



TESTIMONY OF

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Chairwoman Roybal-Allard, Ranking Member Fleischmann, and distinguished Members of the Subcommittee, thank you for the opportunity to speak with you today about the current crisis U.S. Customs and Border Protection (CBP) is facing on the southwest border.

Current Crisis on the Southwest Border

As the Subcommittee is aware, CBP is currently experiencing an unprecedented and unsustainable situation at the southwest border that is challenging CBP personnel and authorities. In fact, the current border security and humanitarian crisis at the southwest border has persisted for some time now. From October 1, 2018 to June 30, 2019, Border Patrol's southwest border apprehensions reached more than 688,375. That number represents more apprehensions than full individual fiscal year totals for each of the previous ten years. Although we saw a decrease in the number of apprehensions in June of this year compared to previous months, high levels of migration continue to overtax our finite resources and detract from our national security mission.

Each day, we see the cascading effects of mass immigration between our ports of entry (POEs). The vast majority of migrants are Central American families and unaccompanied alien children (UAC). In FY 2019 to date, UAC and family units represent 66 percent of all individuals apprehended by the Border Patrol on the southwest border.

The majority of individuals encountered now originate from the three countries of Central America known as the Northern Triangle: Guatemala, Honduras, and El Salvador. The number of Northern Triangle migrants exceeded the number of Mexican migrants in four of the past five fiscal years, and in June 2019, 70 percent of all those apprehended on the southwest border came from the Northern Triangle. Unlike single adult migrants from Mexico, UAC from Central America and family units cannot be repatriated swiftly.

Exacerbating these challenges, the U.S. Border Patrol is now apprehending larger and larger groups between ports of entry; 198 groups of migrants, each comprising over 100 members (consisting primarily of family units from Guatemala and Honduras), have been apprehended between ports of entry so far this fiscal year. Last month, Border Patrol reached an unfortunate record when more than 1,000 migrants illegally entered the United States in the largest single group ever encountered and apprehended. The group included more than 900 members of family units and more than 60 UAC.

The shift to these more vulnerable migrant populations, combined with the overwhelming numbers, profoundly affects our ability to patrol the border and diminishes our ability to prevent dangerous and deadly narcotics and criminals from entering our country. It also detracts from our ability to facilitate lawful trade and travel.

The consequences of this mass migration are far-reaching. In high-flow sectors, Border Patrol has been forced to divert between 40 and 60 percent of its manpower away from their border security mission to provide humanitarian aid to migrating families and children. This means fewer agents are available to stop drugs and dangerous criminals from entering the United States. Further, this crisis has depleted detention capacity of U.S. Immigration and Customs Enforcement (ICE) and greatly overwhelmed its resources.

To help the Border Patrol with processing the unprecedented number of migrants, CBP has temporarily shifted more than 700 CBP Officers from POEs to Border Patrol stations between the ports along the southwest border.

In addition, the influx of family units has led to CBP facilities operating at unprecedented and unsustainable occupancy levels. Short-term holding facilities at Border Patrol stations were designed neither for the large volume of apprehensions nor for the long-term custody of these persons after processing is complete. CBP's ability to transfer people out of its custody is dependent upon the capacity of our partners at ICE and the U.S. Department of Health and Human Services (HHS). These and other agencies have the time to arrange

placement before individuals enter their custody, and immigration courts have traditionally spread their dockets out over years to deal with surge numbers. However, CBP must process individuals as they are apprehended, and maintain custody until our partners can accept them. By way of reference, we generally consider around 4,000 detainees to be a high number of migrants in custody, and consider 6,000 detainees to be a crisis level. On any given day for the past several months, CBP has held between 8,000 and 12,000 detainees in custody. In May, the number was as high as 19,500 detainees.

While the men and women of CBP pride themselves on providing appropriate care for those in its custody, the volume of family units and UAC poses significant challenges. CBP has already deployed soft-sided facilities in Donna and El Paso, Texas, and Yuma, Arizona, designed to meet the needs of family units, and plans to deploy more in the coming weeks. The temporary structures are weatherproof, climate-controlled and provide areas for eating, sleeping, recreation and personal hygiene. These facilities include shower trailers, chemical toilets and sinks, laundry trailers, sleeping mats, personal property storage boxes, lockers, power, kitchen equipment, food/snacks/water, clothing and hygiene kits

Emergency Humanitarian Supplemental Appropriations

The *Emergency Supplemental Appropriations for Humanitarian Assistance and Security at the Southern Border Act, 2019* was signed into law on July 1, 2019. This Act provided CBP with a total of \$1,100,431,000 for humanitarian support, border operations, and mission support.

The significant majority of the CBP portion of the supplemental appropriation is dedicated to humanitarian support, specifically the establishment of CBP soft-sided facilities in Donna and El Paso, Texas, and Yuma, Arizona; hard-sided facilities in Yuma and Nogales, Arizona; and single-adult holding facilities in multiple locations. CBP also received \$112 million for food, water, sanitary items, blankets, other consumables for migrants, and for medical assets and support, and \$35 million for transportation of migrants from border patrol stations to help alleviate overcrowding and expedite processing.

Congress also provided \$110.5 million for border operations, specifically for overtime and temporary duty assignments for Border Patrol agents, CBP officers, and other CBP and DHS staff. Of that allotment, \$19.9 million is also designated for costs associated with the volunteer surge force.

The supplemental appropriation also provided \$50 million for data systems and analysis, which CBP will use to address information technology shortfalls at operating locations and to better integrate immigration processing and reporting.

Impacts of the Emergency Humanitarian Supplemental Appropriation

The supplemental has provided much-needed resources for the care and processing of the record-breaking numbers of migrants illegally crossing our Southwest Border. Much of the funds appropriated to CBP in the supplemental helped to replenish the CBP accounts used to provide the necessary facilities and resources needed to respond to the current humanitarian and border crisis. Prior to the passage of the supplemental, CBP had already used Operations and Support funding to build soft-sided facilities for family units in Donna and El Paso, Texas, and awarded a contract for a soft-sided facility in Yuma, Arizona. The consumables funding will go toward the continued replenishment of food, water, sanitary items, blankets, and other consumables for migrants. Without the supplemental appropriation, the funding for these humanitarian efforts provided in the *Consolidated Appropriations Act, 2019* would have been exhausted before the end of the fiscal year.

However, the supplemental still does not fully address the causes of migration, nor does it provide a comprehensive solution to the current humanitarian and border security crisis we are facing at the southwest border. While DHS requested \$108 million for single-adult beds at ICE detention facilities, this provision was not funded. Without additional funding for ICE single-adult beds, the ability of CBP to process and transport single adults out of CBP custody and into the long term care and custody of ICE—which has the statutory authority and appropriate facilities for longer-term custody—is further limited.

A Broken Immigration System

Ultimately, we cannot adequately address this crisis by shifting resources or building more facilities. While many factors drive illegal migration, the rise in migration is, in part, a consequence of the gaps created by layers of laws, judicial rulings, and policies related to the treatment of minors. While well-intentioned, this mosaic of legal requirements has helped create the conditions underlying the humanitarian and border security crisis at our southwest border today. Our current immigration laws provide clear incentives to cross our southwest border illegally, in many cases with a child. These well-intentioned legislative loopholes have served as catalysts for a troubling increase in the exploitation and manipulation of children, and require immediate fixes.

These weaknesses in our laws now represent the most significant factors affecting border security and include:

- The asylum gap—where approximately 80 percent of individuals meet the initial credible fear bar in the asylum process, while only 10-15 percent are found to have valid asylum claims at the end of immigration court proceedings;
- The disparate treatment under the *Trafficking Victims Protection Reauthorization Act of 2008*, which allows for certain children arriving from Mexico and Canada to withdraw their application for admission and be quickly repatriated, but not children from other countries, including those in Central America; and
- The *Flores* Settlement Agreement and the inability to keep families detained together while they complete expeditious and fair immigration proceedings. Instead, crossing the border with a child is a near guarantee of a speedy release and an indefinite stay in the United States.

We Need Congress to Act

These legal and statutory requirements have significant ramifications. Central American families are coming to our border now because they know that DHS must release them quickly—generally after no more than 20 days at the maximum—and that they will be allowed to stay in the United States indefinitely while awaiting inevitably protracted immigration court proceedings. To be clear, these families, and those posing as families, are generally not concerned with being caught by the Border Patrol—they are actually turning themselves in, knowing that they will be processed and released rather expeditiously with a court date years in the future, often with permission to work while their case is pending. Smugglers are exploiting this dynamic to encourage more illegal migration and are financially benefiting from it every day under the current, outdated laws that are encouraging migration.

The perception that our system will allow families to stay in the United States indefinitely is clearly a major pull factor used by smugglers to convince migrants to make the dangerous journey to our border. Economic migration is not, and has never been, a basis for asylum, and those who exploit the low credible fear threshold deprive qualified individuals of the asylum, and the humanitarian protection they deserve.

Along with important push factors, which include high levels of insecurity, limited economic opportunity, and weak governance in many parts of Central America, this perception about our immigration system incentivizes

migrants to put their lives in the hands of smugglers and make the dangerous trek north to our southwest border. We see the cost of these pull and push factors every day in profits derived by transnational criminal organizations, in the lives lost along the journey, and in the flight of generations of youth from the countries of the Northern Triangle.

Additionally, regardless of whether an individual who has entered illegally has made a fear claim, they are increasingly unlikely to be repatriated. Assurance of release due to court rulings, compounded by a multi-year immigration court backlog, means that there is virtually no meaningful immigration enforcement for family units crossing illegally.

Conclusion

We have dedicated every available resource to address the mass migration to our southwest border, including personnel, technology, and innovative outreach and engagement with international and non-governmental industry partners. However, despite our tireless efforts, the system is overwhelmed. The nation is facing a serious security and humanitarian crisis along our southwest border. We ask Congress to help us by taking legislative action in support of CBP, our partners, and the rule of law.