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BEFORE

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ON

“Unprecedented Migration at the U.S. Southern Border: The Exploitation of Migrants through Smuggling, Trafficking, and Involuntary Servitude”

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Chairman Johnson, Ranking Member Peters, and Members of the Committee, thank you for the opportunity to appear before you today. Human trafficking is a crime that affects communities across the United States and around the world. Whether it is for sex trafficking or forced labor, human trafficking victimizes 25 million people around the world and generates billions of dollars in profits for criminal enterprises every year. The prevalence of human trafficking throughout the world is an urgent humanitarian issue with direct and significant consequences on the United States.

As the nation's largest law enforcement agency, and the guardians of America's frontlines, U.S. Customs and Border Protection (CBP) plays a critical role in the fight against human trafficking. Together with our fellow U.S. Department of Homeland Security (DHS) components, the Department of State, and our interagency partners, and our law enforcement counterparts around the world, we are working to end this heinous form of modern day slavery.

CBP's mission to secure our country's borders, as well as our unique travel and trade equities, help us recognize and intercept human traffickers and—hopefully—identify and assist human trafficking victims.

A Crisis at the Border

As this Committee is aware, CBP is currently experiencing an unprecedented and unsustainable situation at the southwest border. In fact, it is nothing short of a border security and humanitarian crisis. From October 1, 2018 to May 31, 2019, enforcement actions¹ on the southwest border reached 676,315, an increase of 99 percent over the same time the previous year. Border Patrol southwest border apprehensions, a subset of these enforcement actions, reached more than 593,000 at the end of May. That number represents more apprehensions than full fiscal year totals for the previous ten years.

Each day, we see the cascading effects of mass immigration both at and 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 southwest border inadmissible individuals and apprehensions.

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 May 2019, 78 percent of all southwest border apprehensions came from the Northern Triangle. Unlike single adult migrants from Mexico, UACs or families from Central America cannot be swiftly repatriated.

Exacerbating these challenges, the U.S. Border Patrol is now apprehending larger and larger groups between ports of entry; more than 190 groups of migrants each comprising over 100 members (primarily Guatemalan and Honduran families) have been apprehended between ports

¹ An enforcement action is any action taken by ICE or CBP to apprehend, arrest, interview, or search an individual, or to surveil an individual for enforcement purposes.

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 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 prevent deadly narcotics and dangerous people from entering our country. 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 proper documents, many of whom claim a fear of return. Large groups of inadmissible aliens, sometimes in the hundreds, arriving at POEs strain our processes and divert our officers from their priority missions, as those migrants need to be processed in a humane and efficient manner. This crisis has depleted detention capacity of U.S. Immigration and Customs Enforcement (ICE) and greatly overwhelmed its resources.

The consequences of this mass migration are far-reaching. 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. This means fewer agents are available to stop drugs and dangerous criminals from entering the United States.

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. Fewer officers at ports of entry means that pedestrians, passenger vehicles, and commercial trucks trying to cross the border are experiencing uncharacteristically long delays. Some POEs have been forced to close some travel lanes and curtail some weekend cargo processing hours, all affecting the flow of commerce and legitimate travel in the United States.

In addition, the influx of family units has led to CBP facilities operating at unprecedented and unsustainable capacity. 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 of individuals awaiting transfer to ICE Enforcement and Removal Operations detention facilities. We consider 4,000 detainees to be a high number of migrants in custody, and consider 6,000 detainees to be at a crisis level. Currently on any given day, CBP has between 12,000 and 18,000 detainees in custody.

Efforts to Identify Human Trafficking

When examining the crisis we are facing at the southwest border, it is helpful to understand the distinction between human trafficking and human smuggling. Human trafficking involves force, fraud or coercion and is a crime against a person or group of persons that is exploitation-based. Trafficking does not require crossing a border. As defined in the *Trafficking Victims Protection Act*, human trafficking includes: sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18

years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Human smuggling is voluntary, a crime against the nation-state, transportation-based, and requires an international border crossing. It is defined as the importation of people into the United States with deliberate evasion of immigration laws. This offense includes bringing individuals into the United States illegally as well as the unlawful transportation and harboring of individuals already in the United States.

CBP has a number of tools for screening incoming travelers, processing more than a million travelers every day. The same risk-analysis techniques CBP uses to prevent the entry of terrorists and other criminals also help us intercept human traffickers and the victims of human trafficking. In addition to the biographic and biometric system queries we apply to each traveler, CBP personnel also interview these individuals to determine the purpose of their travel. The interview is also an opportunity for CBP Agents and Officers to look for indicators of human trafficking.

Training is critical in detecting the signs of human trafficking, which is too often an invisible crime. As part of basic training, officers and agents are taught the differences between human trafficking and human smuggling, how to detect human trafficking, and what to do upon encountering a human trafficker or a trafficking victim. These skills are refreshed annually.

CBP takes particular care with vulnerable populations, such as unaccompanied minors. Under current procedures, CBP screens all suspected minors, to include UAC using CBP Form 93, Unaccompanied Alien Children Screening Addendum, to determine if they have been, or are likely to be, victims of human trafficking. CBP Form 93 includes examples of trafficking indicators and requires the processing agent or officer to pursue age-appropriate questions to help identify if UAC may have been, or is likely to be, a victim of trafficking or has a fear of return. Based on the totality of the situation, including visual indicators and verbal responses, the CBP agent or officer determines if the UAC is a victim or potential victim of trafficking. CBP conducts these screenings at the processing location—generally at a POE or a Border Patrol station. All potential trafficking cases are referred to U.S. Immigration and Customs Enforcement Homeland Security Investigations (HSI) for further investigation.

CBP is close to finalizing an updated CBP Form 93, UAC Screening Addendum. CBP involved extensive expert consultation and Department-wide coordination to effectively identify potential victims of human trafficking with this screening tool while also ensuring the screener's questions follow a victim-centered approach. CBP faces challenges in using an outdated information technology system to record the results of CBP Form 93.

Human trafficking is occurring everywhere, at all times, across the United States and around the globe. As noted earlier, a person does not need to cross a border, be transported, or otherwise move localities to be trafficked, but victims and their traffickers may travel by air and all other forms of transportation. Victims may travel alone or their traffickers may accompany and control

them. Aviation industry personnel can help fight this heinous crime by learning to spot the indicators of trafficking and reporting suspected cases to law enforcement.

The Blue Lightning Initiative (BLI)—jointly led by U.S. Department of Homeland Security (DHS) and the U.S. Department of Transportation’s (DOT)—trains U.S. commercial airlines and their employees to identify potential human trafficking victims and to notify federal authorities. This initiative is one of several joint, collaborative efforts to ensure that America’s transportation systems are not being exploited for human trafficking.

BLI has become known as the leading method for fighting human trafficking within the aviation industry. Our initiative has significantly raised the awareness levels of aviation personnel, and improved their ability to recognize and report suspected human trafficking to law enforcement.

BLI provides participating partners with a training module developed by survivor advocates, law enforcement, and aviation experts. The interactive module outlines common indicators of human trafficking that aviation personnel may encounter, and explains how airline personnel can immediately report potential victims and their traffickers to law enforcement. The module includes aviation-based scenarios that allow users to practice recognizing human trafficking indicators. The module may be integrated into initial and refresher training for flight attendants, pilots, customer service representatives, and other personnel. The BLI training module is rounded out with supplemental educational materials.

Every day these skills are put to the test as CBP Officers and Agents encounter historic levels of migration.

The Role of Transnational Criminal Organizations and Alien Smuggling Organizations

The current migration patterns have reaped huge profits for the transnational criminal organizations (TCOs) that use smuggling as a cash flow source. TCOs are motivated by money and power and have little regard for human life. Their networks are commodity agnostic—a human being is moved along with no more care than a gun or a bundle of drugs. When aliens enter these networks, they may find themselves beaten, assaulted, raped, and even killed by TCO members.

TCOs are both motivated and ruthless—they are not bound by legitimate business practices or the pace of bureaucracy, and will stop at nothing to gain power and profit. They are agile and adaptable, and are willing to spend countless resources maintaining and expanding control of their criminal enterprises.

Migrants often pay human smuggling groups thousands of dollars to aid them on their journey. Smugglers profit from human misery by misleading those seeking a better life, and traffickers profit from human misery by exploiting people through force. Both lead to abuse and exploitation of people on their journey north, which is why Congress needs to close loopholes in our nation’s legislative system that inadvertently aids cross-border smuggling and trafficking.

The toll of the arduous journey is compounded for those migrants who are further victimized when human smuggling turns into human trafficking. In a well-publicized 2018 case², Pablo Duran Ramirez and three other defendants pleaded guilty in U.S. District Court in the Northern District of Ohio to encouraging the illegal entry of Guatemalan nationals, including unaccompanied minors, into the United States. The defendants recruited workers from Guatemala, some as young as 14 years old, promising good jobs and a chance to attend school in the United States. The defendants smuggled the migrants into the country and transported them to a trailer park in Ohio. There, the migrants were forced to live in dilapidated trailers and work at an egg farm up to twelve hours a day. The victims were threatened with violence and their pay was withheld. Two adults and eight minors were identified as victims of human trafficking in this case.

Human smugglers have no regard for the health and safety of the migrants on whom they prey, and who pay them. As a result, many who make the journey become sick, injured, or traumatized. Some even lose their lives.

Many migrants travel north from countries where poverty and disease are rampant, and their health can be aggravated by the physical toll of the journey. They may have never seen a doctor, received immunizations, or lived in sanitary conditions. Close quarters on trains and buses that smugglers procure for moving them through Mexico can hasten the spread of communicable diseases. All of these factors leave migrants vulnerable to serious medical complications. In many cases, they arrive at our southern border already exhibiting symptoms of a health issue.

The smugglers, many with ties to TCOs, often deprive migrants of food and water, physically assault them, and place them in inhumane traveling conditions, such as locking them in tractor-trailers where temperatures inside have exceeded 123 degrees. The Border Patrol has rescued more than 2,250 migrants from tractor-trailers this year alone.

TCOs continually adjust their operations to avoid detection and interdiction by law enforcement, and—like legitimate businesses—are quick to take advantage of improved technology, cheaper transportation, and better distribution methods.

TCOs are known to use scouts as a counter-surveillance tactic. Scouts embed in both remote, rugged terrain and in urban communities, watching and reporting on law enforcement activities. TCOs who deploy these scouts use robust, high-technical communication methods to conceal their communication from law enforcement. TCOs also attempt to intercept law enforcement communication. While it is illegal to attempt to obtain law enforcement sensitive information, some scouts simply exploit public venues where law enforcement operates, such as monitoring the comings and goings of patrol vehicles from a Border Patrol station.

² <https://www.justice.gov/usao-ndoh/pr/another-defendant-pleads-guilty-connection-labor-trafficking-minors-ohio-egg-farm>

Congress Must Act

Our crisis at the southwest border is the direct consequence of vulnerabilities in our legal framework that have become well-known to smugglers. These weaknesses in our laws now represent the most significant factors impacting border security and include:

- Low credible fear standards —where approximately 80 percent of individuals meet the initial credible fear bar in the asylum process, while only 10-20 percent are found to have valid asylum claims at the end of immigration court proceedings;
- The disparate treatment of UAC under the *Trafficking Victims Protection Reauthorization Act of 2008*, which allows for children arriving from Mexico and Canada to be quickly repatriated, but not children from other countries, including Northern Triangle countries; and
- The inability to keep families together while they complete expeditious and fair immigration proceedings. Instead, crossing with a child is a near guarantee of a speedy release and an indefinite stay in the United States.

These statutory deficiencies ensure a high likelihood of success and the incentives they create have significant ramifications. Central American families are coming to our border now because they know that DHS must, pursuant to a court order, release them quickly—generally within 20 days—and that they will be allowed to stay in the U.S. indefinitely while awaiting protracted immigration court proceedings. To be clear, these families are 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. Smugglers are exploiting these loopholes to encourage more migration. They openly advertise a safe and legal journey to the United States, misleading families by telling them there is a policy that anyone who arrives with a child will not be deported.

The perception that our system will allow families to stay in the U.S. 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 the Southwest border. The cost of these pull and push factors is seen every day in profits derived by transnational criminal organizations, in the lives lost along the journey, and in the loss of youth in the countries of the Northern Triangle.

Additionally, regardless of whether an individual who has entered illegally has a valid case for protection or asylum, 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 border enforcement for families. Indeed, only 1.5% of family units from Central America apprehended in FY 2017 have been removed to their countries of origin, despite the fact that most will not end up having valid claims to remain in the U.S. when their court proceeding

concludes. This backlogged system gives credibility to the smugglers' claim that families will not be deported.

Conclusion

CBP has dedicated every available resource to stop the flow of illegal migrants and dangerous drugs into the United States, including personnel, technology, and innovative outreach and engagement with international and non-governmental industry partners. However, despite our efforts, the system is overwhelmed. The nation is facing a full-blown security and humanitarian crisis along our southwest border. We need Congress to acknowledge the crisis by taking legislative action in support of CBP and our partners. We need to make it harder for smugglers and traffickers to profit from our broken immigration system.

Thank you for your time. I look forward to your questions.