



TESTIMONY OF

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BEFORE

U.S. Senate
Committee on Homeland Security and Governmental Affairs

ON

“Unprecedented Migration at the U.S. Southern Border: What is Required to Improve
Conditions?”

July 30, 2019
Washington, DC

Chairman Johnson, Ranking Member Peters, and Members of the Committee, thank you for the opportunity to discuss the conditions at the southwest border and the strain it has placed on our U.S. Customs and Border Protection (CBP) law enforcement resources. I am honored to speak on behalf of the men and women of CBP who are on the frontlines of our nation's border security and humanitarian crisis.

A Border Security and Humanitarian Crisis

From October 1, 2018 to June 30, 2019, the number of individuals apprehended or found inadmissible by CBP on the southwest border reached 780,633, an increase of 103 percent over the same time the previous fiscal year. That averages to two apprehensions or findings of inadmissibility every minute of every day for 272 days. Border Patrol's southwest border apprehensions reached 688,375 for FY 2019 by the end of June. That number represents more apprehensions than full fiscal year totals for the previous ten years. Although we saw a decrease in the levels of apprehensions in June of this year compared to previous months, irregular migration remains high, continues to overtax our finite law enforcement resources, and detracts from our national security mission.

We have seen a series of demographic changes along the southwest border in recent years. The vast majority of migrants are Central American family units 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 at 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 southwest border apprehensions came from the Northern Triangle. Unlike single adult migrants from Mexico, UAC from Central America cannot be swiftly repatriated.

Exacerbating these challenges, the U.S. Border Patrol is now apprehending large groups between ports of entry; 198 large groups of migrants, each comprising over 100 members (primarily Guatemalan and Honduran families), 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. The group included more than 900 people in family units and more than 60 UAC.

Each day, we see the cascading effects of mass migration both at and between our ports of entry (POEs). The increased 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 reduce risk at the border by interdicting deadly narcotics and dangerous people. It also detracts from our ability to facilitate lawful trade and travel.

Similar to what we see *between* POEs, CBP is experiencing increased numbers of migrants at POEs, including family units and other aliens who arrive without documents sufficient for lawful entry. Large groups of inadmissible aliens, sometimes in the hundreds, arriving at POEs also

strain our processes and divert our officers from their priority missions, as our officers necessarily and rightly shift their focus to processing these migrants in a humane and efficient manner.

In high-flow sectors, Border Patrol has been forced to divert between 40 and 60 percent of its manpower away from the border security mission to provide humanitarian care to families and children. 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 this unprecedented number of migrants, CBP has temporarily shifted more than 700 CBP Officers from POEs to Border Patrol stations between the ports. Fewer officers at POEs means that pedestrians, passenger vehicles, and commercial trucks trying to cross the border may experience delays. Some POEs have been forced to close travel lanes and curtail weekend cargo processing hours, all affecting the flow of commerce and travel in the United States.

In addition, the influx of family units and UAC has led to CBP facilities operating at unprecedented and unsustainable occupancy levels. Short-term holding facilities at POEs and Border Patrol stations were designed neither for the large volume of inadmissible persons and apprehensions nor the long-term custody after processing is complete. CBP's ability to transfer people out of its custody is dependent upon the capacity of our partners. Other agencies have more time than CBP to arrange placement before individuals enter their custody, and immigration courts can spread their dockets out over years. However, CBP must process individuals as they are apprehended, and must maintain custody until our partners can accept them. By way of reference, we generally consider 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 more than 8,000 detainees in custody. On June 3, the number was as high as 19,500 detainees.

Addressing Crowding in CBP Facilities

CBP short-term holding facilities were simply not set up to process and care for a population of this size and demographics. The resulting effect is often a delay in CBP's ability to promptly process, transfer, transport, release, or repatriate those in our custody. Unfortunately, this means that in some cases aliens are being held in our facilities for longer than the short period of time necessary to complete immigration processing. Holding more aliens in custody takes a toll on CBP facilities, necessitating almost continual repair and replacement of holding facilities and related infrastructure. The situation also strains CBP's ability to manage short-term holding operations. For example, we must now accommodate additional hygiene needs beyond what was generally expected when aliens were in our custody for mere hours, a requirement that seems simple enough to meet, but poses a difficult logistical problem given the size of the population in custody and its geographical distribution.

As we continue to review all appropriate options to relieve crowding in CBP facilities, CBP has taken a number of proactive measures. CBP has established soft-sided structures near high-volume locations in Donna and El Paso, Texas, and Yuma, Arizona, to add capacity and alleviate

current crowding at stations. 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, kitchen equipment, food and water, and clothing and hygiene kits. CBP has also begun transporting medically-screened, partially-processed family units via air and ground transportation to complete processing at other southwest border locations with additional capacity.

Working closely with our partners, CBP continues to reduce the number of individuals in our custody. While this has significantly reduced overcrowding in our facilities, the need to transfer individuals more quickly to our partners remains of great concern.

We Need Congress to Act

Families are coming to our border now because, in addition to push factors, they know that the Department of Homeland Security (DHS) must release them quickly—generally within 20 days—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 with a court date years in the future, often times with permission to work while their case is pending. Smugglers are exploiting this dynamic to encourage more migration and are benefiting from it financially every day under the current outdated laws that are encouraging this to occur.

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 journey to our border.

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.

We have dedicated every available resource to address the mass migration to our borders, including personnel, technology, and innovative outreach and engagement with international and non-governmental industry partners. However, despite our efforts, the system is overwhelmed.

Oversight of CBP and Standards of Conduct

I would like to address certain recent allegations about members of the CBP workforce and discuss the layered, robust and comprehensive oversight system by which we hold our workforce accountable.

CBP takes allegations of employee misconduct very seriously, and has instituted policies pertaining to abuses of authority. Complaints of unprofessional conduct are recorded, investigated, and appropriate action is taken against CBP employees that are found to have

violated policy. Further, CBP's Standards of Conduct, Directive No. 51735-013A, discusses ethics and standards of conduct policies of CBP. Paragraph 6.11.2 provides that employees "will not make abusive, derisive, profane, or harassing statements or gestures, or engage in any other conduct evidencing hatred or invidious prejudice to or about one person or group on account of race, color, religion, national origin, sex, sexual orientation, age, or disability."

Internal oversight is provided through the CBP Office of Professional Responsibility (OPR), the Office of Accountability's Management Inspection Division; and the CBP Juvenile Coordinator.

Externally, CBP is subject to numerous distinct oversight, investigation, and monitoring bodies, including the U.S. Congress; the Government Accountability Office; the DHS Office of Inspector General (OIG); the DHS Office for Civil Rights and Civil Liberties (CRCL); third-party auditors who assess compliance with the DHS Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities; and the courts.

We work closely with investigators and overseers conducting dozens of reviews and audits, and hundreds of site visits each year. CBP's Juvenile Coordinator also monitors CBP's compliance with the terms of the *Flores* Settlement Agreement and CBP's Coordinator for the Prevention of Sexual Assault oversees CBP's efforts to comply with Subpart B of the DHS Standards in all CBP holding facilities.

Social Media Investigation

On Monday, July 1, 2019, OPR's Joint Intake Center (JIC) was alerted to a media report (ProPublica) regarding offensive postings in a private Facebook group called "I'm 10-15." We must also note that, on that same date, while reviewing these initial allegations, our intake team processed a Friday, June 28, 2019, allegation wherein a CBP employee reported the offensive postings by one of the members of the "I'm 10-15" group. Every CBP employee is required to report allegations of misconduct as this employee did. Failing to report misconduct in and of itself is misconduct.

OPR has opened an investigation and served preservation notices on Facebook. As of July 17, 2019, OPR has identified 72 individuals, 64 of whom are current employees and 8 whom are former employees. However, the number of cases will likely continue to grow as OPR receives additional information, performs further research, and conducts interviews.

The majority of employees who have been positively identified at this time have received "cease and desist" letters, and several have been placed on administrative duties pending the results of the investigation.

Cases that involve posts within private social media groups are challenging for many reasons. But to be clear, CBP has set standards of conduct that prohibit the types of posts we saw in these private groups, and CBP has made it clear to employees that messages posted on a private social media page that are discriminatory, harassing, or offensive could result in disciplinary action.

The posts do not reflect the core values of CBP and do not reflect the vast majority of employees who conduct themselves professionally and honorably every day, on and off duty.

Conclusion

We appreciate the continuous and constructive engagement we have had with Congress throughout the crisis on the southwest border. While we continue to discuss the best approach to remedy the crisis and what represents the most effective and efficient way to ensure safe and sanitary conditions, we must also address the factors that continue to drive mass illegal migration. We ask Congress to acknowledge the crisis and help us by taking legislative action in support of CBP, our partners and the rule of law.