proper mechanism to deal with border security, whichever tools we can do that? Do you believe it needs to be secure, a border?

Mr. NOWRASTEH. Oh, yes, absolutely, we do need a secure border. We should have a secure border. We just have—there are different perspectives of how to get there.

In the same way that Al Capone and a lot of organized crime was crushed by legalizing alcohol, I think that we can crush a lot of cartels and border crime and the chaos in the border, which is a travesty, the chaos is a travesty, do that by increasing legal immigration to the United States to reduce the black market.

Ms. SPARTZ. We have to look, it might have some effects, it depends how it is. Ultimately, we are not right now created perverse incentive to human traffic, drug traffic, and child labor, what's happening right now in places like Darién Gap? Is that correct, what we are doing is bad?

Mr. NOWRASTEH. I would say that the immigration restrictions we have are an enormous subsidy to cartels and criminal organizations.

Ms. SPARTZ. So, we don't have disagreement on that. Let's talk a little bit about; I have an agreement this problem being really pondered for many years and not just one President.

Do you believe the President is not putting emphasis to help Border Patrol dealing with situation and not dealing right now where we have to overwhelm Border Patrol right now? It has magnified opportunities for cartels to take advantage of the situation.

Mr. NOWRASTEH. I think it is a perfect storm of many events. You have a very low unemployment in the United States attracting large numbers of people coming in. I think that you have a restrictive system that makes it difficult for a lot of people to come in.

I think you have other security issues that have resulted in a lot of the overwhelming of the Border Patrol. There is a lot of chaos. Nobody disagrees about that.

Ms. SPARTZ. Do you believe what my Democrat colleagues talking about comprehensive reform, it has to have a really significant conversation also over border security and how we can improve border security and be more innovative and make sure that we mitigate some of the risk and support our Border Patrol? Does that need to be part of it?

Mr. NOWRASTEH. Yes, absolutely. I think the way, the best way to do that, the best way for Border Patrol and for the U.S. Government to regulate the flow of people into the United States is to legalize it. Because you can't regulate a black market.

Ms. SPARTZ. We can have a debate about legal immigration, but we also should have a debate on how we can secure our border better, correct?

Mr. NOWRASTEH. I agree, but I think they are linked. I don't think you can do one without the other.

Ms. SPARTZ. They are linked, and we should link. Unfortunately, we are kind of having this chicken-and-egg situation where one side says we need to—because it is not, it needs to be a comprehensive solution. Because this is not a joke situation of that border. It is a national security issue.

It is a national security issue not just for border State, it is for all the States, whether New York or Indiana, and now we allow also, cartels in China to really becoming very material, drug trafficking and then fentanyl, and what is happening in the country. It is going to be a big problem.

So, I hope you encourage your colleagues to look at the situation too and look at not just—because we never have that conversation. We do it in politicking. We have a very dangerous situation in the border. We have to acknowledge it as a country.

I came here as a legal immigrant. This is country created by immigrants, but we need to have an orderly process. We cannot have anarchy; we are the country of law. Otherwise, we will become like

third-world country with cartels running the country, and we cannot let it happen.

So, I hope you will help me to talk to your colleagues. I yield back.

Mr. MCCLINTOCK. The gentlelady yields back, and Mr. Correa.

Mr. CORREA. Thank you, sir, for holding this hearing today.

I am also a Member of Homeland Security. I am the Ranking Member of the Border Security Subcommittee. In Homeland we have probably had at least half a dozen hearings on this issue, Mr. Chair, and I welcome one in the Immigration Subcommittee. This is an important issue. National security is important for America. Democrats and Republicans for America.

We should be talking immigration, but let's talk border security. I want to remind everybody that the most deadliest attack in American soil, 9/11, we just had that commemoration across the country to remember, was carried out by folks with visas. One came on a student visa and the rest came on tourist and business visas.

I have visited the border a number of times, numerous times, and I have talked to the men and women in uniform. I have asked them, what is it that makes your job better? What can make you more successful? The answer is intel, working with good intelligence. Working with allies across the globe, Brazil, Mexico, the Middle East, that's what's helped you identify terrorists.

In fact, if folks are interested in working with us, Chair Clay Higgins and I have a bill, H.R. 4575, that will enable us to work much closer with our allies across the globe to make sure we have better intel.

When you talk about undocumented terrorism, I am going to make some—OK, let's talk about terrorism and undocumented. I can have this poster behind me. This is an undocumented soldier, an undocumented Marine. Does he look like a terrorist?

Mr. Bensman, does that look like a terrorist to you? Mr. Nowrasteh, Mr. Marino, and Mr. Scott, is that a terrorist behind us?

He made the ultimate sacrifice right after 9/11, and there's a lot more Dreamers in American uniform who will probably be undocumented after the Supreme Court rules on the status of Dreamers in the United States. I just want to make sure people understand terrorism versus immigration versus undocumented workers.

Now, gentlemen, if I can, I want to ask each and every one of you, do you favor deporting ten million taxpaying undocumented workers from the U.S. right now?

Mr. Scott, yes or no?

Chief SCOTT. I believe in the rule of law—

Mr. CORREA. Do you—

Chief SCOTT. If you oppose the law, you should be held accountable.

Mr. CORREA. Would you deport them right now? It is a yes-or-no—

Chief SCOTT. If a judge ordered they should be deported, I would deport them.

Mr. CORREA. Mr. Marino?

Mr. MARINO. It is impossible to do—

Mr. CORREA. Yes or no, would you deport them right now?

Mr. MARINO. Yes.

Mr. CORREA. Mr. Nowrasteh?

Mr. NOWRASTEH. No, and I would try to legalize—

Mr. CORREA. Mr. Bensman?

Mr. BENSMAN. Yes, yes.

Mr. CORREA. OK, would you support an amendment to H.R. 2, the immigration reform bill just passed by the majority, that would essentially exempt farmworkers from mandatory eVerify, would you support that amendment?

Mr. Scott?

Chief SCOTT. No, I believe eVerify is a—

Mr. CORREA. Mr. Marino?

Mr. MARINO. No.

Mr. CORREA. Mr. Bensman?

Mr. BENSMAN. eVerify has to happen.

Mr. CORREA. That was a Chair's amendment to H.R. 2.

Let's come back to terrorism, let's talk about Colombia, OK. FARC was essentially decertified as a terrorist organization in 2020, is that correct? In 2021, is that correct, yes or no?

Mr. NOWRASTEH. Yes.

Mr. CORREA. Yes, so yet we continue to talk about members of FARC, a civil war that happened 20 years ago, as terrorists. Is this refugee movement something unique to the United States, or is this something that is worldwide?

Mr. Scott, worldwide or U.S.?

Chief SCOTT. I believe there is struggle—

Mr. CORREA. Mr. Marino? I got less than a minute guys, come on.

Mr. MARINO. I couldn't hear the question, sir.

Mr. CORREA. Is the refugee movement something unique to the United States or is this a worldwide phenomenon?

Mr. MARINO. No, it is not unique.

Mr. CORREA. It is worldwide.

Mr. MARINO. Yes, sir.

Mr. CORREA. Colombia right now is holding three million—hosting three million Venezuelan refugees, and we just talked about Colombia as being a source of the problem. In my 20 seconds left, in the trips I have taken to Latin America recently, I think we have to think about the border challenge on a worldwide scale, OK.

We have a lot of allies South of the border that are holding, that are hosting refugees, are working with us. For us to sit here and talk about what is going on at that border, I think as policymakers is very wrong.

Thank you, Mr. Chair, and I yield.

Mr. MCCLINTOCK. The gentleman yields back. Mr. Van Drew.

Mr. VAN DREW. Thank you, Mr. Chair.

I am going to deviate from what I was going to say. I almost don't know where to start but other than to say Mr. Nowrasteh, I disagree and sometimes agree and partially agree with people. I disagree with you so totally.

You are sitting in your safe office looking at facts that you believe are accurate, which they are not, and not talking to the peo-

ple who live at the border, the people who work at the border, the people that are suffering, whether it is in Arizona, California, and Texas. Now, of course, the entire United States of America.

Let me say one thing, anybody that believes this problem is only a problem for the Southern border is wrong. This is a problem for the United States of America. Just to give you a little example, a little different route, didn't come over the border.

Did you ever hear of a man by the name of Danelo Cavalcante? He's the escaped; quite a sensational thing that went on. A German shepherd got him, thank God. This is a man that murdered his friend in Brazil, illegally, because he is a murderer.

Got into Puerto Rico, and then from Puerto Rico got to Florida and then came up to Pennsylvania. Had an argument with his girlfriend. He stabbed her with a butter knife 38 times; 38 times.

Nobody is demonizing immigration. We are almost all of us either sons and daughters or immigrants ourselves. Immigration is a good thing, legal immigration. What happened to the idea of the rule of law?

Frankly, Mr. Nowrasteh, I don't care what you think sitting in your safe office removed from everybody, playing with some numbers. Go and talk to people, people who have suffered.

Who is suffering too? A lot of the illegal immigrants, because they are being used, they are being used by these individuals that we know are dispensing drugs, are hurting children, are involved with human trafficking, and drug trafficking. We call them the drug cartel. Now, establishing business in the United States.

So, the answer is not to just go willy nilly and radically increase, radically increase the number of illegal immigrants. The answer is to have real borders. The answer is to have the rule of law. Once you establish that, then you look into what needs to be done in our immigration system.

We need to support our individuals who are trying to protect us at the border. I felt so bad for them because they are so much held back from doing their job.

Last week I learned of an administration proposal from the Biden Administration and, by the way, because of a New York City problem. What did we expect? It is a sanctuary city.

New Jersey where I live is a sanctuary State. You are saying to people we are going to fund you, we are going to take care of you, and we welcome you. We will give you legal defense.

We don't take care of our own people. Our veterans still don't get what they need. We have a mental health crisis in America. We have an educational crisis in America. We don't have the money and time for that. We have the money and time to take God knows who, some of them good people, but doing it the wrong way. Some of them not.

According to your figures, never has any one of them done anything bad. That is just not accurate, it is not. So, consider the national security implications if they want to do to my State. I live in Southern New Jersey, Atlantic City Airport.

We have the 177th Fighter Guard, you have the FAA Technical Center. Serious, serious facilities that need to be protected. The 177th protects the Washington to New York corridor. They wanted

up to 60,000 people they are talking about in a town of 50,000 people. That is going to really do well for the education system.

It is your—you want to open it up, so let's open it all up. Every country in the world, whether they are good, bad, or otherwise, just let them open it up. We can't absorb that, and you are not going to answer yet.

This is especially concerning given recent reports that we have that there are Isis sympathizers smuggling Russian and Eastern Europeans across the border, and terrorists have been apprehended who are real terrorists at our port of entry. I don't know where you get your stats from, but we also get stats that are good. So, the situation is out of control.

Chief Scott, in your written testimony, you mention how the terrorist attacks of September 11th were perpetrated by individuals who entered the country through ports of entry. Is the United States at an elevated risk of any type of terrorist attack, given the state of the Southwest border?

You are a chief, you have to only want to say what is the truth, tell us the truth.

Chief SCOTT. I believe we are. We forget that there would have been 20 attackers, but one was actually caught by the CBP officer that interviewed him. We are not doing those interviews at the Southwest border. The cartel's picking and choosing who enters our country right now instead of us, and that is a significant threat to this country.

Mr. VAN DREW. Mr. Nowrasteh, so you think—

Mr. MCCLINTOCK. The gentleman's time has expired.

Mr. VAN DREW. Oh, I am sorry. Thank you, Chair. Man, I'm fired up. I am sorry.

Mr. MCCLINTOCK. Mr. Moore.

Mr. MOORE. Thank you, Mr. Chair.

We have talked a lot, and I don't think any of us in here are against legal immigration. Immigration builds the Nation, but an invasion destroys a Nation.

What we have going on at the Southern border right now is an invasion. We have basically replaced the population of my entire State with people we really don't know who they are.

As Mr. Nowrasteh—is that how you say your name?

Mr. NOWRASTEH. Nowrasteh.

Mr. MOORE. Nowrasteh, the Remain in Mexico policy that the Trumps had in place, wouldn't that help vet people before they came here? Because I understand that the minute we did away with Remain in Mexico, people started pouring in here and then applying for asylum. So, we gave them a cellphone and sent them on their way in busses or whatever the case may be.

Don't you think in some ways that would have helped us vet the people coming across the border?

Mr. NOWRASTEH. I don't think it would do to much better than what is going on right now. The main problem is that you just have a large number of people who are coming up all the—asylum and nonasylum.

Mr. MOORE. Let me ask you this, then. Sheriff Dannels testified, four decades on the U.S. Southern border. He wasn't in the office.

He is actually on the border. He said the best he had ever seen the border was in 2018. He said the worst he has ever seen it, is today.

So, you mentioned the \$5,000–\$20,000. That seems to have become the going price now. How do those people, Mr. Marino, how do they pay that money back if, say, if you are wanting to come to the country and you are coming from Venezuela and it is \$8,000, what do those people—how do they pay that money back to the cartel?

Is it a cash-up-front deal, or do they make installment payments? Are they indentured servants, or are they just drug mules?

Mr. MARINO. They work it off while in the United States. It comes in all different forms in terms of how they pay that off. This is where we are extremely susceptible to terrorist organizations.

Because depending on who funds, in advance, the money to the migrants to make this journey, their families are going to be held to account back in the country of origin where they start. The migrant, once they enter the United States, is basically at the beck and call, it is an extension—

Mr. MOORE. So, you were saying they are either bond servants or slaves. Is that what our government is doing?

Mr. MARINO. That is exactly right. This is more pervasive than most people think. This is a huge problem. Most of these migrants don't have a way to pay in advance for these funds to be trafficked across the border.

So, the overwhelming majority are going to do the beck-and-call work of the cartels and whoever else the cartels are working with.

Mr. MOORE. So, they have to make the payments or else the cartel goes and finds a family or something horrible happens.

Mr. MARINO. It is a fact. I have studied this for decades and decades. This is a long-term payment plan. If they don't do what they are told, families die in the countries of origin and the person here.

Mr. MOORE. This is getting dramatically worse since January 2020.

Mr. MARINO. Dramatically.

Mr. MOORE. Mr. Scott, I heard that this is an option too, that if you didn't have the money, you could actually backpack heroin, cocaine, or fentanyl to pay your passage. So, instead of installment payments, you could actually backpack drugs, become a mule if you will, to the cartel and that pay passage.

Is that also the case? Have you heard that? I just happened to hear that when I was at the border.

Chief SCOTT. Yes, I agree with the prior witness, everything he said. That is also another way that you can pay is by trafficking drugs or doing any service for the cartel.

Mr. MOORE. Chief, you said that the CBP caught one of the 9/11, one of the 20, I guess. My understanding is the other 9/11 pilot, sir, terrorist, whatever we want to call them today, they actually overstayed their visas.

Chief SCOTT. I believe that is accurate. The one individual, and DHS didn't exist yet, so it was legacy Customs, but was doing a good interview and believed that something wasn't right with that individual and denied him entry. It is believed that would have been the 20th.

Mr. MOORE. The others—Mr. Bensman, any of you guys want to answer this—had we actually enforced the laws on the books and when the visa has expired, the visa expired, it would send them back. This could have been averted, could it have not? Any, it doesn't matter—

Chief SCOTT. I believe it could be. I really want to highlight too, though, we identified that threat, we worked on that threat for years within CBP and DHS. We never ignored no matter what you do to criminals and terrorists, they are going to try to do something else.

We knew they would go to the Southwest border, that was part of the planning, that was the second phase. We are seeing it now; the threat is real.

Mr. MOORE. So, Chief, you are warning us now that there is a problem.

Chief SCOTT. Yes, definitely.

Mr. MOORE. Go ahead, Mr. Marino.

Mr. MARINO. Yes, and we are certainly in an elevated risk environment. I oversaw the implementation of the National Terrorism Advisory System, and I would actually like to see it used the way we intended it to be used.

Instead of sending out bulletins on things like disinformation and No. 1 threats that are not the No. 1 threats, I have yet to see an NTAS bulletin issued about the crisis on the Southwest border and the threat level that it accurately represents.

It is not a system to be politicized, and it is obviously being politicized. There should no doubt be a National Terrorism Advisory System bulletin for an elevated threat environment for what is going on at our border currently.

Mr. MOORE. Thank you. With that, Mr. Chair, I yield back.

Mr. MCCLINTOCK. The gentleman yields back. Ms. Ross.

Ms. ROSS. Thank you, Mr. Chair, and thanks so much to the witnesses for being here.

I want to echo Ranking Member Nadler's comments about the timing of this hearing. It is three days after the anniversary of the worst terrorist attack the United States has ever seen. This week should be a time for all of us in Congress to reflect on the impact of terrorism and what we can do to make our country safer from attacks like the one that we saw on 9/11.

This hearing is not really respecting the legacy of 9/11. Rather, scheduling this hearing for this week, the majority is using the tragedy of September 11th to justify their immigration agenda that does not solve all the immigration issues that are before us, as my colleague Congresswoman Escobar laid out. It is painful to see the legacy of 9/11 twisted in this political manner.

As we have heard from Mr. Nowrasteh, there have been no murders or injuries committed by terrorists who have illegally entered the United States through the U.S.-Mexico border in the past 48 years. This hearing doesn't reflect that reality. Nor does it provide a forum for a genuine discussion about how to make our country safer from the terrorists who are most likely to come here.

If the other side wanted to do that, they would work with us to address homegrown terrorists, who have committed many of the more violent attacks in the United States, particularly recently.

If they wanted to make our country safer, they would work with us to provide security for schools, churches, movie theaters, and keep the guns out of the hands of violent individuals with extremist belief.

Mr. Nowrasteh, could you remind the Subcommittee, how did the 9/11 terrorists enter the United States?

Mr. NOWRASTEH. The 19 September 11th hijackers entered lawfully. Eighteen of them entered on tourist visas. One of them entered on a student visa. They were lawfully present at the time of the attacks.

Ms. ROSS. Is entry through the Southern border in any connected to terrorist activity in the United States?

Mr. NOWRASTEH. It has not been historically, and there is very little indication that it is currently.

Ms. ROSS. What is the likelihood that someone will be murdered by a foreign-born terrorist in the United States?

Mr. NOWRASTEH. Based on data from 1975 through the end of 2022, the annual chance of being murdered is about one in 4.4 million per year. By comparison, the chance of being murdered in a nonterrorist homicide is about one in 20,000 per year, or about 316 times greater.

Ms. ROSS. If Members of this Committee want to look at the way to improve national security and terrorist threats, what would you recommend we do?

Mr. NOWRASTEH. I think the No. 1 thing to do in this scenario is to increase lawful immigration so that we can control the border. I think the other witnesses up here actually made a fantastic case for doing that when talking about the smuggling and the human rights violations and how the cartel has got their fingers dug in deep into this black market.

If you don't like that, the one sure-fire way to get rid of it, to exclude the black market from this, is to legalize that flow so folks can come in legally.

If people can buy a plane ticket from their home country and come here lawfully after being vetted, they are not going to pay cartels \$10,000 to smuggle them across a jungle and then a desert where they are going to be—have a good chance of being raped or murdered, etc.

The way to control and to regulate this market is through legalization. We just cannot regulate; it is impossible to regulate a black market. We need to legalize it.

Ms. ROSS. Thank you, Mr. Chair, and I yield back.

Mr. MCCLINTOCK. The gentlelady yields back. The Chair recognizes Mr. Hunt for five minutes.

Mr. HUNT. Thank you, Mr. Chair.

When 9/11 happened, I was a sophomore at West Point. I was sitting in my barracks, Eisenhower Barracks, as I recall, on the third floor. I watched with terror 3,000 souls leave this earth.

At that moment as a sophomore at West Point I knew, and my classmates knew, West Point class of 2004—actually three of us are currently serving in the halls of Congress right now—we knew that we were all going to go to war.

We knew that there was a chance that we would not make it back alive, but by God, we were going to do whatever it took to pro-

tect our country and to prevent something like that from ever happening again. This is why protecting this country and protecting our Southern border means so much to me.

The open borders that we are seeing right now at our Southern border is a slap in the face of everyone who has sacrificed to keep anything like 9/11 from happening again in our great country. We lost a lot of blood, a lot of treasure, to keep our Nation safe, including many of my West Point classmates that are no longer with us.

We were told that if we fought terror abroad, we could keep it from coming in our own country. I still believe that to this day.

It is because of Joe Biden that we have now essentially turned our Southern border into a welcome mat for terrorists. Now, the Biden Administration would like you to believe that every person coming across our border is an asylum seeker simply looking for a better life. That is not only a lie, but also it is insulting to our intelligence.

This administration says illegal aliens are women and children wanting a better opportunity, and I have some numbers for you that would point out the contrary. Since October 2022, CBP flagged 75,000 illegal aliens in our country as national security risks.

Last year CBP announced that 98 illegal aliens on a terrorist watchlist on our Southern border, 98, that is nine times the number of people encountered on the terrorist watchlist during Trump's entire presidency.

Wait, there is more. Just last week, the Office Inspector General released their audit of DHS titled, "DHS Does Not Have Assurance That All Migrants Can Be Located Once Released Into the United States."

Quick recap of what is going on here. We have 75,000 illegal immigrants living among us who are national security risks currently. CBP is encountering illegal aliens on the terrorist watchlist at a record rate, and DHS is releasing illegal aliens that are a national security risk to the interior of our country, and you can't even tell us where they are.

Why do we have a terrorist watchlist? If people on our terrorist watchlist can simply walk into our open Southern border, then why do we have one at all?

How is it possible that the FBI has no problem hunting down January 6th protesters years later, but this administration has lost track of illegal aliens who pose a real threat to our national security?

We know this administration could track down anyone, anytime, anywhere, we have seen them do it. Why? It is my opinion that this administration views patriots, or as the Biden Administration calls them, "MAGA Republicans," as national security threats, while viewing illegal aliens on the terrorist watchlist as asylum seekers simply looking for a better life.

We live in an upside-down world today where Americans are vetted and surveilled more than illegal aliens that we know have a propensity to break the law. It is not an oversight. It is not a mistake. It is a choice.

We have billionaires right now that are putting patrons in space for sport, and you mean to tell me that we cannot stop illegal im-

migrants that clearly pose a threat to our national security from entering our country? I have a report that says it.

Now, many of my colleagues on the left, they want to say that well, if you have border security that is racist or that is wrong or you are xenophobic. I am not. I am pro-America. I am pro preserving the values of our country and having a sovereign border.

Six and a half million people entering our country illegally is ridiculous. Enough fentanyl has poured into this country to kill every American six times, it is ridiculous.

I am somebody that is willing to die for this country and to keep it safe. We cannot continue this. It is time for us to fix our Southern border. Thank you. I yield back the rest of my time.

Mr. McCLINTOCK. The gentleman's time has expired. I will now recognize myself for five minutes.

Mr. Scott, you served as Chief of the Border Patrol through the end of the Trump Administration and the beginning of the Biden Administration. Ms. Escobar and others have assured us there really was no difference in policy between those two administrations. Was this your observation?

Chief SCOTT. It completely misses the mark. I will go beyond that. I was in the Border Patrol for 29 years, not just during the Trump Administration.

I was in San Diego when the Clinton administration said, "illegal immigration is a threat to this country, we need to do something about it." We came up with an operation and we started using things called fences, same as a wall. We started using consequences, and we addressed it.

Mr. McCLINTOCK. What impact did the Biden policies have on the security of our Southern border?

Chief SCOTT. It reversed the entire like 29 years of my career. It reversed all the progress we made and completely decimated border security.

Mr. McCLINTOCK. Would you say that these changes are responsible for the crisis we now see at that border?

Chief SCOTT. One hundred percent because it is catch and release.

Mr. McCLINTOCK. Mr. Nadler assures us that well, don't worry, everybody who comes across is subject to, his words, "rigorous vetting procedure." Would you elucidate on that?

Chief SCOTT. The information they give the officer, their name, and even their fingerprints, are bounced off of a data base here in the United States that has minuscule information about foreigners in it. So, it is the equivalent of checking them in basically an empty hard drive.

Mr. McCLINTOCK. So, you once described it as checking it against a blank sheet of paper.

Chief SCOTT. Correct.

Mr. McCLINTOCK. Because we don't have that information, and then they are allowed in.

Chief SCOTT. It sounds really good. It is really doing nothing. It is the interviews where the agents—and they look at their tattoos, they look at their face, they figure out if they are telling you the truth. That is where you find things out, and that is not taking place today because of the massive flow.

Mr. McCLINTOCK. Because of the massive flow. Yet, the Democrats say the solution to this is we need to increase that massive flow. We need to legalize all this so that everybody coming in has a chance to go through that very process. How thorough would that be?

Chief SCOTT. I like to actually use facts as well. The fact is every time, and this goes beyond immigration, every time there has been a consequence for a crime, a deterrent, and a consequence, that crime has gone down.

When we had consequences on the border and we held people until the judge adjudicated their case, the flow stopped, because the vast majority of the asylum seekers are frauds. That is the solution, just enforce the law.

Mr. McCLINTOCK. OK, now the two numbers that I have been focused on are the 2.6 million illegal aliens that the administration has deliberately allowed into this country, despite the Federal law that says they should be detained, and, in addition, to that the 1.7 million known got-aways, people that the Border Patrol observed crossing the border, but simply couldn't intercept because they are completely overwhelmed.

As I said in my introductory remarks, this is a population larger than the combination of New Mexico and West Virginia put together. If we legalize that, we are going to get more of it, obviously. How thorough can the vetting process be under such circumstances?

Mr. McCLINTOCK. There is no bandwidth for that. So, it is nice to talk about things. Theory is great, in reality, there is only a certain number of agents and officers.

It takes two hours for a CBP officer to process one of these asylum seekers at a port, about 1½ hours for a Border Patrol agent. Just do the math. There would be no enforcement.

Then back to New York. They can't handle 100,000? How many is too many? Seriously, we can't—this is unsustainable.

Mr. McCLINTOCK. Mr. Nowrasteh, 5,000 terrorists released in Parwan. We know where one of them went. One of them, 10 days later, went to Abbey Gate and detonated the bomb that killed 13 U.S. servicemembers. Can you tell us where the other 5,000 are?

Mr. NOWRASTEH. I'm sorry, can you tell me the name of that individual? I missed the first part of that.

Mr. McCLINTOCK. The terrorist who detonated the bomb came from Parwan. Where are the other 5,000 that were released that day?

Mr. NOWRASTEH. Which bomb?

Mr. McCLINTOCK. The bomb that was detonated at the Kabul airport.

Mr. NOWRASTEH. Oh, Kabul.

Mr. McCLINTOCK. Oh, don't play dumb. Come on.

Mr. NOWRASTEH. No, I am sorry, I couldn't hear you. You mean in Afghanistan? In Afghanistan.

Mr. McCLINTOCK. If you want to play dumb, play dumb. I am done asking you questions.

Mr. NOWRASTEH. I am sorry, is this about the Southwest border?

Mr. McCLINTOCK. I am not playing this game with—

Mr. NOWRASTEH. Is this about terrorism on the border?

Mr. MCCLINTOCK. The time I have left. Mr. Bensman, we talk about legalizing the process. Don't we already have a legal process availed by millions of people to enter this country legally who obey all our laws, who do everything our country has asked of them?

Isn't that system already in existence? Isn't the problem that we have millions of people now flouting that law?

Mr. BENSMAN. Yes. I think after 9/11 a lot was done to enhance the counter-terrorism kind of security screening measures for a lot of those, which I believe made it more difficult. They do still fail sometimes.

I believe that with this mass migration crisis, that the balance is shifting where people, bad guys across the world are well aware that our border now is a vulnerability and they can get through. There was just recently in July a case in Ohio, FBI case that just wrapped up that involved an Iraqi asylum seeker.

He is—pleaded guilty now, defendant, whose plot involved bringing four Iraqi terrorists over the border to kill President George Bush, former President George Bush. That was a legitimate counter-terrorism case, and what it shows us it that they are looking, the bad guys are looking at the border right now in a different way.

Mr. MCCLINTOCK. Well, and as I recall, he actually said that he was, “now bringing his accomplices in through the Southern border.”

Mr. BENSMAN. That is right.

Mr. MCCLINTOCK. Because it is so much easier than abusing the visa process.

My time has expired. I want to thank all of you for joining us today. I want to thank all the Members who joined us for today's questioning. This will conclude the hearing.

I would like to thank the witnesses for appearing. Without objection, all Members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record.

Without objection, the hearing is adjourned.

[Whereupon, at 11:51 a.m., the Subcommittee was adjourned.]

All materials submitted for the record by Members of the Subcommittee on Immigration Integrity, Security, and Enforcement can be found at the following links: <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=116352>.