



TESTIMONY OF

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BEFORE

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ON

“DHS Actions to Address Unaccompanied Minors at the Southern Border”

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Introduction

Chairman Peters, Ranking Member Portman, and distinguished Members of the Committee.

It is an honor to appear before your Committee today to discuss the actions we have taken to address the needs of unaccompanied children at the Southwest Border.

Understanding the Challenge at the Border

In order to understand the challenge we face at the border and the work we have done to address the needs of unaccompanied children, it is important to understand what we inherited. To put it succinctly, the prior administration dismantled our nation's immigration system.

The changes made were not negligible. They terminated the Central American Minors program that allowed children to access protection without having to take the perilous journey north. They significantly constricted asylum law in ways that limited humanitarian protection for children fleeing violence. They cut hundreds of millions of dollars in foreign aid to the Northern Triangle countries of Guatemala, El Salvador, and Honduras as a penalty for not curbing irregular migration. Much of this aid was intended for the U.S. Agency for International Development's (USAID) programs in the region, which directly sought to help those vulnerable populations.

COVID-19 Complications to the Border Challenge

Compounding an already challenging situation at the border are the multi-faceted impacts of the COVID-19 pandemic. Since March 2020, the Department of Homeland Security has been assisting the Centers for Disease Control and Prevention in implementing a public health order under Title 42 of the United States Code.

DHS continues to expel the majority of single adults and many families. In certain areas where Mexico lacks the capacity to receive and house families, families may be excepted from the CDC Order, processed into the United States under Title 8 of the United States Code, and placed into immigration proceedings. Unaccompanied children are now excepted from the CDC Order and the CDC is continually reassessing the public health need for an order under Title 42 to address the COVID-19 public health emergency. The Biden Administration will not keep the Title 42 restrictions in place longer than necessary for public health.

Handling of Unaccompanied Children

Since April 2020, the number of encounters at the border has been rising due to ongoing violence, natural disasters, food insecurity, and poverty in the Northern Triangle countries of Central America. This resulted in a substantial strain on the processing, transportation, and holding capacity of the U.S. Border Patrol.

In response to the COVID-19 pandemic, the recommended temporary holding capacity within all Border Patrol facilities had been reduced by 75% to allow for increased physical distancing and to reduce the further spread of the disease.

Unaccompanied children posed a particular challenge for DHS because of the complete lack of urgency and attention the previous administration showed to the need to increase the Department of Health and Human Services' (HHS) ability to receive unaccompanied children from DHS's custody within the mandated time frame. The Office of Refugee Resettlement (ORR) at HHS is responsible for taking custody of unaccompanied children encountered by CBP within 72 hours, absent extraordinary circumstances. The previous administration imposed a months-long hiring freeze at ORR. Further, at a time when COVID-related requirements were limiting the availability of beds, the prior administration failed to activate additional bed capacity in the fall of 2020 despite early signs of an upward trend in unaccompanied children referrals. This delay put HHS behind the curve as encounters of unaccompanied children started to increase.

DHS Actions to Address the Needs of Unaccompanied Children

Entire systems are not rebuilt overnight. They do, however, require swift action to address pressing needs, especially when the health and safety of vulnerable children are concerned. I am pleased to share with you the actions we have taken to address the needs of unaccompanied children encountered at the border.

To respond to the increase in migration, while factoring in both capacity limitations imposed by the COVID-19 pandemic safety guidelines and the provision of appropriate resources for individuals in custody, CBP constructed two soft-sided facilities in the Rio Grande Valley in Donna, Texas and deployed 300 additional Border Patrol Agents from other areas to the Rio Grande Valley to increase processing and transportation capacity and to provide care for individuals in custody. CBP also constructed three additional soft-sided facilities, one each in Eagle Pass, Yuma, and Tucson, to further increase temporary holding and processing capacity. To provide additional capacity in Donna, Texas, CBP has initiated the construction of another soft-sided facility, which will open on or about May 25.

Despite these actions, HHS capacity limitations to accept transfers of unaccompanied children continued to put a strain on CBP resources as the number of unaccompanied children in custody began to grow.

On March 13, I directed DHS's Federal Emergency Management Agency to support a government-wide effort to safely receive, shelter, and transfer unaccompanied children to ORR care and custody and onward to a verified sponsor. FEMA immediately integrated and co-located with HHS to look at every available option to support a quick expansion of ORR's physical capacity for the care and custody of unaccompanied children, and to support HHS in managing overall operations. FEMA has deployed more than 100 employees to help HHS identify locations for emergency shelters, oversee construction, and manage operations.

Additionally, USCIS has trained and deployed more than 350 of its personnel to virtually interview unaccompanied children and potential sponsors, in order to provide case management

for unaccompanied children in HHS custody at Emergency Intake Sites (EIS). As of May 4, 2021, USCIS personnel have conducted nearly 4,000 interviews and recommended more than 2,200 children for release to a sponsor.

DHS and HHS also announced the termination of a counterproductive 2018 agreement that undermined the interests of unaccompanied children and had a chilling effect on potential sponsors (usually a parent or close relative) from coming forward to sponsor an unaccompanied child placed in the care of HHS. In its place, DHS and HHS signed a new Memorandum of Agreement that promotes the safe and timely release of unaccompanied children.

DHS stood up the interagency Movement Coordination Cell (MCC) to bring together colleagues from FEMA, ORR, U.S. Immigration and Customs Enforcement (ICE), and CBP to share a common operating picture. The goal of the MCC is to support the rapid transfer of unaccompanied children from CBP custody to ORR custody—whether to licensed bed facilities or the emergency intake sites stood up by HHS in collaboration with FEMA. This interagency approach has been remarkably successful in reducing the average time in custody that unaccompanied children spend in CBP facilities.

Other DHS employees from across the Department have been engaged in this herculean effort as well. The Federal Protective Service alongside other DHS federal law enforcement partners has helped provide security support to HHS facilities housing unaccompanied children. ICE has increased its transportation capacity to transfer these children to ORR. The DHS Volunteer Force has deployed more than 400 additional staff to provide onsite support at HHS facilities across the country. I am incredibly proud to serve alongside the women and men of DHS who have met this moment. This is what we do.

Improving the Health and Safety of Unaccompanied Children

The health and safety of unaccompanied children is a top priority. Under the leadership of the DHS Chief Medical Officer Dr. Pritesh Gandhi, we have put into place policies and procedures to address the health needs of unaccompanied children.

Unaccompanied children are now tested for COVID-19 either prior to or upon transport to HHS facilities. Transportation to HHS facilities now occurs with COVID-positive and COVID-negative cohorts. This has allowed more HHS beds to remain online and, importantly, has decreased transmission between children.

We are also conducting an ongoing comprehensive evaluation of COVID-19 mitigation procedures at the Southwest Border, starting in February and continuing to this date. As a result, CBP is following standard protocols for masking in all facilities. As part of a priority DHS-wide effort to reduce COVID-19 transmission, we also initiated Operation Vaccinate Our Workforce (Operation VOW), to vaccinate our front-line, Phase 1A/1B staff. As of the time of this report, over 75% of Phase 1A/1B DHS staff who have opted in to receive a COVID vaccine have now received at least one dose. Every CBP facility is being evaluated to ensure proper filtration is used where possible. Further, a system-wide effort is underway to integrate COVID-19 testing

data from CBP facilities and non-profit/local/state partners to provide a unified COVID-19 dashboard and enhanced situational awareness.

As the number of children increased in CBP border facilities, DHS proactively mobilized additional health providers in collaboration with the U.S. Coast Guard and U.S. Public Health Service. CBP coordinated the deployment of additional medical teams to Del Rio, Yuma, and the Rio Grande Valley. These additional healthcare providers allowed for enhanced medical surveillance and evaluation of children and for CBP to ensure medical staffing for multiple newly-established soft-sided facilities. In addition, CBP established enhanced medical support efforts for children facing overcrowding and prolonged time in custody, including daily health and wellness checks conducted by licensed professionals and allied health providers.

Results

Between March 13 and May 1, FEMA assisted in the activation of fourteen HHS EIS facilities. EIS facilities are operating in Texas, California, and Michigan, increasing the potential temporary bed capacity when fully staffed by 19,987 beds, or 1,999 percent.

This additional bed capacity, along with improvements in the process of safely releasing unaccompanied children to sponsors, has resulted in the reduction of the total number of unaccompanied children in CBP custody from 5,767 at its peak on March 29th to 455 on May 11th. During this same period, the number of unaccompanied children who have been in custody longer than 72 hours has decreased from 4,078 at its peak on March 29th to zero on the morning of May 11th, while average time in custody for unaccompanied children has fallen from 133 hours on March 29th to 22 hours on the morning of May 11th. This progress occurred while CBP encountered 18,000 unaccompanied children in the month of April. For the seven-day period ending May 10th, CBP transferred an average of 422 unaccompanied children a day to ORR, approximately two-thirds of CBP's total unaccompanied child population on a given day and more than keeping pace with daily apprehensions.

Addressing Root Causes and Expanding Legal Pathways

Addressing the needs of unaccompanied children at the border is, of course, an important priority. At the same time, the most sustainable solutions to our challenge at the border include addressing the root causes that drive people to migrate in the first place, and establishing safe and orderly pathways for individuals to seek protection and relocation avenues such as refugee resettlement and family reunification programs. We are working in partnership with the State Department and others on these efforts while addressing the current migration flow.

Central American Minors Program

DHS has been working closely with the Department of State on reinstating and improving the Central American Minors (CAM) Refugee/Parole program to reunite qualified children from El Salvador, Guatemala, and Honduras with their parent or parents who are lawfully present in the United States. This program provides a safe, legal, and orderly pathway to enable children at risk to reunite with their families in the United States.

We are working closely with the State Department to reopen the program in two phases. During the first phase, we are processing eligible applications that were closed when the program was terminated in 2018; this represents over 3,000 applications, totaling more than 3,800 individuals. After the Department of State and USCIS identified all suspended cases eligible for reopening, State announced the reopening of CAM on March 10 of this year. Since then, domestic resettlement agencies continue to contact eligible parents in order to verify that they are still lawfully present in the United States and wish to reopen their child's case. In the second phase, which will begin shortly, we will accept new applications pursuant to updated guidance.

During the life of the program, before it was closed, we reunified nearly 5,000 children safely and securely with their families, and we are committed to doing even more with the resumption of this program, which provides children with acute protection needs a safe, legal alternative to the dangerous overland journey that so many have attempted to undertake to our Southwest border.

Migrant Protection Protocols

As part of its phased approach to restore safe and orderly processing at the Southwest Border, the Biden Administration began processing into the United States certain individuals who were enrolled in the Migrant Protection Protocols (MPP) and have open proceedings before the Department of Justice's Executive Office for Immigration Review. To date, DHS—in coordination with interagency and international organization partners as well as the Government of Mexico—has processed over 10,000 migrants subject to MPP into the United States at six ports of entry along the Southwest Border while comporting with public health guidance regarding COVID-19.

DHS and its partners have been able to conduct this process safely during the COVID-19 pandemic by utilizing virtual registration, staging locations, and processing efficiencies to address public health concerns. During the staging process conducted by the international organizations, participating individuals undergo temperature checks, medical questioning, and COVID-19 testing prior to presentation at a designated port of entry. All individuals who are brought in through this process are tested for COVID-19 prior to entry. Individuals who test negative are presented at the port of entry as planned, while individuals who test positive (and their accompanying family members) complete an isolation period and are supported by the international organizations in seeking treatment, if necessary, before presenting at a port for processing.

Through this facilitated process to address certain individuals who were enrolled in MPP, DHS has demonstrated that using a specialized and scaled process, it can simultaneously maintain border security, humanely uphold immigration laws, efficiently process select populations at the Southwest Border, and protect communities against the further spread of COVID-19 in the United States.

H-2B Visas for Northern Triangle Countries

Last month, after close consultation with the Secretary of Labor, I announced I would exercise my authority under Section 105 of the Consolidated Appropriations Act of 2021 to provide 22,000 supplemental H-2B visas for fiscal year 2021, and that this exercise of authority would include safeguards for U.S. and H-2B workers. Of these visas, 6,000 will be reserved for nationals of the Northern Triangle countries of Honduras, El Salvador, and Guatemala.

This supplemental increase demonstrates DHS's commitment to expanding lawful pathways for opportunity in the United States to individuals from the region. We believe enhanced access to legal pathways will discourage many individuals from making the perilous journey to our border. The increase addresses the needs of U.S. employers at risk of suffering irreparable harm due to a shortage of workers to fill temporary jobs, while also establishing safeguards to ensure that U.S. workers are not adversely impacted by these additional visas. These workers return to their home countries, and the wages they have earned will help struggling Northern Triangle economies.

DHS Efforts to Address Human Smuggling Networks

Transnational criminal organizations (TCOs) pose significant dangers to migrants in Mexico and Central America. Human smugglers associated with TCOs not only seek to profit from their exploitation of these migrants, but also have little regard for their well-being, exposing them to violent encounters, injury, and death. These organizations are complicit in sexual assaults, human trafficking, and abandonment of these vulnerable migrants, including tender-aged children. In Fiscal Year 2020, Border Patrol located the remains of 250 migrants who died during their journey.

In order to bring all the resources of the government to bear on these human smuggling networks, CBP is leading a new anti-smuggling effort called Operation Sentinel. Operation Sentinel is a collaborative effort with ICE's Homeland Security Investigations, USCIS, the U.S. Department of State, and the U.S. Department of Justice's Federal Bureau of Investigation and Drug Enforcement Administration.

This new effort will target all personnel and identifiable resources that TCOs require to operate. Utilizing the full breadth of domestic and foreign authorities, data, analytic capability and capacity, Operation Sentinel is mapping the organizations' networks; targeting their members, associates, and assets; and employing a series of targeted actions and sanctions against them.

Conclusion

As the President recognized in his Executive Order on *Creating a Comprehensive Regional Framework to Address the Causes of Migration*, safely managing our borders is a critical endeavor that we are bound to by both law and duty. He also emphasized clearly that the securing of our borders must not cause us to ignore the humanity of those who seek to cross them. The dedicated DHS workforce has risen to that call for humanity through their herculean efforts to address the needs of unaccompanied children.

Thank you. I am pleased to answer your questions.