

TESTIMONY OF

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BEFORE

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ON

“Unprecedented Migration at the U.S. Southern Border: By the Numbers”

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Chairman Johnson, Ranking member Peters, and Members of the Committee, it is a privilege to appear before you today.

I enthusiastically agreed to appear before you when I was asked because I truly believe our country is at a critical crossroads. With more than 30 years of public service – as a veteran of the United States Marine Corps; police officer with the Los Angeles Police Department; two decades as a Special Agent with the Federal Bureau of Investigation; and Chief of the U.S. Border Patrol, I am extremely concerned about the growing risks to our nation’s public safety, national security, and rule of law, due to illegal and uncontrolled immigration. The crisis extends well beyond a single border – from Central America, through Mexico, to our southern border, and throughout every major metropolitan city in the United States.

The historical data, current factual-based information, and intelligence clearly outlines the very real border threat and humanitarian crisis we face at our southwest border. The changing trends in illegal crossings and exploitation of our laws have overwhelmed our resources and personnel. We are experiencing a crisis to the magnitude never experienced in modern times. The solution to this extremely complex crisis, cannot be a partisan issue. Simply put – continued inaction through uncompromising positions will only serve to exacerbate the threat. There is an acute need for legislative action.

As the immigration debate has continued, we have seen the political discourse in this country steadily decline. The divisive rhetoric, often directed at the men and women of law enforcement, may serve some political purpose, but its demoralizing for the personnel being attacked. I’ve seen the use of social media to mischaracterize again and again, the actions of law enforcement personnel to further a political talking point. This type of misinformed and generalized rhetoric is beneath any Congressional member and only serves to further divide the country on the immigration debate. The overwhelming majority of border security personnel do what they do out of a sense of duty – to the nation, it’s laws and citizens. They don’t get fulfillment from their government paycheck but rather from a sense of being a part of something greater than one’s self. I’m respectfully requesting as we continue this debate, we all pause, and remember – words matter. They have greater meaning and impact when the words come from our elected members of Congress – with this power comes immense responsibility.

**Perspectives of past and present government officials:**

Let’s consider some perspectives from government officials, past and present, who have worked for administrations from both sides of the political aisle to help shape the understanding of the current crisis along the southwest border.

“Illegal and uncontrolled migration, however, poses a serious and growing risk to U.S. public safety, national security, and the rule of law. This cannot be a partisan issue. Every secretary of this Department has sounded the alarm about our unsecured border and highlighted the associated threats and consequences to our national security. Today we are seeing the results of a failure to act and a broken system.”

“Our nation is facing a dire humanitarian and security crisis at our southern border.”  
Secretary Kirstjen Nielsen, U.S. Department of Homeland Security  
U.S. House, Committee on Homeland Security, March 6, 2019

“I have heard a number of commentators observe that even with these alarming levels of migration. The numbers are lower than the historical peaks, and as a result, they suggest what we are seeing at the border today is not a crisis. I fundamentally disagree. From the experience of our agents and officers on the ground, it is indeed both a border security and humanitarian crisis. What many looking at total numbers fail to understand is the difference in what is happening now in terms of who is crossing, the risks that they are facing, and the consequences for our system.”

Commissioner Keven K. McAleenan, Customs and Border Protection  
U.S. Senate Committee on the Judiciary, March 6, 2019

“What the men and women of CPB are seeing every day at and between our ports of entry as nothing short of a border security and humanitarian crisis.”

“The current crisis at our southwest border requires us to increase our capacity to process and facilitate appropriate treatment for the aliens we encounter. This redirection of our resources comes at a cost, as it decreases the number of agents available to perform our law enforcement mission and increases risks along the border. 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. However well-intentioned, they hinder CBP’s ability to fulfill its mission”

“We must invest in border security, including a modern border wall system. Since the first barriers were constructed in San Diego Sector in 1991, U.S. Border field commanders have continued to advocate for border wall because of the enduring capability it creates to impede and/or deny attempted illegal entries and because it gives us additional time to carry out successful law enforcement resolutions.”

Chief Carla Provost, U.S. Border Patrol  
U.S. House, Committee on the Judiciary, February 26, 2019

“In my 34 years of enforcing immigration laws I have never seen this level of crisis on the border. I have seen illegal entry numbers around the same and a little higher a couple decades ago, but not this level of asylum fraud and the illegal entry of people that cannot be easily removed because of the loopholes in our laws. This current crisis puts those most vulnerable in the hands of criminal organizations which will result in more border deaths, more rapes and more humanitarian abuses. The loopholes in our laws are causing this most recent surge and until Congress makes needed changes, our border will never be under control, we will never know who enters this country undetected because of this crisis, and more people will die. This just isn't about enforcing our laws and protecting our nation and its sovereignty, it's about saving lives. How many more people have to die before we stop ignoring the problem and enticing the most vulnerable to take these risks. For the past three decades Congress has failed to secure our border. It is now time for Congress to work with this President and do their job. FIX IT”

ICE Director Tom Homan, Immigration and Customs Enforcement  
March 2019

“During this Fiscal Year 2019 through February, USBP has apprehended 268,044 individuals, that is a 97% increase as compared to the same timeframe last Fiscal Year. Make no mistake, these levels constitute a humanitarian and border security crisis and I will explain why”

Chief Brian Hastings, U.S. Border Patrol Law Enforcement Operations  
Press Conference, Ronald Reagan Building, March 5<sup>th</sup>, 2019

“By anyone’s definition, by any measure, right now we have a crisis at our southern border”

“By far greater numbers than anything I saw on my watch in my three years as Secretary of DHS.”

“There is always more we can do for border security. More surveillance, more roads, more planes, more barriers.....where it makes sense.”

Former Secretary Jeh Johnson, U.S. Department of Homeland Security  
Television Interview, March 30<sup>th</sup>, 2019

**Why the current crisis we face along the southwest border is greater than anything in modern history: Change in demographics and their consequences**

In 2016, as Chief of the U.S. Border Patrol, I had a front row seat for the impact of the “catch and release” policy which effectively mandated border enforcement agencies release unaccompanied minors and family units, into the interior of the United States, notwithstanding they had illegally entered our country.

What began in 2014 as phenomenon of an influx of families and children from the northern triangle countries has exponentially grown resulting in a drastic shift in the demographics of those illegally entering the U.S. The number of Central America migrants exceeded the number of Mexican migrants in four of the past five years, reaching 75% of the crossings this fiscal year.

The increases and demographic changes in illegal crossings are direct responses to our broken legal frame work being exploited by the cartels and migrants. The loopholes in our asylum laws; nonsensical judicial precedent; overwhelmed immigration processes; and lack of detention space, have helped drive what has devolved essentially into an open border policy. Central American families are incentivized and rewarded to come and illegally enter our border because they know DHS must release them within 20 days by law and they will be allowed to remain in the U.S. indefinitely while awaiting immigration court proceedings. It’s simple – they step one foot on American soil, say the magic words under “credible fear” and within a few days they’re allowed into cities all across the U.S. What should sound additional alarms of concern is that most of the family members either lack proper identifying documentation or effective vetting of what they produce is impossible, so we know virtually nothing about who we’re letting in! Once in, they are typically never to be heard from again.

What is happening is counter-intuitive to the rule of law and defies the basic principles of sovereignty. Although more than 80% meet the initial credible fear claim, because the threshold is non-existent, only 15% are found to have valid asylum claims which debunks the uniformed outrage often used in talking points that migrants from Northern Triangle countries are fleeing from extreme violence or persecution. It’s not complicated – they are being pulled here for two reasons: economic equality and family reunification. Neither are valid claims under the asylum process. Nevertheless, we continue to facilitate an abuse of our laws and the generosity of our country. There are more than 1,000,000 illegal immigrants in the U.S. who refuse to comply with deportation orders of removal.

There is another false narrative which continues to gain steam. It goes like this: “but the numbers of illegal immigrants are way down so it’s not a crisis.” Any student who has taken a basic statistics course knows you can manipulate raw numbers to support just about any position on either side of the aisle. It’s essential to look at the context behind the numbers to evaluate their true meaning. In the late 1990s and early 2000s there were more than 1.5 million apprehensions

at the border. The key factor is the overwhelming majority were Mexican adults, of which 90% were deported, often within hours of being apprehended. Additionally, 1/3 of those apprehended were repeat offenders so the realistic number of migrant apprehensions was well below what's reflected.

It's anticipated CBP will apprehend 1 million migrants attempting to illegally enter our borders this year. So, using numbers alone, without any further contextual analysis, we're experiencing an increase we haven't seen in almost two decades – back when there was a bipartisan acknowledgment the numbers themselves demonstrated a crisis.

However, with the changing demographics context is a game-changer. It's not just about the total numbers. Currently 60%-65% of those illegally entering today are families or minors. We know because of our broken immigration laws and system, they will be released into the interior of the U.S. Therefore, as the apprehensions reach one million this year, the unconscionable result will be the release of 650,000 immigrants into the U.S. That is more than the entire population of Wyoming. Contrast that with the late 1990s, when we experienced 1 million apprehensions, yet we removed the overwhelming majority of those who crossed.

“What's different about the current migration flow is not just how many people are coming but who is arriving. For most of recent history, the majority of individuals arriving illegally or without documentation were single adults, who we could quickly detain and remove. This is how the immigration system is supposed to work. However, in recent years we have seen the proportion of vulnerable populations – children and families – skyrocket. Because of outdated laws and misguided court decisions, we are often forced to release these groups into the interior of the United States and we have virtually no hope of removing them.”

Secretary Kirstjen Nielsen, U.S. Department of Homeland Security  
U.S. House, Committee on Homeland Security, March 6, 2019

A thorough historical analysis clearly shows we are experiencing a crisis greater than we have in recent times. The changing demographics has overwhelmed our law enforcement resources, as well as, non-profit and faith-based organizations. The entire immigration system is overrun. They're not at the breaking point, they're pasted it. Border Patrol resources are being pulled off the front lines to address the unprecedented humanitarian crisis while the Cartels further exploit our open borders, increasing the threat to our country.

It's time to stop listening to those driven by a personal political ideology and arm yourself with facts, thorough analysis, and the perspective of credible experts.

A March 5<sup>th</sup>, 2019 press conference provided by Commissioner Kevin McAleenan and Chief Brian Hastings, Border Patrol Operations, further illustrated the consequences related to the changing demographics; current statistical trends; impact on resources; and solutions:

“Chief Hastings: Primarily, 28 days in February we had over 66,000 apprehensions. During this Fiscal Year so far to date, since October, we've had over 268,000 apprehensions so far as compared to the same time frame last Fiscal Year. That's a 97 percent increase. So a lot of folks look at that and they say - frankly based upon those numbers we have seen numbers like that in the past. In fact, if you look back to 2005, we've seen numbers like 1.5 million and so a lot of folks don't understand this significant change in the demographics of what we're seeing today. It's what presents us and our partners with a lot of challenges.

Historically, U.S. Border Patrol has arrested 70 to 90 percent Mexican nationals. We can apply a consequence to that demographic. We could return them quickly to Mexico. Today, 70 percent of all those we're arresting are from the Northern Triangle – Guatemala, El Salvador, and Honduras. October 2018 marked the first time in our history that family units exceeded single adult apprehensions. And in February of 2019, family units and unaccompanied children accounted for 65 percent of all Border Patrol apprehensions. For the Fiscal Year, it's 60 percent family unit apprehensions - family unit and unaccompanied juveniles.

So, without a consequence, without being able to deliver a consequence to these individuals for illegally crossing our borders, the Border Patrol has no reason to expect that this trend will decrease. In fact, we believe it will increase. It's well known at this time that adults with children will not be detained during the immigration proceedings for illegal entry. The word of mouth and social media quickly gets back to those in the Northern Triangle countries that if you bring a child, you'll be successful. From April 2018 through February of 2019, we've had almost 2,400 fraudulent claims of families. Of those fraudulent claims, some are folks who have claimed that they're under 18 and are not. Others have actually been fraudulent familial claims.

Another trend that we're seeing - and I mentioned earlier - are the large groups. This is a dangerous trend for us. We define large group as a group of over 100. So far this Fiscal Year, we've seen 70 of those groups of over 100. They've totaled over 12,000 apprehensions. And the important thing to note is if you look back historically, last Fiscal Year we had 13 of those groups over 100. The year before that, two groups over 100 for that Fiscal Year of 17. So that's 99 percent of all of those individuals are family units again and they are from again the northern triangle.

If the current trend continues, Border Patrol can expect to apprehend approximately 174 large groups totaling over 29,000 deportable aliens. Now the issue with this and the concern with this that we have are the majority these groups are entering in places that are very rugged, very remote, specifically talking to areas – Ajo, Arizona, Lordsburg, New Mexico. Very remote, very rugged. The issue that that causes us, the challenge that causes us, is are the furthest areas from our central processing centers, the furthest areas from medical services, furthest from our transportation services that we have, as well. Even more troubling for us is that the current intelligence is telling us and we're seeing firsthand the drug trafficking organizations are utilizing these groups as cover and diversion to divert our agents away from the security national security border mission and use them as a diversion to cross drug loads. We've had four specific cases here recently that we've seen those family units being used as a diversionary tactic. That's highly concerning for us going forward.

So, lastly I just want to hit on some of the resourcing issues that all of this causes for U.S. Border Patrol CBP. We're devoting a large amount of our daily resources to this. The facilities and the manpower cannot support the continued increase in the apprehensions of family units and unaccompanied children. Our Border Patrol stations were built in the 80s and 90s. They were built for a different demographic, not for the current amount of family units and UACs that we're seeing.

In each day each and every day, Border Patrol is putting approximately 25 to 40 percent of our manpower is being dedicated to the care, transportation, and the humanitarian mission they're pulled from the national security mission to do these things. We're committed to addressing these humanitarian needs. The current situation is unsustainable for Border Patrol operations with this. The increased flow combined with the stress of the journey the crowded conveyances and flu season has resulted in significant increases for the medical referrals for Border Patrol.

Currently, U.S. Border Patrol is sending an average of 55 people per day for medical care. During December, this was as high as 63. We're on track to refer approximately 31,000 individuals for medical treatment this year as compared to 12,000 last Fiscal Year. Since December 22<sup>nd</sup>, 2018, U.S. Border Patrol agents have spent over 57,000 hours at a hospital or medical facility. This equates to just under 5,700 shifts of hospital watch during the 72 days at a cost of \$2.2 million in Border Patrol salary. Between 2014 and 2018, med part data has shown that we have spent 98 million dollars on medical services for individuals in CBP custody.

That's a quick background of what we have going on operationally. I'm proud of the professionalism, compassion our agents have shown confronting this border security and humanitarian crisis. And with that, I'd like to turn it over to the Commissioner McAleenan to speak more about the ongoing actions.

Commissioner McAleenan: It should be very clear from these numbers that we are facing alarming trends in the rising volumes of people illegally crossing our Southwest Border or arriving in our ports of entry without documents. This increased flow presents - currently at our highest levels in over a decade - both a border security and humanitarian crisis, challenges our resources and personnel, and is negatively impacting border security. While Chief Hastings focused on the significant numbers of illegal crossings between ports of entry, where 87 percent of the total flow in February came, we're also seeing stark increases in asylum seekers as we work to provide lawful and safe access at our Southwest Border ports of entry.

In Fiscal Year 2018, we saw a 120 percent increase over Fiscal Year 17, with 38,000 claims at Southwest border ports of entry. So far this Fiscal Year, we've seen a 90 percent increase over those record levels in Fiscal Year 18 and fully 60 percent of an inadmissible persons at our Southwest Border ports of entry are making claims of fear of return to their home country.

Taken together, these numbers are remarkable. 76,000 total apprehensions of inadmissible arrivals in a four week month in February. That's the highest number of encounters in any February in the last 12 years. Within that number, I just want to underscore, in 28 days, we had 40,385 encounters with family units and 7,250 encounters with unaccompanied children.

That means we have apprehended and encountered more families in just five months and five days than last year's record total. Not only are the numbers increasing, the percentage of people from countries in the Northern Triangle of Central America has increased as well. Now 70 percent of all crossings are from these countries and a full 62 percent of all crossings and encounters are vulnerable families and children.

November of this Fiscal Year marked the first time that any other country exceeded the numbers of Mexican nationals apprehended and encountered by CBP. Guatemalans and Hondurans are both crossing now in larger numbers than Mexican nationals. These numbers are significant, as chief Hastings explained, because unlike historical crossings, which are comprised of a large majority of single adult males from Mexico who could be repatriated quickly, families and children from Central America require increased care and processing, and are released into United States pending adjudication of their immigration claims.

Within these numbers, we are confronting challenging new smuggling cycles, patterns, and methods. So-called caravans, where 500 or more migrants form groups in Central America, mostly in Honduras, and traveled together through Mexico to our Southwest Border. Separately, we see a new phenomenon, highlighted on the screen, of large groups of mostly family units from Guatemala who are traveling on buses through Mexico to the U.S. border in much shorter smuggling cycles, making the journey in as little as four to seven days and on a very consistent basis.

So far this year, as Chief Hastings alluded to, we've seen more than 70 instances of groups over 100. In one case, agents encountered a group of 334 migrants. Smugglers are dropping these groups in the most remote areas of our border, including places like Antelope Wells, New Mexico; Ajo, Arizona; and Yuma, Arizona.

The availability of these express bus routes means that more young children are arriving at our border and we are seeing migrants arrive with illnesses and medical conditions in unprecedented numbers. To address these concerns, which were put into stark relief with the tragic deaths of two migrant children in December, CBP has mounted significant new efforts to increase medical checks and care upon arrival at Border Patrol stations or ports of entry.

On December 25<sup>th</sup>, 2018, I directed CBP to complete secondary medical reviews of all children in Border Patrol custody by either contract medical professionals or a CBP agent and officer trained as an EMT or paramedic. To sustain and formalize this work, on January 28 I issued an interim medical directive developed with advice from medical experts and pediatricians to guide CBP deployment of enhanced medical efforts to mitigate the risk to, and improve our care for, individuals in CBP custody, as a result in these surges of children and families.

Since the directive was signed and with the help of inter-agency partners like the U.S. Coast Guard and Public Health Service, CBP has interviewed 27,000 juveniles and certified medical practitioners have

screened over 12,000 more, transporting an average, as you heard, 55 people to the hospital each day. We're going to make that procedure publicly available today, given the intense interest in our medical efforts on the border. The border patrol's El Paso sector, I want to highlight for a second, because they've experienced these trends and these increases more acutely than any other place along the border, new in this Fiscal Year. That includes El Paso and about 40 miles south, as well as all the way through New Mexico in the boot heel extending toward the west. El Paso sector alone has seen a 434 percent increase in apprehensions this Fiscal Year. The vast majority are family units and unaccompanied children arriving in large groups which challenges their capacity in their facilities.

Facilities housing migrants near El Paso have reached capacity, and gone over capacity, numerous times in this fiscal year {in the first quarter}, a situation that impacts both the efficiency of migrant processing and the quality of our care that we're able to provide for detained migrants. To help address this, we are taking steps to establish a centralized processing center (CPC) in the El Paso sector. This will help us protect the health and safety of families and children in custody, while streamlining operations and reducing the time that we're holding families and children. The El Paso Central Processing Center will provide one location for the processing of family units and children in an appropriate environment and will facilitate consistent medical assessments in one location.

I want to underscore a key point here. While our enhanced medical efforts and the creation of new facilities will assist with managing the increased flows, and while we'll continue to do all that we can to address these increases in traffic safely and humanely. The fact is that these solutions are temporary and this situation is not sustainable. Remote locations of the United States border are not safe places to cross and they are not places to seek medical care.

The system is well beyond capacity and remains at a breaking point. Based on the experiences of men and women on the front line, this is clearly both a border security and humanitarian crisis, and we know what is driving these trends. These increases in traffic are a direct response from smugglers and migrants to the vulnerabilities in our legal system. These weaknesses in our immigration laws and accumulated court rulings now represent the most significant factors impacting border security and causing this humanitarian crisis.

These include, first and foremost, the inability to keep families together while they complete expeditious and fair immigration proceedings. Instead, crossing with a child is a guarantee of a speedy release and an indefinite stay in the United States. The asylum gap, where approximately 80 percent of individuals meet the initial credible fear bar and the asylum process, while only 10 to 20 percent of Central Americans are found to have valid asylum claims at the end of their immigration court proceedings. And the disparate treatment under the Trafficking Victims Protection Reauthorization Act, which allows for children arriving from Mexico and Canada - contiguous countries - to be repatriated, but not children from other countries including those in Central America, regardless of the position of those governments.

No one knows these vulnerabilities better than transnational criminal organizations who are continually working to exploit vulnerable people in the Northern Triangle and the weaknesses in our system. The message from the smuggling organizations to parents in Guatemala, Honduras, and El Salvador is clear: If you bring a child, you will gain entry to the United States and you will be allowed to stay.

There are solutions to this crisis. We need to continue to support the governments in Central America to improve economic opportunities to address poverty and hunger and to improve governance and security. The administration announced \$5.8 billion in aid and investment commitments in December. We must work with the new administration in Mexico on addressing the transnational criminal organizations that prey on migrants and incentivize this traffic. We must invest in border security, including a modern border barrier system, additional agents and officers, technology to screen vehicles, and air and marine support. And we will put the investments in the Fiscal Year 19 appropriations bill to good use.

But we also face an acute need for legislative action to address the gaps in the legal framework, given the challenges I outlined here today. Every single day, smugglers and traffickers profit from human misery by exploiting people who are seeking a better life. Through human smuggling, transnational criminal organizations have established a new multi-billion dollar line of business. The situation is not safe for migrants. It challenges our ability to provide humanitarian care. It contributes to dangerous conditions on our border and enables smuggling, while enriching criminals. Regardless of anyone's preferred policy



outcome, the status quo is unacceptable. It presents an urgent and increasing crisis that needs to be addressed.”

### **Transnational Criminal Organizations – gangs and drugs:**

While the Border Patrol is diverting 40 percent of their personnel away from their national security mission and redirecting resources to provide care, transportation, and related humanitarian functions, the transnational organizations are expanding their continued exploitation of the resulting increased gaps on our border and weaknesses in our system. Simply put – more drugs and criminal aliens are illegally crossing into the U.S., putting American citizens at increased risk, as agents are consumed with caring for families and children. In 2016, as Chief, I sounded the alarm when I estimated 15 percent of agents were being diverted from the front lines along the southwest border for what I referred to as “child care” related activities. I warned Congress then, if the crisis wasn’t addressed – through removing the incentives – we would continue to see the humanitarian crisis worsen. It has done just that.

The human smuggling operations of the transnational organizations doesn’t just facilitate the entry of those seeking a better life – there is a very real criminal element taking advantage of the crisis and the weakness in our ability to effectively secure our border. As the border security agencies become increasingly overrun, the gap widens, and the exploitation continues to soar to epic levels. These organizations are profiting every day while exploiting a vulnerable population and putting them at risk, along with American citizens. The victimization doesn’t end when their journey into the U.S. is complete. Nor does the criminal activity of those criminal aliens making their way into the country. Many of those seeking improved economic equality and family reunification continue to be preyed upon and victimized long after they’ve made their way into the U.S. As each day goes by, while we ignore the expert’s pleas concerning the crisis and what needs to be done to “fix” it, more vulnerable people are exploited and put at risk. And we continue to add to the preventable death statistics as the result of our broken immigration system.

As an example, last week, three MS-13 members who were arrested in Maryland for stabbing a rival gangster and burning the body were resettled basically as refugees under the false pretenses of being brought to this country as “unaccompanied minors.” Unfortunately, this isn’t an isolated example. Long Island and Maryland became hot spots for MS-13 activity during the surge of Central American teens in 2014. The number of teens coming in now, both individually and with families, dwarfs the 2014 numbers. The MS-13 is one of the most violent and prolific transnational gangs the U.S. has ever seen and the influx of minors into the country through the current crisis will provide them with unlimited vulnerable prospects. While Border Patrol is tied up with the humanitarian mission, the smugglers business is thriving. According to Border Patrol, 800 gang members were apprehended so far this year, a 50 percent increase from last year. Imagine what they’re not catching.

As a police officer working in South Central Los Angeles, and years later, as an FBI supervisor of an MS-13 Gang Task Force, I saw firsthand the transition of countless young kids into the world of gang membership. The reasons why are varied but have remained consistent: status, recognition, protection, intimidation, brotherhood, and profit through criminal activity. The young immigrant population is increasingly susceptible and vulnerable to all the pull factors and

drivers. They are often uneducated, unskilled, and lack a sense of belonging and purpose. This makes them a perfect target for gang recruitment.”

“Many of the gang members ICE has arrested the past few years entered the US at the southern border as part of a family unit or as an unaccompanied alien child UAC. As a matter of fact, a gang operation in NY last year entitled Operation Matador, which targeted MS-13 gang members, showed that approximately 40 percent of those arrested illegally entered the U.S. as part of a family unit or as a UAC. Many that entered the U.S. were already gang members or soon became gang members after arriving in the U.S.”

ICE Director Tom Homan, Immigration and Customs Enforcement  
March 2019

As chief of the Border Patrol, I toured the detention facilities filled to capacity with unaccompanied minors, 17 years of age or younger, who had illegally entered the country. Alone, without any parents or guardians. As I looked on, I saw both hardened young men as well as vulnerable and lost youth. With every encounter, I walked away wondering how many would be lured into joining a gang. The odds were not in their favor, as they were released into a city somewhere in the U.S., never to be heard from again.

The ability to interdict and seize illegal narcotics is being negatively impacted as well - another cause and effect of the unprecedented humanitarian crisis. It's common sense – shut down interior check-points and divert 40 percent of your resources away from enforcement action – we shouldn't be surprised the smugglers are exploiting the wide-open border.

A recent operation led by the DEA resulted in 64 pounds of methamphetamine being seized from a downtown luxury residence in Minneapolis – one of the suspects is believed to have direct ties to a Mexican cartel. The charges allege the crimes occurred between Feb. 1, 2016, and April 19, 2018. The drugs were smuggled into the United States from Colombia and Mexico. Heroin and cocaine were then distributed through Houston to Atlanta, Ga.; Buffalo and New York, N.Y.; Miami, Fla.; New Orleans, La.; and Norfolk, Va.

This three-year long investigation illustrates, once again, every city in the U.S. is a “border city” and a potential victim of the transnational criminal organization's exploitation of our southern border.

“people are dying all over the country and families are being destroyed at levels we have never seen from massive illegal drug distribution by the nasty, violent and greedy Mexican cartels. The US must focus on what's really happening at our borders and enhance the security by building a wall and focusing the critical resources at the POE's with the greatest technology to detect and seize the poison coming into America.”

Special Agent, Derek S. Maltz, Drug Enforcement Agency  
March 2019

Why should we be so concerned with any negative impact to the ability of our border security entities to effectively detect and interdict illegal narcotics and synthetic drugs?

- 1 kg of fentanyl can kill 500,000 people, making this a national security crisis and health crisis.
- 1 kg costs about 5000 in China but the cartels can make up to \$2 million or more from 1 kg of fentanyl.
- The overdose rates in America are unprecedented and will continue to rise due to the purity of the fentanyl coming into America from China and Mexico

- 198 Americans per day died in 2017 from drug overdoses. Every 8 minutes a death
- 134 per day died from opioids. Every 11 minutes
- If you add up all the people who died on September 11, 2001, the Afghan war and the Iraqi war that only represents about 13.5% of the 72,000 who died from drugs last year
- The Mexican cartels are mixing fentanyl into their products to save money and reduce the production logistics
- The Mexican cartels are getting most of the synthetic fentanyl that's killing Americans at an alarming rate from China along with other types of synthetic drugs and precursor chemicals for the production of methamphetamine
- The users are so addicted after starting with Opioid pills that they are now turning to cheaper drugs on the street like heroin, which sadly is now mixed with very potent fentanyl – blamed for an increasing amount of deaths across the country
- The current overdose statistics are very misleading because the drug “Narcan” is saving so many lives by the first responders

**Comprehensive Solutions to fix our broken immigration system:**

There is no single solution which will address the multi-dimensional challenges facing our broken immigration system. The dual crisis along our southwest border - national security and humanitarian - requires innovation and a willingness to address the actual root causes. Although not mutually exclusive, the issues require, to some degree, a different set of actions and solutions.

We need congress to pass new legislation to fix outdated laws and gaps in DHS authorities; we need to continue to work with governments in Central America to improve economic opportunities; we need to continue to work with the Mexican government to eradicate the transnational criminal organizations, as well as, drive them to be effective partners in addressing the humanitarian crisis; we must continue to invest in border security, including additional infrastructure (physical barrier/wall), technology, personnel, and air and marine support – where it make sense; and increased support for appropriate interior enforcement action.

However, we must confront the reality that we have been doing some of these actions for decades with differing degrees of success. The control transnational criminal organizations retain over the southwest border remains strong and profitable. Regardless of our continuous attempts to improve the conditions in the Northern Triangles countries, the steady increase of illegal immigration, specifically families and unaccompanied minors, since 2014 unequivocally shows these attempts have had little if any impact. We can't keep doing the same thing – throwing money at the issue – and expecting a different outcome. We need to change our approach when dealing with governments of Central America and Mexico.

History has shown us, we can't overly rely on our external partner countries to fix our immigration crisis. Therefore, we must also confront our broken legal framework if we are to achieve lasting and effective border security. For example: we have to come-up with legislative answers to the Flores settlement agreement and subsequent court interpretations of its intent which has impeded the U.S. government's ability to maintain custody of families and minors.

“Legislation on this issue should be focused on allowing us to keep families together during their immigration proceedings and promoting a uniform standard of care and accommodation for minors in custody, while ensuring our laws are enforced.”

Secretary Kirstjen Nielsen, U.S. Department of Homeland Security  
U.S. House, Committee on Homeland Security, March 6, 2019

We must also reengineer our laws to ensure all minor children who are not victims of trafficking or persecution are returned home and reunited with their families – regardless of their country of origin. Currently the Trafficking Victims Protection Reauthorization Act of 20018 (TVPRA) treats children differently depending on whether they are a resident of a contiguous or non-contiguous country. There is no rational explanation to treat children different based upon their country of origin rather than an articulable and reasonable threat.

The Flores settlement agreement and TVPRA, along with a ridiculously low burden of proof for the initial credible fear claim, drives our current “catch and release” policy. Make no mistake – bring a minor child with you, step one foot on America soil, and you will be allowed into the U.S., to remain indefinitely. There is no greater incentive and “pull” factor than this.

We also need Congressional assistance to update laws that allow criminal aliens to circumvent the removal process. Right now, the system is broken, and because of a series of misguided court decisions, DHS is forced to release dangerous criminal aliens from custody and is unable to remove others from the United States even when they have been convicted of serious criminal offenses. Specifically, we must clarify the definition of “conviction” in the *Immigration and Nationality Act* to address aliens who receive post-conviction relief or sentence modifications for the purpose of flouting immigration consequences. In addition, we must remedy U.S. Courts of Appeals and U.S. Supreme Court decisions, including *Mathis v. United States*, 136 S. Ct. 2243 (2016), that have made it increasingly difficult for ICE to remove convicted aliens on criminal grounds of removal.

We must also urgently close loopholes created by the U.S. Supreme Court’s decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001). This decision generally requires that DHS release a criminal alien ordered removed who has been detained for 180 days after the period for removal began unless DHS can show that there is a significant likelihood that removal can be effectuated in the reasonably foreseeable future. The result is that we have been forced to release dangerous individuals – including those responsible for terrible crimes – back into the population. We must close loopholes created by the *Zadvydas* decision to give DHS authority to keep dangerous criminal aliens who are subject to final orders of removal off our streets and keep our communities safe. Finally, for the safety and security of the American people, Congress should ensure that DHS has full authority to detain and remove alien criminal gang members, alien gang associates, and aliens who participate in gang-related activities. We must be able to safeguard Americans, from aliens associated with criminal gangs, including detaining and removing violent gang members such as MS-13.

Secretary Kirstjen Nielsen, U.S. Department of Homeland Security  
U.S. House, Committee on Homeland Security, March 6, 2019

However, while we’re engaging in the recommended solutions outlined above, we must also take immediate action to address what’s happening at the border now. The Border Patrol, due to the system being completely overwhelmed, are forced to release families themselves directly into the U.S. They have reached their breaking point and it’s anticipated to worsen. We must immediately enact a strategy to effectively reduce the “pull” factor. If not, there is nothing to de-incentivize them from coming.

Recommend a border-wide implementation of the Migrant Protection Protocols (MPP).

The MPP are a U.S. Government action whereby certain foreign individuals entering or seeking admission to the U.S. from Mexico – illegally or without proper documentation – may be returned to Mexico and wait outside of the U.S. for the duration of their immigration proceedings, where Mexico will provide them with all appropriate humanitarian protections for the duration of their stay.

Section 235 of the Immigration and Nationality Act (INA) addresses the inspection of aliens seeking to be admitted into the U.S. and provides specific procedures regarding the treatment of those not clearly entitled to admission, including those who apply for asylum. Section 235(b)(2)(C) provides that “in the case of an alien...who is arriving on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the U.S.,” the Secretary of Homeland Security “may return the alien to the territory pending a [removal] proceeding under § 240” of the INA.” The U.S. has notified the Government of Mexico that it is implementing these procedures under U.S. law.

Additionally, increase ICE funding for the expansion of detention bed space and support for prioritized and targeted interior enforcement action. Their ability to address the one million immigrants who have received a deportation order of removal but have refused to comply and remain in the U.S illegally, is an essential element to reduce the continuing “pull” factor. Reversing the current reality – arrive with a child and you’ll get in – is the bold action required to address the crisis. The status quo has proven to be a complete failure.

***It’s time to acknowledge the crisis:***

I want to leave every member of this committee with why I believe we must set aside our political ideology and “fix” this crisis. Today, right here and right now, we need to stop attacking each other and start attacking the crisis. We must acknowledge the facts, intelligence, historical data – and listen to the border security experts. This year more than one million immigrants will be apprehended at our southern border, most coming across illegally. I believe it’s worth mentioning again the perspective of the former Secretary of DHS, Jeh Johnson, “*By anyone’s definition, by any measure, right now we have a crisis at our southern border*”

In an effort to have honest dialogue, we must acknowledge the real life ramifications directly related to the risks we face, as a nation, due to illegal and uncontrolled immigration. The below statement is from a father, Don Rosenberg, who’s son, Drew Rosenberg, was killed in 2010 in California. His words are raw, emotional, and hard hitting – as you would expect from a father who lost his 25 year son. A death which didn’t have to happen. This is real – this happened – it could have been prevented.

“My son was one of approximately 4,000 people killed by illegal aliens in 2010. Allowing anyone to enter this country and be set free awaiting a ‘hearing’ is not just irresponsible, but one degree less than treason. Congress’s inaction doesn’t define a national emergency. The deaths every day at the hands of illegal aliens does. My son had dreams as well. You turned them into my family’s nightmares.”

For me, Drew’s story, along with all the other Angel Families – serves as a reminder – as it should for all of us – how we have failed. For a very long time, we have failed to do what is

required to repair our broken immigration system. Our collective failure has resulted in the pain, suffering, and irreputable harm of unfathomable numbers of people.

Last month, Bambi Larson, a 59 year old woman was stalked and brutally stabbed to death in her own home in California by an illegal alien. The suspect had not only been deported previously but had been arrested six times for criminal offenses in two separate counties in California. The suspect had been repeatedly released from jail despite an active detainer request by ICE.

*How many more Angel Families must be created before we say – it's time we join together on a bipartisan front to ensure we do everything we possibly can to address this very real threat to our citizens.*

To be clear – the threat isn't just to American citizens. I recall in 2016 every leader within DHS who had a role in the humanitarian crisis consistently beat the drum concerning the dangers associated with making the long journey from Central America to the U.S. Congress has been briefed countless times and provided with facts and data clearly painting the picture that the desire for a better life outweighs any risk of harm, including death. It has become an acceptable risk. The incentives are too powerful – they know if they make it to our borders, we're going to allow them in, where they can remain indefinitely. Our failure to address and remove these incentives creates a “pull” factor so strong, immigrants are willing to risk their lives.

A Dangerous Journey: Department of Homeland Security (DHS) leadership and I have repeatedly emphasized the dangers posed by the journey from Central America to the United States, including unscrupulous human smugglers; dangerously overcrowded trains, buses, and other transport; and harsh environmental conditions. Every year, Border Patrol agents save thousands of people who are overcome by the conditions on their journey, including people found suffering from dehydration, heat stroke, starvation, or hypothermia. Our agents have saved people who were drowning in rivers, who were gravely injured, and those who were left for dead by smugglers. In total, Border Patrol agents rescued 4,311 individuals in FY 2018, and have rescued 861 individuals in the first four months of FY 2019. Desperate migrants pay unscrupulous human smugglers thousands of dollars to aid them on their illegal journey. Every single day, smugglers and traffickers profit from human misery by exploiting people who are seeking a better life. They deceive desperate people about our country's laws, and fuel everything from modern-day slavery to the smuggling of illicit goods. These smugglers, many with ties to transnational criminal organizations, may deprive migrants of food and water, physically assault them, and place them in dangerous travel conditions, such as locking them in tractor-trailers while outside temperatures reach 115 degrees. Still other migrants are trafficked or used as drug mules. Human smugglers have no regard for the health and safety of the migrants who pay them; as a result, many who make the journey become sick, injured, or traumatized. Some even lose their lives. Migrants travel north from countries where poverty and disease are rampant, and their health can be aggravated by the physical toll of the journey. Many individuals we encounter may have never seen a doctor, received immunizations, or lived in sanitary conditions. Close quarters on trains and buses can hasten the spread of communicable diseases. All of these factors leave migrants vulnerable to serious medical complications.

Commissioner Keven K. McAleenan, Customs and Border Protection  
U.S. Senate Committee on the Judiciary, March 6, 2019

What will it take for us to stand united as honest brokers – regardless of your political ideology - and act in the best interest of this country, its citizens, as well as those pursuing a better life. There have been many times in this nation's great history where our leaders have set aside their

personal ambition and/or individual political affiliation and acted out of a sense of need for the greater good.

I believe the best way to begin this hearing is for every member of this committee to acknowledge – we have a crisis at our southern border requiring an immediate resolution.