AN ADMINISTRATION MADE DISASTER: THE SOUTH TEXAS BORDER SURGE OF UNACCOMPANIED ALIEN MINORS

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

JUNE 25, 2014

Serial No. 113–84

Printed for the use of the Committee on the Judiciary

Available via the World Wide Web: http://judiciary.house.gov

U.S. GOVERNMENT PRINTING OFFICE

88–437 PDF WASHINGTON : 2014

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON THE JUDICIARY

BOB GOODLATTE, Virginia, *Chairman*

F. JAMES SENSENBRENNER, JR., Wisconsin
HOWARD COBLE, North Carolina
LAMAR SMITH, Texas
STEVE CHABOT, Ohio
SPENCER BACHUS, Alabama
DARRELL E. ISSA, California
J. RANDY FORBES, Virginia
STEVE KING, Iowa
TRENT FRANKS, Arizona
LOUIE GOHMERT, Texas
JIM JORDAN, Ohio
TED POE, Texas
JASON CHAFFETZ, Utah
TOM MARINO, Pennsylvania
TREY GOWDY, South Carolina
RAÚL LABRADOR, Idaho
BLAKE FARENTHOLD, Texas
GEORGE HOLDING, North Carolina
DOUG COLLINS, Georgia
RON DeSANTIS, Florida
JASON T. SMITH, Missouri
[Vacant]

JOHN CONYERS, JR., Michigan
JERROLD NADLER, New York
ROBERT C. "BOBBY" SCOTT, Virginia
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
STEVE COHEN, Tennessee
HENRY C. "HANK" JOHNSON, JR., Georgia
PEDRO R. PIERLUISI, Puerto Rico
JUDY CHU, California
TED DEUTCH, Florida
LUIS V. GUTIERREZ, Illinois
KAREN BASS, California
CEDRIC RICHMOND, Louisiana
SUZAN DelBENE, Washington
JOE GARCIA, Florida
HAKEEM JEFFRIES, New York
DAVID N. CICILLINE, Rhode Island

SHELLEY HUSBAND, *Chief of Staff & General Counsel*
PERRY APELBAUM, *Minority Staff Director & Chief Counsel*

CONTENTS

JUNE 25, 2014

Page

OPENING STATEMENTS

The Honorable Bob Goodlatte, a Representative in Congress from the State of Virginia, and Chairman, Committee on the Judiciary 1
The Honorable John Conyers, Jr., a Representative in Congress from the State of Michigan, and Ranking Member, Committee on the Judiciary 4
The Honorable Jason Chaffetz, a Representative in Congress from the State of Utah, and Member, Committee on the Judiciary 5
The Honorable Zoe Lofgren, a Representative in Congress from the State of California, and Member, Committee on the Judiciary 7

WITNESSES

Thomas Homan, Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement
Oral Testimony 10
Ronald D. Vitiello, Deputy Chief of Border Patrol, Customs and Border Protection, U.S. Department of Homeland Security
Oral Testimony 12
Joint Prepared Statement 14
Chris Crane, President, National Immigration and Customs Enforcement Council 118, American Federation of Government Employees
Oral Testimony 21
Prepared Statement 23
Brandon Judd, President, American Federation of Government Employees National Border Patrol Council
Oral Testimony 32
Prepared Statement 35
Most Reverend Mark Seitz, Bishop, Diocese of El Paso, Texas
Oral Testimony 38
Prepared Statement 40

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

Material submitted by the Honorable Bob Goodlatte, a Representative in Congress from the State of Virginia, and Chairman, Committee on the Judiciary 57
Material submitted by the Honorable Darrell E. Issa, a Representative in Congress from the State of California, and Member, Committee on the Judiciary 72
Material submitted by the Honorable Zoe Lofgren, a Representative in Congress from the State of California, and Member, Committee on the Judiciary 74
Material submitted by the Honorable Sheila Jackson Lee, a Representative in Congress from the State of Texas, and Member, Committee on the Judiciary 115
Material submitted by the Honorable Louie Gohmert, a Representative in Congress from the State of Texas, and Member, Committee on the Judiciary 135
Material submitted by the Honorable Steve King, a Representative in Congress from the State of Iowa, and Member, Committee on the Judiciary 151

Page

Additional material submitted by the Honorable Steve King, a Representative in Congress from the State of Iowa, and Member, Committee on the Judiciary 156
Additional material submitted by the Honorable Zoe Lofgren, a Representative in Congress from the State of California, and Member, Committee on the Judiciary 169
Material submitted by the Honorable Sheila Jackson Lee, a Representative in Congress from the State of Texas, and Member, Committee on the Judiciary 211
Material submitted by the Honorable Luis V. Gutierrez, a Representative in Congress from the State of Illinois, and Member, Committee on the Judiciary 214
Material submitted by the Honorable Sheila Jackson Lee, a Representative in Congress from the State of Texas, and Member, Committee on the Judiciary 233

APPENDIX

Material Submitted for the Hearing Record

Questions for the Record submitted to Thomas Homan, Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement 242
Response to Questions for the Record from Ronald D. Vitiello, Deputy Chief of Border Patrol, Customs and Border Protection, U.S. Department of Homeland Security 244
Response to Questions for the Record from Chris Crane, President, National Immigration and Customs Enforcement Council 118, American Federation of Government Employees 246

AN ADMINISTRATION MADE DISASTER: THE SOUTH TEXAS BORDER SURGE OF UNACCOMPANIED ALIEN MINORS

WEDNESDAY, JUNE 25, 2014

HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
Washington, DC.

The Committee met, pursuant to call, at 2:09 p.m., in room 2141, Rayburn House Office Building, the Honorable Bob Goodlatte (Chairman of the Committee) presiding.

Present: Representatives Goodlatte, Coble, Smith of Texas, Chabot, Bachus, Issa, Forbes, King, Franks, Gohmert, Jordan, Poe, Chaffetz, Marino, Gowdy, Labrador, Farenthold, Holding, Collins, DeSantis, Conyers, Nadler, Scott, Lofgren, Jackson Lee, Johnson, Chu, Deutch, Gutierrez, Bass, DelBene, Garcia, Jeffries, and Cicilline.

Staff Present: (Majority) Shelley Husband, Chief of Staff & General Counsel; Branden Ritchie, Deputy Chief of Staff & Chief Counsel; Allison Halataei, Parliamentarian & General Counsel; Dimple Shah, Counsel; George Fishman, Counsel; Kelsey Deterding, Clerk; (Minority) Perry Apelbaum, Minority Staff Director & Chief Counsel; Danielle Brown, Parliamentarian; and Tom Jawetz, Counsel.

Mr. GOODLATTE. Good afternoon. The Judiciary Committee will come to order. And without objection, the Chair is authorized to declare recesses of the Committee at any time.

We welcome everyone to this afternoon's hearing on "An Administration Made Disaster: The South Texas Border Surge of Unaccompanied Alien Minors." And I will begin by recognizing myself for an opening statement.

There is a tsunami hitting our Nation's southern border. Unaccompanied alien minors and adults traveling with minors are arriving in unprecedented numbers. Central American minors, largely teenagers, are making a perilous journey through Mexico and then walking miles across a hostile border environment, assisted by smugglers, and coming to the United States in violation of the law.

According to Deputy Border Patrol Chief Ronald Vitiello, who will testify today, the Department of Homeland Security expects to apprehend more than 90,000 unaccompanied minors on the border this year. The estimated number of UAMs apprehended in 2014 represents a 1,381 percent increase since 2011, while the projected

number of 142,000 apprehensions in 2015 represents a 2,232 percent increase.

It is not just UAMs who are arriving; adults bringing along minors are also coming. Since 2011, the number of apprehended individuals comprising family units has increased from 13,600 to 42,000 for this year as of June 16. Taking into account just half of this year, we have seen a 143 percent increase in families apprehended at the border since 2012.

The Administration claims that these unlawful aliens are coming to the U.S. based upon generalized violence, strife, conflict, and discord in their home countries. It is true that these factors have always played a role in Central Americans coming to the U.S. illegally.

Undoubtedly, seeing strife in economically disadvantaged countries, along with seeing impoverished women and children showing up at our Nation's doorstep, arouses the deepest of sympathies. However, the factors causing the recent and unprecedented surge are very different than those claimed by the Administration.

A May 28, 2014, Rio Grande Valley Sector Intelligence Report tells a story that is strikingly different than the claimed humanitarian crisis the Administration paints as responsible for the surge. The report summarized interviews conducted with hundreds of apprehended Central American minors and, quite frankly, paints a very different picture of the situation. According to the report, when these individuals were asked why they made the journey to the United States, approximately 95 percent indicated that the main reason was to take advantage of the new U.S. law that grants a free pass or permit, referred to as "permisos," being issued by the U.S. Government to women traveling with minors and unaccompanied alien minors.

While no new law has been enacted, the truth is that this Administration has dramatically altered immigration enforcement policies. The timing of the change in policies correlates closely with the steep uptick of individuals showing up at the border. Apparently, word has gotten out that once encountered by Border Patrol agents and processed, thanks to this Administration's lax enforcement policies, one will likely never be removed.

Word has spread to the Americas and beyond that the Obama administration has taken unprecedented and most likely unconstitutional steps in order to shut down the enforcement of our immigration laws for millions of unlawful and criminal aliens not considered high enough priorities, especially minors and adults with minors. The world seems to know that DHS refuses to enforce the law under the guise of prosecutorial discretion. The beneficiaries of these policies even include many thousands of aliens who have been arrested by State and local law enforcement or convicted criminals who have been put in removal proceedings and who DHS has simply let back out onto our streets.

And now these beneficiaries include those minors and families who continue to arrive at our border and the Administration ushers in via "100 percent reverse escorts"—that's a term—into the interior of the United States. Most are ultimately released, often into the hands of those who paid smugglers to bring them here in the first place.

In addition to simply not pursuing removable aliens, DHS has been granting hundreds of thousands of these individuals administrative legalization and work authorization. DHS does this under many guises, invoking doctrines with esoteric names such as "deferred action" and "parole in place." The net effect of these policies has been described by former ICE Acting Director John Sandweg, "If you are a run-of-the-mill immigrant here illegally, your odds of getting deported are close to zero." Apparently those arriving at our borders now know this.

Indeed, Father Heyman Vasquez, the director of a migrant shelter in Mexico, told news outlets that children and families are encouraged to cross into the U.S. illegally because they think they will be given amnesty. Vasquez said, "I remember a little boy of 9 years old, and I asked if he was going to go meet someone, and he told me, 'No, I'm just going to hand myself over because I hear they help kids.'"

In addition, like so many others across Central America, Robin Tulio, a 13 year old, said his mother believed that the Obama administration had quietly changed its policy regarding unaccompanied minors, and that if he made it across he would have a better shot at staying.

In the meantime, Central American media touts an open door to the U.S. for minors and families. Based on information the Committee has received, it seems that the Administration has known about this problem for some time. Reverend Richard Ryscavage, who serves on the White House immigration advisory panel, agrees.

He stated that "Officials hid the fast-growing migration crisis from the media because they're still trying to pass a very unpopular immigration rewrite." He indicated, "That's the Administration's priority, to get that Senate-type bill passed. They didn't do anything public about it. They didn't want to tell anyone about it. And now they're in a stage where they're feeling we have to figure out a strategy." Ryscavage concludes: "That's what the Administration is most afraid of, that the border surge will derail any discussion of reform of the immigration laws."

Unfortunately, these statements show that the Administration has made a fundamental miscalculation. Its failure to secure our borders, mitigate threats to national security, or enforce our immigration laws only undermines Congress' ability to reform our immigration laws.

It was easy to predict that people in South and Central America, as well as in Mexico, would recognize a veiled invitation from the Administration to send their children and families to the United States with little chance of deportation. These individuals know that the Administration's policy of nonenforcement of our immigration laws presents a golden opportunity for unaccompanied minors and families with minors to come to the U.S., most likely to be released with very little chance of ever being removed. The Administration's message is tragic because the journey the Administration encourages is so dangerous and results in death, disease, and harm to so many minors along the way.

It is often said that Nero fiddled while Rome burned. Unfortunately, it seems that Obama fiddles while our borders implode. I

look forward to finding out from the witnesses today what, if anything, the Obama administration plans to do about this crisis and what solutions could work to end it. I would like to thank all of the witnesses, many of whom are career law enforcement professionals, for taking the time to testify.

And now I would like to recognize the Ranking Member of the Committee, the gentleman from Michigan, Mr. Conyers, for his opening statement.

Mr. CONYERS. I had hoped that we could have a balanced discussion about the root causes of the humanitarian crisis we're seeing play out along the southwest border and also begin to identify solutions to this pressing issue. I now see that some have already made their conclusions before even hearing the facts. I am very, very disappointed about the conclusions and surmises that have been made in the opening statement.

And the title of this hearing seems to say it all: "An Administration Made Disaster: The South Texas Border Surge of Unaccompanied Alien Minors." I couldn't more strongly disagree with a misleading title such as this and supplanted by the arguments just presented. My concern is not just that this title unfairly attacks the President of the United States or that it presupposes a conclusion without substantial evidence, but that it also dangerously mischaracterizes the issue at hand.

The increase in unaccompanied children apprehended along our southwest border in recent years is evidence of a humanitarian crisis unfolding in our region. The facts simply do not support the claim that this Administration's actions have somehow led to the current situation. The dramatic flow of children across our southwest borders is a symptom of the real humanitarian crisis that's going on every day in Honduras, El Salvador and Guatemala, where most of these children come from. And in each of these countries, the level of violence is sky high and the ability of the government to protect its most vulnerable citizens is terribly low.

Honduras has the highest murder rate in the world and has had it for the last 4 years. El Salvador and Guatemala are close behind at fourth and fifth. Our State Department even warns American citizens not to travel to Honduras and El Salvador because the level of crime and violence is critically high, and as a result many people are fleeing to ask for protection abroad.

It's important to note that they're not just heading to the United States. Since 2008, Mexico, Nicaragua, Belize, Panama, and Costa Rica have seen a 712 percent increase in asylum claims from these three countries alone. The number of children we are seeing is sure to test our resolve with respect to the rule of law and our obligation to protect people fleeing persecution, and this is a test that we must not fail.

I can't help but think of how we responded when tens of thousands of Haitians took to the seas in small boats and dangerous conditions after the coup that ousted President Jean-Bertrand Aristide. Coast Guard vessels interdicted many of these boats and returned people to face persecution without a fair asylum hearing. Let's not repeat the mistakes of the past. Although the current situation poses a great challenge to our Departments of Homeland Security, Health and Human Services, and Justice, we must rise to

meet the challenge and demonstrate our continuing commitment to the rule of law and the protection of refugees.

Let us also not forget the urgent issue in the background: We need to fix our broken immigration system. It has now been a year since the Senate passed bipartisan comprehensive immigration reform that would bring much-needed relief to American families, businesses and communities.

And with that, I want to just conclude by pointing out, in the 12 months since the Senate passed a bill, a House version, H.R. 15, has gained the support of 200 cosponsors. The Congressional Budget Office has reported that these bills would jump-start our economy and decrease the deficit by $900 billion over 20 years. And public sentiment remains decidedly in favor of comprehensive reform.

But here at the end of June and another work period, we have done nothing to achieve needed reform. So what are we waiting for? I'm ready to take a vote now. And if that happened, I'm willing to bet that a majority of Members of the House of Representatives would vote right along with me. But leadership in the House still blames their inaction on the President, saying that he can't be trusted.

The need to fix our broken immigration system, thousands of children flooding across our border, a humanitarian crisis right in our backyard, these are difficult issues that cannot be explained, let alone solved, by these simplistic accusations and recycling of political sound bites. I am very discouraged, but I will not stop. Now is the time to lay down our legislative armor, end the political theatrics and do something simply because it is the right thing to do. And of course, if the House fails to act, I fully support the President doing what he can under current law to improve our broken system. Either way, America is waiting. And I conclude my remarks on that note.

Mr. GOODLATTE. The Chair thanks the gentleman.

And I will now turn to the Chairman of the Subcommittee on Immigration and Border Security, the gentleman from South Carolina, Mr. Gowdy, for his opening statement.

Mr. GOWDY. Thank you, Mr. Chairman. It is my pleasure to yield to the Chairman of the National Security Subcommittee on Oversight and Government Reform, who has done great work on this issue, as well as Mr. Chairman, fraud and the asylum process, the gentleman from Utah, Mr. Chaffetz.

Mr. CHAFFETZ. I thank the Chairman.

From the onset, the Obama administration has made it clear that certain broad classes of unlawful aliens would not be deported if caught within the interior of the United States. This helped create an atmosphere conducive to the current rash of thousands of minors, some coming with family members but many unaccompanied, entering from the south of the border into the United States.

In order to deal with this problem, the Obama administration announced a few weeks ago that United States Immigration and Customs Enforcement, ICE, will expand the number of family detention beds and send trial attorneys and immigration judges to the

border to address the sudden surge of children, teenagers, and families seeking to enter the United States illegally.

Unfortunately, the Administration's plan to deal with the crisis at the border created by its failure to enforce our immigration laws really will do little to solve the problem it itself created. Many of the children, teenagers, and adults arriving at the border are able to game the system, our asylum and Administration laws because the Obama administration has severely weakened them. All the Administration plans to deal with the problem will only ensure that the claims will get adjudicated more quickly, and minors and adults with minors will be put on the fast track to remaining in the United States permanently and legally and with access to a full array of taxpayer-provided benefits.

Unaccompanied alien minors are not subject to expedited removal under current law, and many, if not a majority of them are eligible for immigration relief. Many of the minors and families arriving at the border are claiming asylum or a credible fear of persecution. These minors can apply for and will likely receive asylum because it's just as easy to game the system.

The Committee obtained an internal Department of Homeland Security report which shows at least 70 percent of asylum cases contain proven or possible fraud. In addition, approval rates of asylum applications are skyrocketing, and former members of violent gangs who supposedly renounce their memberships once encountered by immigration authorities are getting asylum.

Lastly, nondetained aliens who are denied asylum are rarely successfully deported. A minor who wants to make an affirmative claim of asylum will first apply with a USCIS asylum officer. Approval rates by asylum officers have increased from 28 percent in 2007 to 46 percent in 2013. If an asylum officer does not approve the application, it is referred to an immigration judge. Approval rates by immigration judges in affirmative cases have increased from 51 percent in 2007 to 74 percent in 2013.

Combining these two bites at the apple, the vast majority of aliens who affirmatively seek asylum are now successful in their claims. This is not even to take into account the appeals to the Board of Immigration Appeals or Federal courts. Furthermore, family units caught along the border or at ports of entry can claim a credible fear of persecution in order to seek a hearing before an immigration judge and receive work authorization while their case is pending.

Over the past several years, credible fear claims have been granted at ever-growing rates under the Obama administration. Currently, data provided by the Department of Homeland Security shows that U.S. Citizenship and Immigration Services, USCIS, makes positive credible fear findings in 92 percent of all cases. In fact, credible fear claims have increased 586 percent from the year 2007 to 2013, as word has gotten out of the virtual rubber stamping of the applications.

This is more troubling because we have received reports that drug cartel members are abusing the asylum process to bypass regular immigration checks in order to get into the country. Thereafter, they expand their human and drug smuggling operations in the United States. Once here, some of these cartel members even

engage in the same violent feuds that caused them to flee Mexico and other South and Central American countries in the first place.

Information provided by DHS also details cartel hit squad members who entered the United States after claiming they feared violence when they fell out of grace with their "employers." In one case, two families involved in drug trafficking came to the United States claiming credible fear of persecution then began targeting each other once they were here.

It's outrageous that dangerous criminals are gaming the system by claiming they have credible fear of persecution, when often they have been the perpetrators of violence themselves. If the Administration really wants to fix the problem, they should enforce our immigration laws already on the books, reverse policies that created this mess in the first place, and work with Congress on targeted legislative fixes.

I thank the Chairman, and I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman and now recognizes the Ranking Member of the Subcommittee on Immigration and Border Security, the gentlewoman from California, Ms. Lofgren, for her opening statement.

Ms. LOFGREN. Thank you, Mr. Chairman.

Today's hearing is on a serious topic and it deserves a serious discussion. Unfortunately, as Mr. Conyers has said, the title, "An Administration Made Disaster," looks like some have made up their minds and may indeed intend to turn this into yet another partisan attack on the Administration. The facts don't support that attack, and I hope we will be able to give this topic the consideration it deserves.

There is indeed a spike in the number of unaccompanied minor children apprehended along the southwest border. Although the increase actually began in 2011, the rate of apprehension has increased sharply. We may apprehend as many as 90,000 kids during the current fiscal year, and they have overwhelmed our resources to cope with them.

Now, in the past, the majority of kids coming alone came from Mexico, and they tended to be older children, 16-, 17-year-old boys. That is no longer the case. The current spike is driven almost entirely by children from three countries, and we have a chart here, and you can see it starkly laid out.

[Chart.]

Ms. LOFGREN. The sources of these children coming to the United States are El Salvador, Guatemala, and Honduras. And the current population has changed, as well. We don't have that on the chart. It contains lots more girls, lots more younger children than have come in the past.

And has been pointed out, and I think all of us will agree, the journey to the United States is extremely dangerous, and along the way these children could be raped, they could be killed, maimed, become victims of trafficking, extorted. Many of them know the dangers that they'll face. So we need to understand what it is, knowing what they face that is causing them to come anyway. What is so horrible that is going on in those countries that you would face potentially being trafficked or raped in order to get here?

Now, the UNHCR, the U.N. refugee agency, has taken a look at what's going on in these three countries, and they report a spike in violence by transnational criminal organizations. In fact, news reports indicate that officials in El Salvador recently discovered a mass grave containing the remains of people, including children, who were killed and dismembered elsewhere.

In Honduras, the Covenant House reports that murders of children are on the rise. And according to the State Department's 2013 country report on Guatemala, many hundreds of women and girls are killed each year. The report notes, and I quote, that in most killings, sexual assault, torture and mutilation were evident, but only 1 or 2 percent of these murders resulted in conviction.

Now, this is a regional catastrophe, and the United States is not the only country experiencing an increase in the number of young people fleeing from these countries seeking protection. As Mr. Conyers, mentioned, there's been a 712 percent increase in asylum applications in Mexico, Costa Rica, Nicaragua, Panama, and Belize.

It's significant that there is no measurable increase of any sort from children coming from these other countries. Look at Nicaragua. There's no spike there. Nicaragua actually is a country that is poorer than Honduras, Guatemala, and El Salvador. There is no spike from these other countries.

So if the majority is correct that there's somehow a change in policy, which there has not been, that has encouraged people to come to the United States, why only from three countries? Why not from the poor country of Nicaragua?

I think also that the UNHCR, which is probably the most experienced in dealing with refugee matters, interviewed 404 of these unaccompanied children and they found out that 58 percent of them spoke of serious harm that raised for the U.N. international protection concerns. I remember last year we had a hearing on so-called asylum abuse and Chairman Goodlatte asked whether there really had been a situation where things had gotten more dangerous in recent years. And I think it's obvious when it comes to Honduras, El Salvador, and Guatemala, the answer to that question appears to be yes.

Unfortunately, some have tried to politicize the situation. Some have argued the Administration is responsible for this humanitarian crisis, and indeed, the title of this hearing is conclusionary in that respect. Put aside the fact that the Obama administration has set records in terms of deportations, I think we need to know that nothing has changed in terms of the law.

Looking back at the state of the law, the 1997 court-ordered settlement *Flores v. Reno* first established that children should be released into the least restrictive environment, because at the time little children were being housed in prisons with adults, and we found that and the courts found that unconstitutional and wrong.

Subsequent to that, our former colleague, Dick Armey of Texas, introduced the Homeland Security Act of 2002, which codified the court settlement and said that unaccompanied children must be released into the least restrictive environment, and of course, the William Willberforce Trafficking Victims Protection Reauthorization Act that we all championed here, cosponsored by Mr. Berman, our former colleague, and Jeff Fortenberry, Chris Smith, and

Ileana Ros-Lehtinen, also signed into law by George Bush, further codified that settlement, that we're not going to put little children into shackles.

Now, it's true that the government is not now using expedited removal to deport these children without an immigration hearing. Why is that? Because the law prohibits it. They are following what the law says that they must do, and this was the law signed into law when George Bush was President in a Republican Congress.

You know, the regional humanitarian crisis requires a regional solution, and I'm hopeful that some of the steps announced last week to encourage, even demand the governments of Guatemala, El Salvador, and Honduras to take action to prevent the violence against these children will have an effect.

I'm also going to be looking closely at how we detain families. The Chairman is correct, we also have a surge of families with young children, and we are, as we know, opening up additional facilities for those families to be housed. As the Chairman, I'm sure, will recall, in the Refugee Act of 1980, as well as the Illegal Immigration Reform and Responsibility Act of 1996, authored by Congressman Smith of Texas, it is required that each case be reviewed closely and on a case-by-case basis and that no person or child be returned to face persecution or torture abroad.

This humanitarian crisis poses an enormous challenge. It will not help us to face this challenge by suggesting that when we follow the law we are somehow making up a new policy; in fact, we are following the policies that have guided us in treating children since 1997. And I hope that we will not play partisan games with this very dangerous situation. I yield back.

Mr. GOODLATTE. The time of the gentlewoman has expired.

Without objection, all other opening statements will be made a part of the record.

We welcome our distinguished panel today. And if you would all rise, I'll begin by swearing in the witnesses.

[Witnesses sworn.]

Mr. GOODLATTE. Let the record reflect that all of the witnesses responded in the affirmative.

I'll begin by introducing the witnesses. Mr. Thomas Homan is the Executive Associate Director for Enforcement and Removal Operations for U.S. Immigration and Customs Enforcement in the Department of Homeland Security. In this role, Mr. Homan has direct oversight of critical ICE programs and operations to identify, arrest, detain, and remove illegal aliens from the United States. Mr. Homan is a 30-year veteran of law enforcement and has 27 years of immigration enforcement experience. With a bachelor's degree in criminal justice, he began his career as a police officer in New York.

Mr. Ronald Vitiello is the Deputy Chief of the U.S. Border Patrol. As the Border Patrol's chief operating officer, he is responsible for the daily operations of the Border Patrol and routinely reports to and assists the Chief, U.S. Border Patrol, in planning and directing nationwide enforcement at administrative operations. Deputy Chief Vitiello entered the Border Patrol in 1985 at the Laredo Station in the Laredo Sector where he also served as a supervisory Border Patrol agent and has been with Border Patrol since.

Mr. Chris Crane currently serves as the President of the National Immigration and Customs Enforcement Council 118, American Federation of Government Employees. He has worked as an immigration enforcement agent for the U.S. Immigration and Customs Enforcement at the U.S. Department of Homeland Security since 2003. Prior to his service at ICE, Chris served for 11 years in the United States Marine Corps.

Mr. Brandon Judd is a Border Patrol agent and serves as President of the National Border Patrol Council, representing more than 17,000 Border Patrol agents and support staff. Beginning in 1997, Mr. Judd brings with him more than 17 years of experience as a Border Patrol agent. He was first elected president of the Border Patrol local in El Centro, California in 2001, and was later elected president of the largest Border Patrol local in Tucson, Arizona, in 2010, where he served a 2-year term. Mr. Judd is currently a Border Patrol agent stationed in Van Buren, Maine.

The Most Reverend Mark J. Seitz was named the sixth bishop of El Paso by His Holiness Pope Francis in 2013. Bishop Seitz began his priestly formation in 1972 at Holy Trinity Seminary in Irving, Texas, and was ordained to the priesthood for the Diocese of Dallas on May 17, 1980. He holds a bachelor of arts degree in philosophy, a master's degree in divinity, and a master of arts degree in theology from the University of Dallas. In 1985, Bishop Seitz received a master's degree in liturgical studies from Saint John's University in Collegeville, Minnesota.

We welcome all of you. I ask that each witness summarize his testimony in 5 minutes or less. To help you stay within that time, there's a timing light on your table. When the light switches from green to yellow, you have 1 minute to conclude your testimony. When the light turns red, that's it, your time is up. And we welcome you again.

And we'll start with you, Mr. Homan. We're glad to have you with us.

TESTIMONY OF TOM HOMAN, EXECUTIVE ASSOCIATE DIRECTOR, ENFORCEMENT AND REMOVAL OPERATIONS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Mr. HOMAN. Good afternoon. Chairman Goodlatte, Ranking Member Conyers, and Members of the Committee, thank you for the opportunity to testify today about U.S. Immigration and Customs Enforcement's role in addressing the influx of unaccompanied children along our Nation's southwest border, namely the Rio Grande Valley. Through the whole of government, we are determined to address this situation in a manner that is comprehensive, coordinated, and humane.

On May 12, Secretary Johnson declared a Level IV condition of readiness, which was the first step to bring the full interagency resources to bear. On June 1, President Obama, pursuant to the Homeland Security Act, directed Secretary Johnson to establish a Unified Coordination Group to ensure maximum coordination and effort were engaged. This group includes DHS and all of its components, the Departments of Health and Human Services, Defense, Justice and State, and the General Services Administration. Secretary Johnson has designated Federal Emergency Management

Agency Administrator Craig Fugate to serve as the Federal coordinating official for this U.S. Government-wide effort.

When CBP encounters a child attempting to enter the United States, CBP begins the interview process to determine the child's status, review available documentation, and determine if the child is accompanied by a parent or legal guardian. Under the Trafficking Victims Protection Reauthorization Act of 2008, we refer to it as TVPRA, an unaccompanied child who is a national of Canada or Mexico may be permitted to withdraw his or her application for admission and be repatriated immediately. However, this is not true for the vast majority of children encountered in the Rio Grande Valley because almost all of them are nationals of Honduras, Guatemala, and El Salvador, and according to the TVPRA are required to be processed by a notice to appear in order to see an immigration judge.

Upon determining that an unaccompanied child does not have the option under TVPRA to withdraw his or her application for admission, CBP notifies ICE and the Department of Health and Human Services Office of Refugee Resettlement. Once HHS notifies CBP and ICE that a shelter bed is available, pursuant to the requirements of the law, it is ICE's legal responsibility to quickly and safely transport the unaccompanied child from CBP custody to an ORR shelter facility.

ICE transports unaccompanied children via ground, commercial air, and ICE charter flights. In order to speed up the safe transportation of unaccompanied minors to ORR shelters, ICE has leased additional aircraft planes and is closely working with the Houston airport authority to have ICE escorting officers fly to Houston rather than making the trip to the Rio Grande Valley where both inbound and outbound flights are limited.

ICE is also using reverse escorting for unaccompanied children. ICE enforcement removal operations officers from other parts of the country are assisting and supporting the transportation needs in the Rio Grande Valley. This allows for more escorting capabilities, prevents officers in the Rio Grande Valley from breaking the overtime salary cap, and offers some relief to those officers in the RGV that are working at an incredible pace.

All 24 ICE ERO field offices have primary and backup juvenile coordinators, each of whom receive annual specialized training with respect to the unique vulnerabilities of children. Finally, ICE has detailed more than 91 officers to the Rio Grande Valley to assist with the increased transportation needs.

In conclusion, with the Committee's support ICE continues to work closely to ensure we have the resources we need to address the situation. Together with the Unified Coordination Group, ICE is leveraging all available transportation capabilities and resources to accommodate the needs of these children.

Chairman Goodlatte, Ranking Member Conyers, and distinguished Members of the Committee, I thank you for this opportunity to testify about ICE's role in managing the arrival of unaccompanied children. I look forward to answering your questions. Thank you.

Mr. GOODLATTE. Thank you, Mr. Homan.
Mr. Vitiello, welcome.

TESTIMONY OF RONALD D. VITIELLO, DEPUTY CHIEF OF BORDER PATROL, CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. VITIELLO. Thank you, Chairman Goodlatte, Ranking Member Conyers, and distinguished Members of the Committee. Thank you for the opportunity to appear today to discuss the role of U.S. Customs and Border Protection in addressing the influx of unaccompanied alien children along the southwest border.

For the past 3 years, the Rio Grande Valley area of Texas has experienced a significant rise in illegal entrants, including increased amounts of unaccompanied children and family units, mostly from El Salvador, Guatemala and Honduras. The recent dramatic increase in unaccompanied children is difficult and challenging on many levels. To date, this fiscal year, the number of unaccompanied children encountered by CBP is over 51,000. They have more than doubled this compared to the amount encountered over the entire previous year.

Today, there are just over 2,700 unaccompanied children in CBP custody. The Border Patrol's Rio Grande Valley Sector has expanded its enforcement actions against identified south Texas campaign criminal targets and illicit networks using resident and detailed personnel and resources.

The Border Patrol has augmented Rio Grande Valley's personnel with additional experienced agents detailed from across the southwest border, allowing the sector the flexibility needed to gain more interdiction effectiveness, situational awareness, and increase its operational footprint in targeted zones within its area of operation.

These children are an especially vulnerable population while in CBP custody. Unaccompanied children are generally separated from unrelated adults. They are provided drinking water, food, and medical assistance. While these basic necessities and facilities may be adequate for a short-term stay, CBP facilities were not designed or were services not in place to accommodate large volumes for an extended period of time.

We are working closely with ICE, our DHS and other Federal partners to surge resources, personnel, facilities, equipment, and supplies to quickly, safely, and humanely screen, then process children in accordance with the Trafficking Victims Protection Reauthorization Act and support the transfer of custody to the Department of Health and Human Services Office of Refugee Resettlement.

We are working with ICE, HHS, FEMA, and other Federal partners to improve conditions through the utilization of alternate facilities, such as the Nogales Placement Center in Arizona, to temporarily detain, stage unaccompanied children that are awaiting transfer to HHS custody.

The Border Patrol and DHS Health Affairs have established medical units at our busiest stations, and it is conducting public health screenings with assistance from the Coast Guard and HHS preparedness and response for all incoming adult and child detainees. FEMA has deployed field coordinators to assist with these ef-

forts, in addition to several FEMA Corps teams to the Rio Grande Valley and the Nogales Placement Center to assist with the day-to-day care and recreation of the unaccompanied children pending transfer to HHS.

I must commend the work that FEMA has done using the National Response Framework in their initial and ongoing coordination. The FEMA team has greatly improved the conditions for our workforce and these children. Assistance from nongovernmental and charity organizations has also had a big impact on the government-wide effort to address the needs of the children. The additional support in our ramp-up of improvements provided much needed relief to law enforcement agents and officers who have been and are the caretakers of these children in whatever way is needed, including mixing formula and giving of their own children's clothing for unaccompanied children in need.

CBP employees are absolutely committed to making sure these children are treated in the most respectful and humane way possible under this present circumstance. Our agents have stepped up to work this problem with compassion, dedication, and professionalism. They are to be commended. Border Patrol continues to work closely and around the clock with our partners to address this humanitarian situation, all the while protecting America by securing the border, detecting, and interdicting those who attempt to cross our border in violation of law.

I thank you for this opportunity to testify today, and I look forward to your questions.

[The joint prepared statement of Mr. Homan and Mr. Vitiello follows:]

STATEMENT
OF

RONALD D. VITIELLO
Deputy Chief
Office of the Border Patrol
U.S. Customs and Border Protection
U.S. Department of Homeland Security

And

THOMAS HOMAN
Executive Associate Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

FOR A HEARING ON
"Unaccompanied Alien Minors"

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY

June 25, 2014
2141 Rayburn House Office Building

Chairman Goodlatte, Ranking Member Conyers, and Members of the Committee:

Thank you for the opportunity to testify today about our efforts to address the recent rise of unaccompanied children and others crossing our border in the Rio Grande Valley. As you know, Secretary Johnson testified yesterday before the House Committee on Homeland Security about this situation. Our testimony today echoes and reaffirms his comments.

We face an urgent situation in the Rio Grande Valley. Last fiscal year, CBP apprehended more than 24,000 unaccompanied children at the border. By mid-June of this fiscal year, that number has doubled to more than 52,000. Those from Guatemala, El Salvador, and Honduras make up about three quarters of that migration.

As Secretary Johnson said yesterday, this is a humanitarian issue as much as it is a matter of border security. We are talking about large numbers of children, without their parents, who have arrived at our border—hungry, thirsty, exhausted, scared and vulnerable. How we treat the children, in particular, is a reflection of our laws and our values.

Therefore, to address this situation, our strategy is three-fold: (1) process the increased tide of unaccompanied children through the system as quickly as possible; (2) stem the increased tide of illegal migration into the Rio Grande Valley; and (3) do these things in a manner consistent with our laws and values as Americans.

So, here is what we are doing:

First, on May 12th, Secretary Johnson declared a Level IV condition of readiness within DHS, which is a determination that the capacity of CBP and ICE to deal with the situation is full and we need to draw upon additional resources across all of DHS. He appointed Deputy Chief Vitiello to coordinate this effort within DHS.

Second, on June 1st, President Obama, consistent with the Homeland Security Act, directed Secretary Johnson to establish a Unified Coordination Group to bring to bear the assets of the entire federal government on the situation. This Group includes DHS and all of its components, the Departments of Health and Human Services, Defense, Justice, State, and the General Services Administration. Secretary Johnson, in turn, designated FEMA Administrator Fugate to serve as the Federal Coordinating Official for the U.S. Government-wide response. Under Administrator Fugate's supervision, there are now more than 140 interagency personnel and members stationed in FEMA's National Response Coordination Center dedicated to this effort.

Third, we established added capacity to deal with the processing and housing of the children, we are creating additional capacity in places, and we are considering others. To process the increased numbers of unaccompanied children in Texas, DHS has had to bring the children to our processing center at Nogales, Arizona before they are sent to HHS. We are arranging additional processing centers to handle the rise in the RGV. Meanwhile, the Department of Defense (DoD) has provided space at Lackland air base in Texas for HHS to house the children before HHS can place them. DoD is also providing facilities at Fort Sill, Oklahoma and Ventura,

California for the same purpose. FEMA, DHS, and HHS are working to continue to identify additional facilities for DHS and HHS to house and process the influx of children.

Fourth, DHS and HHS are increasing Spanish-speaking case management staff, increasing staff handling incoming calls from parents or guardians, raising awareness of the Parent Hotline provided by FEMA and operated by HHS, surging staff to manage the intake of CBP referrals to track shelter bed capacity, and facilitate shelter designations. We are developing ways to expedite background checks for sponsors of children, integrate CBP and HHS information sharing systems, and increase capacity to transport and place children. (As Secretary Johnson noted yesterday, and we reaffirm today, the Border Patrol and other CBP personnel, as well as personnel from HHS, ICE, FEMA, and the Coast Guard, are doing a remarkable job in difficult circumstances. Not-for-profit groups like the Baptist Child Family Services also have stepped in quickly and are doing a remarkable job housing the unaccompanied children at Lackland, identifying and then placing them consistent with HHS's legal obligations. All of these dedicated men and women deserve our recognition, support and gratitude.)

Fifth, DHS is building additional detention capacity for adults who cross the border illegally in the Rio Grande Valley with their children. For this purpose DHS is establishing a temporary facility for adults with children on the Federal Law Enforcement Training Center's campus at Artesia, New Mexico. The establishment of this temporary facility will help CBP process those encountered at the border and allow ICE to increase its capacity to house and expedite the removal of adults with children in a manner that complies with federal law. Artesia is one of several facilities that DHS is considering to increase our capacity to hold and expedite the removal of the increasing number of adults with children illegally crossing the southwest border. DHS will ensure that after apprehension, families are housed in facilities that adequately provide for their safety, security, and medical needs. Meanwhile, we will also expand use of the Alternatives to Detention program to utilize all mechanisms for enforcement and removal in the RGV Sector. DOJ is temporarily reassigning immigration judges to handle the additional caseload via video teleconferencing. These immigration judges will adjudicate these cases as quickly as possible, consistent with all existing legal and procedural standards, including those for asylum applicants. Overall, this increased capacity and resources will allow ICE to return unlawful migrants from Central America to their home countries more quickly.

Sixth, DHS has brought on more transportation assets to assist in the effort. The Coast Guard is loaning air assets to help transport the children. ICE is leasing additional charter aircraft.

Seventh, throughout the RGV Sector, we are conducting public health screening for all those who come into our facilities for any symptoms of contagious diseases or other possible public health concerns. Both DHS and HHS are ensuring that the children's nutritional and hygienic needs are met while in our custody; that children are provided regular meals and access to drinks and snacks throughout the day; that they receive constant supervision; and that children who exhibit signs of illness or disease are given proper medical care. We have also made clear that all individuals will be treated with dignity and respect, and any instances of mistreatment reported to us will be investigated.

Eighth, working through FEMA's National Response Coordination Center, we are coordinating with voluntary and faith-based organizations to help us manage the influx of unaccompanied children crossing the border. The American Red Cross is providing blankets and other supplies and, through their Restoring Family Links program, is coordinating calls between children in the care of DHS and families anxious about their well-being.

Ninth, to stem the tide of children seeking to enter the United States, we have also been in contact with senior government officials of Guatemala, El Salvador, Honduras, and Mexico to address our shared border security interests, the underlying conditions in Central America that are promoting the mass exodus, and how we can work together to assure faster, secure removal and repatriation. Last week President Obama spoke with Mexican President Peña Nieto about the situation, as has Secretary Kerry. This past Friday, Vice President Biden also visited Guatemala to meet with regional leaders to address the influx of unaccompanied children and families from Central America and the underlying security and economic issues that are causing this migration. The Vice President announced that the U.S. will be providing a range of new assistance to the region, including $9.6 million in additional funding for Central American governments to receive and reintegrate their repatriated citizens, and a new $40 million U.S. Agency for International Development program in Guatemala over 5 years to improve citizen security. An additional $161.5 million will be provided this year under the Central American Regional Security Initiative to further enable Central American countries to respond to the region's most pressing security and governance challenges. Secretary Johnson will travel to Guatemala July 8th-9th. The government of El Salvador has sent additional personnel from its consulate in the U.S. to South Texas to help expedite repatriation to its country.

Tenth, DHS, together with DOJ, has added personnel and resources to the investigation, prosecution and dismantling of the smuggling organizations that are facilitating border crossings into the Rio Grande Valley. Homeland Security Investigations, which is part of ICE, is surging 60 additional criminal investigators and support personnel to their San Antonio and Houston offices for this purpose. In May, ICE concluded a month-long, targeted enforcement operation that focused on the logistics networks of human smuggling organizations along the southwest border, with operations in El Paso, Houston, Phoenix, San Antonio, and San Diego that resulted in 163 arrests of smugglers. ICE will continue to vigorously pursue and dismantle these alien smuggling organizations by all investigative means to include the financial structure of these criminal organizations. These organizations not only facilitate illegal migration across our border, they traumatize and exploit the children who are objects of their smuggling operation. We will also continue to work with our partners in Central America and Mexico to help locate, disrupt, and dismantle transnational criminal smuggling networks.

Eleventh, we are initiating and intensifying our public affairs campaigns in Spanish, with radio, print, and TV spots, to communicate the dangers of sending unaccompanied children on the long journey from Central America to the United States, and the dangers of putting children into the hands of criminal smuggling organizations.

In collaboration with DHS, the Department of State has launched public awareness campaigns in El Salvador, Guatemala, and Honduras, to warn families about the dangers encountered by unaccompanied minors who attempt to travel from Central America to the U.S., and to counter

misperceptions that smugglers may be disseminating about immigration benefits in the United States. Our embassies in Central America have collaborated with CBP to ensure both the language and images of the campaign materials would resonate with local audiences. Secretary Johnson has personally issued an open letter (*see* attached) to the parents of those who are sending their children from Central America to the U.S., to be distributed broadly in Spanish and English, to highlight the dangers of the journey, and to emphasize there are no free passes or "permisos" at the other end. We are stressing that Deferred Action for Childhood Arrivals, or "DACA," does not apply to children who arrive now or in the future in the United States, and that, to be considered for DACA, individuals must have continually resided in the U.S. since June 2007. We are making clear that the "earned path to citizenship" contemplated by the Senate bill passed last year will not apply to individuals who cross the border now or in the future; only to those who have been in the country for the last year and a half.

Twelfth, given the influx of unaccompanied children in the Rio Grande Valley, we have increased CBP staffing and detailed 115 additional experienced agents from less active sectors to augment operations there. Secretary Johnson is considering sending 150 more border patrol agents based on his review of operations there this past week. These additional agents allow RGV the flexibility needed to achieve more interdiction effectiveness and increase CBP's operational footprint in targeted zones within its area of operations.

Thirteenth, in early May Secretary Johnson directed the development of a Southern Border and Approaches Campaign Planning effort that is putting together a strategic framework to further enhance security of our southern border. Plan development will be guided by specific outcomes and quantifiable targets for border security and will address improved information sharing, continued enhancement and integration of sensors, and unified command and control structures as appropriate. The overall planning effort will also include a subset of campaign plans focused on addressing challenges within specific geographic areas, all with the goal of enhancing our border security.

Finally, we will continue to work closely with Congress on this problem, and keep you informed. DHS is updating Members and staff on the situation in conference calls two times a week, and we are facilitating site visits to Border Patrol facilities in Texas and Arizona for a number of Members and their staff.

Secretary Johnson has directed his staff and agency leaders to be forthright in bringing him every conceivable, lawful option for consideration, to address this problem. In cooperation with the other agencies of our government that are dedicating resources to the effort, with the support of Congress, and in cooperation with the governments of Mexico and Central America, we believe we will stem this tide. Thank you.

Attachment

An open letter to the parents of children crossing our Southwest border

This year, a record number of children will cross our Southern border illegally into the United States. In the month of May alone, the number of children, unaccompanied by a mother or father, who crossed our southern border reached more than 9,000, bringing the total so far this year to 47,000. The majority of these children come from Honduras, El Salvador and Guatemala, where gang and drug violence terrorize communities. To the parents of these children I have one simple message: Sending your child to travel illegally into the United States is not the solution.

It is dangerous to send a child on the long journey from Central America to the United States. The criminal smuggling networks that you pay to deliver your child to the United States have no regard for his or her safety and well-being – to them, your child is a commodity to be exchanged for a payment. In the hands of smugglers, many children are traumatized and psychologically abused by their journey, or worse, beaten, starved, sexually assaulted or sold into the sex trade; they are exposed to psychological abuse at the hands of criminals. Conditions for an attempt to cross our southern border illegally will become much worse as it gets hotter in July and August.

The long journey is not only dangerous; there are no "permisos," "permits," or free passes at the end.

The U.S. Government's Deferred Action for Childhood Arrivals program, also called "DACA," does not apply to a child who crosses the U.S. border illegally today, tomorrow or yesterday. To be eligible for DACA, a child must have been in the United States prior to June 15, 2007 – seven years ago.

Also, the immigration reform legislation now before Congress provides for an earned path to citizenship, but only for certain people who came into this country on or before December 31, 2011 – two and one half years ago. So, let me be clear: There is no path to deferred action or citizenship, or one being contemplated by Congress, for a child who crosses our border illegally today.

Rather, under current U.S. laws and policies, anyone who is apprehended crossing our border illegally is a priority for deportation, regardless of age. That means that if your child is caught crossing the border illegally, he or she will be charged with violating United States immigration laws, and placed in deportation proceedings – a situation no one wants. The document issued to your child is not a "permiso," but a Notice To Appear in a deportation proceeding before an immigration judge.

As the Secretary of Homeland Security, I have seen first-hand the children at our processing center in Texas. As a father, I have looked into the faces of these children and recognized fear and vulnerability.

The desire to see a child have a better life in the United States is understandable. But, the risks of illegal migration by an unaccompanied child to achieve that dream are far too great, and the "permisos" do not exist.

Jeh C. Johnson
Secretary of the U.S. Department of Homeland Security

Mr. GOODLATTE. Thank you, Mr. Vitiello.

Mr. Crane, welcome.

TESTIMONY OF CHRIS CRANE, PRESIDENT, NATIONAL IMMIGRATION AND CUSTOMS ENFORCEMENT COUNCIL 118, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. CRANE. Good afternoon, Chairman Goodlatte, Ranking Member Conyers, and distinguished Members of the Committee. Before Congress discusses changes to U.S. immigration law related to legalization, it must first ensure that the appropriate enforcement safeguards are in place. That is the lessen that must be learned from the humanitarian crisis taking place on our border.

Reports from ICE officers in Texas corroborate leaked intelligence reports indicating that the majority of individuals illegally entering the United States are motivated more by rumors of amnesty than the situation in their respective countries. Many reporters have confirmed this information through their own interviews. If the Administration continues current policies, it can expect the crisis to escalate and other problems to potentially emerge. Desperate people in impoverished countries don't read our laws or policies and pay no heed to cutoff dates.

Continued talk in the United States of legalization without appropriate law enforcement safeguards first in place will continue to draw millions like a magnet to our southern border. The most humane thing we can do to deter crises like this one is to consistently enforce our Nation's immigration laws.

Since the crisis started over a year ago, ICE employees in the Rio Grande Valley have been overwhelmed. ICE ERO leadership attempted to adjust, but due to extremely limited manpower available had little effect. As a result, ERO employees in the Rio Grande Valley have worked day and night since the early stages of this situation. As the severity of the situation increases, however, other ICE ERO offices and facilities throughout the Nation are now assisting and experiencing similar workloads.

By way of buses, charter flights, and commercial aircraft, ICE officers are transferring hundreds of children, family units and adult aliens out of the Rio Grande Valley every day to points across the Nation. Without ICE officers performing their critical border security mission for the last year, border operations in the Rio Grande Valley would have quickly broken down. ICE transport planes have been so heavily used during the crisis that two additional planes have been leased. In addition to support from ICE's transport aircraft, 60 to 120 ICE officers from around the Nation board commercial aircraft daily, escorting groups of children for placement with the Office of Refugee Resettlement.

ICE officers nationwide are under orders to be packed for travel and ready to respond day or night. From border areas such as the Rio Grande Valley, El Paso, and Arizona, to areas on the interior like Chicago, Seattle, and Newark, ICE officers are scrambling to process, transport, and provide detention space in response to the crisis and support Border Patrol operations.

This crisis is placing a tremendous strain on ERO and its limited manpower and resources nationwide. ICE has permanently transferred some officers to the border and temporarily detailed others.

As ERO's role in this crisis broadens, ERO is of course experiencing manpower and resource losses within its network of offices, detention facilities, and transport assets nationwide.

As one example, a new detention center established this week in New Mexico will be manned by pulling ICE officers from other locations within the U.S. Fugitive operations teams in some areas have been shut down with officers reassigned to process and transport children and family units. Officers in other programs such as the Criminal Alien Program and Secure Communities likewise are pulled daily from their public safety missions. ICE ERO's many critical missions, to include its criminal enforcement and public safety missions, are being impacted.

Since 9/11, the Border Patrol has tripled in size while ERO has become smaller. It seems clear that few are aware that in addition to its own enforcement mission, ERO is also responsible for the detention, transportation, and removal of aliens apprehended by the Border Patrol, making ERO a critical border security asset, an asset long overlooked and now severely undermanned as it struggles to perform its mission of supporting a Border Patrol that has tripled in size.

In closing, I know that border security is important to every Member of Congress. I hope that my testimony today regarding ICE ERO's mission during the current border crisis assists Congress in addressing the problem and helps clarify the critical role ICE ERO plays in border security. ERO cannot continue in its current state, drastically understaffed with morale plummeting to the record lows.

We would like to work with Congress and ICE to make the agency more mission ready. In the meantime, Congressman Carter and the House Appropriations Committee have recommended funding for a single officer position at ERO as is currently in place at the U.S. Border Patrol. In doing so, the Appropriations Committee has taken an important first step in improving the law enforcement effectiveness of ERO. We greatly appreciate their assistance.

Thank you. And that concludes my testimony.

[The testimony of Mr. Crane follows:]

Statement by Chris Crane, President,
National Immigration and Customs Enforcement Council 118
of the
American Federation of Government Employees

Before the
Committee on the Judiciary

June 25, 2014

Chairman Goodlatte, Ranking Member Conyers, and distinguished members of this Committee.

First and foremost, I would ask that members of Congress join me in extending a thank you to the men and women of the United States Border Patrol and ICE Enforcement and Removal Operations (ERO) for their humanitarian efforts on our southern border. I understand that conditions in some areas are not at the standards we would all like to see, especially as it pertains to the children, but our officers are doing the best they can with the resources they've been provided. Many of our officers frequently go above and beyond, taking money out of their own pockets to buy diapers, baby formula and food for these children. The agents and officers of the Border Patrol and ICE are too often criticized, even demonized; but rarely recognized as the dedicated public servants they truly are. Their actions during this humanitarian crisis are commendable.

Before Congress can begin discussing changes to U.S. immigration law related to legalization or "amnesty" on any scale, it must first ensure that the appropriate enforcement safeguards are in place. It is to be a costly lesson in terms of the human toll, as well as the financial expense, but it is the lesson nonetheless that Congress, and indeed all of America must take away from the humanitarian crisis taking place on our southern border.

Reports from ICE officers and agents on the ground in the Rio Grande Valley serve to corroborate leaked Border Patrol intelligence reports indicating that the majority of individuals illegally entering the United States are motivated more by rumors of amnesty, than the situation in their respective countries. Many news reporters have confirmed this information by way of their own interviews.

It is truly surreal that I testify before the committee today, as it is exactly four years to the day, on June 25, 2010, that the National ICE Council and its constituent Locals issued a unanimous vote of no confidence in ICE leadership reporting that the agency had abandoned its core mission of enforcing U.S. immigration law and providing for public safety, as it instead focused on enforcement reduction through amnesty related changes to U.S. immigration policy and law. Over the last four years, our union has repeatedly advised Congress and America that the Administration's immigration policies are failing in the field. The Secretary of DHS, the Director of ICE, as well as Tom Homan who is here to testify today, have all been told during town hall meetings by ICE officers and agents in the field that the Administration's enforcement policies are failing. If the Administration continues with its current policies, it can expect the current crisis to further escalate, and crises in other areas to potentially emerge. As we have stated previously, desperate people in impoverished countries don't read our laws or our

specific date for inclusion. Continued talk in the United States of amnesty and legalization without appropriate law enforcement safeguards first put in place, will continue to draw millions like a magnet to our southern border. The most humane thing that we can do as Americans is to deter crises like this one through consistent enforcement of our nation's immigration laws.

With regard to the current crisis, thirteen months ago in May of 2013, our union sent a letter to every member of the United States Senate. The same letter was issued as a press release for all lawmakers and members of the public to review. One hundred and forty sheriffs nationwide and five law enforcement organizations signed the letter. Collectively we warned America that "Thousands of unaccompanied children, runaways and families now attempt to illegally enter the United States in hopes of receiving legalization." Stressing the dangers of the situation on the border, as well as the magnitude of the situation, law enforcement also warned in the letter that thousands could be victimized or perish while attempting the dangerous crossing into the United States.

In February of 2014, our union took to television and radio calling the situation on the border a "humanitarian crisis." Not until this month, June of 2014, did the Administration truly acknowledge the situation, as President Obama finally described the conditions on the border as an "urgent humanitarian crisis." Much more could have and should have been done sooner to curtail this situation and

safeguard human life. This crisis did not begin last month as some reports indicate.

For over a year, ICE agents, officers and employees in the Rio Grande Valley have been overwhelmed. ICE ERO leadership I believe attempted to assist, but due to the extremely limited resources and manpower available, their efforts had little effect. As a result, ICE officers and agents in the Rio Grande Valley have been working day and night since the early stages of this situation. As problems continue on the border and the severity of the situation increases, however, other ICE ERO offices and facilities throughout the U.S. have been called in to assist and are now also experiencing similar workloads.

As the U.S. Border Patrol has tripled in size since 9/11, and ICE's immigration division, Enforcement and Removal Operations has become smaller, its seems clear that few understand the critical role ICE ERO plays in border security. It seems clear that few understand that in addition to its own immigration enforcement mission, ICE ERO is also responsible for the detention, transportation and removal of aliens apprehended by the U.S. Border Patrol, making ICE ERO a critical border security asset. An asset long overlooked and now severely undermanned as it struggles to perform its mission of supporting a Border Patrol that has tripled in size.

By way of vans, buses, charter flights and commercial aircraft, ICE officers are transferring hundreds of Unaccompanied Alien Children (UAC), family units and adult aliens out of the Rio Grande Valley every day of the week to points all across the nation. Without ICE agents and officers performing their critical border security mission every day for the last year, border operations in the Rio Grande Valley would have quickly broken down. In speaking with our officers assigned to ICE Air Operations, ICE's air transportation arm, air transports have been so heavily used during the crisis that two additional planes have already been leased, and still more could be utilized. Taking up the slack from ICE Air Operations transport planes, 60 to 120 ICE officers from around the nation board commercial aircraft everyday escorting small groups of UACs for placement with the Office of Refugee Resettlement/Division of Child Services (ORR/DCS). ICE officers around the nation are under orders to be packed for overnight travel and ready to respond at any time day or night – and responding they are. Contrary to some reports, ICE officers and agents are taking custody of UACs from the Border Patrol, not ORR, and transporting these UACs to ORR placement locations throughout the nation. From the border areas of the Rio Grande Valley, El Paso and Arizona, to areas on the interior like Chicago, Seattle and Newark; ICE agents and officers are scrambling to process, transport and provide detention space in response to this crisis and support Border Patrol operations.

As in the Border Patrol, this crisis is putting a tremendous strain on ICE ERO and its limited manpower and resources nationwide. ICE has already permanently transferred some officers and agents to the border and temporarily detailed others to supplement the hundreds already working in the Rio Grande Valley. This of course does not include the extensive manpower and resource loses created through the daily demands of this crisis on ICE ERO's network of detention facilities and transportation assets nationwide. It also does not include, for example, yet another detention center being established in Artesia, NM that also will be manned by ICE officers and agents detailed from other locations.

ICE ERO Fugitive Operations Teams in some areas have been completely shut down with ICE officers reassigned to process and transport UACs and Family units. Officers in other vital ERO criminal enforcement programs such as the Criminal Alien Program and Secure Communities Program likewise are being pulled daily from their critical public safety missions. There is no doubt that ICE ERO's many critical missions, to include its criminal enforcement and public safety missions are impacted. Ironically, as ICE ERO and the Border Patrol spend millions of dollars and shift resources from vital programs to process family units and UACs, it is unlikely that a significant number of these illegal entrants will be removed from the United States unless changes are made to current immigration

policy. Without removals it is doubtful that the influx of those illegally entering the U.S. will subside any time soon.

The Administration has reportedly requested $1.4 billion to address the current situation with UACs; it is also reported that OMB anticipates total expenses for the crisis this year to be $2.28 billion. This is because thousands of teenagers, most between the ages of 13 and 17, are flooding across our border and waiting for the Border Patrol to apprehend them. How do we combat this problem? How do we stop individuals and groups who seek out immigration officials so they can turn themselves in? The answer of course is that we aggressively enforce our immigration laws and quickly remove those who enter the country illegally. And in doing so we send a message to the world that these types of tactics will not be successful. In doing so we also dramatically reduce human trafficking, injury, rape and death. As I have stated on many occasions, law enforcement is not a dirty word; law enforcement saves lives. I sincerely hope that the President and Congress will support law enforcement in aggressively enforcing our nation's immigration laws in order to bring an end to this crisis, and prevent future ones. We must have their support.

In closing, I know that border security is important to every member of Congress. I hope that my testimony today regarding ICE ERO's mission during

the current border crisis assists Congress in dealing with the problem and better illustrates for members the critical role ICE ERO plays in border security.

I hope that Congress will also consider the future consequences of allowing ERO to continue in its current state; drastically understaffed with morale plummeting to record lows. As officers we have ideas on how to get ERO back on its feet and operating more effectively. We would like to work with Congress and ICE in making that happen. In the meantime, Congressman John Carter and the House Appropriations Committee have recommended funding for a single officer position at ICE ERO, as is currently in place at the U.S. Border Patrol and ICE Homeland Security Investigations. We believe in doing so Congressman Carter and the Committee have taken an important first step in improving the law enforcement effectiveness of ICE ERO.

Thank you and that concludes my testimony

Mr. GOODLATTE. Thank you, Mr. Crane.

Mr. Judd, welcome.

TESTIMONY OF BRANDON JUDD, PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES NATIONAL BORDER PATROL COUNCIL

Mr. JUDD. Chairman Goodlatte, Ranking Member Conyers, Members of the Committee, I testify before you today from a law enforcement perspective. During my 17 years in the Border Patrol, I've seen how policy can directly affect border security. For the agents on the border, the latest surge in unaccompanied minors is not a surprise. This crisis is the culmination of a variety of factors, including but not limited to:

First, the Catch and Release program. This program is bad policy and encourages people from countries other than Mexico to enter the United States illegally. Under this policy, and in most cases, individuals entering the U.S. illegally know they will be released if apprehended. The result is no one is afraid of breaking the law.

Currently, my understanding is about 90 percent of the unaccompanied minors are being placed with either a family member or a close family friend, many of whom are in this country illegally themselves. Although unaccompanied minors are still subject to deportation through the removal process, we have to be honest with ourselves: Most will never honor the notice to appear in court and face deportation. They simply fail to appear and blend into the community.

Second, under sequestration, Border Patrol manpower was decreased by 5 percent. The real-life impact of this decrease means that we effectively lost about 1,100 agents. This manpower decrease did not go unnoticed for those trying to enter the country illegally. It was a good time to try.

Third, and possibly the most important: organized crime's ability to quickly adapt to changes in manpower and policies affecting the borders of the United States. Our borders are constantly under attack by multinational drug cartels, and this latest surge in unaccompanied minors is just another example. These cartels have a well-developed intelligence network and are very skilled at exploiting our weaknesses.

It is no coincidence that many of the same cartels responsible for the violence in Central America are also making hundreds of millions of dollars smuggling unaccompanied minors across the border. In fact, the current surge has made all aspects of smuggling easier by tying up Border Patrol agents with large groups of unaccompanied minors.

If efficiency and safety were the goal, it would make more sense for the cartels to cross unaccompanied minors into the U.S. through ports of entry by way of the U.S. Customs Service. That way they can manage uncertainties better and avoid risking harsh terrains and inhospitable weather while still gaining entry to the United States.

Instead, the cartels purposely cross between ports of entry to tie up Border Patrol manpower, creating holes in our enforcement and facilitating their other lines of business, such as drug smuggling and the smuggling of known criminals into the United States.

Make no mistake: This is big business for the cartels. It has been reported that nearly 40 percent of our manpower is being pulled from the field to perform duties such as processing and caring for those in our custody. This decrease has stressed our workforce to the breaking point and makes it nearly impossible to effectively patrol the border and fight against organized crime.

The question I know many of you are asking is what we need to do to address this crisis, and I think the following actions would improve our Nation's response:

End our catch-and-release policy. We need to detain unaccompanied minors until their cases are properly adjudicated. As long as we continue to release unaccompanied minors to family and friends, this problem will not only continue, but will grow exponentially. Organized crime will continue to exploit our weaknesses and take advantage of the policy. We know from experience that once released into the community, the chance of minors being deported after they fail to appear in court is small.

We need to follow through enforcing the laws of this Nation so that breaking the law carries consequences. Do not grant special status. This is a corollary to the Catch and Release program. We need to be crystal clear that unaccompanied minors and their families will not be rewarded for breaking the law through special or legal status after being arrested. We need to acknowledge that our immigration policies over the last 30 years have been, at best, inconsistent. If we are to stop this latest crisis with unaccompanied minors, we have to change the cost-benefit analysis for those who exploit holes in border security.

Address manpower shortfall immediately. Congressman Chaffetz introduced legislation called the Border Patrol Pay Reform Act that would restore manpower on the border while also saving the American taxpayer millions of dollars. This legislation is groundbreaking and will increase the efficiency and effectiveness of the agency while also saving money. Several Members of this Committee are already cosponsors, and I want to thank you for your support.

We also need to strengthen interior enforcement. We have already discussed how a lack of consequences for breaking the law in the form of the Catch and Release program has encouraged a new flood of illegal immigration. By the same token, a lack of consequences for those who successfully enter our country without being detected is also encouraging illegal immigration. We already have laws on the books that, if enforced, will stem the flow; however, these laws only work as a deterrent if they are consistently enforced.

This is a difficult issue with no single solution, but I believe a fix is well within our reach. The humanitarian crisis is real and our agents are fully aware of the hardship many of the children have endured in search of a better life or to be with their family. Many agents try to contribute in small ways. Some spend their own money to buy toys and diapers. Others spend time with the minors in what is undoubtedly a very confusing environment for them.

In the end, the current crisis needs to be addressed through consistent enforcement of the laws we already have and through adequate manpower at the border. We must change the current cost-

benefit analysis for illegal immigration so the rewards and incentives are less appealing.

Again, I want to thank you for the opportunity to testify, and I look forward to answering any of your questions.

[The testimony of Mr. Judd follows:]

Testimony of Brandon Judd
On behalf of the
National Border Patrol Council
In front of United States House Judiciary Committee
June 25, 2014

Chairman Goodlatte, Ranking Member Conyers, members of the Committee, on behalf of the 16,500 rank and file Border Patrol Agents whom I represent, I would like to thank you for having this hearing.

My name is Brandon Judd and I am the President of the National Border Patrol Council. I have been a Border Patrol Agent for nearly 17 years, most of which were spent in the Tucson, Arizona and El Centro, California sectors.

During my years in the Border Patrol, I've seen how policy can directly affect border security. For the Agents on the border, the latest surge in unaccompanied minors is not a surprise. I know our natural inclination is to look for a single smoking gun and apportion blame accordingly. However, this crisis is the culmination of a variety of factors including:

- First - the Catch and Release program. This program is bad policy and encourages people from countries other than Mexico to enter the United States illegally. Under this policy, and in most cases, individuals entering the U.S. illegally know they will be released if apprehended. The result is no one is afraid of breaking the law. Currently, my understanding is about 90 percent of the unaccompanied minors are being placed with either a family member or a close family friend; many of whom are in this country illegally themselves. Although unaccompanied minors are still subject to deportation through the removal process, we have to be honest with ourselves. Most will never honor the Notice to Appear in court and face deportation. They simply fail to appear and blend into the community.

- Second - under sequestration Border Patrol manpower was decreased by five percent. The real life impact of this decrease means that we effectively lost about 1,100 Agents. To put this loss in perspective, the cities of El Paso and Tucson only have about 1,100 sworn officers each in their respective departments. This manpower decrease did not go unnoticed and for those trying to enter the country illegally – it was a good time to try.

- Third - organized crime's ability to quickly adapt to changes in manpower and policies affecting the borders of the United States. Our borders are constantly under attack by multi-national drug cartels and this latest surge in unaccompanied minors is just another example. These cartels have a well-developed intelligence network and are very skilled at exploiting our shortages in manpower. It is no coincidence that many of the same cartels responsible for the violence in Central America are also making hundreds of millions of dollars smuggling unaccompanied children (UAC) across the border. In fact, the current surge has made all aspects of smuggling easier by tying up Border Patrol Agents with large groups of UACs. If efficiency and safety were the goal, it would make more sense for the cartels to cross UACs into the US through ports of entry by way of the

Customs Service. That way, they can manage uncertainties better and avoid risking harsh terrains and inhospitable weather while still gaining entry to the United States. Instead, the cartels purposely cross between ports of entry to tie up Border Patrol manpower, creating holes in our enforcement and facilitating their other lines of business, such as drug smuggling and the smuggling of known criminals into the US. Make no mistake this is big business for the cartels. It has been reported that nearly 40 percent of our manpower is being pulled from the field to perform duties such as processing and caring for those in our custody until they are either released or turned over to the Enforcement and Removal Office (ERO), a component of the Immigration and Customs Enforcement Agency (ICE). This decrease has stressed our workforce to the breaking point and makes it nearly impossible to effectively patrol the border and fight against organized crime.

The question I know many of you are asking is what we need to do to address this crisis and I think the following actions would improve our nation's response:

- End our Catch and Release policy. We need to detain unaccompanied minors until their cases are properly adjudicated. As long as we continue to release unaccompanied minors to family and friends, this problem will not only continue but will grow exponentially. Organized crime will continue to exploit our weaknesses and take advantage of the policy. We know from experience that the chance of minors being deported after they've failed to appear in court is small, once they've been released into the community. We need to follow through enforcing the laws of this nation, so that breaking the law carries consequences.

- Do not grant special status. This is a corollary to the catch and release program. We need to be crystal clear that unaccompanied minors and their families will not be rewarded for breaking the law through special or legal status after being arrested. We need to acknowledge that our immigration policies over the last 30 years have been at best inconsistent. If we are to stop this latest crisis with unaccompanied minors, we have to change the cost-benefit analysis for those who exploit holes in border security.

- Address the manpower shortfall immediately. Congressman Chaffetz has introduced legislation called the Border Patrol Agent Pay Reform Act that would restore manpower on the border while also saving the American taxpayer millions of dollars a year. This legislation is groundbreaking and will increase the efficiency and effectiveness of the agency while also saving money. Several Members on this Committee are already cosponsors and I want to thank you for your support.

  The Senate Homeland Security Committee is marking up the Senate companion of the Chaffetz bill today. We look forward to working with Chairman Issa on the Oversight Committee and hope to move this legislation before the August recess. Timing is critical as were looking at further cuts in the near future.

- Strengthen interior enforcement. We have already discussed how a lack of consequences for breaking the law in the form of the Catch and Release program has encouraged a new flood of illegal immigration. By the same token, a lack of consequences for those who

successfully enter our country without being detected is also encouraging illegal immigration. We already have laws on the books that, if enforced, will stem the flow. However, these laws only work as a deterrent if they are consistently enforced.

This is a difficult issue with no single solution, but I believe the fix is well within our reach. The crisis is real and our Agents are fully aware of the hardship many of the children have endured in search of a better life or to be with their family. Many Agents try to contribute in small ways: some spend their own money to buy toys and diapers, others spend time with the minors in what is undoubtedly a very confusing environment for them. In the end, the current crisis needs to be addressed through consistent enforcement of the laws we already have, and through adequate manpower at the border. We must change the current cost-benefit analysis for illegal immigration so the rewards and incentives are less appealing.

Again, I want to thank the Committee for the opportunity to testify and if you have any questions I would be happy to answer them to the best of my ability.

Mr. GOODLATTE. Thank you, Mr. Judd.

Reverend Seitz, welcome.

TESTIMONY OF MOST REVEREND MARK SEITZ, BISHOP, DIOCESE OF EL PASO, TEXAS

Rev. SEITZ. Good afternoon. Thank you, Chairman Goodlatte and Ranking Member Conyers, for the opportunity to testify on unaccompanied children entering the United States. I've been called to serve the church as a bishop, a bishop of the diocese on the border. My challenge is to the best of my ability and under the guidance of the church to apply the gospel teaching of Jesus to present day situations.

In visiting with these children in my diocese and in their home countries, I have witnessed the human consequences of the violence they have endured. This challenge tests the moral character of our Nation. It is a test we must not fail. Other nations are watching how we handle this matter. Our moral authority in the world is at stake.

Let me say upfront that the U.S. Catholic Bishops support the right of our Nation to control her borders and to enforce the rule of law. Migration to our country should be orderly, safe, and controlled, consistent with the common good. This is why the U.S. Bishops have supported the reform of our immigration system, so that the rule of law can be restored in a humanitarian manner. We hope that the House will understand this call and consider immigration reform as soon as possible.

In our view, Mr. Chairman, the current challenge we are facing is driven primarily by factors in Central America and Mexico, most specifically the rise of violence against children fomented by organized criminal networks, including drug cartels. They act with impunity, threatening families and coercing children and youth to join their membership or face violence and even death. There are more young children arriving, many who are young girls, 13 or younger.

While there are a variety of ongoing push factors, Mr. Chairman, including poverty and family reunification, violence is the straw that stirs the drink. Otherwise, it is unlikely we would see such large numbers of unaccompanied children on our doorstep.

Over the long term, Mr. Chairman, there must be a concerted effort to address the root causes of this exodus, specifically the rampant violence in the region. As part of this effort, humane reintegration practices and prevention programs would complement antiviolence efforts.

For the short-term response, we recommend the following. Unaccompanied children should be expeditiously placed in child-friendly shelters and not warehoused in CBP border facilities. Families should not be detained in restrictive settings but placed in alternative community settings. Their legal proceedings should not be short-circuited and undermine due process. Unaccompanied children should be appointed counsel so they can navigate our complex legal process. Post-release services, including case management support, should be provided to children placed with families and in foster care, both for their safety and to assure they appear at their legal proceedings. Sufficient funding should be provided to care for these children so that Federal agencies do not have to raid other

budgets, such as the refugee budget. Pastoral services should be provided to these children and families, including visitation by priests, ministers, and other religious.

Mr. Chairman, with your permission, I would like to relay one story of why children are fleeing their homes. In November, I led a delegation of the U.S. Conference of Catholic Bishops to visit El Salvador, Honduras, Guatemala, and Mexico to look at this phenomenon. We met many children who told us their stories.

At the center for detainee children in Tapachula, Mexico, we met two boys, ages 15 and 17, who were clean cut and respectful. They had recently arrived from San Pedro Sula, Honduras, a city with the highest murder rate in the world, higher than Kabul, Afghanistan, or Damascus, Syria. Organized crime members had attempted to recruit them and had told them that they and their families would be killed if they did not cooperate.

The families quickly insisted they leave and flee to safety. Now as they waited for repatriation to Honduras, they told us they would not return to their home city, to what they felt was certain death. They would try again. Any risk they faced seemed like a better option than returning to their home.

This story is typical of many of the children coming north. It also shows the decisions faced by parents and families who are unable to protect their children in their homes and communities. This was brought home to me by a mother of our delegation met at a repatriation center in El Salvador who told us, I would rather my child die on the journey seeking safety in the United States than on my front doorstep.

In conclusion, I ask you to consider the individual stories of these vulnerable children migrants and open your minds and hearts to their plight, while seeking meaningful and long-term solutions. I ask you to respond to the needs of these children, not to turn them away or ostracize them, as Americans are a compassionate people. We should not turn our back on these children.

[The testimony of Rev. Seitz follows:]

Testimony

of

Most Reverend Mark Seitz

Bishop of the Diocese of El Paso, Texas

U.S. Conference of Catholic Bishops

On

Unaccompanied Children

House Judiciary Committee

June 25, 2014

I am Bishop Mark Seitz, bishop of the diocese of El Paso, Texas. I testify today on behalf of the Committee on Migration to give the Catholic Church's perspective about the humanitarian crisis of unaccompanied child migrants arriving at the US-Mexico Border.

I would like to thank Chairman Robert Goodlatte (R-VA), Ranking Member John Conyers Jr. (D-MI), Representative Trey Gowdy (R-SC), and Representative Zoe Lofgren (D-CA) and other committee members for the opportunity to comment on the current situation. I note that the protection of migrant children is an especially important issue for the Catholic Church, as one of Jesus' first experiences as an infant was to flee for his life from King Herod with his family to Egypt. Indeed, Jesus Himself was a child migrant fleeing violence. Jesus, Mary, and Joseph were asylum-seekers and faced the same choice as the one facing thousands of children fleeing to the United States each year.

I am here to speak with you today about this special population of vulnerable children who are very close to my heart as I have met with many of them, some as young as five years old, while they were being cared for in Catholic Charities facilities in my diocese in El Paso. In addition to ministering to these youth in El Paso, in November 2013, I was privileged to lead a United States Conference of Catholic Bishops delegation traveling to Southern Mexico, El Salvador, Guatemala, and Honduras to examine and understand the flight of unaccompanied migrating children and youth from the region and stand in solidarity with these children and their families. In January 2014, we issued our findings from the trip in a report entitled, "USCCB: Mission to Central America: Flight of the Unaccompanied Immigrant Children to the United States" (2014 USCCB Central America Report 2014).[1] Mr. Chairman, I ask that 2014 USCCB Central America Report be included in the hearing record.

During our mission to Central America, we visited migrant children shelters, heard tearful stories from grandmothers waiting to pick up their recently repatriated grandchildren, and listened to children as young as six years old speak solemnly of trafficking and exploitation that was inflicted upon them along their migration journey. The corresponding report that came out of our mission acknowledged that a new paradigm regarding unaccompanied children is upon us- namely it is clear that unaccompanied children are facing new and increased dangers and insecurity and are fleeing in response. As a result, this phenomenon requires a regional and holistic solution rooted in humanitarian and child welfare principles. Since our mission and report issuance, many of the humanitarian challenges facing this vulnerable population have persisted and increased. In my remarks, I will highlight and update our observations and recommendations from that report.

Mr. Chairman, my testimony today will recommend that Congress:

- Address the issue of unaccompanied child migration as a humanitarian crisis requiring cooperation from all branches of the US government and appropriate the necessary funding to respond to the crisis in a holistic and child protection-focused manner;
- Adopts policies to ensure that unaccompanied migrant children receive appropriate child welfare services, legal assistance, and access to immigration protection where appropriate;
- Require that a best interest of the child standard be applied in immigration proceedings governing unaccompanied alien children;
- Examine root causes driving this forced migration situation, such as violence from non-state actors in countries of origin and a lack of citizen security and adequate child protection mechanisms; and
- Seek and support innovative home country and transit country solutions that would enable children to remain and develop safely in their home country.

---

[1] *See* USCCB: Mission to Central America: Flight of the Unaccompanied Immigrant Children to the United States available at http://www.usccb.org/about/migration-policy/upload/Mission-To-Central-America-FINAL-2.pdf

I. Catholic Social Teaching

The Catholic Church is an immigrant church, as more than one-third of Catholics in the United States are of Hispanic origin. The Catholic Church in the United States is also made up of more than 58 ethnic groups from throughout the world, including Asia, Africa, the Near East, and Latin America.

The Catholic Church has a long history of involvement in child protection and refugee and asylum protection, both in the advocacy arena and in welcoming and assimilating waves of immigrants, refugees, and asylum seekers who have helped build our nation. Migration and Refugee Services of USCCB (MRS/USCCB) is the largest refugee resettlement agency in the United States, resettling one million of the three million refugees who have come to our country since1975. MRS/USCCB is a national leader in caring for unaccompanied alien and refugee children as well. We work with over 100 Catholic Charities across the country to welcome unaccompanied alien children into our communities and provide for their care and general well-being.

The Catholic Legal Immigration Network, Inc. (CLINIC), a subsidiary of USCCB, supports a rapidly growing network of church and community-based immigration programs. CLINIC's network now consists of over 212 members serving immigrants and their families, including asylum seekers and unaccompanied children, in over 300 offices.

The Catholic Church's work in assisting unaccompanied migrant children stems from the belief that every person is created in God's image. In the Old Testament, God calls upon his people to care for the alien because of their own alien experience: "So, you, too, must befriend the alien, for you were once aliens yourselves in the land of Egypt" (Deut. 10:17-19). In the New Testament, the image of the migrant is grounded in the life and teachings of Jesus Christ. In his own life and work, Jesus identified himself with newcomers and with other marginalized persons in a special way: "I was a stranger and you welcomed me." (Mt. 25:35). Jesus himself was an itinerant preacher without a home of his own, and as noted above, he was a child migrant fleeing to Egypt to avoid violence, persecution, and death. (Mt. 2:15).

In modern times, popes over the last 100 years have developed the Church's teaching on migration. Pope Pius XII reaffirmed the Church's commitment to caring for pilgrims, aliens, exiles, and migrants of every kind, affirming that all peoples have the right to conditions worthy of human life and, if these conditions are not present, the right to migrate.[2]

Pope John Paul II stated that there is a need to balance the rights of nations to control their borders with basic human rights, including the right to work: "Interdependence must be transformed into solidarity based upon the principle that the goods of creation are meant for all."[3] In his pastoral statement, *Ecclesia in America*, John Paul II reaffirmed the rights of migrants and their families and the need for respecting human dignity, "even in cases of non-legal immigration."[4]

Finally, Pope Francis defended the rights of migrants early in his papacy, traveling to Lampedusa, Italy, to call for their protection. Pope Francis decried the "globalization of indifference" and the "throwaway culture" that lead to the disregard of those fleeing persecution or seeking a better life. In *Evangelii Gaudium*, the Holy Father speaks particularly of the importance of work with migrants and notes that it is essential for Catholics "to draw near to new forms of poverty and vulnerability [including migrants and refugees] in which we are called to recognize the suffering of Christ. . ."[5]

---

[2] Pope Pius XII, *Exsul Familia* (On the Spiritual Care of Migrants), September, 1952.
[3] Pope John Paul II, *Sollicitudo Rel Socialis*, (On Social Concern), December 30, 1987, No. 39.
[4] Pope John Paul II, *Ecclesia in America* (The Church in America), January 22, 1999, no. 65.
[5] Pope Francis, *Evangelii Gaudium*, The Joy of the Gospel, Apostolic Exhortation, December 2013 at 105.

In their joint pastoral letter, *Strangers No Longer: Together on the Journey of Hope, A Pastoral Letter Concerning Migration*, January 23, 2003 (Strangers No Longer), the U.S. and Mexican Catholic bishops further define Church teaching on migration, calling for nations to work toward a "globalization of solidarity." In Strangers No Longer, the bishops stressed that vulnerable immigrant populations, including unaccompanied minors and refugees, should be afforded protection. To this end, the bishops noted that unaccompanied minors, due to their heightened vulnerability, require special consideration and care.[6] Strangers No Longer also addresses the importance of families and notes that humanitarian considerations for families should also be a priority when considering migration issues.[7]

Mr. Chairman, the Catholic Church's work in assisting unaccompanied migrant children stems from the belief that every person has a unique and sacred dignity. This dignity is not bestowed by governments or by laws or based upon their wealth or where they happen to be born. It inheres within the human being. We seek to be consistent in acknowledging the implications of this, namely that from the time we come to be in our mother's womb until the moment our life comes to an end we are deserving of respect and care. This is true of the unborn child, the person with disabilities, the immigrant, the prisoner, and the sick. The more vulnerable and weak a person is the more they are deserving of our love. This we understand to be the mark of the Christian and of a healthy society.

For these reasons, while the Catholic Church recognizes governments' sovereign right to control and protect the border, we hold a strong and pervasive pastoral interest in the welfare of migrants, including unaccompanied children, and welcome newcomers from all lands. The current forced migration continuum of unaccompanied children traveling through Mexico and Central America and towards the U.S.-Mexico border frequently leads to severe traumatization and exploitation of children, violence, family separation, maltreatment and even death and must be closely examined. The aspects of reform that I will address today relate to addressing the root causes propelling children to migrate alone, implementing prevention and treatment programs in the home country and in transit countries and the dignified care and treatment of this vulnerable population while in the United States.

II. The Church Response and Care for Unaccompanied Children

As I mentioned, Mr. Chairman, USCCB has been a leader in the protection of and advocacy for this vulnerable population and the institutional Catholic Church in the United States has played a critical role in the care of unaccompanied children. By virtue of our organizational structure and geographical reach, the U.S. Catholic Church early on has assumed a strong leadership role in the treatment and service of unaccompanied children. Since 1994, USCCB has operated the Unaccompanied Alien Children or "Safe Passages" Family Reunification program.

The Safe Passages Family Reunification program serves undocumented children detained by Department of Homeland Security (DHS) and placed in the custody of the Office of Refugee Resettlement (ORR), which is an office within the Department of Health and Human Services (HHS). The program provides for the family reunification assistance or long-term foster care of unaccompanied children who are in the custody of HHS. From the beginning of fiscal year 2011 (October 1st, 2010) through June 9, 2014, the USCCB/MRS Safe Passages program has served 3,457 youth who arrived as unaccompanied alien children—2,266 through its Family Reunification Program and 1,191 through its foster care programs.

---

[6] *Strangers No Longer, Together on the Journey of Hope*, Pastoral Statement Concerning Migration from the US and Mexican Catholic Bishops, ¶82 January 2003.

[7] *Strangers No Longer Together on The Journey of Hope*, Pastoral Statement Concerning Migration from the US and Mexican Catholic Bishops, January 2003.

A focus of the USCCB Safe Passages program is its home study and post-release services. During a home study, a community-based case worker assesses the safety and suitability of the proposed caregiver and placement, including the caregiver's capacity to meet the child's unique needs, any potential risks of the placement and the caregiver's motivation and commitment to care for the child. Placing the child in the home of an intact family with a husband and wife is the ideal. Home studies result in a recommendation on whether placement with the proposed caregiver is within the child's best interest. Post-release services include risk assessment, action-planning with families around areas of need and concern, systems advocacy with community providers, and culturally-appropriate services and community referrals for social and legal services. These services are integral to the successful and safe placement of children in child-appropriate environments. I will speak more about the importance of these services in my recommendations.

In addition to the work that USCCB undertakes within the United States to serve and care for unaccompanied migrant children, the Catholic Church in the United States has worked extensively on prevention programs in the countries of origin, most notably El Salvador, through our partner, Catholic Relief Services (CRS). Through its Youth Builders project, CRS (El Salvador) and its partners provide at-risk youth with peer support, vocational and entrepreneurial training, job-placement, life skills and leadership development, and community service opportunities. This project targets youth who are at risk of unemployment, of violence—as victims and as perpetrators—and of forced migration. CRS, in partnership with Caritas Internationalis, strengthens diocesan programs to work with at-risk youth through a network of community and government agencies. Through these projects, CRS has served more than 2,500 young people.[8] I was able to visit and attend a Youth Builders session in San Salvador in November and saw firsthand the work that was being done to empower local children and give them the courage and skills to remain in their local communities, continue their education, and, in some cases, begin local businesses.

III. Overview of the Current Situation of Unaccompanied Children

Since 2011, the United States has seen an unprecedented increase in the number of unaccompanied migrating children arriving at the US/Mexico border.[9] These children come from all over the world but predominately from Guatemala, El Salvador, Honduras and Mexico. Whereas in fiscal years (FY) 2004-2011, the number of unaccompanied children apprehended by the US government averaged around 6,000-8,000 year, the total jumped to over 13,000 in FY 2012[10] and over 24,000[11] in FY 2013. ORR initially estimated that about 60,000 unaccompanied minors would enter the United States during FY 2014. Recent government estimates have been revised, projecting 90,000 child arrivals in FY 2014 and 130,000 in FY 2015.

As of June 20, Mr. Chairman US Customs and Border Patrol (CBP) have apprehended 52,000 in the Southwest Border region for FY 2014.[12] In response to the increased number of unaccompanied children arriving at the US-Mexico border, HHS requested and received approval from the Department of Defense for the use of Lackland Air Force base in San Antonio and a Naval Base in Ventura County in California, which are, respectively, providing shelter to 1,290 and 600 children. Facilities at Fort

---

[8] CRS El Salvador, Civil Society and Governance Programs, CRS El Salvador webpage, available at http://crs.org/countries/el-salvador

[9] Unaccompanied alien children or ("UACs") are undocumented migrant children under the age of 18 who come to the United States without their parent or guardian. Homeland Security Act of 2002, Pub. L. 107-296 §462(g), 116 Stat. 2135, 2205 (2002). "A UAC '(A) has no lawful status in the U.S. (B) has not attained 18 years of age, (C) with respect to whom- (i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody."

[10] ORR Year in Review, 2012, HHS website, available at http://www.acf.hhs.gov/programs/orr/resource/orr-year-in-review-2012 (accessed December 12, 2013)

[11] About Unaccompanied Children Services, ORR/HHS website, http://www.acf.hhs.gov/programs/orr/programs/ucs/about (accessed December 10, 2013)

[12] U.S. Customs and Border Patrol, Southwest Border Unaccompanied(0-17 yr old) Apprehensions Fiscal Year 2013 and Fiscal Year 2014 through May 31st available at http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children

Sill, Oklahoma, also will house 600 unaccompanied children.[13] The federal government is currently looking at other housing facilities throughout the United States.

With the increasing numbers of unaccompanied children arriving at the US-Mexico border, we must understand who these children are, what is propelling them to travel alone on an increasingly dangerous journey, and what can be done to best address their welfare. Mr. Chairman, I would like to share the stories of three children—one from El Salvador, Guatemala, and Honduras—to give the committee a sense of the reality of the violence they are fleeing:

***Marta,* age 16**, was born and raised in El Salvador, where she lived with her mother, father, brother and sister until just a few months ago. Currently, Marta is in a secure juvenile facility in the United States because she entered the U.S. without status.*

Marta reports having a very happy childhood, being involved with her church and that she is very close to all her family members. Now she is separated from everyone she knows in the world, because she had to flee for her life.

One day back home, Marta witnessed a fellow student's death as he was shot in the back by the gangs on his way home from school. Then the threats against Marta began. Members of the La Mara Salvatrucha (MS13) gang have repeatedly tried to recruit Marta to assist them in their criminal activities and have threatened to kill her and her family. Marta has been beaten, and threatened with a machete by gang members. At one point, the police intervened by relocating Marta's family to the countryside, but the gang still located Marta. Few community members are willing to assist her family out of fear of the gang. Marta's choice was to flee the country, join the criminal gang, or possibly be killed. After being in hiding for months, Marta's mother sent her to the U.S., to save her daughter's life. The family continues to be in hiding in El Salvador.

Marta cries repeatedly out of fear for her family's safety and is suffering from post-traumatic stress disorder. Marta is applying for asylum in the U.S. and has been approved to transfer to a foster care setting while she navigates immigration proceedings with the aid of a pro-bono attorney.

**Name changed to protect child's identity*

***Ana,* age 15,** grew up in Totonicapán, Guatemala, living with her biological parents and nine siblings. In an average day, Ana woke up at 5:00 AM to clean the house, and then sewed dresses until 9:00 PM, at which time she would fix dinner for her family and go to bed. Prior to migrating to the U.S., Ana had completed fifth grade before her father decided that her time would be better spent working. The impetus for her migration was the severe physical and emotional abuse she suffered at the hands of her father, who was unable to sustain steady employment and suffered from alcohol abuse. In June of 2013, Ana's mother secretly arranged for her to travel to the United States in hopes of reunifying with her 30 year-old sister in Houston, Texas. She travelled mostly by car, stopping to sleep in basements and warehouses on her way through Mexico.*

Once near the northern border of Mexico, she spent three nights in a trailer while the guide waited on other members of the group to arrive. Ana was given little water and nothing to eat while waiting in the trailer. On the third night in the trailer, the guide attempted to rape Ana, but another traveler pulled him away. The next day, after crossing into Texas, the guide again tried to rape her but his efforts were once again thwarted. Angry at her rejection, the guide abandoned Ana in the middle of the desert and returned to Mexico. Ana continued to walk until she found a farm and was subsequently apprehended by Border Patrol.

---

[13] American Forces Press Service, Fort Sill to House 600 Unacompanied Alien Children, U.S. Department of Defense website, Washington, D.C., retrieved June 10, 2014 from http://www.defense.gov/news/newsarticle.aspx?id=122438

**Name changed to protect child's identity.*

Maria* is a 16-year-old girl *from Honduras who arrived to the US and was placed in ORR custody in July 2013. She was referred for home study due to having been the victim of sexual abuse at the age of 13. While in Honduras, she had suffered additional abuse that began with harassment in her country of origin by La Mara Salvatrucha (MS13) Gang. Maria was pursued, brutalized and attempts at recruiting her culminated into the brutal beating of her mother and other family members, constant threats of kidnapping, and an eventual kidnapping by MS-13 gang members.*

Eventually Maria sought assistance and tried to get out of her confinement and recruitment by the gang. She finally devised a plan to escape, and under the ruse of going "shopping", the child arranged to escape to her sister's house. However, when the gang realized that the child had escaped, they surrounded the home to which she fled. Local authorities eventually secured Maria, debriefed her, and helped her relocate to protective custody in another part of the country. The child's mother insisted that she be moved to the care of a family member (aunt) in a nearby city in Honduras, but this only lasted a short time, since gang members found out this location and pursued and harassed Maria at this location as well. Since this incident, Maria has not had any contact or involvement with this gang, and eventually fled to the United States for fear she would be killed. Maria is currently being cared for by a foster-care family and awaits her court date.

**Name is changed to protect child's identity*

IV. Factors Pushing Unaccompanied Children to the U.S. Border

In our delegation to Central America in November 2013, USCCB focused upon learning more about the push factors driving this migration and possible humane solutions to the problem.

While poverty and the desire to reunify with family to attain security are ongoing motivations to migrate, USCCB found that that an overriding symbiotic trend has played a decisive and forceful role in recent years: generalized violence in the home and at the community and state level. Coupled with a corresponding breakdown of the rule of law, the violence has threatened citizen security and created a culture of fear and hopelessness that has pushed children out of their communities and into forced transit situations.

Mr. Chairman, we acknowledged in our trip report in January that each country exhibited individual challenges which have added to these push factors. Additionally, in response to the increased flow of children in recent weeks, we also acknowledge that certain new country-specific factors may have impacted the latest flow of children. One such factor is the recent crackdown of gang-activity from within prisons in Honduras and efforts to increase police presence by newly elected leader Juan Orlando Hernández. With the increased efforts by the Honduran government to stem communications from gang-leaders within prisons, there are reports of increased violence as gangs fragment and mid-level criminal operators compete for control.[14]

Mr. Chairman, the ongoing generalized violence, leading to coercion and threats to the lives of citizens—particularly children—of these countries, is the overwhelming factor facing these children and propelling their migration. Extortion, family abuse and instability, kidnapping, threats, and coercive and forcible recruitment of children into criminal activity perpetrated by transnational

[14]James Bargent, Honduras Extortion Gangs Undergoing Violent Leadership Crisis, Insight Crime: Organized Crime in the Americas, 3 June 2014.

criminal organizations and gangs have become part of everyday life in all of these countries. In addition to the violence and abuse at the community and national level, transnational criminal organizations, such as the Mexican-based Zeta cartel, which deals in the smuggling and trafficking of humans, drugs, and weapons, operate in these countries and along the migration journey with impunity, and have expanded their influence throughout Central America.

I note that the increase in violence in Guatemala, Honduras and El Salvador forcing children and adults out of their homes is affecting the entire region, not just the United States. For example, since 2008 Mexico, Panama, Nicaragua, Costa Rica, and Belize—the countries surrounding the Northern Triangle countries—have documented a 712% combined increase in the number of asylum applications lodged by people from El Salvador, Honduras, and Guatemala.[15]

Mr. Chairman, in our January trip report we detail the increased violence against children and families in Central America. Given the difficult conditions minors must confront in their home countries, USCCB believes that a robust protection regime for children must be implemented in Central America, Mexico, and the United States. Based on our presence in sending countries, we see the following as reasons for the increased number of children arriving in the United States:

Violence perpetrated by organized transnational gangs, loosely-affiliated criminal imitators of gangs, and drug cartels, has permeated all aspects of life in Central America and is one of the primary factors driving the migration of children from the region. USCCB found that in each country—particularly Honduras and El Salvador—organized gangs have established themselves as an alternative, if not primary, authority in parts of the countries, particularly in rural areas and towns and cities outside the capitals. Gangs and local criminal actors operating in Honduras, El Salvador, and Guatemala have consolidated their bases of power, expanded and upgraded their criminal enterprises and honed their recruitment and terror tactics. In many cases, the governments are unable to prevent gang violence and intimidation of the general public, especially youth. USCCB heard accounts of gang members infiltrating schools and forcing children to either join their ranks or risk violent retribution to them or their families. Even in prisons, incarcerated gang members are able to order violence against members of the community. There also were reports that law enforcement have collaborated with the gangs or at least have been lax in enforcing laws and prosecuting crimes. For example, according to Casa Alianza, an NGO that works in Honduras, 93 percent of crimes perpetrated against youth in Honduras go unpunished.[16]

Localized violence has severely exacerbated the lack of economic and educational opportunities for youth and has led to stress on the family unit, family breakdown, and even domestic abuse, which leaves children unprotected and extremely vulnerable. The escalation in violence, combined with the lack of jobs and quality education, has led to a breakdown in the family unit, as male heads of households—or sometimes both parents—have left for the United States, leaving children behind with relatives, often grandparents. Children who have parents working abroad are especially vulnerable to community violence and forced migration as they can become targets for gang extortion due to the perceived or actual remittances they may receive. Additionally, as children enter teenage years and are increasingly at risk for victimization or recruitment by gangs, it becomes increasingly difficult for their relatives, especially elderly grandparents, to protect them. To this end, the United Nations Development Program reports that 26.7% of all inmates in El Salvador they interviewed in 2013 never knew their mother or father growing up.[17] Schools no longer function as social institutions that offer a respite from the violence and instead have become de facto gang recruitment grounds. As a result of

[15] UNHCR, Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection, March 2014

[16] Interview with Casa Alianza (Covenant House) Honduras, Tegucigalpa, Honduras, November 20, 2013.

[17] Citizen Security with a Human Face: Evidence and Proposals for Latin America, Summary Regional Human Development Report 2013-2014, UNDP, November 2013, at 8.

being targeted because of their family situation or perceived wealth, children flee, as a strategy to escape the gangs, to help support the family, and to reunify with their parents or other loved ones, many of whom have been separated for years.

Abuse in the home also has created stress, fear and motivation to leave the family home as well as the community. The pressure on families from local violence, economic uncertainty, and family-member absence has a deleterious effect on the family unit, as instances of domestic abuse towards women and children have grown. It has been documented that more unaccompanied children are reporting instances of child abuse and neglect undertaken by non-parental caretakers.[18] Children, in particular girls, are particularly exposed to domestic violence. A survey carried out by UNICEF revealed that 7 out of 10 unaccompanied children reported having been abused in their homes.[19] In El Salvador it was reported that the domestic violence and sexual abuse of women and girls in the private sphere remain largely invisible and are consequently underreported.[20]

Migrating children do not find the protection they need once they arrive in Mexico, even those who are eligible for asylum. The United Nations High Commissioner for Refugees (UNHCR) has consistently reported that an increasing number of unaccompanied children from Central America in particular are vulnerable to exploitation and cannot access protection in Mexico. To this end, UNHCR and USCCB are working with government authorities to provide training to law enforcement and protection officers on identifying and screening vulnerable children.

As an example of this lack of protection, USCCB found one children's shelter dedicated to caring for migrant children who may attempt an asylum claim in the Southern Mexico region, in Tapachula. Another shelter in Mexico City, run by the Mexican government's division of child welfare [Desarrollo Integral de la Familia (DIF)] houses children who have won asylum but cannot be released until they are 18.[18]

Children who request asylum usually remain in detention for months, with little help to navigate the legal system. Once a child wins asylum, the only placement option available is the DIF child shelter in Mexico City until age 18, as there is no foster care system in place for these children. Shelter care is not intended to be a long-term placement for children, and often leaves children vulnerable to exploitation. Because of the challenges in gaining asylum in Mexico and the absence of an effective child welfare system, children often choose deportation back home so they can try to migrate again.

Countries of origin lack the capacity to protect children adequately. USCCB found that Guatemala, Honduras, and El Salvador lack the capacity to protect children in their law enforcement, child and social welfare, and educational systems. As mentioned, organized criminal networks and other criminal elements are active in many communities and schools, and the government is unable to curb their influence because of corruption, lack of political will, or lack of resources. Law enforcement personnel, low-paid and low-skilled, are compromised by these criminal elements. Child welfare services are virtually non-existent, as are foster-care and family reunification and reintegration services.

A significant number of migrants, particularly youth, have valid child protection claims. While the popular perception of many in the United States is that migrants come here for economic reasons, USCCB found that a growing number are fleeing violence in their homelands. UNHCR recently

---

[18] UNHCR, Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection, at 46, March 2014. In their report, UNHCR states that 21% of children interviewed revealed that they had experienced some form of abuse by a family member, another adult responsible for their care or a domestic partner.
[19] Rashida Manjoo, Report of the Special Rapporteur on violence against women,
its causes and consequences, Addendum Follow-up mission to El Salvador, at p.7 ¶¶19-20, Human Rights Council, 17th Session, A/HRC/17/26/Add.2, 14 February 2011, available at http://daccess-ods.un.org/TMP/6227008.70037079.html
[20] Ibid.

found 58% of the unaccompanied children it interviewed from Central America and Mexico had some sort of international protection claim.[21] A similar study in 2006 found only 13% of these children had a protection claim. Children who exhibit international protection concerns may be eligible to remain in the United States legally in some form of recognized legal status, such as Special Immigrant Juvenile Status, as an asylee, or with T or U visas.

V. U.S. Response to the Humanitarian Crisis

Mr. Chairman, we support the Administration's immediate response to this crisis, which created an inter-agency response led by the Federal Emergency Management Agency (FEMA). We offer the following recommendations to ensure that children are cared for throughout the legal process:

For the children, the faithful adherence to the best interest of the child standard is necessary in all decision-making. The best interest of the child principle is an internationally recognized child-welfare standard used in the U.S. child welfare system. It refers to a process of determining services, care arrangements, caregivers, and placements best suited to meet a child's short-term and long-term needs and ensure safety permanency, and well-being. When applied in the United States special importance is given to family integrity, health, safety, protection of the child, and timely placement. This means that all procedures, protocols, and mechanisms developed are child-friendly, trauma-informed, and administered by child welfare professionals; that children are screened and assessed for their immediate humanitarian protection needs and their long-term international protection needs; that during the pursuit of long-term solutions for the children they are placed in the least-restrictive settings (i.e. community-based); that all children are connected with social and legal services to address their immediate needs; that long-term and durable solutions are pursued that are in the children's best interests; and that where repatriation is the best alternative available that safe repatriation and reintegration be conducted in collaboration and coordination with the children's home governments, NGOs, and other implementing partners.

Consistent with US child welfare norms, children should be placed in smaller community-based programs such as specialized foster care, group or small shelter programs which allow children to reside in family settings in communities. Large facilities are contrary to child welfare principles and the TVPRA, increase the risk of institutionalization, child maltreatment and losing track of children's individual needs.

For the United States government, a mutually supportive, interagency response is necessary to ensure we are leveraging the expertise and resources of the agencies that bear responsibility for addressing all aspects of the challenge. As mentioned, Mr. Chairman, we are encouraged by the decision of the Administration to involve all relevant agencies of the government in responding to this crisis. This should include HHS/ORR and also the Administration for Children and Families' domestic child welfare division; the Department of State's (DOS) Agency for International Development, Bureau of Population, Refugees, and Migration, and Western Hemispheric Affairs; the Executive Office for Immigration Review of DOJ; and Citizenship and Immigration Services, Immigration Customs Enforcement, and DHS/CBP. The inter-agency work on the issue should incorporate clear leadership responsibilities and effective collaboration mechanisms to ensure the optimum results both in the United States and throughout the region.

Children should be properly screened and placed in the least restrictive setting, preferably with family or an appropriate sponsor. Children should be immediately screened, ideally by a child welfare specialist, as to whether 1) they are victims of human trafficking; and 2) whether they have

[21] UNHCR, Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection,- March 2014

special needs and require specific care, such as trafficking victims, children under 12, pregnant girls, and persons with disabilities. Where possible, children should be reunified with their family members during the course of their legal proceedings. Potential sponsors who can care for the child throughout the child's immigration proceedings should be identified and adequately screened. Children should not be released, pending fingerprint and background checks of their sponsors. HHS and other agencies should monitor, report, and respond to violations against children. As required under the law, expedited removal should not be used against unaccompanied children.

Families should be kept together, preferably in a community setting, and provided full due process rights. Families who are part of this migration flow, mainly women with young children, should not be detained in a restrictive setting. Alternatives to detention for these families should be explored, including with faith-based communities. Such models have been implemented in the past, with great success and at reasonable costs. The needs of mothers and children are best met in such a community setting, where their specialized needs can be met. USCCB stands ready to help in providing alternatives to detention for vulnerable families.

Moreover, subjecting these families to expedited removal procedures, as intended by the Administration, could undercut their due process rights. Many would be unable to obtain an attorney and, because of their trauma and the setting of the immigration proceedings, would be unable to adequately articulate their fear of return.

Post-release reception assistance should be expanded to meet the rising need. We urge increased post-release services which address family preservation, child safety, community integration, access to counsel and continued participation in immigration proceedings. The lack of sufficient funding for assistance post-release increases the likelihood of family breakdown, makes it more difficult for children to access public education and community services, and decreases the likelihood that the children will show up for their immigration proceedings.

With the release from custody happening on a shorter time frame—now less than 30 days—and with up to 90% of UACs being released from ORR custody to communities, UAC resources need to be prioritized into community-based reception services which are located where families live. ORR could leverage the infrastructure and expertise of the U.S. resettlement agencies by providing all of the children community-based, reception services. Reception services should be required for all UAC to assist the family with navigating the complex educational, social service, and legal systems.

Pastoral care and services should be provided to children. Mr. Chairman, these vulnerable children should have access to pastoral services, including visitation by religious, including priests, minister, and other faith leaders. To date, requests for visitation to the border patrol stations and shelters for this purpose has been denied by the Border Patrol and ICE.

VI. RECOMMENDATIONS

In light of the humanitarian crisis and in the best interest of the children who are at risk, USCCB offers the following policy recommendations:

A.

The United States should strengthen protections for children from Central America. Unaccompanied minors who arrive in the United States possess legal rights which should be honored. Often children are scared and are unable to articulate their fears and do not understand what

rights they have under U.S. law. Moreover, children who come into the care of the U.S. government should be treated humanely and with appropriate child protections. We recommend the following:

Robust funding should be appropriated to ensure the care of these children and families fleeing violence in their home countries. We are heartened that the U.S. Senate has added $1.9 billion for the Fiscal Year 2015 budget to care for these vulnerable populations. Any funding should be administered in a manner that respects the religious liberty and conscience rights of organizations providing this care.

We recommend that:

- Congress appropriate $2.28 billion for Fiscal Year 2015 for care of unaccompanied children, consistent with the Administration's request.
- Congress increase funding in the FY 2015 HHS budget for unaccompanied refugee minors programs to $100 million, as some of these children should qualify for Unaccompanied Refugee Minor (URM) benefits;
- Congress appropriate $100 million for DHS to care for families who have crossed into the United States during the duration of their legal proceedings, including alternative to detention programs, housing and other basic necessities.
- Congress should appropriate funding in the DOJ budget to provide legal representation for unaccompanied children who cannot secure representation through pro-bono networks.

Congress should mandate and fund family reunification and legal orientation programs for all youth to help children integrate into their communities, reunify with their families, and pursue immigration relief. Often, increased funding to the Office of Refugee Resettlement (ORR), which is responsible for the custody and care of UAC, is directed at improving conditions in the temporary shelters in which unaccompanied children reside while waiting for release to their families. However, under normal conditions the time youth spend in shelter is less than 45 days, at which point 90 percent are released to their families.

There exists little funding for services once children are released, increasing the likelihood for family breakdown, the inability of children to enroll in school and access community resources, and the likelihood that the child will not show up to their immigration hearings. Funding should be directed at increasing the number of home studies provided to UAC prior to their release from custody to assess any potential risks of the placement, including the protective capacity of the sponsor to ensure the safe reunification of the child. Post-release services should be required for all UAC to assist the family with navigating the complex educational, social service, and legal systems. With appropriate follow up and monitoring by child welfare professionals, it is more likely that children will not abscond and will appear at their immigration proceedings.

Finally, funding should be increased for the Department of Justice's Legal Orientation Program for Custodians (LOPC) which was developed to "inform the children's custodians of their responsibilities in ensuring the child's appearance at all immigration proceedings, as well as protecting the child from mistreatment, exploitation, and trafficking," as provided under the Trafficking Victims Protection Reauthorization Act of 2008.[22]

[22] http://www.justice.gov/eoir/probono/probono.htm

The best interest of the child should be applied in legal proceedings involving UACs, including creating child-appropriate asylum procedures and unaccompanied child immigration court dockets. Currently, decisions about the welfare of UAC are made separately from the existing U.S. child welfare infrastructure, meaning that court decisions on the welfare of UAC are based on their eligibility for immigration relief alone rather than involving a comprehensive assessment of the best interest of the child. Whenever possible, policies and procedures should be implemented that help the child progress through the system in a way that takes into account his/her vulnerabilities and age, such as the establishment of immigration court dockets for unaccompanied children and the creation of child-appropriate asylum procedures. Concentrating all UAC cases in a child-focused immigration docket with appropriately-trained arbiters and advocates will streamline UAC cases while also ensuring a less-threatening model for children. Additionally, implementing a uniform binding standard that requires all immigration judges, federal judges, and members of the BIA to adopt a child-sensitive approach to asylum cases of child applicants will lead to greater consistency in youth asylum jurisprudence and will also be more reflective of current international and domestic legal requirements. As mentioned, the government should provide legal representation for unaccompanied children, who would be better able to navigate the legal process and obtain immigration relief with an attorney guiding and representing them.

Family reunification should be a central component of implementing the best interest of the child principle. The U.S. government should adopt a transnational family approach in deciding on durable solutions in the best interest of UAC. This should include family tracing, assessment of all family members for potential reunification, and involvement of all family members in the decision-making process, regardless of geography.

The Department of State should pilot Section 104 of the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 08) in Mexico. Sec. 104 of the TVPRA 08 amends Sec. 107 (a) of the TVPA 2000 to require the "Secretary of State and the Administrator of the United States Agency for international development" to "establish and carry out initiatives in foreign countries"[23] "in cooperation and coordination with relevant organizations, such as the United Nations High Commissioner for Refugees, the International Organization for Migration, and private nongovernmental organizations…for--'(i) increased protections for refugees and internally displaced persons, including outreach and education efforts to prevent such refugees and internally displaced persons from being exploited by traffickers; and '(ii) performance of best interest determinations for unaccompanied and separated children who come to the attention of the United Nations High Commissioner for Refugees, its partner organizations, or any organization that contracts with the Department of State in order to identify child trafficking victims and to assist their safe integration, reintegration, and resettlement."[24]

USCCB interviewed several Central American child victims of trafficking in a DIF shelter in Tapachula, Mexico whom would benefit from a best interest determination (BID) which would result in a recommendation for a durable solution to ensure their protection and permanency. Currently, there is no systemic way to identify children who have been trafficked or are at risk of being trafficked, and without a BID, the fate of children who were trafficked or at risk of being trafficked consists of repatriation to their country of origin, often sending them back into the hands of the traffickers. If they receive refugee status in Mexico, remaining in a shelter until they turn 18 years old leaves them vulnerable to exploitation within the shelter and lacking appropriate services to address their trauma and developmental needs.

[23] http://www.state.gov/documents/organization/10492.pdf
[24] http://www.state.gov/j/tip/laws/113178.htm

The Office of Refugee Resettlement (ORR) should continue to expand placement options to include small community-based care arrangements with basic to therapeutic programming. The Flores Settlement Agreement establishes minimum standards of care for children in the custody of ORR and requires that UAC be placed in the least restrictive setting that meets their needs. Save the Children notes in a study: "...recent years have seen an increasing emphasis on the development of community-based approaches… to ensure that children who lose, or become separated from their own families, can have the benefits of normal family life within the community"[25]. Placing children in the least restrictive setting that can meet their needs is the policy and practice of the child welfare system in the United States. While many of the children in ORR custody are served in basic shelters, this placement setting may not be the most appropriate for some UAC, many of whom have complex trauma needs, and would be better served in foster care placements through the URM program.

Special attention should be given to Mayan youth. A significant number of youth migrating from Guatemala are Mayan fleeing domestic violence, organized crime and poverty. The United States is not adequately prepared to identify and assist these youth, as many are unable to understand English or Spanish and thus unable to articulate their fears. We encourage DHS to work with non-government organizations and Mayan leaders to identify and assist Mayan youth.

B.

Mexico, with assistance from the United States and child welfare organizations, must build the capacity of the Mexican child welfare system to protect migrating youth. This includes training for direct care providers and government officials to employ child-appropriate techniques when interviewing and serving migrating children as well as the development of protocols related to identification of safe placement for children, including, but not limited to, those identified to be eligible for refugee status. The government, in partnership with child welfare experts should develop and incorporate standardized tools and methods to screen migrating children for symptoms of trauma and for human trafficking.

The Mexican government should establish a continuum of care for unaccompanied children in their custody. Currently, unaccompanied children who are seeking asylum may remain in shelters for as long as six months to years and children who receive asylum remain in shelter until they are 18. Studies have shown that prolonged stays in restrictive settings impact a child's development and well-being. The higher the capacity of the care arrangement, the more restrictive the environment becomes. Consistent with child welfare best practice, unaccompanied children should be placed in the least-restrictive setting, ideally, in community-based care, such as foster care, which allows children freedom of movement and access to community. Furthermore, care settings should be constructed to ensure minors are not commingled with gangs or other criminals, who often infiltrate these facilities.

Best interest determinations (BIDS) should be conducted for children in custody in Mexico. Rather than immediately deport them back to Central America, Mexico should allow UNHCR to employ a BIDS system for unaccompanied and separated children in detention to ensure they are protected from criminal elements in Mexico and Central America. This would include the possibility of reuniting them with their families in the United States, particularly if they are victims of trafficking or asylum seekers.

The U.S. government should consider child asylum/refugee cases in Mexico for resettlement to the United States through embassy referrals. Cases of children with valid asylum or refugee claims, especially those with family in the United States, should be considered by the U.S. government

[25] "Community-Based Care for Separated Children". Save the Children. 2003. Retrieved from http://comminit.com/en/node/209638/347

for possible resettlement. In many cases, children are neither safe in Mexico nor the country of origin, and resettlement to the United States is their only option for a durable solution.

The current reliance on consular staff to investigate, handle, and treat children who are intercepted in Mexico during their migration is inadequate and leaves children vulnerable to coyotes, traffickers and further trauma and exploitation. Currently, in Tapachula, Mexico, the consular officials are responsible for identifying where apprehended unaccompanied children are from, interfacing with the other consulates, collecting information on children's families, and making determinations about their return. The training they receive is on an ad hoc basis, sometimes led by local NGOs. These government officials are performing the work of child welfare experts and should receive adequate training and staff on site within the consulates to help consult on possible child trafficking, smuggling and exploitation cases.

C.

With assistance from the U.S. government, Central American governments must employ systems to protect children so they are able to remain home in safety and with opportunity. The long-term solution to the crisis in Central America is to address the push factors driving minors north. This would include improvements in education, employment, and enforcement, for sure, but also improvements in the social service and child protection systems. We recommend the following:

The United States should invest in repatriation and re-integration in sending countries. USCCB found that source countries did not employ comprehensive re-integration programs for children returning from the United States and Mexico, programs which would provide follow-up services to children to help them readjust to life in their home country. A program operated by Kids in Need of Defense (KIND) in Guatemala is showing promising results and should be expanded and duplicated.

The United States should invest in prevention programs in sending countries. Other than programs provided by Catholic Relief Services and other NGOs, source countries do not employ programs to encourage youth to remain and not take the journey north. Such a program would include skill-based training and employment services. Catholic Relief Services operates Youth Builders, a program previously mentioned in my testimony which has helped youth remain at home and live productive lives. Youth Builders offers promise for the benefits of such prevention programs: of the 53 children served by the Youth Builders program to date, 52 have not migrated north.

The United States should consider the implementation of in-country processing in sending countries. In order to prevent children with persecution claims from risking their lives along the migration journey, the United States should consider in-country processing in Guatemala, El Salvador, and Honduras. This would also undercut the for-profit smuggling networks that are preying on children and families. It also would ensure that children who deserve protection receive it in safety. The United States has conducted successful in-country processing systems in such nations as the former Soviet Union and Haiti.

Anti-violence efforts should include stakeholders from government, civil society, private sector, churches and international donors in order to effectively leverage limited resources and should include job and educational opportunities and training programs. Anti-violence prevention measures should be tackled at regional and local community levels in addition to national levels. Including key local stakeholders and engaging regional governmental bodies and actors is a vital part of prevention efforts. Additionally, prevention efforts must include systematic training and educational programs in order to fully offer meaningful opportunities for gang members in society once they leave the gang.

Over the long-term, all governments of the region, including the United States, must invest resources into examining and effectively addressing root causes of migration in Central America and Mexico. This would address the lack of citizen security which is propelling individuals, especially children, to flee. The US and its regional partners must avoid the simplistic approach of addressing the forced migration by forcing children back through increased border enforcement. This response is akin to sending these children back into a burning building they just fled. Instead the approach must prioritize protection for those who are displaced from their homes, especially children, the most vulnerable.

CONCLUSION

The situation of child migration from Central America is a complex one, with no easy answers. It is clear, however, that more must be done to address the root causes of this flight and to protect children and youth in the process. Clearly this problem is not going away; in fact, it is getting more urgent in terms of the dire humanitarian consequences.

Too often, and especially recently in the media, these children are being looked at with distrust and as capable adult actors, instead of as vulnerable and frightened children who have been introduced to the injustice and horror of the world at an early age. Anyone who hears the stories of these children would be moved, as they are victims fleeing violence and terror, not perpetrators. USCCB found that these children long not only for security, but also for a sense of belonging—to a family, a community, and a country. They are often unable to find this belonging in their home country and leave their homes as a last resort.

In conclusion, I ask you to consider the individual stories of these vulnerable child migrants and open your minds and hearts to their plight while seeking meaningful and long-term regional solutions. I ask you to respond to the needs of these children, not to turn them away or ostracize them, as Americans are a compassionate people.

Mr. Chairman, I again thank you for this opportunity to speak with you about these children of God and ask that you let me, my brother bishops, and the entire Catholic Church charitable network work with you to pursue just and humane solutions to the challenge of child migration.

Mr. GOODLATTE. Thank you, Reverend Seitz.

Without objection, I would like to enter into the record the following documents: five emails from ICE enforcement and removal operations regarding 100 percent reverse escorts, unaccompanied minor runaway cases, issuance of notices to appear, and unaccompanied minor daily reporting broadcast message; a FEMA senior leadership brief; a DHS unaccompanied minor fact sheet, which shows that DHS was aware of this problem in July 2011; and the four charts presented here today.

[The information referred to follows:]

This message is sent on behalf of Philip T. Miller, Assistant Director for Field Operations:

To: **Field Office Directors and Deputy Field Office Directors**

Subject: **Reverse Escorts of Unaccompanied Alien Children (UAC)**

The ERO San Antonio, Rio Grande Valley (RGV) area of operation in Texas is currently receiving a significant influx of unaccompanied alien children (UAC). This influx is causing ERO to utilize commercial airlines as a mode of transportation for placement in the Office of Refugee and Resettlement (ORR) shelters outside the ERO San Antonio AOR.

Effective Monday, May 19, 2014, all field offices in which ORR identifies placement of a UAC within your AOR will be required to conduct "100% reverse escorts". In short, if ORR finds placement in your AOR, your field office will be required to provide officers to travel to the SNA AOR and escort the UAC back to your AOR for placement.

Field offices receiving UACs for placement in an ORR shelter must make immediate travel arrangements and if possible, the transporting officers should schedule flights to ERO SNA that same day with a return flight scheduled for the next day (to include weekends and holidays).

Currently, the following field offices have been identified as having ORR shelters in their AOR: **CHI, DAL, DET, ELP, LOS, MIA, NEW, NYC, PHI, PHO, SEA, SFR, SND, and WAS.**

ORR is in the process of adding new locations for UAC placement daily, so even though your AOR may not be currently receiving UACs, future UAC placement within your AOR by ORR may be designated with little to no notice. Field Operations asks that all FODs have procedures in place in order to be responsive to this current situation.

Questions regarding this tasking may be submitted to either your designated staff officer or for West Operations, Unit Chief Tammy Cyr at Tammy.Cyr@ice.dhs.gov, (202) 732-5473 or East Operations, Unit Chief Brian Stokes at Brian.Stokes@ice.dhs.gov, (202) 732-6457.

NOTICE: This communication may contain privileged or otherwise confidential information. If you are not an intended recipient or believe you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use this information. Please inform the sender that you received this message in error and delete the message from your system.

This message is sent on behalf of Philip T. Miller, Assistant Director for Field Operations:

To: **Field Office Directors and Deputy Field Office Directors**

Subject: **Update: Reverse Escorts of Unaccompanied Alien Children (UAC)**

The ERO Phoenix area of operation in Arizona is currently receiving a significant influx of unaccompanied alien children (UAC) within their AOR and from the RGV. This influx is causing ERO to utilize commercial airlines as a mode of transportation for placement in the Office of Refugee and Resettlement (ORR) shelters outside the ERO Phoenix AOR.

Effective Monday, June 9, 2014, all field offices in which ORR identifies placement of a UAC within your AOR will be required to conduct "100% reverse escorts". In short, if ORR finds placement in your AOR, your field office will be required to provide officers to travel to the PHO AOR and escort the UAC back to your AOR for placement.

Field offices receiving UACs for placement in an ORR shelter must make immediate travel arrangements and if possible, the transporting officers should schedule flights to ERO PHO that same day with a return flight scheduled for the next day (to include weekends and holidays).

Currently, the following field offices have been identified as having ORR shelters in their AOR: **ATL, BAL, CHI, DAL, DET, HOU, ELP, LOS, MIA, NEW, NYC, PHI, SEA, SFR, SND, and WAS.**

ORR is in the process of adding new locations for UAC placement daily, so even though your AOR may not be currently receiving UACs, future UAC placement within your AOR by ORR may be designated with little to no notice. Field Operations asks that all FODs have procedures in place in order to be responsive to this current situation.

Questions regarding this tasking may be submitted to either your designated staff officer or for West Operations, Unit Chief Tammy Cyr at Tammy.Cyr@ice.dhs.gov, (202) 732-5473 or East Operations, Unit Chief Brian Stokes at Brian.Stokes@ice.dhs.gov, (202) 732-6457.

NOTICE: This communication may contain privileged or otherwise confidential information. If you are not an intended recipient or believe you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use this information. Please inform the sender that you received this message in error and delete the message from your system.

This message is being forwarded on behalf of Tae D. Johnson, Assistant Director for Custody Management, with the concurrence of Philip T. Miller, Assistant Director for Field Operations and Mark Rapp, Assistant Director of Law Enforcement Systems and Analysis:

To: **Field Office Directors and Deputy Field Office Directors**

For: **Field Office Juvenile Coordinators**

Subject: **Tracking ORR Runaway Cases**

Until now, when ORR notifies ERO that an unaccompanied alien child (UAC) has absconded from a facility, the FOJC has been using "Escaped" as the most appropriate option for booking the minor out of EADM. Recognizing the difference between an "escape" from the physical custody of ERO and an unauthorized departure from an ORR shelter, we have added a new release-reason to the drop-down menu in the EADM module of EAGLE.

Effective immediately, when notified of an ORR runaway, you will choose "ORR Runaway" from the drop-down menu of release-reasons. The release-reason "Escaped" applies **only** in the rare case of a UAC absconding before ERO has transferred custody to ORR.

Note: You must request an incident report number from the National Juvenile Coordinator as soon as you hear of an ORR runaway. Within 24 hours of receipt of ORR's formal Significant Incident Report (SIR), return the ORR-Runaway Worksheet and the ORR-generated SIR to the JFRMU mailbox at: JFMRU@ice.dhs.gov. The worksheet is available on the JFRMU intranet site, subtopic *Guidance Documents*.

Please refer any questions to JFRMU Chief Stephen Antkowiak at (202)732-4558 or Stephen.Antkowiak@ice.dhs.gov.

NOTICE: This communication may contain privileged or otherwise confidential information. If you are not an intended recipient or believe you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use this information. Please inform the sender that you received this message in error and delete the message

This message is sent on behalf of Philip T. Miller, Assistant Director for Field Operations:

To: **Field Office Directors and Deputy Field Office Directors**

Subject: **Unaccompanied Alien Children (UACs) Modification**

As you know, there is a significant influx of unaccompanied alien children (UACs). As a result, DHS has modified normal processing procedures. As part of these modifications Notices to Appear (NTAs) are being issued stating "To Be Determined" for the date, time and place of the UACs hearing.

Effective immediately, if your office receives NTAs from CBP or southwest border ERO office with "To Be Determined" listed in lieu of an address for the UAC, as well as for the time, date, and place of the hearing before EOIR, DO NOT file these NTAs with EOIR unless you have either: (1) received notice that the Department of Health and Human Services' Office of Refugee Resettlement has permanently placed the UAC, pending his/her reunification with a family member or legal guardian; OR (2) 60 days have passed after the issuance of the NTA, whichever comes first.

These new procedures will be in place until further notice.

If you have any questions please consult with your local Chief Counsel or Domestic Ops DDO.

NOTICE: This communication may contain privileged or otherwise confidential information. If you are not an intended recipient or believe you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use this information. Please inform the sender that you received this message in error and delete the message from your system.

This message is being sent on behalf of Tae D. Johnson, Assistant Director for Custody Management and Philip T. Miller, Assistant Director for Field Operations:

To: **Field Office Directors and Deputy Field Office Directors**

Subject: ****This broadcast message supersedes the previous broadcast disseminated on May 15, 2014**

****UAC Daily Reporting**

Unaccompanied alien children (UAC) represent one of the most vulnerable populations that DHS encounters. In accordance with the Trafficking Victims Protection Reauthorization Act (TVPRA), ICE is responsible for transporting most of these UAC to the care of the Office of Refugee Resettlement (ORR) within 72 hours. Compliance with the TVPRA is becoming increasingly difficult due to the large number of apprehensions and lack of available ORR bed space. DHS leaders are actively engaged in managing this situation.

As we expect this trend to continue in the coming weeks, the ERO Front Office now requires daily reporting of UAC apprehensions, referrals, and transfers. To comply with this new requirement, beginning **Wednesday, May 14, 2014,** each ERO field office must report (via the attached spreadsheet) the below information to JFRMU daily.

- Number of UAC apprehensions referred to ORR
- Number of UAC *pending* placement by ORR
- Number of UAC *designated* placement by ORR
- Number of UAC transports conducted in the past 24 hours (broken out by charter, commercial air, ground—separated by ERO and USBP)
- Breakdown by length of time UAC awaiting transfer to ORR (by age)
- Number of UAC FOJC is preparing for transport within the next 24-48 hours.
- Number of UAC placed by CBP

Please complete the attached reporting template (spreadsheet) and submit to the JFRMU mailbox at jfrmu@ice.dhs.gov by **16:00 EST daily, SEVEN DAYS PER WEEK.** Data should include **all apprehensions as of 13:00 EST that day.** This reporting requirement will expire on June 10, 2014, but may be extended. Questions regarding this tasking should be submitted to JFRMU Chief, Stephen Antkowiak at (202) 732-4558 or via email Stephen.Antkowiak@ice.dhs.gov.

NOTICE: This communication may contain privileged or otherwise confidential information. If you are not an intended recipient or believe you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use this information. Please inform the sender that you received this message in error and delete the message from your system.

UNCLASSIFIED//FOR OFFICIAL USE ONLY//LAW ENFORCEMENT SENSITIVE

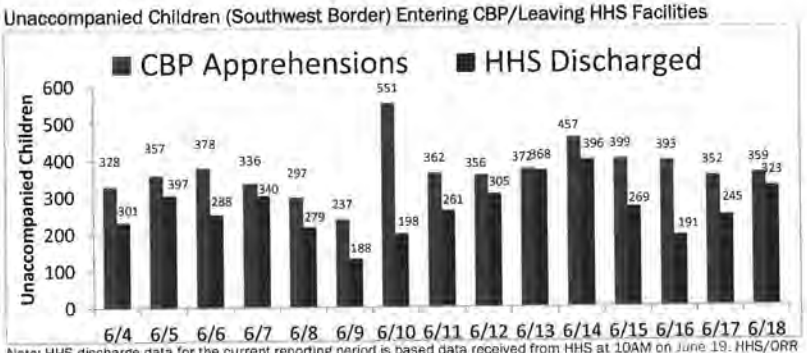
FEMA

UCG Senior Leadership Brief
Thursday, June 19, 2014 (10:00 p.m. EDT)
Updates in Blue

SITUATION (ALL DATA AS OF JUNE 18)

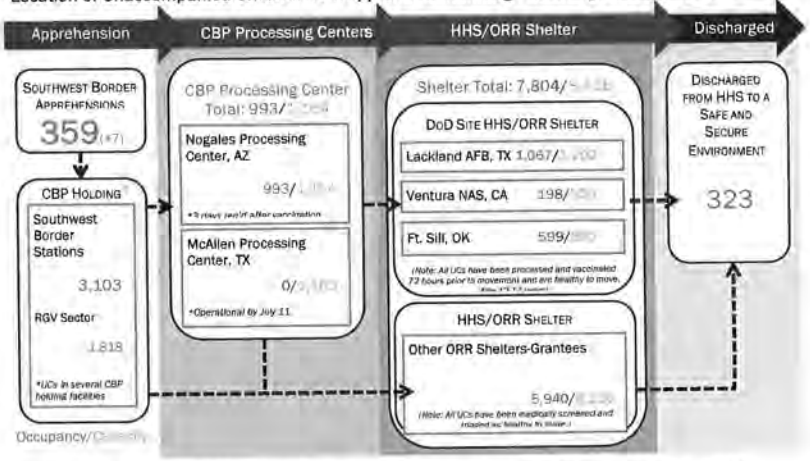
There are currently 3,103 (+54) unaccompanied children in CBP custody along the Southwest Border. The majority of unaccompanied children, 1,818 (-17) are concentrated in the Rio Grande Valley (RGV) Sector of Texas. 993 (+90) of these children are being processed through the Nogales Processing Center in Arizona. Unaccompanied children apprehended across the RGV Sector on June 18, 2014 came from roughly 11 different countries. The top four countries were Honduras (106), El Salvador (86), Mexico (25), and Guatemala (59). The information in this brief shows the best available reporting and information as of the time of publishing.

Unaccompanied Children (Southwest Border) Entering CBP/Leaving HHS Facilities



Note: HHS discharge data for the current reporting period is based data received from HHS at 10AM on June 19. HHS/ORR revises the past 10 days of discharge data as additional numbers become available.

Location of Unaccompanied Children from Apprehension through Discharge (ALL DATA AS OF JUNE 19)



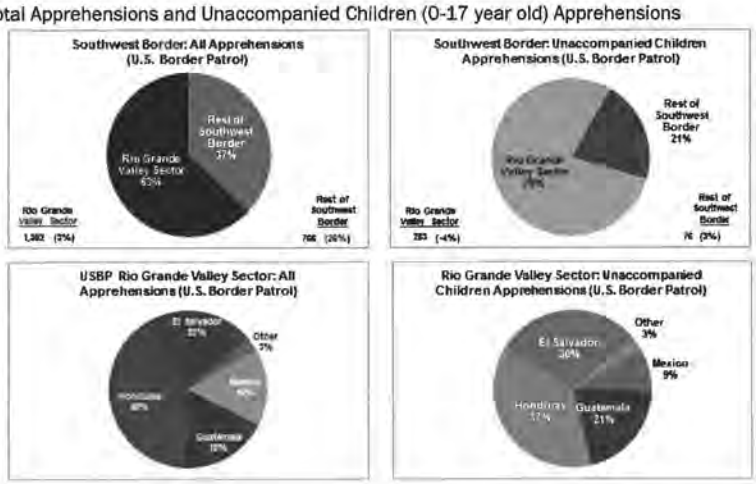
LAW ENFORCEMENT INFORMATION NOTICE: *This product contains Law Enforcement Sensitive (LES) information. No portion of the LES information should be released to the media, the general public, or over non-secure internet servers. Release of this information could adversely affect or jeopardize investigative activities.*

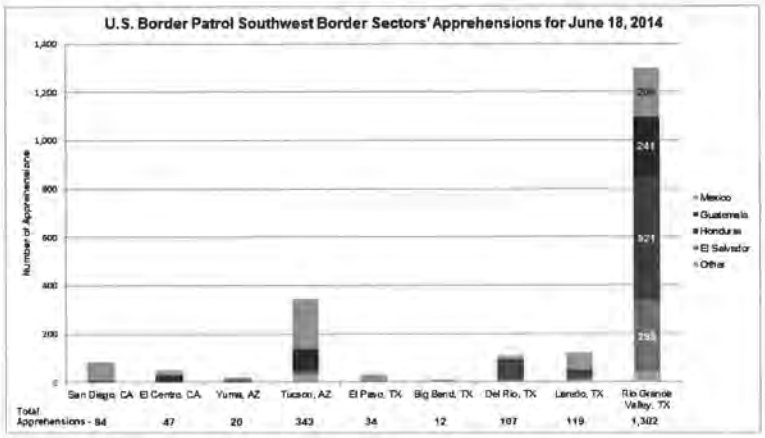
UNCLASSIFIED//FOR OFFICIAL USE ONLY

CBP APPREHENSIONS (ALL DATA AS OF JUNE 18)

The charts below show that the Rio Grande Valley Sector has seen a 4% decrease in unaccompanied children apprehended since the previous day. Hondurans continue to comprise a plurality of apprehensions.

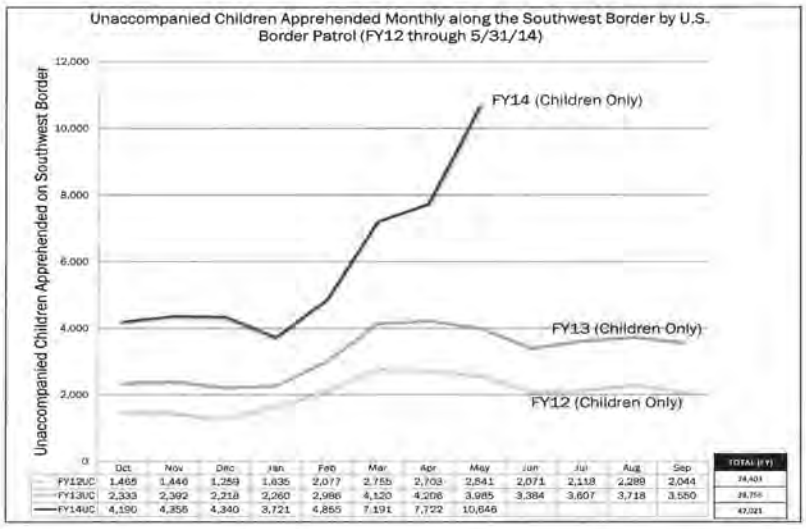
Total Apprehensions and Unaccompanied Children (0-17 year old) Apprehensions



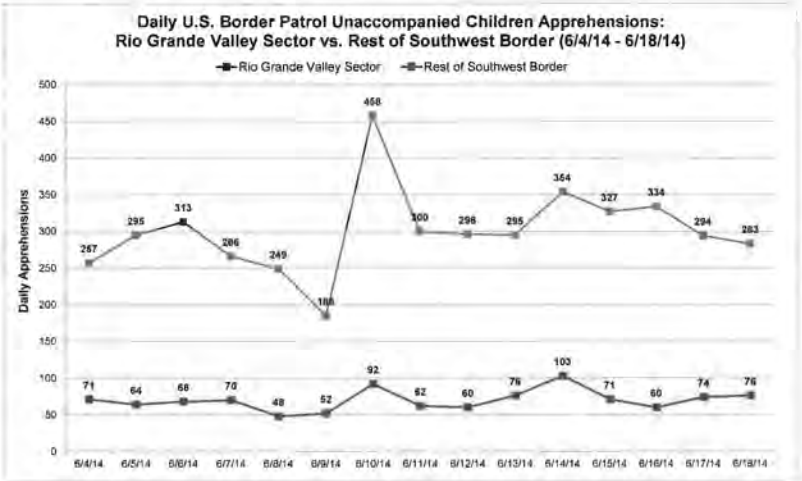


LAW ENFORCEMENT INFORMATION NOTICE: *This product contains Law Enforcement Sensitive (LES) information. No portion of the LES information should be released to the media, the general public, or over non-secure internet servers. Release of this information could adversely affect or jeopardize investigative activities.*

UNCLASSIFIED//FOR OFFICIAL USE ONLY

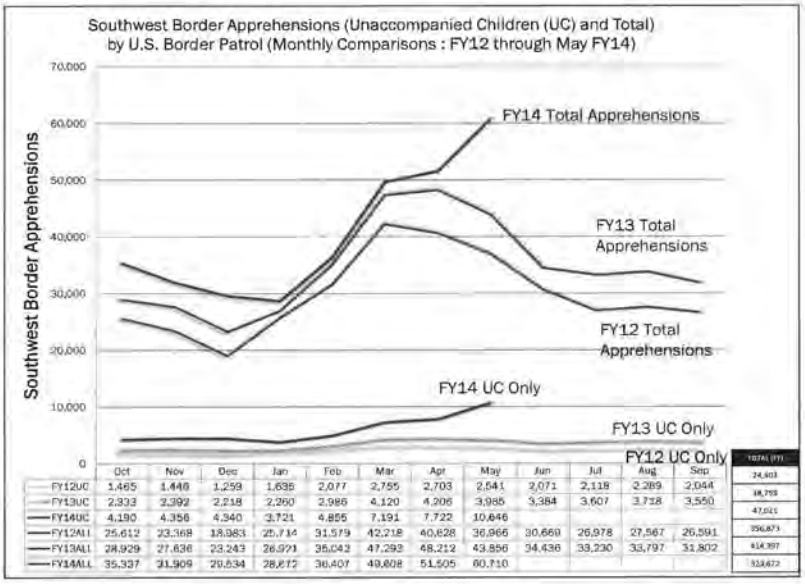


	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	TOTAL (FY)
FY12UC	1,465	1,446	1,259	1,835	2,077	2,755	2,703	2,541	2,071	2,118	2,289	2,044	24,403
FY13UC	2,333	2,392	2,218	2,260	2,986	4,120	4,208	3,985	3,384	3,607	3,718	3,550	38,759
FY14UC	4,190	4,356	4,340	3,721	4,865	7,191	7,722	10,646					47,021



LAW ENFORCEMENT INFORMATION NOTICE: *This product contains Law Enforcement Sensitive (LES) information. No portion of the LES information should be released to the media, the general public, or over non-secure internet servers. Release of this information could adversely affect or jeopardize investigative activities.*

UNCLASSIFIED//FOR OFFICIAL USE ONLY



	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	TOTAL (FY)
FY12UC	1,465	1,446	1,259	1,636	2,077	2,755	2,703	2,541	2,071	2,118	2,289	2,044	24,403
FY13UC	2,333	2,392	2,218	2,260	2,986	4,120	4,206	3,985	3,384	3,607	3,718	3,550	38,759
FY14UC	4,190	4,356	4,340	3,721	4,855	7,191	7,722	10,646					47,021
FY12ALL	25,612	23,368	18,983	25,714	31,579	42,218	40,628	36,966	30,669	26,978	27,567	26,591	356,873
FY13ALL	28,929	27,836	23,243	26,971	35,042	47,293	48,212	43,856	34,436	33,230	33,797	31,802	414,397
FY14ALL	35,337	31,909	29,834	28,672	36,407	49,808	51,505	60,710					324,672

HHS SHELTER FACILITIES (AS OF JUNE 18 unless otherwise noted)

The table below shows the breakdown of where unaccompanied children are being cared for in HHS shelters around the country.

Facilities Supporting HHS Sheltering Operations					
Facility	Status	Total Capacity (beds)	Occupancy	Beds Available	Operational Date
Shelter-grantees	94 facilities operating throughout the U.S.	6,316	5,940 (+374)	376 (-374)	
Lackland AFB San Antonio, TX	Operational	1,200	1,067 (+29)	133 (-29)	May 18
Naval Base Ventura Oxnard, CA	Operational	300	198 (-28)	102 (+28)	June 6
Ft. Sill Fort Sill, OK	Operational; Has capacity potential of 1,200 by 6/20/14.	600	599 (+75)	1 (-75)	June 13
Note: GSA provided list of 156 hospitals / medical facilities for HHS review as possible sites					
	Totals	Capacity	Occupancy	Beds Available	
	Current:	8,416	7,804 (+452)	612 (-452)	
Source: (Shelter Grantees): HHS/ASPR DCS Capacity Report 6/17/14 (DoD HHS Facilities): ORR/DCS Situational Report 6/19/14					

LAW ENFORCEMENT INFORMATION NOTICE: *This product contains Law Enforcement Sensitive (LES) information. No portion of the LES information should be released to the media, the general public, or over non-secure internet servers. Release of this information could adversely affect or jeopardize investigative activities.*

FACT SHEET: UNACCOMPANIED ALIEN CHILDREN

Who are Unaccompanied Alien Children (UACs)?

UACs are persons younger than 18 years old who are present in the United States and have no legal immigration status and who do not have a parent or legal guardian in the United States or who do not have a parent or legal guardian in the United States who is available to provide care and physical custody.[1] UACs often have multiple reasons for traveling to the United States. They are especially vulnerable to human trafficking, exploitation, or abuse.

DHS encounters the vast majority of UACs along the southwest border. The majority of UACs are males between 13 and 17 years of age and are nationals of Mexico, El Salvador, Guatemala, Honduras, and Ecuador.

The U.S. Department of Homeland Security (DHS) encounters UACs in the course of carrying out its missions, particularly its border security and enforcement missions. DHS makes every effort to transfer UACs to the U.S. Department of Health and Human Services (HHS) for care and custody within 72 hours of determining that they are UACs. There are certain DHS immigration benefits and protections available that permit some UACs to remain in the United States.

What does U.S. law require?

There are several laws that govern the treatment of UACs in the United States. In addition to the Immigration and Nationality Act, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008) provides certain safeguards aimed at protecting UACs encountered within the United States or at its borders or ports of entry. The law requires that certain U.S. Government agencies develop policies and procedures to protect UACs in the United States from traffickers and, when appropriate, to safely repatriate UACs to their country of nationality or last habitual residence.

What happens when DHS encounters UACs?

Apprehension and Screening

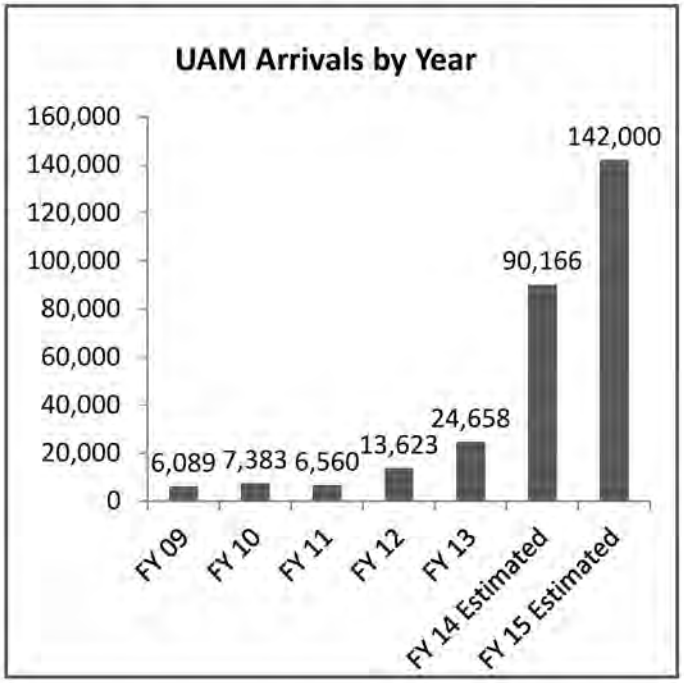
- Upon apprehension, DHS gives UACs information about their rights, including the right to reasonable access to a telephone to contact a trusted adult, to communicate with a consular or diplomatic officer of the country of his or her nationality, and to be represented by an attorney in removal proceedings at no cost to the U.S. Government.
- As a matter of policy, DHS screens all UACs encountered at land borders and ports of entry, regardless of nationality, to determine if they have been a victim of trafficking or are at risk of being trafficked upon return, or have a fear of persecution if they are returned to their home country. The TVPRA 2008 only requires DHS to screen UACs who are nationals or habitual residents of Mexico or Canada.
- The TVPRA 2008 provides that UACs who are nationals or habitual residents of Mexico or Canada may be allowed to voluntarily return to their country of nationality if DHS determines the UACs are not victims or potential victims of human trafficking, do not have a fear of persecution, and are able to make an independent decision to withdraw their application for admission to the United States.

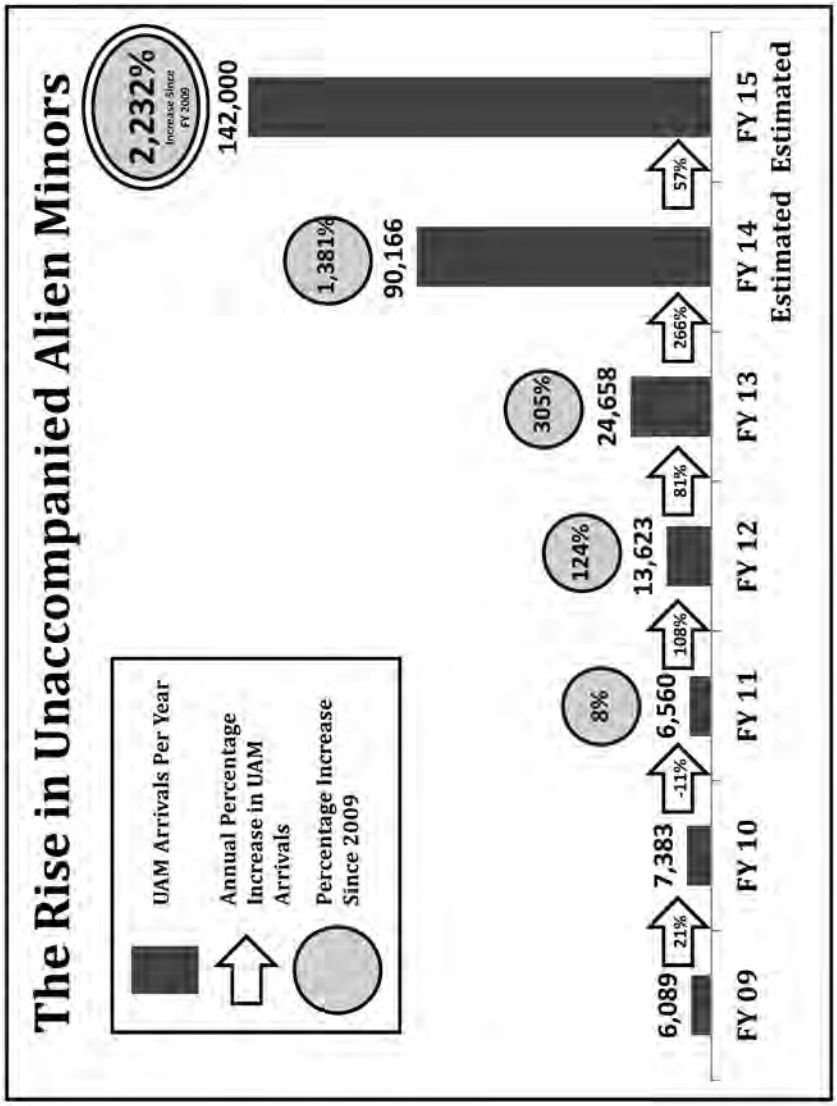
[1] Homeland Security Act of 2002, Pub. L. No. 107-296, § 462(g), 116 Stat. 2135, 2202 (codified at 6 U.S.C. § 279(g)(2)).

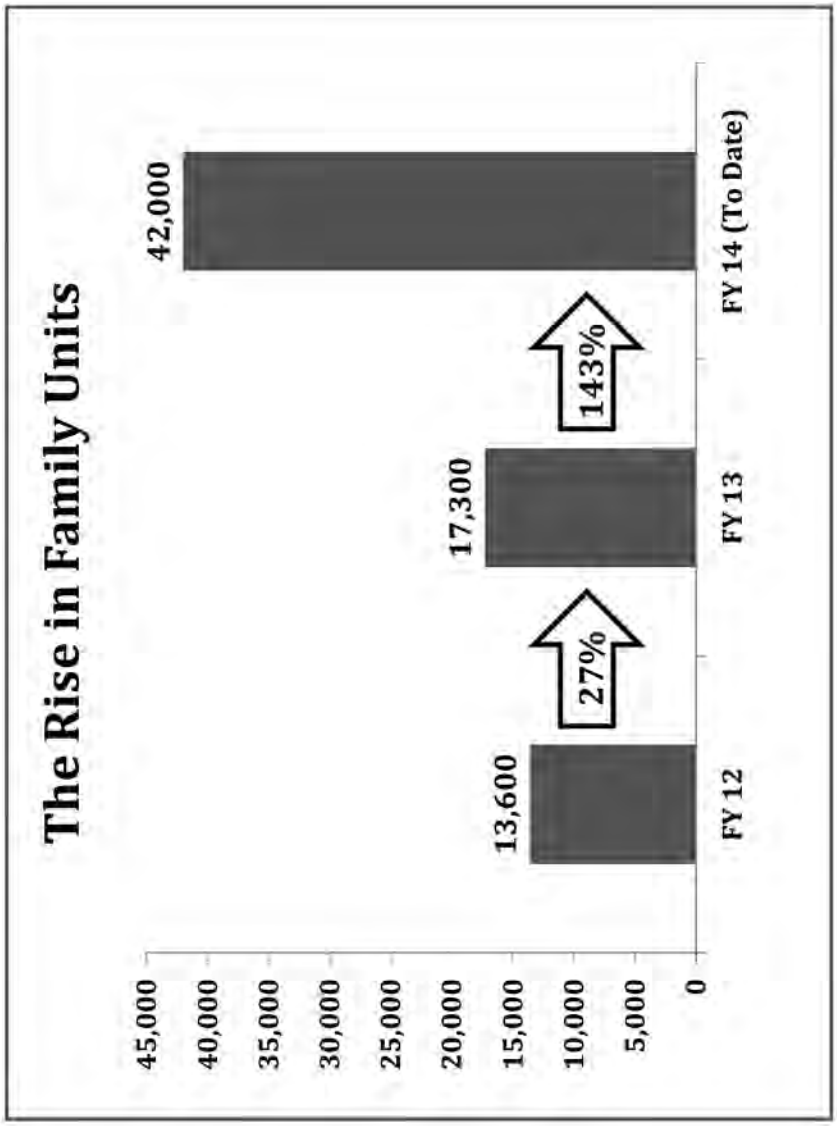
The Rise in Unaccompanied Alien Minors

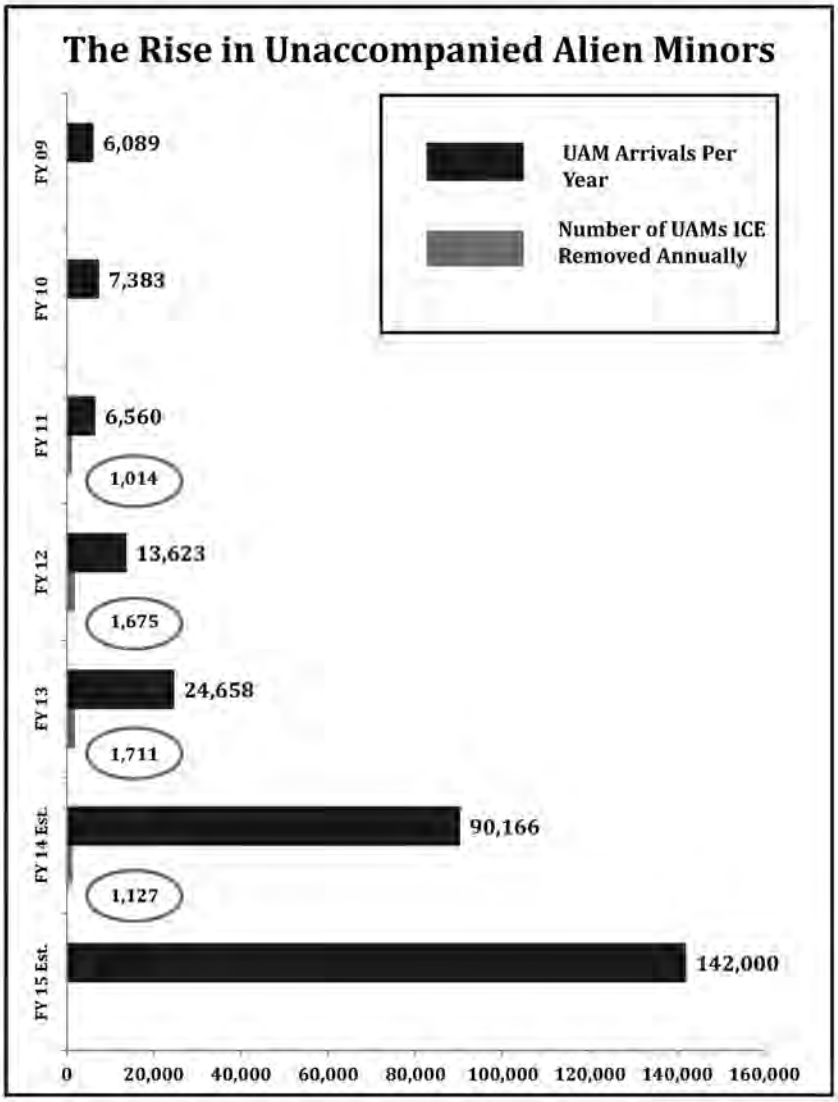
2004 – 2011
Average influx of 7,000 to 8,000 Unaccompanied Alien Minors annually

2011 – 2015
[illegible]
Average annual number of Unaccompanied Alien Minors has increased 2,232 % in recent years.




The Rise in Unaccompanied Alien Minors
UAM Arrivals Per Year
Annual Percentage Increase in UAM Arrivals
Percentage Increase Since 2009
2,232%
Increase Since FY 2009
142,000
1,381%
90,166
305%
24,658
124%
13,623
8%
6,560
7,383
6,089
21%
-11%
108%
81%
266%
57%
FY 09
FY 10
FY 11
FY 12
FY 13
FY 14 Estimated
FY 15 Estimated


The Rise in Family Units
45,000
40,000
35,000
30,000
25,000
20,000
15,000
10,000
5,000
0
13,600
17,300
42,000
27%
143%
FY 12
FY 13
FY 14 (To Date)


The Rise in Unaccompanied Alien Minors
UAM Arrivals Per Year
Number of UAMs ICE Removed Annually
FY 09
6,089
FY 10
7,383
FY 11
6,560
1,014
FY 12
13,623
1,675
FY 13
24,658
1,711
FY 14 Est.
90,166
1,127
FY 15 Est.
142,000
0
20,000
40,000
60,000
80,000
100,000
120,000
140,000
160,000

Mr. ISSA. Mr. Chairman, I would like to ask unanimous—Mr. Chairman, to your right.

Mr. GOODLATTE. Oh. The gentleman——

Mr. ISSA. I would like to ask unanimous consent to include in the record the emails sent to apparently all Members of Congress and their staffs on a congressional tour to the temporary shelter at the naval base Ventura County in which it says, no recording devices, no questions, no interaction, and photos will be provided only by the Government, no photography.

Mr. GOODLATTE. Without objection, the emails will be made a part of the record.

[The information referred to follows:]

From: Hacking, Rose (HHS/ASL) [mailto:Rose.Hacking@hhs.gov]
Sent: Wednesday, June 11, 2014 5:58 PM
To: Hacking, Rose (HHS/ASL)
Cc: Nesbit, Sonja (HHS/ASL); Cuevas, Fatima (HHS/ASL)
Subject: Invitation: Congressional Tour of Temporary Shelter at Naval Base Ventura County
Importance: High

Congressional Tour of the Temporary Shelter at Naval Base Ventura County

The HHS Administration for Children and Families would like to invite your Member of Congress or a member of your Senior Staff for a tour of the Unaccompanied Children temporary shelter at the Naval Base Ventura County. The tours will take place at 11:00 a.m. and 1:00 pm, Friday, June 13th (pacific time).

The purpose of this 40-minute tour is to show Members of Congress the interior of the shelter and explain the care we provide while these children remain in our custody. The tour guide will detail what goes on from room to room and the services youth are provided on a daily basis.

If you would like to participate, please RSVP by 4:00PM (Eastern Time) Thursday, June 12th to me (Rose Hacking) in the Assistant Secretary for Legislation's Office rose.hacking@hhs.gov

Please note, in order to protect the safety and privacy of the children, the following rules for participation will be required:

- No recording devices will be allowed (We may ask you to leave your cellphone in our vehicle)
- No questions will be allowed during the tour, but questions will be addressed later
- No interacting with staff and children at the shelter
- We will provide photos of the facility after the tour

This Friday tour is the only tour of the UAC facility at this base which ACF plans to offer at this time.

Once you RSVP, we will provide you instructions on where to arrive on Friday.

Best Regards,

Rose Hacking
Office of the Assistant Secretary for Legislation
Department of Health and Human Services
(202) 619-1206

Ms. LOFGREN. Mr. Chairman?

Mr. GOODLATTE. For what purpose does the gentlewoman from California seek recognition?

Ms. LOFGREN. I would like to ask unanimous consent to place the following statements into the record: the statement from the First Focus Campaign for Children, Human Rights First, Lutheran Immigration and Refugee Service, The National Immigration Forum, the U.S. Committee for Refugees and Immigrants, the Women's Refugee Commission, the Episcopal Church, the American Immigration Lawyers Association, and also the chart showing the various numbers of children coming from various Central American countries.

Mr. GOODLATTE. Without objection, all the documents will be made a part of the record.

[The information referred to follows:]

1110 Vermont Avenue NW • Suite 900 • Washington, DC 20005
p: 202.657.0677 • f: 202.657.0671

FIRST FOCUS CAMPAIGN FOR CHILDREN
STATEMENT FOR THE RECORD

HOUSE JUDICIARY COMMITTEE:
"AN ADMINISTRATION MADE DISASTER: THE TEXAS BORDER SURGE OF UNACCOMPANIED ALIEN MINORS."

JUNE 25, 2014

Chairman Goodlatte, Ranking Member Conyers, and Members of the House Judiciary Committee, we thank you for the opportunity to submit this statement for the record for the hearing entitled "An Administration Made Disaster: The Texas Border Surge of Unaccompanied Alien Minors."

The First Focus Campaign for Children is a bipartisan advocacy organization dedicated to making children and families a priority in federal policy and budget decisions. As an organization dedicated to promoting the safety and well-being of all children in the United States, we urge Congress to work towards finding comprehensive solutions to the Central American child migration crisis that prioritize the best interest of the child and address both the immediate needs of the children who have recently entered the U.S. as well as the root causes of their forced migration. We believe recent attempts to put these children in the middle of the politics surrounding the immigration debate do nothing to address the problem and only distract from the urgent need to ensure that we are protecting vulnerable children who are seeking refuge in the United States.

There is no doubt that the recent influx of unaccompanied children across the Southern border represents a humanitarian crisis. Recent data from the Department of Homeland Security (DHS) reveals that since October 1, 2013, 47,017 children have entered the United States, with the majority coming from Mexico, Honduras, El Salvador and Guatemala, and a significant increase in the number of girls and young children.[i] According to extensive research including a recent report by the UN High Commissioner for Refugees (UNHCR), the majority of newly arriving children are escaping extreme violence and instability, spurred by increased drug trafficking and gang activity in their home countries.[ii] Honduras, for example, was recently cited as the murder capital of the world by the United Nations Office of Drugs and Crime.[iii]

While some children may also be motivated to leave due to domestic abuse, extreme poverty, high unemployment rates and hopes of reunifying with family members in the U.S., the vast majority are fleeing desperate situations which force both youth and their families to make the very difficult decision to either stay and accept near certain death or risk "probable death" by migrating to surrounding countries. In Mexico, children reported that human smugglers aggressively recruit children, and across the region it was reported that gangs also regularly recruit children as young as ten years old. Therefore, claims that children are primarily fleeing to the United States due to rumors about lenient immigration policies undermine the reality of the trauma these children have experienced. Hopes of obtaining immigration relief only provide additional incentives at best for those fleeing for their lives, and

such rumors are fueled primarily by misinformation from smugglers who profit from increased migration. In fact, of the over 400 children who were interviewed by UNHCR, only 9 youth mentioned hope of obtaining immigration relief as a reason for their migration.

It is also important to note that the increase in child migrants is impacting other countries, not just the United States. Contiguous countries to El Salvador, Guatemala, and Honduras such as Mexico, Panama, Nicaragua, Costa Rica and Belize have also seen a dramatic increase in the number of child asylum-seekers from Central America.[v] The severity of the situations these children are fleeing from should not be underestimated. A recent report by Kids In Need of Defense (KIND) reveals stories from numerous unaccompanied children who attest to nearly daily exposure to atrocities and abuse, including witnessing the murder and rape of friends and family members, sexual and physical violence targeted at even the youngest children, and forced prostitution or gang recruitment.[vi] The children also reveal traumatic experiences endured along their long and arduous journeys, as many children fall victim to trafficking, sexual abuse and violence, sometimes by the very smuggler hired to transport them. In fact, UNHCR estimates that nearly two-thirds of the unaccompanied minors they interviewed qualify for international protection due to violence and abuse in their home countries.[vii]

These children are some of the most vulnerable, and yet despite their hope of finding protection and safety in the United States, they are faced instead with a complicated immigration system that does not reflect their specific needs. After apprehension and screening by Customs and Border Patrol (CBP), children are held for up to 72 hours in detention centers that are frequently not equipped to meet children's needs and lack personnel with expertise in working with traumatized children. A recent lawsuit by the ACLU and other civil rights groups against CBP cited over 100 instances of abuse and maltreatment of unaccompanied children in CBP custody, including freezing cold cells, inadequate access to food or medical care, and incidents of physical and sexual abuse.[viii] Upon release from CBP, children are either immediately repatriated to their home country or referred to the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS) to be placed in shelter care or released to a parent, relative or other sponsor pending the outcome of their immigration hearing. All unaccompanied children are placed into removal proceedings, and must undergo the same immigration process as adults. Despite their age, even children as young as two-years-old are not appointed legal counsel, forcing them to undergo proceedings alone or rely on the limited pro bono representation provided by non-profit organizations.

Recommendations

We urge both Congress and the Administration to hold the best interest of the child paramount in all solutions that are being developed to address this crisis. The following are specific recommendations from the First Focus Campaign for Children, many of which were included in the plan presented last week by Senators Robert Menendez (D-NJ), Dick Durbin (D-IL), Mazie Hirono (D-HI), and Representatives Luis Gutierrez (D-IL) and Lucille Roybal-Allard (D-CA).

- All the federal agencies that deal with unaccompanied children, including the Department of Homeland Security (DHS), Department of Justice (DOJ), and the Department of Health & Human Services (HHS) should adopt a best interest of the child standard to guide all decisions made regarding the care of unaccompanied children as well as their eligibility for humanitarian relief.

- Congress should increase funding levels to HHS/ORR, DHS, DOJ and other relevant agencies so that adequate resources are available to ensure that children are receiving proper treatment and services that reflect their unique needs and vulnerabilities. On June 10, 2014, Senator Harkin introduced a bill that provides $1.94 billion to HHS to address the surge of unaccompanied children. The Labor-HHS bill with

this provision has been approved by the sub-committee but is pending passage by the full Senate Appropriations Committee. [IX] Congress should move quickly to approve this bill.

- CBP should contract with child welfare experts to screen children along the border so that children are properly evaluated for trafficking and other humanitarian concerns and connected to services.

- DHS and HHS/ORR should ensure that temporary CBP holding facilities and emergency shelters meet the required humanitarian standards for children set forth in the *Flores. v. Reno* settlement and the TVPRA and codify these standards in DHS regulations.[X] The Flores Settlement, born out of a class action brought by the ACLU against the INS sets standards of how a minor in the custody of the INS should be treated. It stipulates that facilities will provide access to toilets and sinks, drinking water and food, medical assistance, adequate temperature control and ventilation, adequate supervision of minors, and contact with family members. Likewise, family detention centers should not be reopened; rather, effective alternatives to detention should be used whenever possible for families.

- ORR should ensure that children are placed into community-based care whenever possible, including placement with parent or relative sponsors, and strengthen screening mechanisms for sponsors to ensure children are being placed in safe and appropriate settings. When community-based care is not an option, children should be placed in proper facilities and other settings that are adequately equipped to meet the medical, mental health and other special needs of children, as well as pregnant and parenting teens, rather than placing children in large institutional settings.

- ORR should strengthen and significantly expand the follow-up services provided to children and their sponsors once they are released from federal custody to ensure their safety and well-being.

- All unaccompanied children placed into removal proceedings should be provided legal representation and child advocates to increase their chances for obtaining immigration relief and to ensure consideration of their best interests. Congress should pass The Vulnerable Immigrant Voice Act of 2014 by Congressman Jeffries, which would address the dire need for unaccompanied children to have access to legal counsel. The new federal "justice Americorps" legal services grant should also be modified so that it includes 16- and 17-year-old youth who risk losing their eligibility for immigration upon reaching age 18.

- The Department of State, in partnership with over relevant governmental and nongovernmental agencies in the U.S. and in the sending countries, should develop a program focused on the safe and successful repatriation and reintegration of children that are returned to their home countries.

- Foreign aid should be targeted to address the instability and violence being caused by drug traffickers and smugglers in Honduras, Guatemala, El Salvador, and Mexico and a comprehensive strategy in partnership with governments in the region should be developed that is focused on restoring children's safety, rights, and opportunity in their home countries.

- Congress should establish a bicameral and bipartisan committee focused on developing strategies to meet the needs of child refugees and address the root causes of the child migration crisis.

We thank you again for the opportunity to submit this statement for the record. We look forward to working with Congress in the weeks ahead to find solutions to address the short and long-term needs of these vulnerable children who are in dire need of protection and assistance. Should there be any questions regarding this statement, please contact Wendy Cervantes, Vice President of Immigration and Child Rights, at wendyc@firstfocus.net.

---

[i] Southwest Border Unaccompanied Children, U.S. Customs and Border Protection (April, 2014) http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children

[ii] Children on the Run: Unaccompanied Children Leaving Central American and Mexico and the Need for International Protection, UNHCR (2014).

[iii] Julia Preston, *New U.S. Effort to Aid Unaccompanied Child Migrants*, New York Times, June 2, 2014 Available at: http://www.nytimes.com/2014/06/03/us/politics/new-us-effort-to-aid-unaccompanied-child-migrants.html?_r=1

[iv] Global Study on Homicide. United Nations Office of Drugs and Crime, 2013. Available at: http://www.unodc.org/gsh/

[v] Children on the Run: Unaccompanied Children Leaving Central American and Mexico and the Need for International Protection, UNHCR (2014).

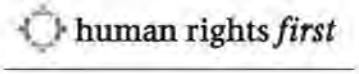
[vi] Time Is Now: Understanding and Addressing the Protection of Immigrant Children Who Come Alone to the United States. Kids In Need of Defense, February 2013. Available at: www.supportkind.org

[vii] Children on the Run: Unaccompanied Children Leaving Central American and Mexico and the Need for International Protection, UNHCR (2014).

[viii] Unaccompanied Alien Children Report Serious Abuses by U.S. Officials During Detention. American Civil Liberties Union, June 11, 2014. Available at: https://www.aclu.org/immigrants-rights/unaccompanied-immigrant-children-report-serious-abuse-us-officials-during

[ix] Erik Wasson, *Senate to provide 1.9 billion for rise in child migrants*, The Hill, June 10, 2014. Available at: http://thehill.com/policy/finance/208840-senate-to-provide-19b-to-handle-spike-in-child-migrants

[x] Stipulated Settlement Agreement at 7, *Flores v. Reno* (1997). Available at: http://immigrantchildren.org/cases/FLORES%20CASE/Flores%20Procedural%20Docs/FloresStpuldSetlmt%20AGM1.pdf



STATEMENT FOR THE RECORD

On

"An Administration-Made Disaster:
The South Texas Border Surge of Unaccompanied Minors"

Submitted to the

House Judiciary Committee

June 25, 2014

human rights *first*

About Human Rights First

Human Rights First is an independent advocacy organization that challenges America to live up to its ideals. We are a non-profit, nonpartisan international human rights organization based in New York, Washington D.C., and Houston. To maintain our independence, we accept no government funding. For over 30 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership, including the protection of the rights of refugees. Human Rights First oversees one of the largest pro bono legal representation programs for refugees in the country, working in partnership with volunteer attorneys at U.S. law firms. Through that program, we see day in and day out the ways in which current U.S. immigration laws and policies are denying or delaying protection to refugees who seek this country's protection from political, religious and other persecution.

Overview

Over the last few months, national attention has focused on the increase in Central American migrants apprehended in the Rio Grande Valley after crossing the southern border. Primarily from El Salvador, Guatemala, and Honduras, these migrants include unaccompanied children, parents with children, and adults. Some are seeking to reunite with family in the United States. Many are fleeing violence and persecution in their home country and have requested asylum or other protection in the United States. A rise in murders, rape, violence against women, kidnappings, extortion, and other brutalities is prompting many people to flee their homes, often in fear of violent gangs and drug cartels. It is also true that predatory elements are seeking to exploit the situation, with smugglers spreading misinformation to lure some families into paying them to transport them or their unaccompanied children to the border.

On June 20, 2014, World Refugee Day, the Obama administration announced a series of steps to address the surge at the border. In addition to announcing new aid for programs in Central America and Mexico to address gang violence, rule of law deficiencies and reintegration of returned migrants, the administration announced "additional steps to enhance enforcement and removal proceedings." While the details were not specified, the administration stated that it was "surging government enforcement resources to increase our capacity to detain individuals and adults who bring their children with them and to handle immigration court hearings – in cases where hearings are necessary – as quickly and efficiently as possible while also protecting those who are seeking asylum." This announcement signaled a rise in detention of children and their families as well as the potential for rushed asylum hearings.

human rights *first*

How to Protect Refugees and Prevent Abuse at the Border

Human Rights First recently visited key border points, border patrol stations and immigration detention facilities in Arizona, California and Texas, to research the increase in the last two years of adult asylum seekers. Since our visits, even greater increases in the number of families – in particular single parents with children – crossing the border and seeking protection have been reported. We published our findings in a comprehensive *Blueprint on How to Protect Refugees and Prevent Abuse at the Border* that expands on many of the findings and recommendations below.

The Obama Administration and the U.S. Congress have the tools to confront the complex challenges at the border, but they need to act quickly to do so. While effectively confronting the influx at the border will require addressing the impunity and rule of law deficits that are driving many to flee in search of protection, the immediate response of the administration and Congress to the challenges posed by the increase in unaccompanied children, families and other migrants at the border should also ensure effective implementation of safeguards for asylum seekers, victims of trafficking, and others with protection concerns. The United States has a strong interest in maintaining the integrity and effectiveness of its immigration and asylum systems and safeguarding them from abuse.

The following are key steps that the Administration and Congress can take to directly and immediately address the increase in families, unaccompanied children, and other vulnerable populations crossing the border. Human Rights First recommends that the Administration and Congress maximize the use of alternatives to detention, increase access to legal information and counsel, strengthen protection safeguards, and reduce backlogs and vulnerability to abuse, specifically including the following steps:

Maximize use of alternatives to detention

Asylum seekers have traditionally appeared for their immigration court hearings at relatively high rates. Recent data provided to UNHCR indicated that in FY 2012 only five percent of completed removal proceedings of asylum seekers had in absentia removal orders. Additional measures could support appearance. With the increase in apprehensions and arrivals in a few key border areas, especially in the Rio Grande Valley in Texas and at the San Ysidro port of entry in California, the number of asylum seekers detained in these border areas has increased sharply, as detailed in Human Rights First's Blueprint. While detention has long been the default tool used by immigration authorities, further escalating reliance on detention would be exceedingly expensive. ICE already detains up to 34,000 immigrants and asylum seekers each day, with over 478,000 immigrants detained in FY 2012, the most recent year with statistics available.

The current situation at the border is particularly complicated because so many of those crossing are families, including mothers or fathers with children who are, in some cases, infants and

toddlers. The United States currently detains family units in only one facility, a relatively small shelter in Pennsylvania. In 2009, the administration shut down the other, much larger facility it used at the time due to serious allegations of abuse and inappropriate conditions. Despite the increase in families today, costly immigration detention facilities are not appropriate settings for children and parents with children, particularly given that alternatives are much more cost-effective. At an average cost of approximately $160 per person, per day, the U.S. immigration detention system costs taxpayers over $2 billion annually, despite the availability of less costly, less restrictive and highly successful alternative to detention programs.

To address the increase in asylum seekers, including families with children, the administration and DHS should strongly support a shift to using alternatives to detention to mitigate risks that would otherwise be addressed through detention in appropriate cases that do not present safety risks.

- **Children and families should not be detained, especially in existing detention facilities.** In 2009, DHS ceased using its primary detention facility for families after multiple reports of inappropriate conditions for and treatment of children and their parents. The United States should not detain children, including infants and small children. Families should only be held for processing in custody for short periods of time and in conditions appropriate for family detention. Per legal requirements of the *Flores* agreement on treatment of children in DHS custody, DHS should always place children in the least restrictive setting appropriate.
- **Implement a nationwide initiative of alternatives to detention** for border cases that need supervision, including by building on community-based models of alternatives. DHS does not currently maximize use of alternatives to detention for cases of border arrivals. Alternatives to detention cost 17 cents to $17 per person per day and enjoy a broad range of support for their cost-savings from groups including the Council on Foreign Relations Independent Task Force on Immigration Policy, chaired by Jeb Bush and the Texas Public Policy Foundation – home to Right on Crime. The most recent statistics from the contract currently used by ICE show a 97.4 percent appearance rate for final hearings.

Increase access to legal information and counsel

Many who request protection lack accurate information about "credible fear," asylum, and their eligibility for protection. Some receive inaccurate information in their home countries, whether from friends, news pieces, social media, smugglers, or other sources. Some articles in the U.S. and other media have mistakenly described passing the credible fear screening process as a status of "temporary asylum," with officials or unnamed sources quoted saying that it is a way for people to stay in the United States. This kind of misinformation can then be circulated through

social media and word of mouth, potentially encouraging people to make decisions based on inaccurate information.

People facing persecution have a right to seek asylum and the fact that an individual expresses a fear of return after learning about the possibility of seeking protection does not mean that the asylum seeker's request is fraudulent. The most crucial tool to address the absence of critical information by those crossing the border is access to legal information and counsel. Currently, the highly cost-efficient government funded Legal Orientation Programs, which provide for non-profit attorneys to present basic legal information presentations to detained individuals in certain facilities, reach 25 of ICE's approximately 250 detention facilities across the country. In addition to the due process and fairness increased by providing some legal information, a 2012 study by the Justice Department showed that the government saved approximately $18 million in the years studied, mainly on the reduced time an individual who receives LOP spends in detention. Although EOIR has received additional funding to expand the program, the program will still reach only a fraction of detention facilities.

- **Congress should appropriate funds to expand cost-efficient legal information presentations to all detention facilities to be provided within a few days of arriving in detention.** LOPs are highly cost-effective, with one DOJ study showing a cost-saving to the government of $18 million. Immigration judges report that proceedings are more efficient when an individual has representation or, at minimum, has received critical legal information. These presentations allow immigration detainees to receive accurate information from credible non-profit attorneys, rather than relying on potentially inaccurate information from other detainees.
- **Congress should support and the administration should expand projects to increase legal counsel for vulnerable populations, including indigent asylum seekers in immigration detention.** A May 2014 study found that the efficiencies created through increased legal representation in court proceedings and reduced detention time would mitigate the costs of providing legal representation to indigent immigrants.

Strengthen – do not weaken – protection safeguards

Many apprehended at or after crossing the border are placed into expedited removal, through which individuals can be deported without a court hearing. To protect asylum seekers, Congress created the "credible fear" screening process. As it addresses the influx, DHS should strengthen, rather than weaken, safeguards to identify and protect asylum seekers, victims of trafficking, vulnerable children and others with protection concerns and Congress should support staffing and resources for timely in person protection screening.

- **Customs and Border Protection officials should effectively implement safeguards to identify individuals who should be referred to a credible fear interview**. USCIS should conduct credible fear interviews in person, and in a timely manner. These interviews should occur within 14 days of arrival, but also allow for a short several day waiting period for asylum seekers to recover from their travels and receive a legal orientation presentation. USCIS should request, and Congress allocate, the resources needed to meet the credible fear caseload without taking resources from the affirmative process. DHS should implement protection safeguards recommended by the U.S. Commission on International Religious Freedom.
- **Revise Flaws in Credible Fear Lesson Plan.** USCIS should revise the February 2014 Credible Fear Lesson so that credible fear screenings do not use an incorrectly high standard and do not require inappropriate levels of evidence for an initial screening. To monitor that credible fear screenings are done correctly, USCIS should immediately intensify supervisory review of credible fear determinations under the plan, and should invite UNHCR to observe the conduct of credible fear interviews during this surge.
- **Immigration hearings should take place in a timely manner while allowing proper time for immigrants to receive legal information, obtain counsel, and adequately prepare a case.** Any attempt to expedite hearings in order to address the increased caseload at the border should not rush cases through the system undermining access to justice. Individuals require time to obtain legal counsel and to prepare and present a case for asylum or other relief.

Reduce backlogs and vulnerability to abuse

The immigration court system, which receives the expedited removal cases that successfully pass out of the credible fear process, is widely recognized to be overstretched, backlogged, and underfunded. While immigration enforcement budgets increased by 300 percent between 2002 and 2013, funding for the immigration courts has lagged far behind, increasing by only 70 percent. Over 366,000 immigration removal cases, including those involving claims for asylum, have now been pending for an average of 578 days. These kinds of delays can also increase the system's vulnerability to abuse as some individuals may not appear (inadvertently as well as purposefully) when hearings will not occur for several years. For families and asylum seekers whose cases originate at the border, these delays prevent their cases from being resolved in a timely manner.

- **Congress should appropriate funds to increase nationally the number of immigration court judges and related resources to address removal hearing delays, eliminate backlogs and conduct timely hearings.** A timely, but not rushed, immigration court removal process is essential to maintain the integrity of the U.S. immigration system.
- **Congress should appropriate funds to increase asylum office resources to conduct timely in-person credible fear and reasonable fear screening interviews** after individuals have had a short, several day waiting period, crucial for many who have fled persecution and survived often traumatizing journeys. These interviews are critical components of expedited removal and reinstatement of removal; these tools raise protection concerns and should not be used unless screening measures are effectively implemented and properly resourced.

Conclusion

America is a global leader in protecting the persecuted, a commitment President Obama affirmed in his statement on World Refugee Day. Over thirty three years ago, President Ronald Reagan signed into law the Refugee Act of 1980, which passed Congress with strong bi-partisan support, enshrining into domestic law America's historic commitment to protect the persecuted. As the Council on Foreign Relations Independent Task Force on Immigration Policy, co-chaired by former Florida Governor Jeb Bush and former Clinton White House chief of staff Thomas "Mack" McLarty, pointed out—and a group of leading Republicans recently affirmed—the U.S. commitment to protect refugees from persecution is "enshrined in international treaties and domestic U.S. laws that set the standard for the rest of the world; when American standards erode, refugees face greater risks everywhere." The U.S. government and Congress should take the appropriate and necessary steps to address this influx in a manner that protects the vulnerable and is consistent with American ideals. America can and should stand firm as a beacon of hope for those fleeing persecution.

The full Human Rights First Blueprint is available at:
http://www.humanrightsfirst.org/resource/how-protect-refugees-and-prevent-abuse-border.

LIRS Statement for June 25, 2014 Hearing:
"An Administration Made Disaster: The South Texas Border Surge of Unaccompanied Alien Minors"
House Judiciary Committee

Washington, D.C., June 24, 2014 – "We are facing a humanitarian emergency to which we cannot close our eyes or our hearts," says Linda Hartke, President of Lutheran Immigration and Refugee Service (LIRS). The organization calls on all people of faith to stay true to our values. "We are compelled to provide safety, due process, and compassion to the thousands of children who are fleeing Central America," adds Hartke.

LIRS is working with the government and with a national network of social service partners to address this crisis. With a 75-year history of serving refugees and migrants, LIRS has over thirty years of experience helping to resettle children from all over the world, including Central America. Some children and families will still undertake this perilous journey when their very lives depend on finding a place of safety.

At a time of humanitarian crisis, we ask that the governmental response to child migration protects the best interest of these children. Secondly, we ask that more resources be devoted to respond humanely to children affected by this crisis.

LIRS makes the following recommendations to Congress:

- Provide additional resources to federal agencies serving unaccompanied migrant children to meet their needs while they are in and after they are released from federal custody.
- Provide a contingency fund for maximum flexibility to respond to urgent needs of this population.
- Respect legal and humanitarian protections and ensure all children are treated with safety and dignity during interactions with governmental agencies.

LIRS makes the following recommendations specific to the Department of Health and Human Services, particularly the Office of Refugee Resettlement:

- Place unaccompanied migrant children in community-based care, child welfare shelters operated by non-governmental organizations, and other settings reflecting the needs of such children, including therapeutic placements, mentor homes, and foster homes for young children and especially vulnerable teens, rather than placing such children in large institutional settings.
- Make post-release services available for all released migrant children in order to help them integrate into their communities; ensure safe reunifications with their families, mitigating risk for breakdown; assist with connecting them to immigration legal representation; and better assure their attendance at immigration court proceedings.
- Ensure that access to spiritual care is available to all children in shelters.

Lutheran Immigration and Refugee Service
National Headquarters: 700 Light Street, Baltimore, MD 21230 • 410-230-2700 • fax: 410-230-2890
Advocacy Office: 122 C Street NW, Suite 125, Washington, DC 20001 • 202-783-7509 • fax: 202-783-7502

LIRS makes the following recommendations specific to the Department of Homeland Security:

- Establish an emergency initiative, operational guidelines, and training to facilitate participation by NGOs to support DHS personnel at U.S. ports of entry and U.S border crossings. NGOs, including LIRS, have experience with child welfare and anti-trafficking work and can provide child-friendly and trauma-informed informational briefings to DHS personnel at U.S. border crossings, and U.S. ports of entry, to assist in the identification, screening, and referral of trafficking victims and potential child-trafficking victims.
- Ensure that access to spiritual care is available to all individuals, including children and families, in detention.

Started by Lutheran congregations in 1939, LIRS walks with migrants and refugees through ministries of service and justice, transforming U.S. communities by ensuring that newcomers are not only self-sufficient but also become connected and contributing members of their adopted communities in the United States. Working with and through over 60 partners across the country, LIRS resettles refugees, reunites children with their families or provides loving homes for them, conducts policy advocacy, and pursues humanitarian alternatives to the immigration detention system. For more information, please visit www.lirs.org.

If you have questions about this statement, please feel free to contact either Brittney Nystrom, LIRS Director for Advocacy, at bnystrom@lirs.org or (202) 626-7943 or Nora Skelly, LIRS Assistant Director for Advocacy, at nskelly@lirs.org or (202) 626-7934.

Additional resources:

- The June 3, 2014 LIRS statement applauding the President's announcement on coordinated response to unaccompanied migrant children can be found at http://lirs.org/press-inquiries/press-room/140603statement/

- The May 27, 2014 LIRS press release announcing the #ActOfLove campaign can be found at http://lirs.org/press-inquiries/press-room/140527newsrelease/

- The LIRS Backgrounder on Protecting Unaccompanied Migrant Children can be found at http://lirs.org/wp-content/uploads/2014/06/LIRS-Backgrounder-on-Unaccompanied-Migrant-Children-FINAL-5-8-14.pdf

Statement for the Record

U.S. House of Representatives Committee on Judiciary

"An Administration Made Disaster: The South Texas Border Surge of Unaccompanied Alien Minors"

June 25, 2014

The National Immigration Forum works to uphold America's tradition as a nation of immigrants. The Forum advocates for the value of immigrants and immigration to the nation, building support for public policies that reunite families, recognize the importance of immigration to our economy and our communities, protect refugees, encourage newcomers to become new Americans and promote equal protection under the law.

Introduction

The National Immigration Forum (the Forum) appreciates that the Committee is holding this hearing to discuss the recent increase in unaccompanied alien children (UAC) at the Southwest Border. Over the past three years the number of unaccompanied children arriving at the Southwest Border has reached beyond the capacity of the system crafted in the preceding decade to handle the inflow of unaccompanied child migrants. The reports of the deplorable conditions in which the children have been held demand that our nation address the situation with compassion and commonsense solutions.

This problem will not be fully addressed through focusing only on improving security and enforcement of the nation's borders. As the Committee examines this issue, the Forum urges members to view the solution to this problem holistically and to find a permanent long-term solution. The Forum believes a critical part of the solution to the current humanitarian crisis is legislation to reform our broken immigration system, and we urge the Committee to hasten its work on broad immigration reform that includes border security, as well as an earned path to citizenship for those currently residing in the United States.

The Forum is particularly concerned about reports that criminal cartels are increasingly using unaccompanied children from Central America to augment their earnings. Further, it seems that drug cartels are replacing coyotes in the human smuggling business and using migrants as bait to distract law enforcement from drug smuggling and other criminal activities. Clearly, this puts those already vulnerable to exploitation and human trafficking at even great risk. We must find a long term solution to the problem of unaccompanied children coming from Central America to ensure their safety and our country's safety.

The current immigration system is supporting a lucrative business for cartels and other criminal organizations rather than protecting our communities. The lack of legal avenues for family members to be reunited with their loved ones in the U.S. is leading immigrants to the hands of criminal organizations.

Passing a clear immigration process would quickly dispel any misinformation about current or future immigration policy that might further encourage children to make the perilous trek to the United States. The longer it takes to fix our broken immigration system, the more rumors and deception drive desperate people into desperate situations. A functioning immigration system is a long term solution to this problem because it would lessen the number of UAC entering the U.S. and would allow the authorities to determine, in a timely way, which children are eligible to remain in the U.S. and which are not.

This Committee can provide the leadership needed to pass immigration reform. We look forward to the Committee striking the right balance between addressing the current humanitarian crisis and border security. Our nation must not lose sight of our fundamental values and must first take care of the children arriving in the United States.

The influx of UAC has exacerbated structural and procedural problems within the immigration system.

The majority of the UAC are from Central American countries such as El Salvador, Guatemala, Honduras and Mexico. According to reports,[1] the majority of these children are escaping extreme poverty and violence in their native countries or seeking to reunite with family members in the United States. Honduras, El Salvador, and Guatemala are in the top five countries with the highest murder rates in the world.

Currently in FY 2014, there have been 52,193 apprehensions along the Southwest border;[2] this is almost twice as many children who arrived in FY 2012. The U.S. Department of Homeland Security (DHS) expects these numbers to continue to grow, with projections ranging from 10,000 to 60,000 additional children crossing in to the U.S. this year.

The current influx of UAC is not due to a lack of enforcement at our border, but rather, it is because the antiquated immigration system is not set up to deal with the humanitarian crisis in Central American and the unexpected influx of women and children seeking refuge.

---

[1] Women's Refugee Commission. " Forced from Home: the Lost Boys and Girls of Central America" Oct. 2012; UNHCR "Children on the Run – Unaccompanied children leaving Central America and Mexico and the Need for International Protection."

[2] FY 14 (Oct. 1, 2013 – June 15, 2014): U.S. Department of Homeland Security, U.S. Border Patrol, Juvenile and Adult apprehensions. http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children.

Following allegations of UAC mistreatment in detention centers in the 1990, advocates filed a series of lawsuits that eventually lead to the *Flores Settlement Agreement of 1997* (Flores Agreement). The Flores Agreement established a nationwide policy for the detention, treatment, and release of UAC. It required detention centers, among other things, to provide basic needs and adequate supervision to protect minors from others. Five years later, during the George W. Bush Administration, and after the passage of the Homeland Security Act of 2002, the responsibility for processing UAC was divided between the DHS, and the Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR) while prosecution and adjudication was left to the Department of Justice's (DOJ) Executive Office of Immigration Review (EOIR).

Thus, an unaccompanied alien child apprehended by DHS Custom and Border Patrol (CBP) officers or by Immigration Custom Enforcement (ICE), must undergo a screening[3] to classify the child as a UAC,[4] and determine if there are any asylum or trafficking concerns. Once the child is deemed to be a UAC from a non-contiguous country[5] they must be transferred to HHS-ORR custody within 72 hours.[6] Once in HHS's custody, ORR's officer must place the child with relatives in the U.S., abroad or in foster care. EOIR has the responsibility adjudicate each case. Of these departments, EOIR in particular has been underfunded for many years, which has resulted in a backlog of 366,000 cases.

It is important to note that all of the children are placed in removal proceedings, whether they remain in detention or are united with their family members. Notices to Appear, or NTAs are not a free pass into the U.S. nor do they confer any status to a child migrant. Moreover, UAC are not eligible for the Deferred Action for Childhood Arrivals program (DACA). That program requires an individual to have continually resided in the U.S. since June 15, 2007. They also are not eligible for any of the current immigration reform proposals being debated in Congress.

Given the current system for ensuring UAC are not mistreated, simply filing and transferring paperwork between four agencies and three major departments takes significant time and resources. It is not surprising that UAC spend an average of 35 days in DHS custody.[7]

---

[3] Congress passed the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA). The TVPRA, set out special rules for UAC's from contiguous countries (i.e. Mexico or Canada), by requiring CBP officers within 48 hours to screen children for asylum, trafficking and that there is no credible evidence that the minor is at risk and if these are not present should return the children to their country of nationality. In addition, for children of non-contiguous countries, TVPRA required CBP officers to turn children over to ICE for transport to HHS-ORR within 72 hours.

[4] UAC's are defined as unaccompanied children under the age of 18 who come to the United States without authorization or overstay their visa, and are here without a parent or legal guardian.

[5] These are countries other than Mexico and Canada.

[6] These are the time requirements established by TVPRA.

[7] CRS Report: Unaccompanied Alien Children: An overview, June 2013

As of 2014, HHS had approximately 42 facilities nationwide with an average of 500 – 1000 beds to house families, women and children.[8] In contrast, the number of unaccompanied minors rose from an average of between 7,000 to 8,000 children in FY2008 to 52,193 in FY2014 to date. Even at the maximum capacity, the current facilities cannot house all of the UAC. In addition, a majority of the UAC are coming through the Rio Grande Valley, which has seen a 168 percent increase in UAC apprehensions, straining resources beyond its ability. The influx of UAC is in addition to an overall increase in border apprehensions from non-contiguous countries that results in detentions, in the same geographic area, further, straining the system.

Recommendations

The National Immigration Forum recommends the following:

Fix our broken immigration system. A functioning immigration system would allow women and children to go through a process, not a river, to reunite with loved ones. And, more importantly, would allow the authorities to determine which of these children are eligible to reunite with family and remain in the U.S. and, which are not, in a timely way. A clear immigration system and process would quickly dispel any misinformation about current or future immigration policy that may drive these children to come to the United States.

Ensure that children are not ending up in the wrong hands and avoid trafficking. These children are especially vulnerable to falling victims of trafficking as they enter the United States. HHS must conduct proper background verifications of all adults in contact with children. Similar precautions should be taken with children who are deported by partnering with the native country to ensure children are being sent back to a safe environment.

Children should be guaranteed legal counsel in removal proceedings and subsequent appeals. Under the current regulations, children are allowed to have council but are not entitled to counsel at the government expense. We urge the Committee to pass the Vulnerable Immigrant Voice Act of 2014 (VIVA) to provide legal representation to unaccompanied minors and mentally disabled individuals during immigration proceedings. In addition to providing more funding for attorneys and judges, the DOJ could partner with service organizations, law firms, and other organizations to provide pro-bono legal services to children.

Incorporate the 'best interest of the child' standard in considering each case. Currently our legal system encourages this standard but does not mandate it, leading to undesirable consequences. We encourage Congress and the Obama Administration to not only codify the standard but also to consider appointing a guardian *ad litem* to ensure the standard is employed in each case.

[8] CRS Report: Unaccompanied Alien Children: Policies and Issues. March 1, 2011.

Increase funding for the Executive Office of Immigration Review (EOIR). EOIR includes funding for our nation's immigration courts and judges. For years, funding for EOIR has failed to keep pace with increases in immigration enforcement. This has created a backlog of 366,000 cases and an average wait time of more than 570 days. The recent influx of UACs only further underscores the need to adequately fund our immigration courts.

Seek public and private partnerships to provide alternatives to detentions. We encourage the Administration and Congress to seek partnerships with non-governmental agencies and organizations to provide temporary holding facilities and alternatives to detention. Dedicating more resources to building new facilities and hire new personnel would be inefficient and unworkable

Conclusion

The situation faced by unaccompanied children is a challenging and heart-breaking example of our broken immigration system. Certainly, we must ensure that we have secure borders. However, a functioning immigration system is the best long term solution to this problem. It would lessen the number of UAC entering the U.S. and would allow the authorities to determine, in a timely way, which children are eligible to remain in the U.S. and which are not. In addition, immigration reform would provide protections to this particularly vulnerable population from organized crime and trafficking as well as allow law enforcement and border officials to focus on the true criminal and terrorist threats rather than expending excessive resources on children fleeing violence.

Statement of the U.S. Committee for Refugees and Immigrants
Submitted to the Committee on the Judiciary of the U.S. House of Representatives
Hearing on "An Administration Made Disaster:
The South Texas Border Surge of Unaccompanied Alien Minors"
June 25, 2014

The U.S. Committee for Refugees and Immigrants (USCRI) submits this statement to the full House Judiciary Committee. USCRI is the national non-profit organization that for the past 100 years has helped shape our nation's history. From publishing the first book on U.S. citizenship to helping refugees from war-torn places like Europe, Vietnam, Cuba, Burma, Iraq, and Sudan build new lives in the U.S. we have seen newcomers contribute to our nation. The mission of USCRI is to address the needs and rights of persons in forced or voluntary migration worldwide by advancing fair and humane public policy, facilitating and providing direct professional services, and promoting the full participation of migrants in community life.

As part of this mission since 2005 USCRI's Immigrant Children's Legal Program has worked with over 275 law firms and thousands of attorneys throughout the U.S. to provide unaccompanied immigrant children *pro bono* legal representation in their immigration proceedings. To date USCRI has made a difference in the lives of over 7,500 children. USCRI is also government contracted to help unaccompanied immigrant children, deemed to be in need of additional services due to extensive histories of abuse, trauma or neglect. USCRI has provided in-home social services and linkages to education, legal, health, and mental health providers to over 1,000 children. USCRI sees the direct impact of these programs and the needs of unaccompanied immigrant children.

Urgent Humanitarian Situation

The increasing number of unaccompanied immigrant children arriving in the US is due to the security concerns in Central America. Honduras leads the world in homicide rates[1], with El Salvador and Guatemala not far behind. The increase in violence is the result of many factors, poverty, corruption and impunity.[2] There has also been an increase in power of organized crime and other armed actors. These criminal actors have increased their control and reach throughout the region. They control communities through fear, kidnapping, threats, extortions and of course violence.

Various reports by civil society organizations and the UNCHR have found that law enforcement in these Central American countries, often cannot provide protection to its citizens.[3] The U.S. State department has recognized that "crime has exploded in northern Central America, and Honduras now has the world's

[1] In 2012, Honduras' homicide rate was 90.4 per 100,000 population. See the United Office on Drugs and Crime (UNODC), 2013 Global Study on Homicide. Available at: http://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf.

[2] The Organization of American States, The Drug Problem in the Americas, (2013) available at http://www.oas.org/documents/eng/press/Introduction_and_Analytical_Report.pdf

[3] Gonzalez, Rosmery Austria deniega permiso de venta de armas a gobierno de Otto Pérez. El Periodico, (May 2, 2014) available at http://elperiodico.com.gt/es/20140502/pais/246662/.

highest murder rate outside of war zones."[4] Organized criminal actors can often count on the impunity of their governments to operate freely. Moreover, in Guatemala and Honduras, there is sometimes collaboration between organized criminal groups and members of the military and police, and police and military involvement in serious crimes, which can lead to a distrust of authorities. This distrust makes reporting of crimes and seeking protection more unlikely.[5]

Another important factor to the forced displacement of children is the forced recruitment by organized crime and local gangs. In Honduras, more than 90% of violence experienced by minors goes unreported to the police, reflecting the limited capacity on the part of law enforcement to investigate cases.[6]

USCRI Data on Unaccompanied Immigrant Children

USCRI conducted an analysis of our database of unaccompanied immigrant children matched with volunteer attorneys in our pro bono network from January 2010 through April 9, 2014. During this time the overwhelming majority of our clients migrated from Central America. Honduras is the most common country of origin, followed by Guatemala and El Salvador. Nearly 60% of our clients fall between ages fifteen and seventeen. In 2013, we saw an increase in the number of clients we served, and were able to match 98 unaccompanied immigrant children to attorneys. In the first 100 days of 2014, we have already matched 22 unaccompanied immigrant children.

In the analysis of our data primary and secondary reasons for migration identified. 36% identified directed violence as the primary reason they migrated. These children received direct threats of violence from gang or other violent entities. With the exception of 2012, directed violence was the most frequently identified primary reason for migration across all years studied. Child abuse is the second most frequently cited primary reason at 26%. While unaccompanied immigrant children often come to meet family in the U.S., it wasn't until children had suffered directed violence, or child abuse that they decided to migrate.

Urgent Needs

Funding

ORR is responsible for serving refugees fleeing persecution and other vulnerable migrant populations, including unaccompanied immigrant children. In 2002 the Homeland Security Act of 2002 (HSA) granted the care and placement of unaccompanied immigrant children to the Dependent of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR). The law requires that within 72 hours of their apprehension by the Department of Homeland Security (DHS), custody of children be turned over to ORR.[7] Central American unaccompanied children are placed in removal proceedings upon apprehension at the border. While these legal proceedings are ongoing ORR attempts to reunite children with family in the U.S., otherwise children must remain in ORR custody until the end of their immigration case.

ORR's refugee programs have been underfunded for many years, but now with the increase of unaccompanied immigrant children, the already weak budget is exhausted. On May 30, 2014, the President's Office of Management and Budget (OMB) sent a letter Senate and House Appropriations Committees. The letter indicated that ORR would need $2.28 billion in FY15 to care for the children.

---

[4] http://www.state.gov/j/cso/releases/other/2013/205261.htm

[5] United Office on Drugs and Crime (UNODC), 2011 Global Study on Homicide

[6] Casa Alianza Honduras, "Análisis de la situación de Derechos de la Infancia Migrante No Acompañada en el marco de los procedimientos de deportación y retorno a Honduras," June 2012. Available at: http://casa-alianza.org.hn/images/documentos/Observatorio/migrante12.pdf.

[7] http://www.oig.dhs.gov/assets/OIG_Juvenile.pdf

Counsel

Immigrant children are particularly vulnerable when navigating the complexities of immigration law and procedures. It is essential that children facing immigration court proceedings or petitioning other federal agencies be afforded legal representation. Child immigrants are often forced to defend themselves against prosecution by an experienced government attorney in immigration court proceedings. These children have frequently experienced trauma, lack resources, and are generally unfamiliar with American laws, procedures, customs, agencies, and language—rendering them incapable of providing competent pro se representation. U.S. immigration law is a complex and constantly evolving area of practice that is often challenging to experienced attorneys, and therefore nearly impossible to navigate for noncitizen children lacking such specialized knowledge and language. Underfunded and overextended non-profits, law schools, and other community organizations have tried to address the problem through pro bono projects, "Know Your Rights" presentations, and legal orientation of sponsors. While pro bono initiatives have succeeded in matching large law firm resources with children in need of representation, the number of children in need far exceed available pro bono volunteers.

Recommendations

1. Additional Funding for the Office of Refugee Resettlement –Without Congressional leadership and intervention America's ability to provide protection for persecuted persons and a chance at a new life would be dramatically diminished. Unless ORR receives an additional $200 million in FY 2014 they will take funds from services supporting adult refugees and their families. Cuts to ORR would severely limit refugees' ability to become self-sufficient and work towards full integration into life in the U.S.
2. Right to Counsel- It is essential that unaccompanied immigrant children are ensured access to legal representation. Most importantly, children who cannot afford representation should, at a minimum, be given access to an attorney in all immigration court proceedings. In addition, children should have meaningful access to counsel in other immigration adjudicative proceedings before federal agencies.
3. Ensure that unaccompanied immigrant children are protected - USCRI urges your immediate intervention to honor America's history of leadership in protecting the most vulnerable.

For questions about this statement please contact Stacie Blake, Director of Government and Community Relations at sblake@uscridc.org or Esmeralda Lopez, Advocacy Officer at elopez@uscridc.org

Thank you for your consideration in this very important issue.

Statement of the Women's Refugee Commission[1]

Submitted to the Committee on the Judiciary of the U.S. House of Representatives
Hearing on "An Administration Made Disaster:
The South Texas Border Surge of Unaccompanied Alien Minors"

June 25, 2014

Current humanitarian crisis

Since 2011, the Women's Refugee Commission has been closely monitoring the increasing number of refugee children coming to the United States to seek protection. Through our research, we concluded over two years ago that the United States would continue to receive more vulnerable migrants from Central America due to the regional humanitarian crisis born from the rapid growth in crime, violence and poverty that has affected Mexico and several Central American countries for many years.[2] As we predicted, without major changes in U.S. aid or foreign policy to the Central American region, the danger to children and families with young children would only increase and more and more vulnerable populations would need to flee their homes. Unfortunately, our predictions rang true, and the United States, along with other countries in the region with a strong rule of law, has experienced a surge of refugees seeking protection on our territories. The U.S., along with Panama, Belize, Nicaragua and Costa Rica are experiencing a surge in people seeking protection and are faced with many challenges in ensuring the protection of these large numbers of children.[3] The number of asylum claims in the entire region has increased by 712%.[4]

Beginning in October 2011, the United States has experienced a dramatic rise in unaccompanied alien children (UACs), particularly from the countries of El Salvador, Guatemala and Honduras. The number of unaccompanied children apprehended by U.S. Customs and Border Protection (CBP) jumped from 17,775 in FY2011 to 41,890 in FY2013.[5] For the fiscal year 2014, beginning October 1, 2013 up through May 31, 2014, CBP has already apprehended 47,017 unaccompanied children just in the Southwest Border sectors alone.[6] Particularly concerning is that the children making the difficult and treacherous migration journey are now younger than in years past (many under 13), and a higher percentage are girls, many of whom arrive pregnant as a result of sexual violence.[7]

Why they are coming:

There has been a great deal of research into the root causes of this surge of unaccompanied children fleeing the region. In 2012 we interviewed 161 children to find out why they were coming. In our

---

[1] This testimony has also been submitted to the House Committees on Foreign Affairs and Homeland Security.
[2] Women's Refugee Commission, *Forced from Home: The Lost Girls and Boys of Central America*, 2012. http://womensrefugeecommission.org/component/docman/?task=doc_download&gid=844
[3] UNHCR Report, "Children on the run: Unaccompanied children leaving Central America and Mexico and the need for international protection." May 2014. http://www.unhcrwashington.org/sites/default/files/UAC_Children%20on%20the%20Run_Full%20Report_May2014.pdf
[4] Id, http://unhcrwashington.org/children
[5] Id.
[6] CBP Border Patrol Statistics. http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children
[7] "Obama creates group to help border crossing kids" June 2, 2014 http://www.usatoday.com/story/news/nation/2014/06/02/obama-immigration-group-undocumented-children-border/9876003/

interviews, the children reported to us that they were predominately being pushed from their homes due to rising violence and insecurity in their home countries. Moreover, almost every single child we spoke with reported having a good understanding of the dangers of trying to migrate through Mexico and into the United States without authorization. They knew of the risks of kidnapping, rape, and even death. The children we spoke with told us they felt like they would die if they stayed in their home country, and although they might die during the journey, they at least would have a chance.

In 2013, the U.S. Conference of Catholic Bishops traveled to Central America to interview children who had tried to migrate to the United States. Their report reaffirmed our findings that violence in the three countries of El Salvador, Guatemala and Honduras was the overriding factor leading to the migration of these children.[8] One mother they spoke with told them that she knew her son might die on his journey to the U.S. but she preferred that he die trying to find safety, then on her doorstep.

Most recently, in 2014, United Nations High Commissioner for Refugees (UNHCR) interviewed over 400 children who had left their homes countries. Most children – even those who had a parent or family member with whom they wished to reunite – cited domestic abuse within the home, gang and cartel violence, deprivation of basic survival necessities, and labor and sex trafficking as the reasons for their migration.[9] Most significantly, UNHCR found that the majority of the children made statements indicating that they may be in need of international protection.

There have been numerous reports and claims by government authorities that many of these children or the family members who may try to help them migrate are being encouraged to undertake the dangerous journey by false promises from smugglers or inaccurate media reporting on U.S. policies that do not exist or that cannot benefit them. But it is impossible for us to dispute the root causes that make these children desperate to leave their home countries and seek a safe haven. No child or parent would agree to pay a dangerous smuggler to take a young child on such a harrowing journey if they did not feel it was the only option. No promise of a tenuous and temporary status in the United States, such as administrative closure or Deferred Action for Children Arrivals (DACA), would encourage someone to risk their lives, or risk the lives of their child. It is the underlying severe conditions in Mexico and these Central American nations that is forcing this migration pattern, not the lure of intangible reform.

Furthermore, the facts do not support that rumors or U.S. policy with respect to these populations is what is encouraging the migration. Nicaragua is the poorest country in the region. At the same time Nicaragua, like El Salvador, Honduras and Guatemala, has a history of migration to the United States, resulting in many Nicaraguan children having family members in the United States. Yet, we have not seen any increase in the number of Nicaraguan children arriving at the Southern border. The difference is that Nicaragua, as one of the safest countries in the region, is not experiencing the violence that is driving children from its three neighbors.

<u>The U.S. detention and treatment of unaccompanied children</u>:

---

[8] USCCB, Mission to Central America: the Flight of Unaccompanied Children to the United States, November 2013. http://www.usccb.org/about/migration-policy/upload/Mission-To-Central-America-FINAL-2.pdf

[9] UNHCR, Children on the Run

The United States has been a global leader in the way it has received and processed unaccompanied children seeking protection. Since 2002, in accordance with international protection standards, the U.S. government has employed alternative models of detention for most children arriving on our shores who are waiting for adjudication of their immigration court processes. As noted in our 2008 report, Halfway Home, we believe the government's movement to more child appropriate custody models was an important advancement in the rights of these children and an effective way to enforce our immigration laws. Although not a perfect system, ORR shelters and programs have strived to ensure the government considers the best interest of the child in detention, placement, and reunification decisions for the time a child is in deportation proceedings.

In recent months, the government's intricate system of shelters, foster homes and secure detention facilities has been overwhelmed by the numbers of children in need. In response, the government has modified its procedures to meet the goal of appropriate detention and care of these children. Despite its best intentions, ORR has been unable to keep up with the demand on its resources. As a result we have seen children warehoused in border facilities that were never intended to hold children for any length of time until more appropriate arrangements can be made. We have seen our Customs and Border Protection agents, who have no special training on how to work with traumatized children, working overtime to screen and care for these children instead of carrying out other pressing law enforcement duties.

In our research, we have interviewed hundreds of children who have reported mistreatment, abuse or neglect at the hands of U.S. government officials during their detention. The most striking thing about these interviews is that despite unacceptable treatment, these children almost always remind us that they are still thankful to be in a country where they might have a future. Most recently, in June 2014, a group of civil, immigrant, and human rights organizations filed an administrative complaint on behalf of 116 children who had reported abuse and mistreatment while in CBP custody.[10] The complaint includes reports that children were shackled, subjected to inhumane detention conditions, had inadequate access to medical care, and were verbally, sexually, and physically abused. Additionally, a recent FOIA by the Houston Chronicle identified more than 100 incidents of sexual abuse of children in ORR shelters that were never referred for further criminal investigation. The numerous reports and complaints of abuse of children in immigration custody highlight a need to address the oversight of places of detention where children are held.

The United States must remember that severe detention conditions have never been a deterrent against unauthorized migration anywhere in the world. Holding children in border patrol stations for up to two weeks and denying them adequate nutrition or recreation only serves to harm them, not dissuade more from coming. Harsh detention or deportation proceedings will not stop this migration flow, it will only violate long-standing U.S. protections afforded to children and other vulnerable migrants and greatly diminish America's status as a humanitarian leader.

U.S. detention and treatment of migrant and asylum seeking families:

---

[10] Complaint to DHS OCRCL and OIG by National Immigrant Justice Center, Esperanza Immigrant Rights Project, Americans for Immigrant Justice, Florence Immigrant and Refugee Rights Project and the ACLU Border Litigation Project. http://www.immigrantjustice.org/sites/immigrantjustice.org/files/FINAL%20DHS%20Complaint%20re%20CBP%20Abuse%20of%20UICs%202014%2006%2011.pdf

Not all children arriving at the border are unaccompanied. Children also come to the United States with their parents. Since 2012, the number of families arriving at the southern border of the United States has increased significantly. They are fleeing the same violence driving the unaccompanied children.

The vast majority of families arriving at the border are made up of women with very young children. Almost all are asylum seekers fleeing violence, including gang violence, organized crime and domestic violence. Just like unaccompanied children, the majority of families come from Honduras, Guatemala, and El Salvador. The journey for these families, just like that for unaccompanied children, is extremely perilous. The Women's Refugee Commission has interviewed hundreds of women in detention, and the women we have spoken to universally tell us that they were well aware of the risks before fleeing their homes. No mother makes that trip with her young children or baby unless she feels she has no other choice.

In 2001, as part of the overall increase in immigration enforcement and in an effort to deter family migration, the U.S. began detaining families, first at a converted nursing home in Leesport, PA and later at a prison in Taylor, Texas. In 2009, Immigration and Customs Enforcement (ICE) stopped using that prison – the by then notorious T. Don Hutto facility - to detain families after a firestorm of opposition[11] and a lawsuit that was filed by the ACLU and University of Texas. When the Women's Refugee Commission visited Hutto, we found conditions that were wholly inappropriate for children and families and in violation of the Flores Settlement Agreement governing the immigration detention and custody of children.

As documented in our 2007 report on family detention, *"Locking Up Family Values: The Detention of Immigrant Families,"* young children at Hutto were clothed in prison jumpsuits and had catatonic expressions on their faces. Mothers were brought to tears by the simple question, "How are you?" Families slept in freezing cold prison cells, next to toilets without a privacy curtain to separate the sleeping and hygiene areas. The families were confined to their cells for up to twelve hours a day. Children received only one hour of education a day, and were only allowed to go outside for short periods of time—on the days guards were in the mood. Pregnant women were denied adequate access to medical care and did not have enough food to eat.

Perhaps most disturbing was the fundamental breakdown in family structure that detention created. Guards would threaten parents that if they didn't keep their children in line, the family would be separated. Parents turned to strict discipline to make sure their children behaved – leading children to react with anger at their parents and eroding trust that their parents were able to take care of them.

It would have been prohibitively costly and all but impossible for ICE to retrofit the facility to make it suitable for children. The government's only realistic option for complying with the terms of the Hutto Settlement was to close the facility for families. In doing so, DHS acknowledged that it is extremely difficult and costly to detain families in a manner that is appropriate for children and complies with U.S. and international law. Contrary to concerns at the time, family arrivals did not increase after this shift in

---

[11] For more information on use of family detention in the United States and the T. Don Hutto facility conditions see *Locking Up Family Values: The Detention of Immigrant Families,* Women's Refuge Commission and Lutheran Immigration and Refugee Service, 2007. http://wrc.ms/Ye9KnE

policy. The increase in arrivals did not begin until three years later when conditions of violence in Central America became more pronounced.

Following the closure of Hutto to families, ICE continued to detain families at the Berks Family Residential Facility in Leesport, Pennsylvania. This facility, which has been renovated to meet the unique needs of this population, has the capacity to house 96 individuals. In addition, ICE uses a variety of alternatives to detention for families, including supervised release, bond and parole. Both the Berks facility and the use of Alternatives to Detention meet the terms of the Flores Settlement Agreement, which sets out national policy for the detention, release and treatment of all children who are in the custody of DHS. Flores requires DHS to place children in the least restrictive setting appropriate to the children's needs pending the outcome of their immigration removal case.

All families who are apprehended by Customs and Border Protection (CBP) or ICE receive Notices to Appear. Those who are not in custody, including those who are in Alternatives to Detention, are required to check in with ICE regularly, and to appear in immigration court. Despite reports of rumors that families who arrive in the U.S. are given a free pass (or a "permiso") to enter and stay, every family who is apprehended is required to appear in immigration court and is formally placed in removal proceedings.

Alternatives to detention have been shown to be 96% effective in ensuring appearance in immigration proceedings. They are also significantly less expensive than detention, and far more appropriate for families with children. Families should be accorded special consideration befitting their unique vulnerabilities and circumstances. We are deeply concerned by the government's recent announcement that it will drastically expand the detention of families and will expedite the processing of asylum cases. These policies endanger the well-being of children and families and present a risk that families with legitimate claims to asylum and other forms of protection will be summarily returned to countries where their lives are at risk. As history demonstrates, the detention of families and the denial of their basic human rights is inhumane, costly, and harmful to the well-being of children.

Recommendations

The United States has long been a global leader in the promotion of human rights and the provision of protection for those fleeing persecution. Not only have we led by example in the past, we also hold others accountable to receive refugees in times of crisis. Now is the time to reaffirm and stand by our principles. The solution to this humanitarian crisis will require a comprehensive and coordinated effort by the U.S. government, foreign governments, and international and domestic non-governmental organizations. While this is being implemented, the United States must not compromise its long-standing commitment to humanitarian principles, including the protection of refugees and child welfare, in the hope of finding a quick solution.

We have the tools we need. The answer is not to turn on our backs on those arriving. Rather we must address root causes to prevent vulnerable populations from having to make the difficult decision to flee their homes and at the same time treat migrants humanely and support our infrastructure to process cases through our immigration court efficiently and fairly so that those who need protection receive it.

Foreign Assistance:

- Address root causes of this migration flow by investing in development, justice and accountability programs in the three countries from which the majority of children and families are coming.

- Conduct repatriations in a safe manner and support reintegration programming so that children and families are not just thrust back into the same dangerous situations that forced them to flee in the first place.

- Partner with countries in the region to crack down on traffickers and smugglers who are preying upon migrants and bringing many of the children and families across the border.

- Provide support to governments in the region who are also receiving migrants in order to strengthen and implement internationally compliant protection systems.

Emergency Shelters and Detention:

- Ensure that detention facilities used for immigration compliance purposes are only used as a last resort and for the shortest time possible. Any detention facilities used to house adults with children must be equipped to handle the unique needs of this population and must comply with the Flores Settlement Agreement, the Family Residential Standards, and relevant terms of the Hutto Settlement Agreement.

- Expand the use of cost-effective alternatives to detention, including community support programs, for families and other adult migrants. Alternatives to detention, such as community support programs, electronic monitoring and ankle bracelets, have been proven to be 96% effective in ensuring that people appear for their immigration hearings and comply with court orders.

- Ensure that no one is exploited or abused in custody. CBP should immediately create public, enforceable standards for its short term hold facilities; PREA and all relevant custody standards and protections must be fully implemented in ALL DHS and HHS custodial situations; DHS and HHS should allow civil society to regularly and thoroughly monitor conditions in their facilities, including emergency and short term facilities.

- Ensure that all persons in immigration custody are given information about their rights, the U.S. immigration system, opportunities for relief, and the complaint process. For unaccompanied children, such orientation should be provided in a language and manner that is meaningful and age-appropriate to the child, and can be understood.

- Ensure that Know Your Rights presentations or Legal Orientation Presentation Programs (LOP) are available in all facilities housing child, families or adults, including short-term and emergency facilities.

- HHS must provide resources to adult sponsors of all released children so that they are aware of their obligations and can ensure that children comply with immigration court requirements. Some children may have relief under current immigration law and others may be returned to their home country after full proceedings that respect due process.

- HHS should expand post relief services to ensure that children who are released to families or sponsors are safe and appear in immigration proceedings. Like alternatives to detention, post relief services are more cost effective and more humane than detention, and serve to ensure compliance with court proceedings.

Immigration Courts and Protection Mechanisms:

- Provide sufficient funds and support to effectively resource immigration courts and asylum officers to eliminate the backlog and process cases effectively, efficiently and fairly. Adequate funding and training should be in place so that all children and their parents receive screening for international protection concerns.

- Afford everyone seeking refuge in this country full protection under U.S. and international law. There should be no exceptions for any child, family, or refugee seeking protection. Ensure due process and a meaningful opportunity to access protection mechanisms. Screenings must take into account the traumatic experiences of those fleeing. In many cases, people fleeing rape, abuse, and other violence are too traumatized to recount intimate details, particularly if they are still in detention. Expedited screenings must not become a tool to repatriate people back to dangerous situations.

- Maintain and improve upon the protections currently extended to children, families and other migrants seeking asylum seekers and other forms of protection to ensure that migrants with legitimate claims are not returned to violence and abuse. The U.S.'s threshold for protection is already in many ways less welcoming and protective than international standards. The U.S. must ensure that any new attempts to expedite removals do not further erode these protections. This crisis provides an opportunity to strengthen our overall protection regime, not only for unaccompanied children and families, but for everyone who comes to our country seeking protection.

- Support and expand the provision of legal assistance for children, including both appointed counsel and the facilitation of pro bono representation through the private sector. The provision of attorneys for these children will make the system more efficient and effective, and ensure that more children comply with proceedings. Children with attorneys are more likely to appear for their court dates than children without as they have help understanding the system and learning what relief they may or may not be eligible for. Child advocate or guardian ad litem programs are also critically important for the most vulnerable children.

- Adequate consideration and resources should be given to facilitate the representation of children and adults in immigration court through support of pro-bono representation programs.

Reform our immigration laws

- Pass comprehensive immigration reform that puts migrants in the U.S on a pathway to citizenship and reduces backlogs and waiting times in the family visa process that encourages unlawful migration.

- Include in any reform package a mechanism by which parents who are eligible for a legalization program can bring their children to join them in a safe, lawful, and timely manner

THE
Episcopal
CHURCH

TESTIMONY OF ALEXANDER D. BAUMGARTEN AND KATIE CONWAY ON BEHALF OF THE EPISCOPAL CHURCH[1]

JUNE 25, 2014

We thank Representative Goodlatte, Chairman of the House Judiciary Committee, and Ranking Member Conyers for the opportunity to submit this testimony. Today we express our concern for the violence in Central America pushing tens of thousands of vulnerable immigrant children to flee, and recommend that Congress and the Administration continue to provide appropriate, child-centered care for these children, while maintaining access to protection and services for all refugee populations. The Episcopal Church has been engaged in the work of providing humanitarian aid abroad and refugee resettlement domestically since the Presiding Bishop's Fund for World Relief was established in 1940, and we continue those services today.

The Northern Triangle of Central America, comprised of the countries of Honduras, Guatemala and El Salvador, is one of the most dangerous regions in the world. Honduras boasts the world's highest murder rate, with El Salvador and Guatemala also within the top five. In Honduras alone, violence against women and girls has risen 346% since 2005, while the murder rate for men and boys has risen 29%[2]. In all three countries, gangs, transnational criminal organizations, and narcotraffickers commit acts of violence with near impunity, while local police forces are either unable or unwilling to offer protection[3] to the public. Stemming from this pervasive and inescapable violence, asylum claims from the Northern Triangle to the neighboring countries of Mexico, Panama, Nicaragua, Costa Rica and Belize, have risen 345% since 2009[4], mirroring the rise in asylum claims at the U.S. Mexico border.

Within these communities of diminishing protections and escalating violence, children, single women, and women heads of household with young children are the most vulnerable and are therefore prime targets for violence and exploitation by the organized crime syndicate, gangs, and security forces. The widely acknowledged tactic of targeting young children for gang recruitment, and the lack of citizen security for civilians to seek protection or resolution when

---

[1] Alexander D. Baumgarten is the Director of Government Relations, and Katie Conway is the Immigration and Refugee Policy Analyst for The Episcopal Church, a multinational religious denomination based in the United States with members in 15 other sovereign nations.

[2] http://www.jesuits.org/Assets/Publications/File/Myths%20and%20Facts%20on%20Central%20American%20Migration%20Surge.pdf

[3] Gonzalez, Rosmery *Austria deniega permiso de venta de armas a gobierno de Otto Pérez*. El Periodico, (May 2, 2014) available at http://elperiodico.com.gt/es/20140502/pais/246662/

[4] http://www.jesuits.org/Assets/Publications/File/Myths%20and%20Facts%20on%20Central%20American%20Migration%20Surge.pdf

persecution or violence occurs, has triggered a regional humanitarian crisis years in the making, and has driven tens of thousands of children from their homes. Over the past three years, humanitarian aid, human rights organizations, churches, and refugee resettlement agencies, and children's rights advocates have watched as more and more children have been forced from their homes, exchanging the known dangers at home for the unknown dangers of a journey to the United States, in a desperate search for peace and protection.

Once children arrive at the United States border, the mandate for their care resides with Health and Human Services Office of Refugee Resettlement (ORR). Established in 2003, the purpose of the Unaccompanied Alien Children (UAC) program is to provide holistic, child-centered care for children from noncontiguous countries who arrive alone at U.S. borders. Since 2012, however, ORR has served ever-growing number of UACs that have stretched both the UAC program and the refugee program as a whole to its financial and capacity limits. Arrivals nearly doubled from FY12 (13,625) to FY13 (25,498), and UAC arrivals for FY14 are projected to reach nearly 90,000. In addition to serving 25,498 UACs in FY13, ORR also served 70,000 newly arriving refugees, 2,871 Iraqi and Afghan Special Immigrants (individuals who aided U.S. government efforts in those countries), an estimated 46,000 asylees and Cuban and Haitian entrants, over 500 victims of human trafficking, 6,750 survivors of torture, and continued services to some clients who arrived in previous years.

The financial burden of caring for vulnerable children should not rest with ORR alone. Our nation has made a laudable commitment to providing these children with child appropriate care and with compassion, but that care requires increased funding and resources beyond the scope of one single office or agency. Given the unique and international aspects of this crisis, the funding burden should be shouldered by multiple agencies and should not be obtained at the expense of ORR services to other vulnerable populations to whom the United States has made a commitment. We must address overseas crises and crises in our hemisphere with the same dedication to protection and commitment to keeping borders open to vulnerable refugees, or risk damaging our ability to react effectively and humanely to other emerging refugee situations and protracted refugee situations where partners like Turkey, Jordan, and Lebanon are hosting millions of Syrian refugees.

As we do abroad, the United States must lead by example regionally, providing child-centric approaches to this crisis and demonstrating effective burden sharing with other nations in the region able to assist such as Panama, Costa Rica, and Belize. Like our responses to humanitarian emergencies around the world, however, responding to this crisis should in no way diminish our capability to address the needs of refugees elsewhere, and we must uphold our commitment to domestic refugee resettlement.

THE
Episcopal
CHURCH

We support the Administration's interagency response to the international scope and unique protection needs of this humanitarian migration crisis, and look to Congress to provide the federal government with the necessary resources to implement child-centered solutions that address the immediate needs of unaccompanied immigrant youth and the root causes that force vulnerable children to undertake this perilous journey alone. The Episcopal Church stands ready as a partner in service to vulnerable refugees, and is prepared to welcome the newest generation of refugees to a life a of peace and safety in our communities.

Thank you for carrying the costly burden of public service, and for the opportunity to submit these views to the Committee.

Statement of the American Immigration Lawyers Association

Submitted to the Committee on the Judiciary of the U.S. House of Representatives
Hearing on "An Administration Made Disaster:
The South Texas Border Surge of Unaccompanied Alien Minors"

June 25, 2014

The American Immigration Lawyers Association (AILA) submits this statement to the Subcommittee on Immigration and Border Security. AILA is the national association of immigration lawyers established to promote justice and advocate for fair and reasonable immigration law and policy. AILA has over 13,000 attorney and law professor members.

Current humanitarian crisis

Contrary to the title assigned to this hearing, the escalation in the movement of unaccompanied alien children (UACs) is a regional humanitarian crisis born from the rapid growth in crime, violence and poverty that has affected Mexico and several Central American countries for many years. In October 2011, the United States experienced a dramatic rise in UACs, particularly from the countries of El Salvador, Guatemala and Honduras. The number of unaccompanied children apprehended by U.S. Customs and Border Protection (CBP) jumped from 17,775 in FY2011 to 41,890 in FY2013.[1] For the fiscal year 2014, beginning October 1, 2013 up through May 31, 2014, CBP has already apprehended 47,017 unaccompanied children just in the Southwest Border sectors alone.[2] The children making the difficult and treacherous migration journey are now younger than in years past (many under 13), and a higher percentage are girls.[3]

This humanitarian crisis affects not only the United States but the entire Central American region as well. The United States is the largest country in the region, with the most developed asylum and humanitarian protection regime. Hence, the greatest number of displaced individuals continues to seek asylum in the United States. Yet other countries in the region, in particular, Belize, Nicaragua, Panama, Mexico, and Costa Rica, have seen a striking 435 percent increase in asylum applications from El Salvadorans, Hondurans, and Guatemalans; an even more dramatic increase considering the small size of these nations.[4]

Drawing upon interviews with 404 children aged 12 to 17 who had left their home countries, the U.N. High Commissioner for Refugees (UNHCR) concluded that the "the children's responses to

[1] UNHCR Report, "Children on the run: Unaccompanied children leaving Central America and Mexico and the need for international protection." May 2014.
http://www.unhcrwashington.org/sites/default/files/UAC_Children%26on%20the%20Run_Full%20Report_May2014.pdf
[2] CBP Border Patrol Statistics. http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children
[3] "Obama creates group to help border crossing kids" June 2, 2014
http://www.usatoday.com/story/news/nation/2014/06/02/obama-immigration-group-undocumented-children-border/9876003/
[4] UNHCR, Children on the Run

AILA National Office
1331 G Street NW, Suite 300, Washington, DC 20005
Phone: 202.507.7600 | Fax: 202.783.7853 | www.aila.org

the questions of why they left . . . were as complex as the children themselves." The reasons most frequently cited by children – even by those who had a parent or family member with whom they wished to reunite – were domestic abuse within the home, gang and cartel violence, deprivation of basic survival necessities, and labor and sex trafficking.[5] Violence and destabilization in these countries has grown in recent years due to the strength of transnational criminal actors (including gangs).[6] In many cases, state actors are unwilling or unable to stem the violence.

UNHCR found that the majority of the children made statements indicating that they may well be in need of international protection. Children who migrate without an accompanying parent or guardian face a harrowing journey, during which they are often targeted for theft, sexual abuse, and abduction.[7] Some may be lured by false promises from smugglers or local media touting U.S. policies that do not exist or that cannot benefit them. But the root causes that make these children desperate to leave their home countries and seek a safe haven are indisputable. Given the severity of conditions in Mexico and these Central American nations, it would not be accurate to attribute the surge in child migration to any specific circumstances in the United States or actions taken by the U.S. government.

The dramatic increase in the influx of UACs on the Southwest border has raised speculation as to its cause, including accusations that DHS's Deferred Action for Childhood Arrivals (DACA) initiative or perceived weaknesses in the enforcement system have drawn more children to our borders. However, no one arriving in the United States after June 15, 2007 would even qualify for the DACA initiative, and it is well known that human smugglers and traffickers spread rumors about non-existent immigration benefits, new laws and opportunities to encourage people to make the journey to the United States. Such misinformation should be counteracted with better public information campaigns by the government and credible non-governmental organizations. .

Claims that the President's enforcement policies are insufficiently robust ignore the overwhelming evidence that immigration enforcement has reached unprecedented levels under this Administration. By early 2014, DHS will have removed 2 million people during the course of the Obama administration, at a time when net migration to the U.S. from Mexico is at or near zero and border crossings are at a 40-year low. Immigration detention rates continue to rise and now total about 430,000 individuals each year, at a cost of $2 billion annually to American taxpayers. Federal criminal prosecutions of immigration-related offenses are at the highest point in history—up 468 percent from FY2003. The border is more secure than ever. Increased

---

[5] UNHCR, Children on the Run

[6] International Centre for the Human Rights of Migrants (CIDEHUM), *Forced Displacement and Protection Needs produced by new forms of Violence and Criminality in Central America*

[7] "Children traveling solo across U.S. border face dangerous trip," June 4, 2014. http://www.npr.org/2014/06/04/318733312/children-traveling-solo-across-u-s-border-face-dangerous-trip

manpower, infrastructure, and technology on the border have resulted in heightened enforcement with record numbers. As a result, removals are happening more quickly than ever, often at the expense of due process. In 75 percent of all removals, DHS relied on summary procedures that allow enforcement agents to bypass the immigration court system.

Even more severe detention and deportation practices are not likely to change the desperate behavior of those fleeing from the violence, instability, and poor conditions in the sending countries. The current humanitarian crisis will only be solved when those factors are lessened, when gang violence is not an overriding fear, and when abuse and trafficking are not ever-present. Therefore, while the Administration has taken important steps to provide necessary international assistance, its announced "surge" in resources to expand its capacity to detain families – including women and young children – is an inappropriate response. The announcement is particularly troubling given the recent history of family detention. In 2009, the Administration ended the detention of immigrant families at the T. Don Hutto detention facility due to inhumane conditions and abuses. Revisiting this failed experiment would be a step backward. For families that cannot be released, alternatives to detention are extremely effective, far more humane and cost-effective than institutional detention, and would preserve America's core commitment to the protection of families. Moreover, a harsher system would undermine or even violate long-standing U.S. obligations to protect children and other vulnerable individuals and would greatly diminish America's status as a humanitarian leader.

U.S. principles on protection

Welcoming and protecting the vulnerable and those fleeing persecution is a deeply rooted American value that has defined our country since its founding and is firmly established in our laws. In 1968, the U.S. acceded to the 1967 U.N. Protocol Relating to the Status of Refugees, which extends the obligation of *non-refoulement*, or the duty not to return a refugee to a country where there is a risk that his or her life or freedom would be threatened on the basis of certain grounds – an obligation that was first enshrined in the 1951 Convention Relating to the Status of Refugees. Additionally, the U.S. is bound under the U.N. Convention Against Torture not to return an individual to a country where the person would likely face torture. In 1980, the U.S. enacted the Refugee Act to bring its laws into compliance with international law and has continued to be a leader in the area of asylum and refugee protections internationally.

The United States also has specific protocols for the treatment and protection of children that are guided both by U.S. immigration law and child welfare principles. Unaccompanied immigrant children are a highly vulnerable population given their age, lack of English language skills, and the severe trauma many experienced before or after arriving in the United States. Significant numbers of these children may have been trafficked or are at risk of being trafficked. They commonly exhibit a combination of physical, emotional, and other trauma symptoms and urgently need intensive case management services, such as counseling, medical care, and access to legal services while in custody.

AILA National Office
1331 G Street NW, Suite 300, Washington, DC 20005
Phone: 202.507.7600 | Fax: 202.783.7853 | www.aila.org

AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

Since the 1990s, the United States has followed guidelines that were established following the 1993 Supreme Court case, *Reno v. Flores*, 507 U.S. 292 (1993). These protocols govern the detention, release and repatriation of UACs and require that there be adequate food, drinking water, and bathroom facilities as well as proper medical care for those in custody. Importantly, children are required to be separated from unrelated adults when held in custody and should be transferred to facilities more appropriate for juveniles, such as foster care homes, within 3 to 5 days.

In recognition of the vulnerability of child migrants, Congress passed several laws intended to protect UACs in government custody. In 1990, Congress amended the Immigration and Nationality Act and created a special form of protection called "Special Immigrant Juvenile" status for abused, neglected, or abandoned children who are in the custody and care of a state or agency and who cannot be reunified with their parents.

The Homeland Security Act of 2002 (HSA) tasked the Department of Homeland Security (DHS) with the apprehension, transfer, and repatriation of UACs and the Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) with their long-term custody, care, and placement. Upon apprehension, UACs from countries other than Mexico are placed into removal proceedings. While these proceedings are pending, they remain in ORR custody until a parent, legal guardian, or other suitable custodian can be found. The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) requires that CBP transfer custody of UACs from countries other than Mexico or Canada to ORR within 72 hours, barring exceptional circumstances. For children from Mexico or Canada, the TVPRA requires that they be screened to determine whether they have a fear of persecution or have been trafficked. If they have not, and are determined to have made an independent decision to return, children from Mexico or Canada are returned across the border and are not taken into ORR custody.

For the past two decades, the existing system has managed an influx of between 5,000 to 20,000 UACs each year with numbers steadily rising since 2011. In response to the more dramatic increase in 2014, this spring the Administration initiated a coordinated and comprehensive response to the crisis. First, the Secretary of Homeland Security declared a Level IV condition of readiness -- the highest level of contingency planning within DHS, through which DHS personnel can be reassigned to assist in the emergency. The President then directed an interagency Unified Coordination Group to address the situation. Federal Emergency Management Agency (FEMA) Administrator Craig Fugate was appointed as the Federal Coordinating Official.

On May 30, the President's Office of Management and Budget (OMB) sent a letter to the leaders of both the Senate and House Appropriations Committees showing that the projected costs of caring for and resettling child migrants from Central America could reach $2.28 billion next year

AILA National Office
1331 G Street NW, Suite 300, Washington, DC 20005
Phone: 202.507.7600 | Fax: 202.783.7853 | www.aila.org

AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

— well over double what the administration asked for in its FY2015 budget.[8] On June 10, the Senate Appropriations subcommittee on Labor, Health and Human Services and Education indicated that it would increase funding for the UAC program by $1.03 billion in FY2015, bringing the total funding proposal to $1.94 billion.

Recommendations

While the United States has made great strides in the last 20 years, the protection regime is still inadequate to meet the needs of those it is designed to safeguard. More must be done to ensure that the most vulnerable are protected. The United States can strengthen its overall protection regime, not only for UACs but for everyone who comes to our country seeking protection.

- **Ensure that children and other vulnerable populations are not exploited or abused in custody.** While DHS has taken steps to shorten the length of time children spend in detention and improve the care and treatment of children, reports of abuse at the hands of agents and officers persist. On June 11, 2014, a group of civil, immigrant, and human rights organizations filed an administrative complaint on behalf of 116 children who had reported abuse and mistreatment while in CBP custody.[9] The complaint includes reports that children were shackled, subjected to inhumane detention conditions, had inadequate access to medical care, and were verbally, sexually, and physically abused.

  This complaint follows a long history of reported abuse and highlights an urgent need to address the detention of children and other vulnerable populations. A report by the American Immigration Council shows over 800 complaints received by CBP from 2009-2012, including reports of inhumane detention, physical, verbal, and sexual abuse, including some by minors.[10] AILA recognizes that most officers and agents perform their jobs professionally and do not engage in abuses. However, the Administration should take these complaints seriously to ensure that the culture at CBP does not accept abuse. Abuse at the hands of immigration officers and agents compounds the trauma and abuse that many of these children have already suffered. Greater oversight and accountability is needed for CBP as it encounters and interacts with children, many of whom have fled violence and persecution in their home countries and are in the aftermath of a dangerous journey here. Short-term detention facilities must also be regulated and improved as they are the first stop for the children in the process.

---

[8] "OMB: Child migrants to cost U.S. $2.3 billion" May 31, 2014. http://www.politico.com/story/2014/05/omb-child-migrants-107284.html#ixzz3-fXLaaHHV

[9] Complaint to DHS OCRCL and OIG by National Immigrant Justice Center, Esperanza Immigrant Rights Project, Americans for Immigrant Justice, Florence Immigrant and Refugee Rights Project and the ACLU Border Litigation Project. http://www.immigrantjustice.org/sites/immigrantjustice.org/files/FINAL%20DHS%20Complaint%20re%20CBP%20Abuse%20of%20UACs%202014%2006%2011.pdf

10 American Immigration Council. "No Action Taken: Lack of CBP Accountability in Responding to Complaints of Abuse" May 2014. http://www.americanimmigrationpolicy.org/special-reports/no-action-taken-lack-cbp-accountability-responding-complaints-abuse

AILA National Office
1331 G Street NW, Suite 300, Washington, DC 20005
Phone: 202.507.7600 | Fax: 202.783.7853 | www.aila.org

- **Ensure adequate access to legal orientation programs and counsel.** Children who are in detention should be given information about their rights, the U.S. immigration system, opportunities for relief, and the compliant process. Such orientation should be provided in a language and manner that is meaningful and age-appropriate to the child, and can be understood. Adequate funding and training should be in place so that each child is screened for vulnerabilities such as risk for trafficking as mandated.

  Unaccompanied alien children, like other indigent persons appearing in removal proceedings, have no right to legal counsel paid for by government. This compounds their vulnerability as they move through our nation's complicated removal system. For asylum seekers, the lack of legal counsel contributes to the immigration court backlog, and to the prolonged state of uncertainty for many seeking protection in the U.S. Six out of ten individuals, including asylum seekers, children, and mentally-ill respondents, appear before immigration courts without legal counsel. Children, even those who survived trauma or persecution or live in fear of return, are left to navigate our laws and to present their claims without any legal assistance when representation by an attorney is the "single most important factor" affecting the result in an asylum case.[11] Adequate consideration and resources should be given to facilitate the representation of asylum-seekers in immigration court.

  AILA welcomes the announcement this month by the Department of Justice and the Corporation for National and Community Service of a new AmeriCorps partnership that will create 100 positions for AmeriCorps members to provide legal services and paralegal services to UACs in immigration courts starting next year. Planning for this program preceded the current crisis and will not likely be up and running until next year. For that reason it is unlikely to help resolve the immediate humanitarian crisis of migrant children.

  Strengthen the U.S. protection regime. Core to America's leadership on the world stage is the strength and generosity of our humanitarian protections. Nonetheless, in many ways, our protections do not go far enough. Screening for trafficking, fear of persecution, and other vulnerabilities needs to be improved including through improvements in training, oversight, and redress procedures, particularly of CBP officers and agents who play the critical role as the first contact for individuals coming to U.S. borders.

In response to the current crisis, some are calling for more rapid procedures to deport those who come. Any changes that further curtail due process would be a mistake as they are likely to jeopardize meaningful access to asylum and other humanitarian relief for children and families. Already DHS has dramatically increased the use of expedited removal and other summary removal procedures for those apprehended in the wide swath of land considered the border

[11] Jaya Ramji-Nogales, Andrew Schoenholtz & Philip Schrag, *Refugee Roulette: Disparities in Asylum Adjudication*, 60 Stan. L. Rev. 295, 340-41 (2007).

AILA National Office
1331 G Street NW, Suite 300, Washington, DC 20005
Phone: 202.507.7600 | Fax: 202.783.7853 | www.aila.org

AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

region. These procedures hinder meaningful access to present claims and to seek eligible relief. The United States cannot compromise humanitarian principles and must ensure that children and families who come are given an opportunity to present their case before an asylum officer or an immigration judge. AILA submitted recommendations on the current asylum system in the form of written testimony for the hearings this committee conducted on December 12, 2013 and February 11, 2014.

The solution to this humanitarian crisis will require a comprehensive and coordinated effort by the U.S. government, foreign governments, and international and domestic non-governmental organizations. These steps will take time to develop and implement. In the meantime the United States cannot compromise its long-standing commitment to humanitarian principles including the protection of refugees and child welfare in the hope of finding a quick solution to a complex problem. In the past decade, other nations with fewer resources, such as Turkey, Lebanon, and Jordan have responded to huge migrations of people fleeing war or violence. The United States has called upon these and other nations to respect and honor their obligations to protect those who are vulnerable. Now is not the time for the United States to back away from its own principles.

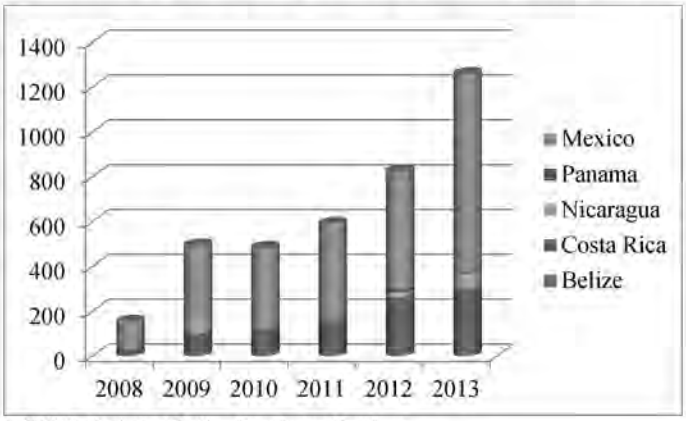
AILA National Office
1331 G Street NW, Suite 300, Washington, DC 20005
Phone: 202.507.7600 | Fax: 202.783.7853 | www.aila.org

Unaccompanied Children Apprehended by Border Patrol

Country of Citizenship	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014 YTD
Honduras	968	1,017	974	2,997	6,747	15,027
Guatemala	1,115	1,517	1,565	3,835	8,068	12,670
El Salvador	1,221	1,910	1,394	3,314	5,990	11,436
Mexico	16,114	13,724	11,768	13,974	17,240	12,146
Belize	2	1	3	4	3	12
Costa Rica	2	2	1	5	1	3
Nicaragua	18	35	14	43	97	164
Panama	0	0	1	5	0	0

Note: Data provided by Department of Homeland Security, current as of June 15, 2014.

Asylum Applications Filed by Salvadorans, Guatemalans, and Hondurans in Mexico and Other Central American Countries, 2008-2013



Source: UNHCR Statistical Online Population Database.

Mr. GOODLATTE. For what purpose does the gentlewoman from Texas seek recognition?

Ms. JACKSON LEE. Yes. Mr. Chairman, first of all, I am glad that the First Focus was put into the record, and I would ask unanimous consent to include into the record a statement from the United Nations High Commissioner for Refugees, Children on the Run, and I would like to put into the record a letter to President Barack Obama that mentions that the DACA should be ended. I ask unanimous consent.

Mr. GOODLATTE. Without objection, those documents will be made a part of the record.

[The information referred to follows:]

Submitted by

Leslie E. Vélez
Senior Protection Officer
United Nations High Commissioner for Refugees

To

House Committee on the Judiciary
Hearing on

"An Administration Made Disaster:
The South Texas Border Surge of Unaccompanied Alien Minors"

June 25, 2014

Mr. Chairman, Members of the Committee, thank you for the opportunity to submit a statement on today's hearing on the spike in unaccompanied children from El Salvador, Guatemala and Honduras – the so-called "Northern Triangle" of Central America - at the U.S. southern border.

As the UN Refugee Agency, UNHCR has particular expertise in the area of protecting children displaced by violence and conflict.

The Office of the United Nations High Commissioner for Refugees (UNHCR) was established on December 14, 1950 by the United Nations General Assembly.[1] UNHCR, as the UN Refugee Agency, is mandated to lead and co-ordinate international action to protect and find solutions for refugees around the world. Twice granted the Nobel Peace Prize, the primary purpose of UNHCR is to safeguard the rights and well-being of those fleeing persecution, with a particular focus on the needs of vulnerable populations like children, particularly unaccompanied and separated children, single women, and the elderly, among others. With more than 60 years' experience in refugee protection, UNHCR brings extensive expertise in the area of child asylum-seekers, and thus has a particular interest in the issue at hand during this hearing.

About half of the world's refugees are children, and they are considered by UNHCR to be particularly vulnerable in situations of forced displacement. The vulnerability of children is largely the result of their age and dependence on adults, and children require exceptional efforts to protect them.[2] In situations of violence and conflict, children are both indirect and direct targets because of their age.[3] Unaccompanied refugee children are the most vulnerable, as they have no adult who is legally recognized to be responsible for their care.[4] Refugee girls are also more likely than boys to be the subjects of neglect and abuse, including sexual abuse, assault and exploitation.[5]

Drawing from our decades of experience and expertise working with children, UNHCR developed a *Framework for the Protection of Children*.[6] This Framework informs our position on the international protection of children, including those who are unaccompanied, in the context of forced displacement.

---

[1] UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950, A/RES/428(V), at: http://www.unhcr.org/refworld/docid/3ae6b3628.html. UN General Assembly, Protocol Relating to the Status of Refugees, 30 January 1967, United Nations, Treaty Series, vol. 606, p. 267, available at: http://www.unhcr.org/refworld/docid/3ae6b3ae4.html. Paragraph 8 of UNHCR's Statute confers responsibility on UNHCR for supervising international conventions for the protection of refugees, whereas the 1951 Convention relating to the Status of Refugees ("the 1951 Convention") and its 1967 Protocol relating to the Status of Refugees ("the 1967 Protocol") oblige States to cooperate with UNHCR in the exercise of its mandate, in particular facilitating UNHCR's duty of supervising the application of the provisions of the 1951 Convention and 1967 Protocol (Article 35 of the 1951 Convention and Article II of the 1967 Protocol). UNHCR's supervisory responsibility extends to all States Parties to either instrument, including the United States (U.S.).

[2] "They are physically and psychologically less able than adults to provide for their own needs or to protect themselves from harm. Consequently, they must rely on the care and protection of adults." UN High Commissioner for Refugees (UNHCR), *UNHCR Policy on Refugee Children*, para. 11, 6 August 1993, EC/SCP/82, available at: http://www.refworld.org/docid/3f9e68534.html

[3] For instance, armed groups and sometimes military attempt to recruit children. *Id.*, para. 13.

[4] *Id.*, para. 14.

[5] *Id.*, para. 12.

[6] UN High Commissioner for Refugees (UNHCR), *A Framework for the Protection of Children*, 26 June 2012, available at: http://www.refworld.org/docid/4fe875682.html

Unaccompanied children from El Salvador, Guatemala and Honduras have multiple reasons for leaving - but fear of violence is the tragic, common factor.

In late 2011, UNHCR and others noted a considerable uptick–the beginning of what is now known as the "surge"—in the numbers of unaccompanied children coming across the U.S. border. Every year since, the numbers of UACs crossing the border has essentially doubled. These children were primarily from three Central American countries–El Salvador, Guatemala, and Honduras–and from Mexico. Given our mandate to ensure the protection of those fleeing for their lives and freedoms, especially children, UNHCR undertook a study to understand the reasons for the increase.

Working closely with the U.S. Government and with child protection experts, UNHCR developed and implemented a sound, fully vetted methodology to learn from the children themselves why they decided to leave. Applying this methodology, UNHCR interviewed 404 children from the four countries, aged 12 to 17, in U.S. federal custody.[7] Launched in March 2014, our report, "Children on the Run: Unaccompanied Children from El Salvador, Guatemala, Honduras and Mexico and the Need for International Protection,"[8] reflects the findings and recommendations of our study.

The children gave multiple reasons for leaving, including violence, family, opportunity, and improved living conditions. Shockingly, 58% of the children cited violence in their home countries as at least one key reason for leaving. This number varied by country: El Salvador (72%), Honduras (57%), and Guatemala (38%).[9]

These children shared stories of violence, threats, intimidation and abuse – experiences that, like for so many children in situations of widespread violence and conflict, they should never have to face. The following are the voices of the children themselves[10]:

> *I am here because the gang threatened me. One of them "liked" me. Another gang member told my uncle that he should get me out of there because the guy who liked me was going to do me harm. In El Salvador they take young girls, rape them and throw them in plastic bags.*

---

[7] This sample, statistically significant to represent the broader UAC population, represents the appropriate gender distribution of girls and boys.

[8] UN High Commissioner for Refugees (UNHCR), *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the need for International Protection*, 13 March 2014, available at http://www.unhcrwashington.org/sites/default/files/1_UAC_Children%20on%20the%20Run_Full%20Report.pdf

[9] UNHCR is not alone among UN agencies and other intergovernmental bodies in the region noting the violent roots of this displacement. UNICEF, the UN agency charged with protecting children, recently released a statement saying, "Clear and compelling evidence . . . show distinct 'push factors' are at the heart of why these children flee. They are often escaping persecution from gangs and other criminal groups, brutality and violence in their own communities and even in their homes, as well as persistent conditions of poverty and inequality. . . ." *Bernt Aasen, UNICEF Regional Director for Latin America and Caribbean*, "Dramatic increase of unaccompanied children seeking to enter the United States", 10 June 2014, http://www.unicef.org/media/media_73755.html.

The Inter-American Commission on Human Rights (IACHR) also released a statement expressing its "deep concern over the situation of unaccompanied children migrants that are arriving to the southern border of the United States of America." Commissioner Felipe González, the Rapporteur on the Rights of Migrants of the IACHR and country Rapporteur for the United States, went on to highlight, "We are dealing with a humanitarian crisis involving record numbers of migrant children on the southern border of the United States, but also in other countries of the region. Through on-site visits and hearings, we have seen that our children are dying or being victims of several forms of violence in many parts of the region, and in this context there are some children who have been able to flee from these forms of violence, both inside and outside of their countries. . . ." http://www.oas.org/en/iachr/media_center/PReleases/2014/067.asp

[10] Additional quotes from the children are included as an appendix to the present statement.

My uncle told me it wasn't safe for me to stay there. They told him that on April 3, and I left on April 7. They said if I was still there on April 8, they would grab me, and I didn't know what would happen. . . . My mother's plan was always for the four of us – her, my two sisters and me – to be together. But I wasn't sure I wanted to come. I decided for sure only when the gang threatened me.

- Maritza, El Salvador, Age 15

Gangs in a nearby neighborhood wanted to kill me and some other people. They wanted me to give them money, but what money was I supposed to give them? I didn't have any. They asked me a bunch of questions, like who was my father, and who was my family. I told them my father was dead. They told me to say goodbye because I was going to join my father. They asked me if I knew who they were, if I could identify them. I said no, because I knew if I said yes they would kill me. They held my cousin and me for three hours, tied up. My cousin was able to untie the rope and he helped me untie mine. We heard gun shots and we ran. They kept looking for us, but we escaped.

- David, Guatemala, Age 16

My grandmother wanted me to leave. She told me: "If you don't join, the gang will shoot you. If you do join, the rival gang will shoot you or the cops will shoot you. But if you leave, no one will shoot you."

- Kevin, Honduras, Age 17

It is important to understand that the children's decision to flee at a particular moment is influenced by a number of factors. Many of the children chose the United States because they had family members there.[11] Others spoke of possible opportunities to study and improve their futures in the United States.[12] For those like Maritza who had lived in fear of even leaving their homes, let alone going to their neighborhood school, this is not only logical but expected.

Unaccompanied children and families who fear for their lives and freedoms must not be forcibly returned without access to proper asylum procedures.

At the core of refugee protection is the prohibition of returning a refugee to persecution. This prohibition, known as the principle of *non-refoulement*, is the fundamental obligation of States parties to the 1951 Convention relating to the Status of Refugees[13] and/or its 1967 Protocol,[14] and one that is

[11] Of the 404 unaccompanied children interviewed by UNHCR, only 8% had both parents in the U.S.; 28% had one parent in the U.S.; and 64% had no parents in the U.S. *See* UNHCR< Children on the Run: Unaccompanied Children from EL Salvador, Guatemala, Honduras and Mexico and the Need for International Protection," p. 63, March 2014, *available at* www.unhcrwashington.org/children.

[12] U.S. Customs and Border Protection (CBP) recently conducted a less formal survey of unaccompanied children from these same countries, trying to understand their reasons for making their journey northward. Once again, while many spoke of family reunification or other reasons for making the journey, nearly all of the children also cited violence, abuse and insecurity in their homes. Even applying a less vetted methodology, CBP officers encountered the same, multi-faceted explanation for the children's flight, all rooted again in fear of violence and abuse.

[13] UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: http://www.refworld.org/docid/3be01b964.html.

[14] UN General Assembly, *Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267, available at: http://www.refworld.org/docid/3ae6b3ae4.html.

binding on the United States.[15] A critical first step in complying with this obligation is to ensure that asylum-seekers are identified, screened and given full and meaningful access to asylum. This is particularly critical for children, whose age and comprehension capacity limits their ability to engage protection systems on their own.

With the knowledge that nearly 60% of the unaccompanied children from El Salvador, Guatemala and Honduras have potential claims for international protection, it is critical that they be identified, screened and given access to the U.S. asylum system.[16] Strengthening identification procedures in the U.S. and all other neighboring countries is the critical first step in a humanitarian response to ensure that those who fear persecution are not turned away.

Reception of asylum-seekers must focus on protection and not on deterrence.

As a global leader in refugee protection, the United States has long led by example in encouraging other countries in the region and around the world to develop and strengthen their own protection systems. As the United States decides what actions to take in responding to the increase in unaccompanied children and families crossing the southern border, a crucial element to that response is ensuring that they are treated with dignity and respect. The solution to the spike in unaccompanied children and families is not to make seeking protection more difficult.

The right to seek asylum is a protected right reflected in U.S. law. Seeking asylum is not a crime, nor is it a prohibited act. Any response to the "surge" should not seek to deter children and families from seeking safety and security. Policies and practices designed to deter those fleeing persecution from seeking safety and protection are contrary to both the letter and the spirit of the 1951 Refugee Convention and its 1967 Protocol as well as other international human rights instruments.

UNHCR and others have long-noted that no empirical evidence supports the assumption that immigration detention deters irregular migration, or that it discourages people from seeking asylum.[17] In 2006, UNHCR noted, "Critically, threats to life or freedom in an individual's country of origin are likely to be a greater push factor for a refugee than any disincentive created by detention policies in countries of transit or destination."[18] In Australia, for example, thousands of asylum-seekers continue to arrive to the country's shores, despite adoption of increasingly harsher detention practices. Unaccompanied children and families with children must be treated with dignity and provided age-appropriate reception conditions during their asylum procedures. This includes accessing more humane and cost-effective alternatives to detention arrangements.

This is a regional humanitarian problem that needs a regional humanitarian solution.

---

[15] The United States of America is a state party to the 1967 Protocol to the 1951 Convention on the Status of Refugees. *See* https://treaties.un.org/Pages/ViewDetails.aspx?src=UNTSONLINE&tabid=2&mtdsg_no=V-5&chapter=5&lang=en#Participants. For a map of states parties to the 1951 Convention or the 1967 Protocol, *see* UN High Commissioner for Refugees (UNHCR), *State Parties to the 1951 Convention relating to the Status of Refugees and/or its 1967 Protocol*, June 2014, available at: http://www.refworld.org/docid/51d3dad24.html

[16] Given that the families who are arriving in greater numbers from the three Northern Triangle countries have children

[17] UN High Commissioner for Refugees (UNHCR), *Back to Basics: The Right to Liberty and Security of Person and 'Alternatives to Detention' of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants*, p. 2, April 2011, PPLA/2011/01.Rev.1, available at: http://www.refworld.org/docid/4dc935fd2.html.

[18] *Id.*

While the United States receives the vast majority of asylum claims from the Northern Triangle, forced displacement from these three countries is clearly felt elsewhere in the region. At the time that UNHCR published our "Children on the Run" report, available data from 2008 to 2012 showed a 435% increase in the number of asylum applications overall from El Salvador, Guatemala and Honduras filed in Belize, Costa Rica, Mexico, Nicaragua, and Panama. Updating the data to include 2013 figures, the increase from 2008 to 2013 is now 712%.

Moreover, the trends of displacement over the last few years from the Northern Triangle are not out of sync with situations of forced displacement due to conflict. Individuals and families do not want to flee their homes, or their countries, if they can avoid it. Many will often displace internally before seeking refuge outside their countries. One current example is that of the Syria conflict, where displacement over time grew greater as the intensity and pervasiveness of the conflict made it untenable for individuals and families to stay.[19]

Given the regional nature of this displacement crisis, the United States cannot and should not bear the burden of addressing the situation alone. UNHCR stands ready to support the U.S. and other asylum countries in the region – particularly Mexico and Guatemala – to enhance protection systems throughout the region and to provide protection to those whose lives and freedoms are under threat. The U.S. has been a leader globally and regionally in refugee protection, particularly in protecting unaccompanied children and others of our most vulnerable. UNHCR hopes that the U.S. will continue to lead by example to encourage and support strong protection for children and families throughout Central American and Mexico.

Conclusion

The increase in arrivals of unaccompanied children and families along the southern border has no doubt placed great pressures on the United States' long-standing commitment and values to the protecting the most vulnerable of those seeking safe haven in the U.S. Understanding what has propelled these children and families from their homes, providing appropriate reception conditions, and ensuring protection to those who cannot return, is fundamental to meeting U.S. obligations to protect refugees and other vulnerable persons. Perhaps more importantly, it is fundamental to the United States' moral authority and long-standing identity as a beacon of hope to the persecuted. UNHCR stands ready to support the United States and other countries in the region in providing protection to these children—and families—on the run.

[19] *See* http://data.unhcr.org/syrianrefugees/regional.php.

Appendix

Sometimes adults view children as lesser and they think we can't become anything or don't have an opinion. They don't ask for our view on things. They need to give us a voice.
- Girl, 17, El Salvador

"Children on the Run": Quotes from the Children[20]

Girl, 12, Honduras: In the place that I lived, it's like an *aldea*, and there were a ton of "mareros". All they did was bad things, kidnapping people. My mom and grandmother were afraid that something would happen to me, so that's why my mom brought me here. They rape girls and they end up pregnant. There were five girls that the gang members got pregnant, others that their families never heard from them again. There was a lot of security in my school, and I only had to walk two minutes. Even then, either one of my uncles or male cousins would accompany me to school. I was afraid that if I wasn't careful they would grab me and who knows what would happen.

Girl, 17, Honduras: My uncle was killed one week before I left. In the *colonia* where we lived, a mara is in charge. The "*mara*" extort all the bus drivers who live in the area. My uncle was a bus driver. They went to the bus station and killed him. I was two blocks away when this happened, waiting for a taxi. I heard everything happen, all the gun shots. After they killed him, the gang members came and told me that they knew I was his niece and that I was in danger. My entire family had to leave after the *colonia* because we were in danger. *I didn't plan on leaving for the United States until this happened.*

Boy, 16, Honduras: Last year the gang members told everyone in my *colonia* that the gang was in control and everyone had to get out. My entire family left because they knew it was dangerous. They try to make boys join the gang. It's dangerous for girls, too. My sister is 19. Even if they don't make girls join, they will make girls be with them by force.

Boy, 17, El Salvador: The problem was that in the place that I studied there were lots of gang members from M-18. The place that I lived was under control of the other gang, MS-13. They thought I belonged to MS-13. *The gang members waited for me outside of the school.* It was a Friday and I was headed home. It was the week before *Semana Santa*. They told me that if I returned to school, I wouldn't make it home alive. Where I studied, they killed two kids I went to school with, and I thought I might be the next one. The "maras" killed the two police officers that protected our school. After that, I couldn't even leave my "canton". They prohibited me. If they had seen me even shopping in the city, it would have been problematic for me. I know someone who the gangs threatened this way. He didn't take their threats seriously. They killed him in the park. He was wearing his school uniform. If I hadn't had these problems, I wouldn't have come here.

Boy, 17, Guatemala: Guys in La Union that were part of the Zetas wanted me to traffic cocaine for them from La Union to Gualan. They said that if I didn't do it they would kill me. They wouldn't leave me alone and I was afraid they would do it. One time they called me and asked me for the address where I lived. They said they would come look for me and they wouldn't leave me alive. I couldn't go to La Union anymore.

[20] Due to child protection sensitivities, UNHCR only interviewed children aged 12 to 17.

Boy, 15, El Salvador: It was urgent that I leave. My town used to be one of the safest towns. Now it is filling up with "maras". Starting in November 2011, MS-13, they were pressuring me to join them, and I don't want to do that. I want to get ahead in life and study. They told me to go with them and try drugs. They said that I would feel good and liberated. They told me to leave my house at night and go with them. They sent me text messages and called me. They would say "Hey, 'que onda' (what's up), are you coming out with us, or what? If not, let's see what happens to you."

Boy, 16, Honduras: I live in one of the most dangerous neighborhoods in Honduras. The gangs in my neighborhood wanted me to join their gang. They told me they would give me money, drugs, weapons, women, and power. They wanted me to defend my neighborhood from the rival gang as a gang member. They were from MS-13. I didn't want to hurt people or steal things, so I told my mom I wanted to come. When I was deported from Canada, I was in my neighborhood and some of the MS-13 guys saw me and thought I belonged to the rival gang because they didn't recognize me. They tried to kill me. They beat me with the butt of a rifle and tried to shoot me. I escaped, but I had to hide in my house for a couple months until I was able to come to the United States.

Boy, 17, El Salvador: I left because I had problems with the gangs. They wanted me to join them, and they said if I didn't that they would kill me. They bothered me on the way to and from school because they hung out by a field that I had to pass to get to school. Police won't go there because they are afraid of the gangs too. … If you say you don't want to join, they force you. I have many friends who were killed or disappeared if they refuse to join the gang. I told the gang I didn't want to. Their life is only death and jail, and I didn't want that for myself. I want a future. I want to continue studying and to have a career. That isn't possible when you're in the gang. I didn't want that for my family either. I didn't want my mother to suffer the way that mothers of gang members suffer. My friends who were in the gang were pushing me to join. You can't stop being friends with them even though they are pushing you to join the gang. It's dangerous to be their friend, yes. But, if you're not their friend, you're their enemy. And that's dangerous, too. The more they saw me refusing to join, the more they started threatening me and telling me they would kill me if I didn't. … They beat me up five times for refusing to help them. I didn't like when they beat me because the pain was so bad that I couldn't even stand up. They killed a friend of mine in March because he didn't want to join. They didn't find his body until May. This made me want to leave even more.

Girl, 14, Honduras: One of my uncles in Honduras mistreated me. He would beat me when he came to my house. He told me I rubbed him the wrong way. He also didn't like seeing me talking to another boy. He raped me in 2009. I didn't tell my mother until last year. My family reported him, but he paid off the police. I told my mom to bring me several months ago, but it took a long time. ... It's dangerous and she was worried about bringing us girls.

Boy, 17, Honduras: The gangs are like a virus that infects the entire region.

Boy, 17, El Salvador: "I left because I was afraid. I wasn't brave enough to continue living there. One day, some MS-13 gang members told me that they had seen me and they thought that I would be a good gang member. I didn't say anything, I just ignored them. A couple weeks later, I was riding my bicycle to my grandmother's house, and two gang members were waiting for me by a gate. They asked me what I thought about their offer. I told them that I didn't want to join, that it wasn't for me. They said that they gave me two options -- I could either live or die. They told me that they would give me eight days to think it over, and that if I didn't come to the right decision that they would kill me."

Call on President Obama to End Failed Immigration Policies

From: The Honorable Darrell E. Issa
Sent By: robert.rische@mail.house.gov
Date: 6/24/2014

Dear Colleague:

Our country is experiencing an unprecedented crisis along the southwestern border as thousands of unaccompanied minors illegally cross into the United States. Our law enforcement officials and communities are overwhelmed, and emergency government-run facilities are being opened across multiple states to help provide care for these children.

Throughout the past six years, President Obama has bypassed Congress and implemented policies that encouraged foreign nationals to break the law, enter our country illegally, and strain communities across our nation. The only way to effectively end the current crisis and prevent any future surge is to end the President's failed policies and send a clear signal that our nation will enforce immigration laws.

Unfortunately, President Obama has done little to end the perception that unaccompanied alien children will not receive preferential immigration status. Please join me in calling on President Obama to immediately end his failed policies that have incentivized this crisis and to work with Congress on reforms that secure our border and end this unsustainable course.

Deadline to co-sign is COB Thursday, June 26th. For questions or to sign on, please contact Ellen Dargie at ellen.dargie@mail.house.gov or 5-3906 x4.

Sincerely,

Darrell Issa

June XX, 2014

President Barack Obama

The White House

1600 Pennsylvania Avenue N.W.

Washington, D.C. 20500

Dear Mr. President:

As our country faces an unprecedented surge in the arrival of unaccompanied alien children (UACs) at our southwestern border, we call on you to immediately end the failed policies that encourage young individuals to put themselves in peril, leave their home countries, and make a long and dangerous journey to enter our country illegally. Instead, you must work with Congress to expeditiously end this unsustainable course.

In recent years, your Administration has vowed to circumvent Congress, ignore immigration law, and act outside the scope of Executive powers to implement your desired immigration practices. Now, our Border Patrol agents, Immigration and Customs Enforcement (ICE) officials, health and education services, and communities along the southwestern border are overwhelmed by a crisis that must be addressed immediately.

On June 23, 2014, the Department of Homeland Security promoted an opinion editorial by Secretary of Homeland Security Jeh Johnson that attempted to dissuade young foreign nationals from entering the United States illegally by pointing out that they will not receive preferential status under any one of your promised programs.[1] As the written piece suggests, the current surge is far more than a humanitarian crisis resulting from violence and economic failures in Central America. The perception of eventual legal status has been generated through your Administrative actions. To counter these perceptions, you must take concrete action beyond editorials and press releases- you must end the failed policies that stimulated this unmanageable situation.

Firstly, we call on you to end the Deferred Action for Childhood Arrivals (DACA) program created, without congressional support, by your Administration in June, 2012.[2] While the current program only applies to arrivals prior to 2007, the very existence of the program contradicts present law and violates the Constitutional principle of a separation of powers which grants primary law making authority to the Congress. The Executive does not get to pick and choose which laws must be enforced and which can be selectively ignored. Further, DACA rewards families and individuals who have broken our laws, further encouraging others to seek similar benefits. The DACA program must be immediately ended to send a clear signal to all individuals that our immigration laws will be enforced.

Secondly, you must make an explicit public commitment that you will not support legislation that extends legal status to newly arriving illegal aliens no matter the age. Secretary Johnson's statement that S. 744, the Senate's immigration proposal, would not confer benefits to the newly arriving UACs is insufficient to mitigate the popular belief that a pathway to citizenship will be available to any individual in the United States. We request that you remove from consideration any preferential treatment for individuals who have recently illegally crossed our borders.

Additionally, on March 13, 2014, you directed Secretary Johnson to conduct a review of the Department of Homeland Security's deportation procedures.[3] In May, you requested that the findings of this review be delayed until the end of the summer, suggesting that at that time you would once again be willing to act on immigration policy without Congressional approval. Your continued commitment to circumvent Congress and implement policies contrary to the intent of immigration law sends foreign nationals the false hope that administrative amnesty is possible. By refusing to disclose the nature of the DHS review and the scope of policy considerations, your Administration has encouraged UACs to enter the United States sooner rather than later, and we ask that you immediately clarify the intent of this review and ensure that no special treatment for any illegal alien, including UACs, will be attempted through the DHS review.

Following the end of these three destructive efforts, you should work with legislators to ensure vigorous oversight of our generous asylum system to avoid fraud and abuse. The National Security Subcommittee of the House Oversight and Government Reform Committee has conducted oversight of fraud and abuse in the existing asylum process.[4] As Congress considers legislative proposals to ensure our system is reserved for deserving applicants, we urge you to cooperate with Congressional leaders to provide accurate data on the recent surge and work for legislative reforms that ensure the safe repatriation of these minor children to family members in their home countries and provide the commitment necessary to secure our border.

[1] http://www.dhs.gov/news/2014/06/23/open-letter-parents-children-crossing-our-southwest-border?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+dhs%2FzOAi+(DHS+News+Releases+Feed)

[2] U.S. Department of Homeland Security, "Secretary Napolitano Announces Deferred Action Process for Young People Who Are Low Enforcement Priorities," http://www.dhs.gov/files/enforcement/deferred-action-process-for-young-people-who-are-low-enforcement-priorities.shtm

[3] http://www.whitehouse.gov/the-press-office/2014/03/13/readout-presidents-meeting-congressional-hispanic-caucus-leadership

[4] http://oversight.house.gov/hearings/

Mr. GOODLATTE. And I will begin the questioning, and I will direct this first question to Mr. Vitiello and Mr. Judd.

Yesterday White House Press Secretary Josh Earnest challenged Republicans, stating that if they are truly concerned about border security, we should back the comprehensive immigration reform package that passed the Senate last year and is strongly supported by President Obama.

Unfortunately, these statements show the Administration's lack of understanding of this issue. Its failure to secure our borders, mitigate threats to national security, or enforce our immigration laws only undermines Congress' ability to reform our immigration laws. Further, the Senate bill does not contain any provisions that address the problems in current law that would allow us to more effectively address the current surge at the southern border. We could line Border Patrol agents shoulder to shoulder at the southern border, and it would not matter, due to this Administration's policies.

Isn't the point of apprehending aliens to ensure their return to their home countries, not to provide them a golden ticket into the United States?

And I will start will you, Mr. Vitiello, and then go to Mr. Judd.

Mr. VITIELLO. I am not sure——

Mr. GOODLATTE. The question is, isn't the point of your job of apprehending illegal aliens to ensure that they return to their home countries, not to provide them a golden ticket into the United States?

Mr. VITIELLO. It is the work of the border control to interdict people who enter between the ports of entry illegally, yes.

Mr. GOODLATTE. Thank you. Mr. Judd?

Mr. JUDD. The question needs to be asked: why are they entering between the ports of entry? Why aren't they just going to the ports of entry? It would be easier, it would be a lot less dangerous. If we line our border and were arresting these people and taking our manpower out of the field, we are opening up holes for criminal cartels. That is what we are doing.

Mr. GOODLATTE. So the Administration's alleged commitment to border security is irrelevant, because the way the laws are written and because of the Administration's credible fear of persecution and asylum policies, the more Border Patrol agents we send to the border, the more opportunities that aliens have to turn themselves over to them so that they can then be released into the country on the promise of appearing at an immigration court hearing years down the road. Is that an accurate summary of the situation your agents face?

Mr. JUDD. Our agents are arresting these individuals and we turn them over, and what happens to them from there? We are seeing what is happening to them from there, but, again, from an enforcement standpoint, if we arrest them and we are just letting them go, we are going to continue to see more.

Mr. GOODLATTE. And let me ask you this. While 47,00, according to these charts, unaccompanied alien minors have arrived in the first 6 months of this year, it is not just unaccompanied alien minors who are arriving. Adults taking along minors are also coming.

Since 2011, the number of apprehended individuals comprising family units has increased from 13,000 to 42,000 for this year as of June 16th. Taking into account just half of this year, we have seen a 143 percent increase in families apprehended at the border since 2012.

DHS has less than 100 beds for family detention, meaning that these families are usually released. Additionally, family members of these youth who arrived earlier may have received prosecutorial discretion and work authorization.

To what extent do you think this has caused families to come to the United States in violation of the law? And I think maybe more appropriately, I should direct that question to you, Mr. Homan.

Mr. HOMAN. What is the question, sir?

Mr. GOODLATTE. The question is to what extent do you think that the families who have arrived earlier may have received prosecutorial discretion and work authorization has caused families to come to the United States in violation of the law?

Mr. HOMAN. Well, I can't speculate on why everybody is entering the country. I defer to Border Patrol, because they do the interview of the subjects when they enter the country and they are processing them. I only know what I read. I haven't had the direct contact with the aliens.

Mr. GOODLATTE. And when they do enter, however, you only have 100 beds for them. Is that correct?

Mr. HOMAN. I have 96 beds.

Mr. GOODLATTE. 96 beds for, this year, 42,000 people. That is kind of cramped, isn't it?

Mr. HOMAN. I have 96 family beds is all I have.

Mr. GOODLATTE. Thank you.

Mr. Crane, you want to add anything to that?

Mr. CRANE. I guess, sir, I would just say that it is ridiculous. There is no way that we can do our jobs, that we can enforce the laws of the United States if we don't have bed space to hold people that we apprehend—period.

Mr. GOODLATTE. And Mr. Homan, let me ask you one more question. We understand that you are a career law enforcement official, and we thank you for that. We are just trying to understand the operational realities associated with poor policy decisions.

Part of the White House's mantra on this matter is that everyone is being put into removal proceedings, yet as reported by the New York Times this weekend, that doesn't really mean much, when some will wait years for their first court date, then there will be procedural moving and posturing that will last years, even if the aliens show up for their court dates, which many will not.

By the time a removal order is issued, won't these individuals be so low on the totem pole for removal, that ICE's stated priority is that they will never actually be—under the stated priorities of ICE, that they will never actually be removed; is that the case?

Mr. HOMAN. I can say that every unaccompanied child and every family unit member, our surge with NTA's and scheduled to be put in front of a immigration judge, and so that they had the proceedings scheduled, but it is years out. I mean, there is a lack of immigration judges, so some of these hearings take years. It can take 2 years, it can take 5 years.

Mr. GOODLATTE. In fact, isn't it true that ICE has only been able to remove less than 2,000 unaccompanied alien minors per year since 2011 as we have seen this surge taking place?

Mr. HOMAN. Yes. Last year we removed 1,800, but, again, as I said about the immigration courts, when we looked at all the unaccompanied alien children that were—NTA's were filed with the immigration court in the last 5 years, 87 percent of them are still in proceedings. We have no final orders.

Mr. GOODLATTE. Thank you.

The Chair recognizes the gentleman from Michigan, Mr. Conyers.

Mr. CONYERS. Thank you.

As we have listened to this story unfold, many, including some of the witnesses today, say that we can only stop the migration flow by changing the cost-benefit analysis made by these children.

And I wanted to start off with you, Deputy Chief Vitiello, and ask you this question: might it not be clear that the possibility of coming to this country is motivated by a huge fear of violence and death that many of these children have in their home countries, and as a matter of fact, an attitude shared frequently by their parents as well?

Mr. VITIELLO. In the reporting that I have seen, there are several factors. The violence and conditions at home is among one of the top four, correct.

Mr. CONYERS. And do you have any reason to believe that your organization and Enforcement and Removal Operations are all working in good faith with Homeland Security to do their best in terms of an incredibly dangerous situation?

Mr. VITIELLO. So we have done quite a bit to improve conditions on the ground in RGV. With FEMA's help, with some help from the Coast Guard, Office of Health Affairs, we are doing the best we can given the situations faced there.

Mr. CONYERS. Are there any assurances that you will be getting even further assistance?

Mr. VITIELLO. We have gotten quite a bit of help from FEMA and the interagency coordination directed under the national response framework continues, so increased transportation both from ICE and from other sources, increased detention capacity for ICE, and increased placement or places for placement within HHS.

Mr. CONYERS. And my last question to you, is that, our staff reports that the number of unaccompanied children from Nicaragua that have been apprehended by Border Patrol for this fiscal year is 164. Does that comport with your records or knowledge?

Mr. VITIELLO. I don't have that number in front of me. I know that the number from Nicaragua is small in comparison to the other three.

Mr. CONYERS. Thank you very much.

Bishop Seitz, how do we deal with a problem of these huge vulnerable populations from these three countries, El Salvador, Guatemala and Honduras, and have to recognize that from other countries around, we don't have these same numbers? Doesn't that seem like some kind of a discrepancy to you or an anomaly that we might want to inquire into?

Rev. SEITZ. Yes, Mr. Conyers. You began by asking how do we deal with an issue so large, and, of course, my first answer is al-

ways a good deal of prayer would be a good idea. It is a huge problem—huge challenge that we face.

I think it is so interesting that when you look at the sending countries, that Nicaragua is involved in that number. It is the one thing that we can distinguish is different in Nicaragua from those other three is the presence of pervasive violence within those countries, and so certainly a part of the response has to be that we need to do what we can, both church and our Government, to try and bolster the ability of these Governments and communities to deal with the incredible levels of violence, unimaginable levels of violence that these families are facing.

Mr. CONYERS. I want to thank you for your comments.

And I also want to thank the entire panel for the seriousness which they approach the gravity of this incredible circumstance of young people who are risking their lives and are exposed to all kinds of unimaginable dangers in terms of a risk of trying to get to this country.

My last observation, if I can, it is very quick, do you have any information that our Government could in any way be aiding or encouraging them to come to this country?

Mr. GOODLATTE. We will allow a brief answer.

Mr. CONYERS. Well, I don't have any answer right now, so——

Mr. GOODLATTE. Well, if they have answers, they can submit them at any time.

Mr. CONYERS. Yeah.

Mr. GOODLATTE. The Chair now recognizes the gentleman from North Carolina, Mr. Coble, for 5 minutes.

Mr. COBLE. I thank the Chairman and I thank the panelists for being with us today.

You all may have touched on this, Mr. Vitiello, but if you did, I want you to reiterate it. What consequences specifically would you like to see put in place to stem the flow of unlawful aliens into our country?

Mr. VITIELLO. So I think that consequences matter. When we were struggling with the high levels of illegal migration in Tucson, we did quite a bit of work to find out and classify people as they were being apprehended and to place them into some sort of proceedings, whether Federal prosecution or administrative hearings for removal.

Mr. COBLE. Now, these were juveniles for the most part?

Mr. VITIELLO. No. No. The problem in Tucson was much different.

Mr. COBLE. Okay.

Mr. VITIELLO. These were adults and mostly from Mexico. And so what we are working on together in the interagency, specifically with ICE's help, is increased detention for the family units. We think that that is going to make a difference in this problem.

Mr. COBLE. Of course the Bishop suggested it is always in order, prayer should not be cast aside.

Mr. Vitiello, I want to ask you this: We have been reading a lot about these juveniles, unescorted juveniles coming to the border. When did this start?

Mr. VITIELLO. I think we have seen an increase over the last several years. This year is much different than anything we have seen

previously. Typically in the last several years, the high levels of traffic would have leveled off, if you will, in the spring, and this year it has not.

Mr. COBLE. Well, has enforcement during this time been relaxed as far as enforcing our immigration laws?

Mr. VITIELLO. It has not.

Mr. COBLE. Let me ask you this, and I am not sure how I want to frame this, but, whoever can answer this. To what extent has there been an increase in gang entry, members of gangs who are coming, be they juveniles or adults?

Mr. VITIELLO. So that is always a concern for law enforcement and agents in the field ourselves. We haven't seen a marked increase in the number of people who are gang affiliated or criminal records during this influx.

Mr. COBLE. Because I know much of Mexico is gang infested. I just didn't know how much pour-over there may have been. Anybody else want to put their oars into these waters?

Mr. JUDD. Yes, Congressman. What we have to look at is most of these unaccompanied minors, they are coming across and they are giving themselves up. The gang members don't come across and give themselves up. So what we are seeing in influx is unaccompanied minors. There very well could be an influx of gang members. Unfortunately, because our workforce is so stressed and we are creating the holes, it is becoming much easier to smuggle those that would do harm to our country through the holes that are being created.

Again, the question has to be asked: why aren't they presenting themselves at ports of entry, at secure locations instead of going through dangerous desert terrain, across rivers, over fences? They could easily go to the ports of entry and present themselves there, ask for asylum, and receive the exact same thing that they would be getting through going through the desert, but they are not doing that. They are going through the desert and they are stressing our resources.

Mr. COBLE. I am wondering if the parents of these juveniles were told, send your kids to America, we will take care of them, and then they relied upon this to their detriment. Anybody know anything, any more details about that, whether they were told, when they were told, if they were told? Bishop, do you?

Rev. SEITZ. I am sure that some folks, the coyotes, the ones who bring them across, have been building up that possibility, there is no question about that, but, again, from what we have seen and heard, the main reason that they are deciding to leave and still face the tremendous dangers that they face on the journey is because they don't feel they have any other choice, because of the violence.

Mr. COBLE. I thank you. Thank the gentlemen.

Mr. Chairman, I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman.

Recognizes the gentlemen from New York, Mr. Nadler, for 5 minutes.

Mr. NADLER. Thank you. Before I start my questions, let me first express my dismay at the title of this hearing, "An Administration-Made Disaster: The South Texas Border Surge of Unaccompanied

Alien Minors." It shows what a farce it is. You announce the conclusion before the inquiry. We are here, presumably, if we are here for any purpose other than politics, to find out what is going on and why we have this surge at the border, but the conclusion is announced in the title.

Now, the conclusion, I believe, is wrong, but nonetheless, a proper title for the hearing might be, A Disaster, or A Problem: The South Texas Border Surge of Unaccompanied Alien Minors, instead of saying it is the Administration's fault to start with. Now, maybe it is. I don't think so, but that is the conclusion. And it is wrong to have a hearing with a conclusion announced before you start the testimony.

Bishop Seitz, we have heard today and you have talked about the dismaying violence that is propelling these kids to come here, through danger to come here, et cetera. We have also heard that the immigration policies of the Obama administration, particularly its Deferred Action for Childhood Arrivals policy, is responsible for the recent wave of unaccompanied alien children fleeing to the United States, that these kids are making a sophisticated cost-benefit analysis, and with their sophisticated understanding of American policy, they are determining that, well, if I get into the United States, I probably won't have a hearing for a few years and I probably will be in a bed somewhere, so I might as well trek across the desert and come here.

How would you respond to the assertion that what is causing this surge in kids coming here unaccompanied is the Administration's policies, Deferred Action for Childhood Arrivals, as opposed to the violence in these countries that we hear about?

Rev. SEITZ. Well, from what I have seen, there hasn't been a significant change in recent months in Administration policy, as far as I know. What has changed, it appears, is the violence on the ground in these countries.

In Honduras, if you can imagine this, the population of the country is something like 8 million; the number of children being killed each month has been in the last couple of years around 70 children; in the month of May, it was 102.

And so it seems that gangs and narcotraffickers are choosing to target children and to try and co-opt them into their gangs to cooperate in their work.

Mr. NADLER. So these kids are fleeing in terror, in effect?

Rev. SEITZ. Exactly.

Mr. NADLER. Now, are we seeing an increase, a similar increase in unaccompanied youth fleeing these three countries for other countries just to get out of there?

Rev. SEITZ. Well, that is what one would expect if it were simply owing to poverty and then an Administration invitation, but as I mentioned and what others did as well, Nicaragua, which is perhaps even poorer than those other countries that are senders, has not seen a change in——

Mr. NADLER. No, no. You misunderstood my question. From the three countries where the violence is——

Rev. SEITZ. Yes.

Mr. NADLER [continuing]. Have we seen an increase in kids fleeing there for places other than the United States?

Rev. SEITZ. Oh, I am sorry. Yes, we have. We have seen huge increases. I believe the chart that was up earlier, I don't see where it went to, shows that, that countries that are receiving, such as Panama, Belize, Nicaragua itself, are receiving many more——

Mr. NADLER. Many more.

Rev. SEITZ [continuing]. Asylum seekers.

Mr. NADLER. And this would be consistent——

Rev. SEITZ. I think it is up 400 some percent.

Mr. NADLER. This should be consistent with the conclusion that this increase in kids coming across, coming here as well as other places is because of the violence, not because of any Administration policy.

Let me ask Mr. Vitiello or Mr. Crane, would you say anything to disagree with what Bishop Seitz was just discussing? Is there any evidence—well, why should we not reach the conclusion that this increase in kids, unaccompanied kids coming to the border and presenting themselves to the border, not trying to sneak across the border, presenting themselves to the border guards, why should we not believe that this is because of violence and that it is because instead of some Administration policy and something else?

Mr. VITIELLO. Violence is one of the contributing factors, but there has been some confusion reported by the media in these locations, that there is some benefit to be had in the United States. That is why it is important, I think——

Mr. NADLER. And that explains why they are going to other countries, too?

Mr. VITIELLO. I am not sure, but I think it is important to recognize that the Secretary did write an opinion piece for an editorial to the families of people in these countries to tell them that there isn't this benefit that maybe smugglers, maybe others, maybe the media is promoting that don't exist.

Mr. NADLER. Is there any real evidence, Mr. Crane or Mr. Vitiello——

Mr. GOODLATTE. The time of the gentleman has expired.

Mr. NADLER. Can I finish this question?

Mr. GOODLATTE. You can finish the question.

Mr. NADLER. Okay.

Mr. GOODLATTE. Very quickly.

Mr. NADLER. My question is, the entire premise of this hearing is that it is Administration policy on Deferred Action for Childhood Arrivals that is causing this problem.

Are you aware of any evidence that it is that as opposed to violence in the sending countries?

Mr. JUDD. I work for the Border Patrol, so we are the ones that arrest them upfront. What we have to do is we have to interview these individuals that we arrest, and one of the things that we have to ask, especially if they ask for asylum, we have to ask what is the credible fear, and oftentimes they will tell us that they are coming here to be reunited with their family or they have been told that they'll be released if they come.

So, yes, in the initial interviews that take place with the agents and those people that we arrest, they are telling us that they are—they are coming here because radio is telling them that if they come, they will be released, the churches are telling them if they

come, they will be released, and other organizations are advertising. These are the initial interviews that are taking place, and they are documented. These interviews are documented. They are a matter of record.

Mr. GOODLATTE. The time of the gentleman has expired.

The Chair announces that there is a series of votes on the floor. The Committee will reconvene immediately following the votes, but we have time to get one more Member's questions in.

So the Chair will now recognize the gentleman from Alabama, Mr. Bachus, for 5 minutes.

Mr. BACHUS. I appreciate that.

Bishop Seitz, I have worked very closely with the Catholic church on debt relief and Jubilee and had the debt relief bill in the House, and I have actually spoken out for legalization of 12 million immigrants that are here, I have spoken out for the need to have some pathway to citizenship for our dreamers, I have criticized the Alabama bill, I was probably one of the only public officials that criticized it as being an overreach, so I think I have established at least an immigrant friendly position, and I very much sympathize with them. We are a country of immigrants.

I am curious, these children are coming from Honduras, Guatemala, I guess El Salvador and some from Mexico, but the Catholic church obviously, and I think you-all offer more—I think your statement, you are the largest refugee resettlement agency in the world. Is the church undertaking any effort to discourage these children from taking these long journeys, or others? Are you speaking out in these countries, the church, the Bishops, the fathers?

Rev. SEITZ. Very much so. During our mission to Central America in November, we spoke to many groups that are working with the children, with the youth in these areas, and their universal message is don't go, and that is personally a message that I have conveyed when I have been there speaking to young people.

We really want to do what we can to stabilize their situation there. There is a program, I believe it is organized by Catholic Relief Services called Youth Builders, which is working directly to help children who are at risk for fleeing to be able to stay, and they've been very successful.

Mr. BACHUS. And, I think even speaking out against the drug trafficking, the violence, the church, I think, would be very effective in doing that, because I don't think whether you're pro-immigration, anti-immigration, you don't want these children being sent unaccompanied.

Even with the Governments, I don't know if the Catholic Church in countries like Mexico, these countries, they have quite a bit of political clout, even going to the president of Mexico and saying, you are allowing trains to come here, freight trains just with children hanging off the tops. That could be stopped. I mean, I would think just a minimal Government effort could stop a lot of that. I mean, I can't imagine the Mexican Government not being able to stop children on their border. I know some of this is just a force and a demographic.

Rev. SEITZ. Yeah. We certainly don't encourage them to make the journey. At the same time, I think we have to recognize that if

these children feel that their life is in danger, they may well feel like a person——

Mr. BACHUS. But are there—are there ways——

Rev. SEITZ [continuing]. Trying to get out of a burning building.

Mr. BACHUS. Are there ways to offer those children a place of refuge within those countries where the Catholic church has a large presence, I mean, in convents and in places, we have boys, girls ranches here, places of that nature?

Rev. SEITZ. We have a large presence, but unfortunately limited resources. We are trying to do the best that we can with the resources we have.

Mr. BACHUS. Well, that is what he was saying wouldn't they be safer if they stayed in Honduras and El Salvador. I wish the church, and I am not speaking—I wish we all would say, is there a way to stabilize the situation there. I really think—and, if they make it to the United States, you offer them shelter and refuge. That almost in a way, and I know it is not your intention, but does that create somewhat of a magnet?

Rev. SEITZ. When they arrive to the United States, I don't think we can say, "I am not going to show you compassion. I am going to leave you on the street"——

Mr. BACHUS. Sure.

Rev. SEITZ [continuing]. "Because I don't want to encourage anyone else."

Mr. BACHUS. Yeah.

Rev. SEITZ. We have to care for the situation as it is at—and those children in need.

Mr. BACHUS. I would just encourage you, because they are going to continue to do so, that there needs to be an effort, and I know I am speaking to the choir.

Mr. GOODLATTE. The Chair thanks the gentleman.

Mr. GOHMERT. Mr. Chairman, could I ask unanimous consent to submit for the record from ICE, an escort services for unaccompanied alien children solicitation BERKS RFI, noting that they are expecting 65,000 unaccompanied children in the months ahead? This was in January of this year. I would ask that it would be submitted into the record.

Mr. GOODLATTE. Without objection, it will be made a part of the record.

[The information referred to follows:]

Escort Services for Unaccompanied Alien Children

Solicitation Number: BERKS-RFI
Agency: Department of Homeland Security
Office: Immigration & Customs Enforcement
Location: ICE-OAQ-DM

Notice Type:
Sources Sought

Posted Date:
January 29, 2014

Response Date:
Feb 19, 2014 11:59 pm Eastern

Archiving Policy:
Automatic, 15 days after response date

Archive Date:
March 6, 2014

Original Set Aside:
N/A

Set Aside:
N/A

Classification Code:
V -- Transportation, travel, & relocation services

NAICS Code:
485 -- Transit and Ground Passenger Transportation/485991 -- Special Needs Transportation

---

Synopsis:
Added: Jan 29, 2014 3:19 pm
See Attachment.

RFI

Type: Other (Draft RFPs/RFIs, Responses to Questions, etc..)
Posted Date: January 29, 2014

Juvenile Transport RFI (TONY Edits 1 29 14).docx (36.76 Kb)
Description: Escort Services for Unaccompanied Alien Children RFI

Contracting Office Address:
801 I Street, NW, Suite 910,

Washington, District of Columbia 20536
United States

Place of Performance:
Varies. See Attachment.

United States

Primary Point of Contact.:
Tony Ross,
Contracting Officer
tony.ross@ice.dhs.gov
Phone: 2027322587

Secondary Point of Contact:
Rachel Ali,
Contract Specialist
Rachel.Ali@ice.dhs.gov
Phone: 2027322622

ALL FILES

RFI
Jan 29, 2014
Juvenile_Transport_RFI

Opportunity History

- **Original Synopsis**
  Jan 29, 2014
  3:19 pm

Procurement Type: Request for Information (RFI)/Sources Sought

Title: Escort Services for Unaccompanied Alien Children

Classification Code: V- Transportation/Travel/Relocation

NAICS code: 561612

Primary POC: Rachel Ali, Contract Specialist/ Rachel.Ali@ice.dhs.gov

Secondary POC: Tony Ross, Contracting Officer/ Tony.Ross@ice.dhs.gov

A. Introduction

U.S. Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), has a continuing and mission critical responsibility for accepting custody of Unaccompanied Alien Children (UAC) from U.S. Border Patrol and other Federal agencies and transporting these juveniles to Office of Refugee Resettlement (ORR) shelters located throughout the continental United States. ICE is seeking the services of a responsible vendor that shares the philosophy of treating all UAC with dignity and respect, while adhering to standard operating procedures and policies that allow for an effective, efficient, and incident free transport. The Contractor shall provide unarmed escort staff, including management, supervision, manpower, training, certifications, licenses, drug testing, equipment, and supplies necessary to provide on-demand escort services for non-criminal/non-delinquent unaccompanied alien children ages infant to 17 years of age, seven (7) days a week, 365 days a year. Transport will be required for either category of UAC or individual juveniles, to include both male and female juveniles. There will be approximately 65,000 UAC in total: 25% local ground transport, 25% via ICE charter and 50% via commercial air. Escort services include, but are not limited to, assisting with: transferring physical custody of UAC from DHS to Health and Human Services (HHS) care via ground or air methods of transportation (charter or commercial carrier), property inventory, providing juveniles with meals, drafting reports, generating transport documents, maintaining/stocking daily supplies, providing and issuing clothing as needed, coordinating with DHS and HHS staff, travel coordination, limited stationary guard services to accommodate for trip disruptions due to inclement weather, faulty equipment, or other exigent circumstances. In emergency situations, the Contractor shall be called on to provide temporary shelter locations (such as trailers) with shower facilities for juveniles who are pending placement with HHS when bed space is unavailable nationwide for extended periods of time. The Contractor shall provide temporary guard services and other support as necessary during these emergencies.

In addition, the Contractor shall have personnel who are able to communicate with juveniles in their own designated language(s). While this may not require each employee to be fluent in all of the encountered languages, personnel should have access to and knowledge of translation services.

B. ICE Standards/Special Requirements

The contractor is required to perform in accordance with the ICE Performance Based National Detention Standards (PBNDS 2011), all ICE policies related to the transportation of juveniles (see the ICE Family Residential Standards at http://www.ice.gov/detention-standards/family-residential/) as well as the Flores Settlement Agreement, the Trafficking Victims Protection Reauthorization Act of 2008, and the Homeland Security Act of 2002. In cases where other standards conflict with DHS/ICE Policy or Standards, DHS/ICE Policy and Standards will prevail. ICE Inspectors will conduct periodic inspections to assure compliance of the aforementioned standards.

Personnel shall have the knowledge and experience to transport individual children with special needs. Often times, children with special needs may require a transportation method that is time saving and direct, i.e. by commercial airline. Contractor shall also provide for accompanying medical care. Additionally, due to exigent circumstances, the Contractor shall be required to transport juveniles via ground to HUB airports or other staging areas that are not located within the area of initial apprehension.

The Contractor shall follow a fully developed training curriculum and transporting staff shall have the highest level of competency possible. Areas of training shall include, but are not limited to the following: Airport rules and regulations for travelers, crisis intervention, child development, working with and transporting youth with special needs, transporting youth with behavioral problems, CPR & First Aid training, non-secured UAC policy and procedures and the implementation of contingency plans in the event of a crisis during transport, which include de-escalation techniques.

- Background Investigations and Suitability Screenings will be conducted on all Contract Employees by the Office of Professional Responsibility and Personnel Security Unit (OPR-OSU).
- The Contractor shall agree that each employee working on this contract will successfully pass the DHS Employment Eligibility (E-Verify) program operated by USICS to establish work authorization and U.S. Citizenship.
- Employees must reside in the United States.

C. Contract Type

The Government anticipates awarding a five (5) year Fixed Price Indefinite Delivery, Indefinite Quantity (IDIQ) contract vehicle consisting of a one year base period, and four (4) option years. The Service Contract Act is applicable to this acquisition. All required clauses, provisions will be included in the solicitation and resulting contractual instrument.

The anticipated release date of the solicitation is March 3, 2014. The solicitation closing date will be thirty (30) days after release of the Request for Proposal (RFP).

Projected Set-Aside: All business sizes are welcome to participate; however, ICE is trying to determine small business interest, particularly HubZone companies. All information received in response in to this notice will be used to determine the appropriateness of any small business set-aside for this requirement.

D. Place of Performance:

Service Area: Throughout the Continental United States (US)

The area(s) or region(s) serviced may occur either with a phased approach over a period of several months to a full year. Alternatively, the Contractor shall perform the entire transportation function upon full funding. For example, the following two circumstances may occur: (1) The contractor could initially provide transportation services only in the Southwest Region of the U.S. for those juveniles who are apprehended in the state of Texas; or, (2) The Contractor may be required to provide transportation services for all juveniles who are in DHS custody throughout the continental U.S.

E. RFI Purpose/Requirements

The purpose of this RFI is to obtain market information and capabilities for planning purposes and to determine appropriate strategies to meet the Agency's requirements. This RFI is issued solely for information and planning purposes and does not constitute a Request for Proposal (RFP) or a commitment for an RFP in the future. Responses to this notice are not considered offers and cannot be accepted by the Government to form a binding contract. Responders are advised that the Government will not pay for any information or administrative cost incurred in response to this announcement and information submitted in response to this RFI will not be returned.

Interested parties are instructed to submit the following information: (Note: Please do not exceed 5 pages per RFI submission)

- POC information (name, title, phone number, address, email address, etc.)
- Socio-economic status
- Brief Company Capability statement (to include addressing all special needs as stated above)

F. Submissions and Point of Contact Information

Submit written or electronic submissions via email to Rachel.Ali@ice.dhs.gov by 1:00pm EST on Monday, February 19, 2014.

End of RFI

Mr. GOODLATTE. And the Committee will stand in recess until the conclusion of this series of five votes.

For the witnesses, I would advise I expect it to be 45, 50 minutes, so make yourselves comfortable, you can go get something to drink or whatever, but we will reconvene probably close to 4:00, 4:30.

The Committee will stand in recess.

[Recess.]

Mr. ISSA [presiding]. In order to be respectful of all of your time, I am going to recognize Mr. Scott and allow him to continue. Thank you for your patience.

The gentleman is recognized.

Mr.SCOTT. Thank you.

Mr. Homan, has any law changed that created the situation we are in?

Mr. HOMAN. What law are you referring to, sir?

Mr. SCOTT. Well, we have a new situation. Was that because of any change in the law, just change in circumstances? I mean, the children are showing up.

Mr. HOMAN. The law has not changed.

Mr. SCOTT. Okay. Now, when a child shows up and is apprehended, what sanction does the law now provide?

Mr. HOMAN. When the child is apprehended by the Border Patrol, they process the child, look at documentation to identify the child. If they identify that child as being unaccompanied, which means he is not in the presence of a parent or legal guardian, then either Border Patrol or ICE will contact Health and Human Services and advise them that we have an unaccompanied alien child. We have 72 hours to turn them over to the custody of ORR. My office, per the Trafficking Victims Protection Act, requires that ICE transport that child from CBP custody to a bed that is identified by HHS.

Not only is it within the TVPRA that we are required to do that by law, it is also in my appropriations. I am appropriated for the transportation of aliens, which includes, and even delineates that, includes the transportation of unaccompanied alien children.

Mr. SCOTT. Is each child entitled to an individualized hearing?

Mr. HOMAN. Yes.

Mr. SCOTT. And are they entitled to lawyers?

Mr. HOMAN. Pardon me?

Mr. SCOTT. Do they have lawyers?

Mr. HOMAN. Most of them do not.

Mr. SCOTT. They have a right to a lawyer; is that right?

Mr. HOMAN. Yeah. They have a right to a lawyer at their own expense.

Mr. SCOTT. But if they can't afford it, no lawyer is provided?

Mr. HOMAN. Correct.

Mr. SCOTT. Now, you have to ascertain whether or not they are victims of trafficking. Is that right?

Mr. HOMAN. Yes. I will defer to Border Patrol, that is part of their processing and review that Border Patrol does with each UAC.

Mr. SCOTT. And when do you ascertain whether or not they are actually entitled to political asylum?

Mr. HOMAN. I will defer that to the Border Patrol.

Mr. SCOTT. Border Patrol?

Mr. VITIELLO. So, in the screening that the Border Patrol does onsite, they are screening for credible fear. And then if there is an indication of credible fear, then the matter is referred to the asylum officers at Citizenship and Immigration Services, also of the Department, but it would move to their venue.

Mr. SCOTT. And what happens in that venue?

Mr. VITIELLO. So as I understand it, then those officers will review and do an interview to define whether or not credible fear exists or there is a likelihood that credible fear exists and then they will refer the person to an asylum hearing.

Mr. SCOTT. And how long does the asylum hearing take?

Mr. VITIELLO. I am not familiar with that. They are referred to the immigration court for that purpose.

Mr. SCOTT. Now, does Border Patrol and immigration, do you have enough resources to process all these children that are showing up?

Mr. VITIELLO. So, we are, in fact, processing them rather quickly, given their age and the circumstance and—yes.

Mr. SCOTT. But the present law provides that you find a suitable placement for each one?

Mr. VITIELLO. Right. So, we were there on Friday, we were in the RGV Friday where this problem is most acute, and we heard from the folks on the ground that are doing this work that they can process within the first 20 hours or so, and then the rest of the time that they are in our custody is waiting for suitable space to send them to.

Mr. SCOTT. Are the children entitled to protection under the Prison Rape Elimination Act?

Mr. VITIELLO. They are.

Mr. SCOTT. They are? Wherever they are placed?

Mr. VITIELLO. Correct.

Mr. SCOTT. Is that your understanding, Mr. Homan?

Mr. HOMAN. Yes.

Mr. SCOTT. Okay.

Thank you, Mr. Chairman. I yield back.

Mr. GOODLATTE [presiding]. The Chair recognizes the gentleman from California, Mr. Issa, for 5 minutes.

Mr. ISSA. Thank you, Mr. Chairman.

Chief Vitiello, let me ask a couple of questions following up on Mr. Bobby Scott's questions. If someone tells you their name, do you have any way to verify it for a 13 year old who simply says, this is my name.

Mr. VITIELLO. Well, agents will use their experience. If the person has documents or some——

Mr. ISSA. Right. But if they have no documents, they simply say, I am Joe.

Mr. VITIELLO. So, unless they have a prior history in the U.S.——

Mr. ISSA. So if their prints aren't on file, and they tell you a name, you have to accept the name. Do you know their age other than guessing it, because they tell you their age. Is that correct?

Mr. VITIELLO. Again, if they have other documentation, et cetera, then we can verify that, but——

Mr. ISSA. Okay.

Mr. VITIELLO [continuing]. But it is essentially an interview done by law enforcement——

Mr. ISSA. Okay.

Mr. VITIELLO [continuing]. Professionals.

Mr. ISSA. You say you do your best on trafficking, but if they are from countries where people have put a gun to their parents' head, they are going to do their best to not have their parents killed by their not getting through, so they are going to lie about being victims of traffic; isn't that correct?

Mr. VITIELLO. I am not sure I understand.

Mr. ISSA. Well, the minority would have you believe and the Reverend would have you believe that people come here only because they are trying to escape this murderous violence that seems to exist in every country but Detroit, Michigan.

So the question is, you are trying to, and I appreciate you are trying to figure it out, but you really don't know if they are victims of trafficking. Now, if they don't have tattoos and they have never been identified with fingerprints, you don't know if they are gang members coming to this country or in some other way coming here to commit crimes; is that correct?

Mr. VITIELLO. So agents can try to verify whether or not, I mean, based——

Mr. ISSA. No. Look, and I appreciate it. I work with the Border Patrol a lot. The fact is I appreciate everything you are trying to do. I am just trying to ascertain, with the President willfully and deliberately forcing into this country a vast amount of people that you are trying to look through and do the best you can, how you are being swamped and what your limitations are.

Now, what bio identification are you taking from a 1-year-old, 5-year-old, 10-year-old, 15-year-old person?

Mr. VITIELLO. So that is all based on interview. That is all, like a——

Mr. ISSA. A bio identification.

Mr. VITIELLO. For——

Mr. ISSA. Fingerprints?

Mr. VITIELLO. Under 14, no.

Mr. ISSA. Okay. So if I am under 14 and I say I am under 14 and I look under 14, and I am a gang member that has been deported, you don't know that, because you are not taking his fingerprints. If I am under 14 and I am being trafficked, you can only hope that you can spot the fear to find out whether or not they are actually being brought here for illicit purposes by somebody who says that they are an accompanying parent.

All that is true, and you are taking no bio information. So the truth is these people can disappear completely, and the name and statement they gave is of no value, because you have no markers to then recover Jose or Jane or whoever who says, "I am 13. I am coming here and this is my name." At the point that you turn them over, you no longer have any ability to bring them back, because you have no identification; isn't that true?

Mr. VITIELLO. It is much harder that way.

Mr. ISSA. Okay. So children are, in fact, a very useful tool for an adult to bring in, because you don't have any identification for them, and if they simply say—if they grab a 12 year old or a 13 year old and say, "I will get you over the border, you get me over the border. Just tell them I am your mom," they can do that, and you really have no protection against that; isn't that true?

Mr. VITIELLO. I assume that is possible. That is not what we are seeing currently.

Mr. ISSA. What you are seeing is a flood of illegals coming here prepped to say whatever they need to say to get to stay here, because the President of the United States has told them in no uncertain terms if they get here, he won't enforce the law, or he won't allow you to enforce the law strictly; isn't that true?

Mr. VITIELLO. That is not reflected in the reporting that I have seen.

Mr. ISSA. Well, let's look at these numbers. The numbers are skyrocketing. Is there dramatic new violence in the areas these people are coming from, dramatic new violence, or, in fact, are they coming from areas like Guatemala, where violence is down, isn't it?

Mr. VITIELLO. So the reports that we see have a variety of things. There is about four major factors.

Mr. ISSA. Well, can anyone else answer the question I asked? Is violence down in Guatemala and are people coming in larger numbers?

Mr. VITIELLO. I am not specifically aware of the rates of violence.

Mr. ISSA. Right. Anyone else can answer that question? Is there anyone that can answer the question of, is there any proven correlation between violence and people and where they are coming from? Because I can tell you one thing, and I have a lot of people who are first, second and third generation who came in on Bracero programs and so on who worked with me for years, and they are friends and I have been to their weddings, they do not come from the poorest areas of Mexico; they come from the areas of Mexico that came before them, they come because they have association.

So I would say to you that until you prove it to this Committee, we cannot accept the link that you are claiming between some violence and this refugee status versus the link between the President's not enforcing the law, not living up to his responsibility, not letting you live up to his responsibility, and this carnage that can occur when children are pushed over the border, in some cases left in the desert.

Mr. Chairman, I appreciate your holding this important hearing, and I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman.

Recognize the gentlewoman from California, Ms. Lofgren, for 5 minutes.

Ms. LOFGREN. Thank you. Thank you, Mr. Chairman.

Just a note. Mr. Judd, you mentioned that there was a catch and release policy and I just wanted to note for the record that this isn't a policy, it is the law, and has been the law since 1997 when we had the Flores case settled and then Dick Armey's bill in 2002 that was enacted into law, signed by President Bush, and then reinforced in the 2008 statute. So it is not just some random decision. It is required by law.

I wanted to ask you, Mr. Vitiello, you have been in the Border Patrol for 29 years, so I think you probably have a pretty good sense of how all of this works now as compared to past years, and I have no doubt that the number of children arriving each day is likely placing a strain on Border Patrol agents and facilities, but would you say the situation evidences a security problem necessarily?

Mr. VITIELLO. Well, in the reports that we got Friday when we were there, it was clear to me that based on the reporting that is available locally in Rio Grande Valley, that most of the family units and the children are coming out of a couple of zones along the southwest border. We break down the operational area by zones, and, in fact, in Rio Grande Valley, most of this traffic is coming out of a couple of zones there, and by and large, the traffic is seeking out agents, not the reverse.

Ms. LOFGREN. So——

Mr. VITIELLO. So people are coming up to these agents.

Ms. LOFGREN. So people are coming up and they are trying to find you to give themselves up?

Mr. VITIELLO. That was what we heard Friday.

Ms. LOFGREN. And then make their, whatever claim. I would note just for the record that when someone comes and appears, and again, this is not a new policy, this is in the law that the Congress created; there are several ways to comply with the law and gain status and if you are the victim of trafficking, in the Anti Slavery law that we passed unanimously in this Committee, you are eligible for T Visa as a victim of trafficking; and if you are a victim of crime and if a law enforcement officer in the United States requests it, you are eligible for a U Visa.

And if you are a child who has been abandoned and you have no one here, you can be eligible for a special immigrant juvenile visa, and that was really created because we had kids, and I remember this goes back to the 1970's where you would have a child who appeared, 5 years old, no parents, they are in foster care, but what is their status?

And if they are going to be part of the country, they are in foster care, you have to give them some status, and, if they are going to be part of our country. So these kids may fit into some of those categories that Congress created. And then there is a further category, which is asylum.

And if you take a look at the origin of most of these kids, it is pretty clear that there is a problem going on in three countries in Central America. That doesn't mean all these kids will be eligible for asylum. The case has to be established and looked at individually, and they may or may not be qualified and if they aren't, they are going to be removed back to their country of origin; isn't that correct?

Mr. VITIELLO. That is correct.

Ms. LOFGREN. So, the only way to do that is to have a case-by-case review. And I am sorry that we don't have a witness from the Department of Justice, because the immigration judges are actually employees of the Department of Justice.

And it occurs to me that we have these extraordinary delays in the adjudication of matters because we don't have enough per-

sonnel, not necessarily in ICE or Border Patrol, although I am sure you could always use more, but that we don't have enough immigration judges and lawyers to actually adjudicate these matters; are you able to comment on that?

Mr. VITIELLO. That is our experience. We would like to see those cycle faster for a number of reasons, and it is part of the work that we are doing within the unified command group.

Ms. LOFGREN. I have just one final question. The Administration recently announced it is going to be opening a 700-bed family detention center at the Federal Law Enforcement Training Center in Artesia, New Mexico I am interested in this, I am going to be following it closely, and I want to make sure, I guess this is to you, Mr. Homan, that we learn the lessons of the Hutto Center in the past.

I remember when that opened and we sent the chief counsel for my Subcommittee down, and we had 5-year-old children in prison uniforms and conditions that were so egregious, that eventually lawsuits were filed, the facility was closed. I do agree that we need to have, you know, facilities to accommodate this surge, but I hope that as you do that, we are learning the lessons from the mistakes of the past. I don't know if you could comment on that facility.

Mr. HOMAN. You are correct that we are in the process of increasing family detention at the FLETC Academy in Artesia. We are planning for 700 beds. Yes, we are very well aware of the Flores settlement agreement. We are aware of the requirements, which are vast. I mean, our family residential standards is a 5-inch book, so there is a lot of requirements we must meet under Flores, and we have an entire team there that has been there for 2 weeks to make sure we address as many of those Flores requirements as necessary.

Mr. GOODLATTE. The time of the gentlewoman has expired.

The Chair recognizes the gentleman from Virginia, Mr. Forbes, for 5 minutes.

Mr. FORBES. Thank you, Mr. Chairman.

Mr. Judd, you are here, as I understand it, representing the border agents; is that true?

Mr. JUDD. That is correct, yes, sir.

Mr. FORBES. And how many border agents would that be that you would represent?

Mr. JUDD. Roughly 16,500.

Mr. FORBES. Mr. Homan, you were asked if the law had changed, and I think your answer was that it had not changed; is that correct?

Mr. HOMAN. When it comes to the transportation of unaccompanied alien children.

Mr. FORBES. But you wouldn't deny that the enforcement policies of this Administration have changed, would you?

Mr. HOMAN. The enforcement policies have changed.

Mr. FORBES. Have changed.

Mr. Crane, you are here representing the ICE agents, as I understand it; is that correct?

Mr. CRANE. Yes, sir.

Mr. FORBES. And how many ICE agents would you be representing?

Mr. CRANE. Approximately 5,000, sir.

Mr. FORBES. Of those agents, are you familiar with whether or not Homeland Security Secretary Johnson conducted a town hall meeting at a DHS office in Fairfax, Virginia, on April 23rd, 2014, with ICE agents and officers present?

Mr. CRANE. Yes, sir. I have spoken to the officers that were present at the meeting.

Mr. FORBES. To your knowledge, did the ICE agents voice strong concerns to the Secretary that gang members, other public safety threats and criminals are being released due to new Administration DHS policies, such as Deferred Action for Childhood Arrivals and John Morton's Arrest Priorities memorandum?

Mr. CRANE. Yes, sir. That is what was reported to me.

Mr. FORBES. And did these officers and agents tell the Secretary that the Administration's policies have tied their hands, preventing them from keeping many dangerous criminals off the streets, and that their opinion is boots on the ground officers in the field and new policies are a failure?

Mr. CRANE. Yes, sir. And I would add to that, that that is the message that every DHS and ICE leader is hearing at every field office we have. When they go out to these town hall meetings, officers and agents are standing up and saying exactly the same thing each and every time: these policies are not working.

Mr. FORBES. Were these statements by ICE agents and officers clear enough for Secretary Johnson to understand them and were they forceful enough for him to remember?

Mr. CRANE. The statements that were relayed to me, absolutely, yes, sir.

Mr. FORBES. And it would probably surprise you that a month later when he was testifying before us, he couldn't remember those statements and how they were phrased.

Mr. Judd, your testimony, as I understood it, a little bit earlier, representing that 16,500 border agents was that from the interviews that you are getting, they are telling you, these individuals coming over, that one of the primary reasons they are coming is because they think there is a lenient enforcement policy in place in the country; is that a fair representation?

Mr. JUDD. When we were on break, I made a couple of phone calls to agents that are in the processing centers, and they reiterated exactly that.

Mr. FORBES. Do any of those interviews reflect that they are coming here equally because of this violence, an uptick in violence that is taking place?

Mr. JUDD. That is one of the other reasons that they are reporting, yes.

Mr. FORBES. Do you have any evidence—Mr. Issa just mentioned about this uptick in violence that is kind of being alleged here taking place since 2009. Do any of you have anything you can supply to the Committee today of any particular uptick in the violence that has happened in all of these countries that is taken place? And I don't hear anybody. And then——

Rev. SEITZ. I could——

Mr. FORBES. You——

Rev. SEITZ [continuing]. Speak to that. In Honduras, as I believed I mentioned earlier, the killings of children are way up in recent months.

Mr. FORBES. And can you also speak, Mr. Seitz, that the data from the National Police of Guatemala, for example, shows the lowest level of violence now since 2004? Would you dispute those figures?

Rev. SEITZ. I am less familiar with the situation in Guatemala, but I do know that the number of people reporting—I am sorry, the UN agency that did a survey of children that were leaving, something like 400 children, reported that something like 60 percent had actionable claims for asylum.

Mr. FORBES. Okay. And, Mr. Chairman, I would just end by saying that the biggest complaint I have heard today from those supporting the Administration is that the title of this hearing was wrong. We just had the representative from 16,500 border agents who say it is not wrong.

And also we heard somebody say let's take a vote. Well, as I understood Mr. Judd's testimony earlier, he said we need to have catch and release policy go away, enforce the law, not grant special status, and increase our manpower, or protect our manpower shortage, and if we can get a law to that effect, I think all of us would love to vote on that today.

And with that, Mr. Chairman, I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman.

And the Chair asks unanimous consent that the document, the data from the National Police of Guatemala that shows the lowest level of homicide rates in that country since 2004.

And without objection, that will be made a part of the record.*

The Chair recognizes the gentlewoman from Texas, Ms. Jackson Lee, for 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, thank you very much. And I would never underestimate a hearing that deals with the vulnerability of children.

Let me associate myself, Bishop, and let me thank you for your service and commitment to humanitarian issues. I happen to represent Cardinal DiNardo, who is in the Houston-Galveston Council, who is in the 18th Congressional District in Houston, Texas. I hope you will tell him I said hello——

Rev. SEITZ. Glad to.

Ms. JACKSON LEE [continuing]. To him. I hope you work with him as well, and you know the compassion that he has.

I think it is appropriate, and my Chairman and I and the Ranking Member, we work together to put on the record that we are long overdue for putting comprehensive immigration reform on the floor of the House and passing it and moving forward so that our good friends at ICE and our Border Patrol agents will have a roadmap that they can address.

I want to just say on the record, and I will pose a question, that you said other Nations are watching, and our moral standing is at

*The information referred to, the data from the National Police of Guatemala, is not reprinted in this hearing record but is on file with the Committee, and can be accessed at: http://www.plazapublica.com.gt/content/diez-anos-de-muertes-violentas-en-guatemala.

stake. I only have a short period of time, Bishop. Would you just quickly say what you mean in that?

Rev. SEITZ. Yes. Well, there are many other Nations, much less populous and much poorer than we are, that are accepting hundreds of thousands of refugees, people who are fleeing violence in their home countries, and our Nation has been on record for decades to say that you have a responsibility to receive these people who are fleeing the violence. When the violence, or rather, when the refugees come to our borders, it behooves us to act under the same principles that we have enunciated to them.

Ms. JACKSON LEE. I thank you so very much. In Jordan, for example, there are about a million Syrians that have come across the borders to Jordan.

So let me go to Mr. Homan for a comment. I heard you say something about the laws changing, but the removal proceedings are still in place, that if you determine that there should be removal proceedings, there is a process under the law for you to proceed through the immigration courts, et cetera, and some of these families with children can be deported; is that not correct?

Mr. HOMAN. Yes.

Ms. JACKSON LEE. And the children can be deported going through removal proceedings; is that not correct?

Mr. HOMAN. Yes.

Ms. JACKSON LEE. And I would like to know, what ages, Mr. Vitiello, Mr. Judd, have you been seeing coming across the border; what is the range of ages?

Mr. VITIELLO. So we have children as young as five, and in the family units, younger than that.

Ms. JACKSON LEE. Yeah. So you have seen someone like this, of this age. I don't know if you can see it there. It is a baby sitting on a floor.

Mr. VITIELLO. Yes.

Ms. JACKSON LEE. So you have seen babies?

Mr. VITIELLO. We have.

Ms. JACKSON LEE. And this just happens to show children laying on floors. You have seen those circumstances, right?

Mr. VITIELLO. We have.

Ms. JACKSON LEE. All right. So, as a parent or being around children would not argue that this baby has the conscious of thought to apply for asylum or to not show up at a hearing; is that not correct?

Mr. VITIELLO. That would be correct.

Ms. JACKSON LEE. Okay. So we know that there is a wide, vast range of ages and I do want to say thank you, because I know that you have been extending yourselves, ICE and Border Patrol, in dealing with these children, so let me first of all say thank you for your service.

But it is clear that the removal proceedings are still there and the President has not changed that, or the suggestion that it is the President's changing laws; they are still in place?

Mr. HOMAN. Yes.

Ms. JACKSON LEE. All right. Thank you.

Mr. Judd, the impression is you are against the Administration, you are against the President. Is that accurate?

Mr. JUDD. That is absolutely not correct.

Ms. JACKSON LEE. Can we——

Mr. JUDD. I am here testifying from a law enforcement perspective, and I have to give that perspective if I hope that there is going to be any positive change.

Ms. JACKSON LEE. And we welcome that. We want to engage you. The Senate has passed almost a $2 billion allotment for the child immigrants. We need to do the same. Would that resources, just generally speaking, and more resources for your agents over time, the better facilities, would that be helpful to you?

Mr. JUDD. Of course it would.

Ms. JACKSON LEE. All right. And the question of the law, I just want to be very clear, as my colleague said in 2002 we passed a law to provide for HHS assistance. Then we came forward in 2008, signed by President Bush, the idea of the responsibility for those who are human traffic and those who are smuggling.

Is it not true that in the course of your work, Mr. Vitiello, maybe Mr. Homan, Mr. Judd, that you have seen human smugglers, meaning individuals who are smuggling, and human traffickers? Have you seen those individuals?

Mr. JUDD. Yes, ma'am.

Ms. JACKSON LEE. Would you venture to say that their character and integrity is not at any level equal to those who you would respect?

Mr. GOODLATTE. Time of the gentlewoman has expired. The gentleman can answer the question.

Mr. JUDD. Absolutely not.

Ms. Jackson Lee. And would they say anything to people who are desperate?

Chairman Goodlatte. The time of the gentlewoman has expired. Chair recognizes——

Ms. JACKSON LEE. And would they not say anything that the President's policy has changed?

Mr. GOODLATTE. The time of the gentlewoman——

Ms. JACKSON LEE. And they have not changed.

Mr. GOODLATTE. The time of the gentlewoman has——

Ms. JACKSON LEE. The law is the same, and it is ridiculous for this Committee to even suggest that. The law is the same.

Mr. GOODLATTE. Time of the gentlewoman has expired. The Chair recognize sthe gentleman from Iowa.

Ms. JACKSON LEE. I yield back.

Mr. KING. Thank you, Mr. Chairman.

Mr. GOODLATTE. The time of the gentlewoman was expired. There was no time to yield back. The gentleman from Iowa is recognized for 5 minutes.

Mr. KING. Thank you, Mr. Chairman.

I thank the witnesses for your testimony. And I'm looking at an article that is printed 25th, June 2014, El Periodico, which is a Guatemalan newspaper, it's an AP story, in Spanish. It says essentially, in Spanish and English, that two-thirds of the children that are unaccompanied minors coming to the United States are coming from either Guatemala, El Salvador, Honduras. I think we're consistent with that in our testimony that I hear, or at least relatively close; that only 12 percent come from Mexico, although the rest of

them come through Mexico, kind of like our drugs, from or through Mexico; that 80 percent are male; and 83 percent are over 14 but unaccompanied minors, that means 15, 16 or 17 years old.

I would say, first, Mr. Vitiello, is that consistent with what you have observed on the border?

Mr. VITIELLO. That is consistent.

Mr. KING. And Mr. Crane?

Mr. CRANE. I don't have that type of data, sir.

Mr. KING. I didn't actually guess that's the case.

And also is that the case for Mr. Judd?

Mr. JUDD. From what I've been told from the agents, yes, that is correct.

Mr. KING. Thank you. And I'd ask unanimous consent to introduce this article into the record.

Mr. GOODLATTE. Without objection, the article will be made a part of the record.

[The information referred to follows:]

Two thirds of the children come from Guatemala, El Salvador and Honduras, while 12% are from Mexico. About 80% are male and 83% are over 14 years old.

One hundred immigrant children detained by the Border Patrol were transferred to an Air Force base in Texas because the shelters are overcrowded.

The first children arrived Monday to Base Lackland Air Force reported the San Antonio Express-News. Children are the responsibility of the Ministry of Health and Welfare (HHS for its acronym in English).

In the last three years, the agency has commissioned each year between 7,000 and 8,000 children who immigrated alone and illegally. It has hosted more than 4,000 since October. In the first quarter of 2012 has seen a 77% increase in the number of undocumented minors.

Children have been distributed in 10 states, where they receive shelter, medical care and psychiatric treatment by the government. Nearly nine out of 10 children are reunited with their families.

Brent Boller, a spokesman for Lackland, told the newspaper that the air base "simply provides temporary shelter" in an unoccupied room for 1,000 students, with showers and dining.

Two thirds of the children come from Guatemala , El Salvador and Honduras, while 12% are from Mexico. About 80% are male and 83% are over 14 years old.

Lavinia Limon, president of the Committee for Refugees and Immigrants in the United States, said most of the children who come into contact with the non-governmental organization for help say fleeing forced recruitment into gangs or prostitution.

"Children are recruited at an early age, and it is very difficult for them to resist, and so I do not want to participate in these activities will," he said.

Other organizations that receive government subsidies to care for children in their care shelters also monitored at the base of Air Force, according to a statement from the HHS.

AP

http://webcache.googleusercontent.com/search?q=cache:http://elperiodico.com.gt/es/20120417/elmundo/210931/

Mr. KING. Thank you, Mr. Chairman.

And I looked at some other data here, and as I roll down through this and listen to the testimony about the fear of violence and that that being at least proposed as the primary reason that these young people are leaving their countries, and so I began to check this out, and I see that 8 of the top 10 most violent countries in the world are Central America or northern South America.

And among these countries, and I'll read down through the list from 1 to 10, Honduras the most violent, as has been testified here, 90.4 murders per 100,000; Venezuela is second, 53.7; Belize third, 44.7; El Salvador next with 41.2 murders, homicides per 100,000; then Guatemala; then Jamaica; Swaziland in Africa; then Saint Kitts; then South Africa; then Colombia tenth. These are very shocking numbers and that would tell us all that the most violent countries in the world, 8 of 10 of them are to our southern border.

United States homicide rate 6.5 per 100,000. Mexico is 18.2, roughly triple that of the United States. Both those numbers have gone up over the last 5 years. And yet going south it gets far more dangerous. But I wonder, what can I compare that to? Well, Venezuela, 53.7, number two most violent country in the world, has to look up to Detroit. Violent homicide rate in Detroit 54.6, compared to Venezuela's 53.7. The rest of the countries that I read range all the way down from 53.7 down to Colombia at 30.8.

So if we're going to move kids into America with the idea that we're going to get them away from violence, we at least have to keep them out of Detroit. And I don't see people that are exiting Detroit because the city is that dangerous. Some probably do. But we should put this in perspective.

And I'd also make the point that these children that are coming here, these thousands of unaccompanied minors that are coming here, there was a child in one of my towns that was found wandering on the street in a neighborhood, several blocks away from her mother, who was sleeping during the day because she was working at night, to her credit, but she nodded off and the child got out and walked away.

Our Department of Human Services picked this child up, referred by a resident, identified the mother, and said to her, if this happens again, you're in danger of having your child taken away from you. Because we don't tolerate child endangerment or child abandonment in the United States of America. We don't tolerate it in Iowa; we don't tolerate it in America.

Yet, we're watching tens of thousands of kids that are being abandoned into the United States, pushed across thousands of miles of Mexico in some of the most dangerous terrain and the dangerous drug and cartel violence that there is, and somehow we as a country are reuniting these families by bringing these children, under force of law, violating the law and completing the crime and putting these children into households where there's an illegal mom or an illegal dad or both.

No country in its right mind would repatriate families who have abandoned their children and pushed them across 1,000 miles of Mexico and handed them over to the Border Patrol and said hand them over to ICE, and now HHS is going to deliver them into these households and not enforce the law. This is so appalling to me.

But I would ask, Mr. Judd, with this concept that I have laid out here, how do we respond to this if we're going to be a Nation of laws and have a rule of law?

Mr. JUDD. Well, what we'd have to do is we would have to take the parents into custody when they take custody of the children, but we're not given that opportunity because we give them over to HHS and then HHS gives them over to this new escort service who then flies them.

In fact, my coworker that's here with me today sat next to an El Salvadoran 8 year old on a plane with somebody from this new service, and when they got off the plane here in Washington, D.C., that child was reunited with the parent. And that child was reunited with the parent, and it wasn't done under any law enforcement supervision or oversight whatsoever.

Mr. GOODLATTE. Time of the gentleman has expired.

Mr. KING. Unanimous consent request, Mr. Chairman.

Mr. GUTIERREZ. I object. I object. I object.

Mr. GOODLATTE. I think there's some unanimous consent requests on both sides.

Ms. LOFGREN. I have a unanimous consent request.

Mr. GOODLATTE. The gentleman from Georgia is recognized for 5 minutes.

Mr. KING. Mr. Chairman, parliamentary inquiry.

Mr. GOODLATTE. Gentleman may state his parliamentary inquiry.

Mr. KING. My inquiry is, is there a unanimous consent required in order to introduce a document into the record in this Committee?

Mr. GOODLATTE. We'll consult the parliamentarian momentarily and come back to that issue, since I know there's a desire to have more documents placed into the record. But in the meantime, we'll turn to the gentleman from Georgia for his questions.

Mr. JOHNSON. Thank you, Mr. Chairman.

When I first heard about this increase in the numbers of children, unaccompanied children appearing at our borders, my first thought was, what is it that is driving that kind of flow, a spectacular rise in the numbers of children? What is driving that? What would cause a parent, because all parents love their children regardless of where they are, El Salvador, Guatemala, Honduras, America, Virginia, which happens to have a population of 8.6 million people, Virginia, with 42,000 square miles, with a median household income of $61,000. Those people love their children there.

And Guatemala, 8.2 million people, same as Virginia, about 43,000 square miles, as opposed to 42,000 for Virginia, so about the same size, but a per capita income of $4,345, but those people in Guatemala, they love their children. And what would cause someone to let their children be unaccompanied except by a, whatever we call them, coyotes and whatnot, how many of those youths actually when they leave home make it to the border of the U.S.? Is anybody concerned about that? I am.

But I'm concerned really about what would drive a parent to put their child in danger like that? It has to be more than just the President promising that you may be able to—I don't know what

the argument is that's being raised. It's ridiculous to think that people would put their children at risk. But I would tell you, even if a parent in Virginia had 70 children a month being murdered in that State, they would look to relocate those children somewhere if they could not take them themselves.

And in Honduras, which has the highest homicide rate in the world, over the last 3 years 70 children were murdered monthly. And there were 102 children murdered last month, the month of May, in Honduras. And in this country of Guatemala, 99.5 murders per week. So you take a place like Virginia and you impose the same conditions in Virginia and you trap the parents there and the parents that love their children, want to see them grow up, they're going to get them out of there.

And so what is causing that? What is causing that? It's got to be something more than the President offering somebody something. It's probably the war on drugs, with the militarization of the police forces, with the MS-13 gang, 54,000 MS-13 and 18th Street gang members in El Salvador, Guatemala, and Honduras. Since 2005, murders of men and boys increased 292 percent while murders of women and girls increased 364 percent in that region. Children with parents in the U.S. are targeted for gang extortion because they're perceived to be receiving remittances.

I mean, there is just so much violence down there that we cannot relate to it here, but if we were in the same situation as those parents are down there, we would be trying to get our children here.

So it's really not a matter of illegal immigration, it is a humanitarian disaster with children, not parents but children, babies. It's a humanitarian disaster, and we should be about trying to solve the problem as opposed to simply looking for fodder to blame the President for something else.

Mr. GOODLATTE. Time of the gentleman has expired.

Mr. KING. Mr. Chairman?

Mr. GOODLATTE. The gentleman from Iowa is recognized.

Mr. KING. I seek to be recognized for a unanimous consent request.

Mr. GOODLATTE. Gentleman may state his request.

Mr. KING. Mr. Chairman, I have a case here, a criminal case, it's Mirtha Veronica Nava-Martinez, United States versus her, dated December 13, 2013, Judge Andrew Hanen, and an accompanying FOX News article that I'd ask unanimous consent to introduce into the record.

Mr. GOODLATTE. Are there additional unanimous consent requests?

Ms. LOFGREN. Mr. Chairman, I have some unanimous consent requests.

Mr. GOODLATTE. The gentlewoman will state her unanimous consent request.

Ms. LOFGREN. I would like to enter into the record a statement from the Hebrew Immigrant Aid Society; a statement from the Faith Alliance Against Slavery and Trafficking, a paper on the nexus between human trafficking and immigration; a statement from the American Bar Association; a statement from Kids in Need of Defense; a statement from the U.S. Committee for Refugees and Immigrants; a statement from the Safe Passage Project; report on

"Mission to Central America: The Flight of Unaccompanied Children to the United States," by the Catholic Bishops;** "Forced From Home: The Lost Boys and Girls of Central America," from the Women's Refugee Commission;*** "Considerations for Hondurans in the American Asylum Process," from the Jesuit Conference of the United States;**** a letter from the California Latino Legislative Caucus; as well as data from the U.N. Office on Drugs and Crimes for year 2000 to 2012; and the U.S. Department of State report on Guatemala pointing out that there has been a significant increase in violence and that the police in Guatemala who were earlier referenced are part of the violence problem in Guatemala.*****

Mr. GOODLATTE. What purpose does the gentlewoman from Texas seek recognition?

Ms. JACKSON LEE. Mr. Chairman, I would ask unanimous consent to put into the record a letter from First Focus Campaign for Children, the president, Bruce Lesley, that argues against eliminating DACA. And I'd like to submit into the record a statement dated June 15, 2012, from the Department of Homeland Security on DACA indicating that any eligible person for DACA has to continuously reside in the United States for at least 5 years preceding the date of their application, preceding the date of this memorandum, which is June 15, 2012. I ask unanimous consent to put both statements into the record.

Mr. GOODLATTE. Without objection——

Mr. GUTIERREZ. Mr. Chairman?

Mr. GOODLATTE. For what purpose does the gentleman from Illinois seek recognition?

Mr. GUTIERREZ. I ask unanimous consent that the following articles be included in the record. An article of February 19, 2013, "Nearly 200 Guatemalan Police Removed for Criminal Ties. Report Puts Guatemalan National Police Under the Gun;" March 26, 2014, "Renewing Police Reform Efforts in Guatemala;" Dated April 2014, "Guatemalan Police Force Adds Over 2,000 New Officers Given Police Corruption;" and "Former Guatemalan Police Chief Found Guilty for Killings," and that one is June 6.

Mr. GOODLATTE. Without objection, all these documents will be made part of the record.

[The material submitted by Mr. King follows:]

**The information referred to, report on "Mission to Central America: The Flight of Unaccompanied Children to the United States," by the Catholic Bishops, is not reprintd in this hearing record but is available at www.usccb.org/about/migration-policy/upload/Mission-To-Central-America-FINAL-2.pdf.

***The information referred to, "Forced From Home: The Lost Boys and Girls of Central America," from the Women's Refugee Commission, is not reprinted in this hearing record but is available at http://womensrefugeecommission.org/forced-from-home-press-kit.

****The information referred to, "Considerations for Hondurans in the American Asylum Process," from the Jesuit Conference of the United States, is not reprinted in this hearing record but is available at http://www.jesuit.org/Assets/Publications/File/Hondurans_asylum_report_FINAL.pdf.

*****The information referred to, a U.S. Department of State report on Guatemala pointing out that there has been a significant increase in violence and that the police in Guatemala who were earlier referenced are part of the violence problem in Guatemala, is not reprinted in this hearing record but is available at http://www.state.gov/documents/organization/220657.pdf.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

United States District Court
Southern District of Texas
ENTERED
DEC 13 2013
David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA, Plaintiff,	§ § §	
VS.	§ § §	CRIMINAL NO. B-13-441-1
MIRTHA VERONICA NAVA-MARTINEZ, Defendant.	§ § §	

ORDER

Mirtha Veronica Nava-Martinez pleaded guilty to attempting to smuggle a ten-year-old El Salvadorean female, Y.P.S., into the United States in violation of 8 U.S.C. § 1324(a)(1)(A)(ii).[1] This Court sentenced Nava-Martinez in accordance with the established federal procedure, the law, and the United States Sentencing Guidelines, and has purposefully waited until after signing that judgment before addressing the issue that is the subject of this Order.

On May 18, 2013, Nava-Martinez, an admitted human trafficker, was caught at the Brownsville & Matamoros Bridge checkpoint. She was trying to smuggle Y.P.S. into the United States using a birth certificate that belonged to one of her daughters. Nava-Martinez had no prior relationship with Y.P.S. and was hired by persons unknown solely to smuggle her into the United States. Nava-Martinez is a resident alien and this was her second felony offense in three years, having committed a food stamp fraud offense in 2011. She was to be paid for smuggling Y.P.S. from Matamoros to Brownsville, although the identity of her immediate payor and the amount are unknown. The details as to how Y.P.S. got to Matamoros, Mexico from El Salvador, and how she

[1]The Court will use the minor's initials to protect her identity.

was to get from Brownsville to Virginia were also not disclosed to the Court. This conspiracy was started when Patricia Elizabeth Salmeron Santos solicited human traffickers to smuggle Y.P.S. from El Salvador to Virginia. Salmeron Santos currently lives illegally in the United States. She applied for a tourist visa in 2000, but was turned down. Despite being denied legal entry into the United States, she entered the United States illegally and is living in Virginia.

Salmeron Santos admitted that she started this conspiracy by hiring alien smugglers to transfer her child from El Salvador to Virginia. She agreed to pay $8,500 (and actually paid $6,000 in advance) for these human traffickers to smuggle her daughter. The criminal conspiracy instigated by Salmeron Santos was temporarily interrupted when Nava-Martinez was arrested. Despite this setback, the goal of the conspiracy was successfully completed thanks to the actions of the United States Government. This Court is quite concerned with the apparent policy of the Department of Homeland Security (hereinafter "DHS") of completing the criminal mission of individuals who are violating the border security of the United States. Customs and Border Protection agents stopped the Defendant at the border inspection point. She was arrested, and the child was taken into custody. The DHS officials were notified that Salmeron Santos instigated this illegal conduct. Yet, instead of arresting Salmeron Santos for instigating the conspiracy to violate our border security laws, the DHS delivered the child to her—thus successfully completing the mission of the criminal conspiracy. It did not arrest her. It did not prosecute her. It did not even initiate deportation proceedings for her. This DHS policy is a dangerous course of action.

The DHS, instead of enforcing our border security laws, actually assisted the criminal conspiracy in achieving its illegal goals. The Government's actions were not done in connection with a sting operation or a controlled delivery situation. Rather, the actions it took were directly in

furtherance of Y.P.S.'s illegal presence in the United States. It completed the mission of the conspiracy initiated by Salmeron Santos. In summary, instead of enforcing the laws of the United States, the Government took direct steps to help the individuals who violated it. A private citizen would, and should, be prosecuted for this conduct.

This is the fourth case with the same factual situation this Court has had in as many weeks. In all of the cases, human traffickers who smuggled minor children were apprehended short of delivering the children to their ultimate destination. In all cases, a parent, if not both parents, of the children was in this country illegally. That parent initiated the conspiracy to smuggle the minors into the country illegally. He or she also funded the conspiracy. In each case, the DHS completed the criminal conspiracy, instead of enforcing the laws of the United States, by delivering the minors to the custody of the parent illegally living in the United States. In response to this Court's inquiry about this policy in the instant case, the Government responded with a copy of the 1997 *Flores v. Reno*, CV-85-4544-RJK, settlement agreement and a copy of a portion of the Homeland Security Act. No other explanation was offered—no doubt because there is no explanation. The DHS has simply chosen not to enforce the United States' border security laws.

This Court understands that the Government has previously entered into the *Flores* settlement regarding its practices, policies and regulations regarding the treatment and detention of unaccompanied minors. Since that order is apparently sealed, this Court will not quote in detail any specific language. Generally, that settlement requires the Government to release a minor to his or her parent, guardian, or relative, among others, in an order of preference established by the settlement documents. There is nothing in this settlement that prohibits the DHS from arresting Salmeron Santos–the individual who initiated this conspiracy–or from at least initiating deportation

proceedings. There was also no explanation of why this settlement agreement–whose terms terminated five years after the date of final court approval—is still even effective. [*Flores* Settlement Agreement ¶ 40].[2] The Government also implies by its response to the Court that the Homeland Security Act of 2002 somehow authorizes its participation in this conspiracy. Again, there is nothing in this Act that directs and authorizes the DHS to turn a blind eye to criminal conduct, and certainly nothing that compels it to participate in and complete the mission of a criminal conspiracy or to encourage parents to put their minor children in perilous situations subject to the whims of evil individuals.[3] These actions are both dangerous and unconscionable.

In each of the four cases, the Government also incurred significant expense to help complete the conspiracy. In all cases when the Government apprehended some of the traffickers, the Government transported the children across the country to unite them with a parent (or parents) who

---

[2]The Government did not provide this Court with the actual, final court order that approved the settlement, so it is unclear when its terms expired.

[3]The only portion of the Act to which the Government cites contains a provision concerning "reuniting unaccompanied alien children with a parent abroad . . . ." 6 U.S.C.A. § 279(b)(1)(H) (West 2013) (emphasis added). More importantly, the relevant section to which this Court has been directed concerns "the care of unaccompanied alien children." *Id.* § 279(a). "Unaccompanied alien child" is a defined term. *Id.* § 279(g)(2). Under the Act, that term refers to a child under the age of eighteen who has no lawful immigration status and with respect to whom:

> (i) There is no parent or legal guardian in the United States; or
> (ii) No parent or legal guardian in the United States is available to provide care and physical custody.

Id. § 279(g)(2)(C).

All of the children in question in the cases before this Court were not "unaccompanied alien children" as defined by this Act. All of them had at least one parent in the United States. Furthermore, they evidently all had a parent in the United States available to care for them because the DHS delivered the children to them. Thus the Act cited to this Court has no application and certainly provides no excuse for the Government to continue the criminal activity of the trafficking conspiracy.

was in the country illegally. In one situation, the Government flew a child to multiple locations in different parts of the United States. The taxpayers of the United States suffer the expense of delivering these minors. This expense includes not only the cost of paying travel, room and board for the children, but it may also, according to the information supplied to this Court in yet another case, include the salary and travel expenses of a guardian to accompany them. This is an absurd and illogical result. The DHS could reunite the parent and child by apprehending the parent who has committed not one, but at least two different crimes. It would be more efficient for the Government to arrest the individuals who are not only in the country illegally, but while in the country illegally are also fostering illegal conspiracies. It would also be much cheaper to apprehend those co-conspirators and reunite them at the children's location. Yet, it neither prosecutes nor deports the wrongdoer.[4]

The DHS is rewarding criminal conduct instead of enforcing the current laws. More troubling, the DHS is encouraging parents to seriously jeopardize the safety of their children. While Y.P.S. was transported in a car, others are made to swim the Rio Grande River or other bodies of water in remote areas. This concern for the safety of these individuals is not fanciful or theoretical; it is a real and immediate concern. As this Court waited for the judgment to be prepared before it

---

[4]Subsequent to this Court's inquiry into this situation, the United States Attorney's Office has apparently "requested" the DHS place Salmeron Santos in "immigration proceedings." There has been no word as to whether this has been done, but the Government has informed the Court that it will not prosecute these wrongdoers. The Court has not been informed as to the identity of what individual or office initiated this policy, so it must refer to the DHS generically. In another one of the cases, the Government again informed the Court the result would be no prosecutions and only a "request" that immigration proceedings be instigated. There is no indication as to whether this request will be honored. There is not even an indication that the DHS will seek reimbursement of the costs that taxpayers have incurred. That being the case, the DHS should cease telling the citizens of the United States that it is enforcing our border security laws because it is clearly not. Even worse, it is helping those who violate these laws.

released this opinion, two illegal aliens drowned, two more are missing, and a three-year-old El Salvadorean toddler was found abandoned by smugglers—each event occurring just outside of Brownsville.[5]

This Court takes no position on the topic of immigration reform, nor should one read this opinion as a commentary on that issue. That is a subject laced with controversy and is a matter of much political debate which is not the province of the judicial branch. Nevertheless, the failure by the DHS to enforce current United States law concerns this Court for three unassailable reasons.

First, and most importantly, these illegal activities help fund the illegal drug cartels which are a very real danger for both citizens of this country and Mexico.

> Mexican cartels control most of the human smuggling and human trafficking routes and networks in Texas. The nature of the cartels' command and control of human smuggling and human trafficking networks along the border is varied, including cartel members having direct organizational involvement and responsibility over human smuggling and human trafficking operations, as well as cartel members sanctioning and facilitating the operation of human smuggling and human trafficking organizations. In other circumstances, human smuggling organizations are required to pay the cartels for operating their networks and routes in their territory.[6]

This Court need not list the dangers involved for minors, or even adults, who are being smuggled into the United States. In the last year, this Court has seen instances where aliens being smuggled were assaulted, raped, kidnapped and/or killed. This Court's antidotal experiences, however, are not unique.

---

[5]*See, e.g.*, Kayleigh Sommer, *Border Crossing Deaths; One Hospitalized*, BROWNSVILLE HERALD, Dec. 11, 2013, at A2; Marcy Martinez, *Child Smuggled then Abandoned at Laundromat*, Valley Central (Nov. 6, 2013 10:52 PM), http://www.valleycentral.com/news/story.aspx?id=968343#.Uqsq4NJDs3o.

[6]Tex. Dept. of Pub. Safety, Texas Public Safety Threat Overview (2013), at 24–25, http://www.txdps.state.tx.us/director_staff/media_and_communications/threatoverview.pdf.

> Mexican cartels, transnational gangs, human trafficking groups, and other criminal organizations engage in a wide range of criminal activity in Texas, including murder, kidnapping, assault, drug trafficking, weapon smuggling, and money laundering. However, by far the most vile crime in which these organizations and other criminals are engaged is the exploitation and trafficking of children. These crimes are also carried out and enabled by prostitution rings, manufacturers and viewers of child pornography, sexual predators, and other criminals. Regardless of who perpetrates these crimes or their motives, this category of criminal activity is especially heinous, as it takes advantage of children and subjects them to violence, extortion, forced labor, sexual assault, or prostitution.
>
> * * * *
>
> The methods and means used by smugglers to transport and hold aliens subject them to high degrees of risk. Unsafe vehicles and drivers, squalid conditions in stash houses, rugged terrain, and harsh elements create dangerous circumstances. Hundreds of illegal aliens have died in Texas and elsewhere along the border. Since FY2008, 2,008 deaths of suspected illegal aliens have been reported along the border, including 839 in Texas sectors. These include deaths due to environmental exposure (heat and cold), terrain and motor-vehicle-related deaths, drownings, other causes, and cases in which skeletal remains were recovered or a cause could not be determined. FY2012 was a record year for such deaths in Texas sectors, increasing 198 percent from 91 in FY2010 to 271 in FY2012. An even greater number of illegal aliens have been rescued from such conditions by law enforcement; since FY2008, 6,375 people have been rescued along the border, including 3,020 in Texas.
>
> In addition to these dangerous methods and means, smugglers also regularly use violence, extortion, and unlawful restraint against illegal aliens. In some cases, they are forced to perform labor, and females—including minors—may be sexually assaulted. Some are subjected to physical assaults if payments are not received, and several have died while being held in stash houses in Texas. And just as drug traffickers may attempt to steal drug loads from rival traffickers, criminals sometimes attempt to steal or hijack groups of aliens from smugglers.[7]

Time and again this Court has been told by representatives of the Government and the defense that cartels control the entire smuggling process. These entities are not known for their concern for human life. They do not hire bonded childcare providers to smuggle children. By fostering an atmosphere whereby illegal aliens are encouraged to pay human smugglers for further

---

[7] *Id.* at 12, 24–25 (emphasis added).

services, the Government is not only allowing them to fund the illegal and evil activities of these cartels, but is also inspiring them to do so. The big economic losers in this scenario are the citizens of the United States who, by virtue of this DHS policy, are helping fund these evil ventures with their tax dollars. The overall losers, who endure the consequences of this policy, are the citizens on both sides of the border who suffer from the nefarious activities of the cartels.[8]

Second, the DHS's current policy undermines the deterrent effect the laws may have and inspires others to commit further violations. Those who hear that they should not fear prosecution or deportation will not hesitate, and obviously have not hesitated, to act likewise. They perceive that they have nothing to lose but some time and effort. If the human traffickers are successful, so much the better—mission accomplished. Even if their co-conspirators are unsuccessful, the Government will finish the job of the human traffickers—mission still accomplished. It is no wonder these cases are proliferating. Further, this policy is encouraging individuals to turn their children over to complete strangers—strangers about whom only one thing is truly known: they are criminals involved in a criminal conspiracy.

Children, such as Y.P.S., are especially at risk.

> Some children are more vulnerable to exploitation, such as unaccompanied alien children (UAC). Since FY2010, there have been 58,763 UAC apprehensions along the US-Mexico border, including 33,474 in Texas sectors. The number of UAC apprehensions in Texas increased 81 percent from FY2010 to FY2012. UAC apprehensions have also become increasingly concentrated in the state. Texas sectors accounted for 65 percent of all UAC apprehensions along the border in FY2012, up

---

[8]The Court notes parenthetically that it is also common knowledge that these human smugglers will occasionally smuggle methamphetamine, heroin or other illegal and dangerous substances at the same time they smuggle humans. Both Congress and the Fifth Circuit Court of Appeals have recognized, albeit in a different context, that the mixture of children and drug dealers is a grave danger even when no drugs are being distributed. *United States v. Wake*, 948 F.2d 1422, 1433 (5th Cir. 1991).

from 48 percent in FY2010.[9]

An 81% increase in two years should tell the DHS that their policy is failing. If they persist in this policy, more children are going to be harmed, and the DHS will be partly responsible because it encourages this kind of Russian roulette.

Finally, this policy lowers the morale of those law enforcement agents on the front line here on the border. These men and women, with no small risk to their own safety, do their best to enforce our laws and protect the citizens of the United States. It seems shameful that some policymaker in their agency institutes a course of inaction that negates their efforts. It has to be frustrating to those that are actually doing the work of protecting Americans when those efforts are thwarted by a policy that supports the lawbreakers.

This Court is not unsympathetic to any individual or entity taking action that is in the best interests of a minor child; nor is it this Court's goal to divide or separate family members. But the decision to separate Salmeron Santos from Y.P.S. was made years ago, and it was made by Salmeron Santos. She purposefully chose this course of action.[10] Her decision to smuggle the child across the border, even if motivated by the best of motives, is not an excuse for the United States Government to further a criminal conspiracy, and by doing so, encourage others to break the law and endanger

---

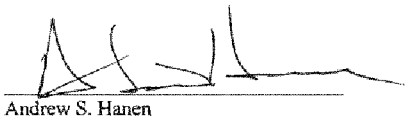
[9] *Id.* (emphasis added).

[10] This Court will not address an issue that some may raise: whether it is in the best interests of Y.P.S. to be reunited with a parent who had previously abandoned that child in a different country. Nor will this Court address the issue as to whether a responsible parent would place her child not only in the care of total strangers, but also in the care of total strangers which she knows are criminals. While there could be many reasons, some not without merit, for following such a course, many would certainly argue that most courts in the United States would not find that to be good parenting.

additional children. To put this in another context, the DHS policy is as logical as taking illegal drugs or weapons that it has seized from smugglers and delivering them to the criminals who initially solicited their illegal importation/exportation. Legally, this situation is no different. This Court is not blind to the needs of a minor child, nor is it suggesting that a child should be punished for the crimes of her parent. Nevertheless, neither the *Flores* settlement nor a concern for common decency compels the Government to not only aid, but also reward an individual for initiating a scheme to break the laws governing the border security of this country. Further, neither compels the Government to aid the drug cartels who control this human trafficking.

Finally, the Court is aware that prosecutors and law enforcement officers, including those here on the border, frequently use their discretion to defer the prosecution or arrest of individuals. This Court is not opposed to the concept of prosecutorial discretion, if that discretion is exercised with a sense of justice and common sense. Nevertheless, it is not aware of any accepted legal principle, including prosecutorial discretion, that not only allows the Government to decline prosecution, but further allows it to actually complete the intended criminal mission. The DHS should enforce the laws of the United States—not break them.

Signed this 13th day of December, 2013.



Andrew S. Hanen
United States District Judge

ILLEGAL IMMIGRANTS

Judge claims DHS delivering smuggled children to illegal immigrant parents

By Judson Berger

Published December 19, 2013

FoxNews.com

16.3K

March 29, 2013: An immigration agent looks out at the desert near Falfurrias, Texas.Reuters

A federal judge in Texas is accusing the Department of Homeland Security of hand-delivering children smuggled into the United States to their illegal immigrant parents.

U.S. District Judge Andrew S. Hanen revealed the practice in a blistering court order filed late last week. He said the "dangerous" practice is effectively aiding human traffickers and particularly the drug cartels, which run many of these operations.

"These actions are both dangerous and unconscionable," he wrote.

The judge attempted to lift the curtain on what is happening behind the scenes of the Obama administration's changing approach to immigration enforcement. It has been well-documented that DHS is allowing some illegal immigrants already inside the country to skirt deportation, and particularly those who came to the U.S. as children.

But the "conspiracy" outlined by Hanen would take that controversial policy a big step further. He detailed the case of an illegal immigrant parent in Virginia, but used that as an entry point to describe what he suggested was a broader program.

Hanen claimed that, in more than one case before his court, immigration officials are arresting human traffickers smuggling children into the U.S. -- and then "delivering the minors to the custody of the parent illegally living in the United States."

"The DHS has simply chosen not to enforce the United States' border security laws," he wrote.

Further, he said this is simply encouraging risky smuggling operations. "Time and again this court has been told by representatives of the government and the defense that cartels control the entire smuggling process," Hanen wrote. "... the government is not only allowing [illegal immigrants in the U.S.] to fund the illegal and evil activities of these cartels, but is also inspiring them to do so."

He added: "To put this in another context, the DHS policy is as logical as taking illegal drugs or weapons that it has seized from smugglers and delivering them to the criminals who initially solicited their illegal importation/exportation. Legally, this situation is no different."

Representatives with the Department of Homeland Security and other immigration agencies have not yet returned a request for comment on the judge's statement.

Chris Crane, president of the National ICE Council union, told FoxNews.com the judge's claims are "absolutely correct."

"This is exactly what's happening," he said, describing how agents "can't keep up" with the number of minors crossing the border, either by themselves or in the custody of smugglers. Crane said immigration officials, then, are tasked with finding a place for the children to go.

"That's what we do now. We babysit kids and change diapers," he said. "It's out of control."

Crane said the best short-term solution would be to return the children to the family members they were staying with in their home country.

The judge's statement was prompted by the case of Mirtha Veronica Nava-Martinez. She was arrested at the Texas-Mexico border in May and pleaded guilty to trying to smuggle a 10-year-old child originally from El Salvador. After the sentencing, the judge wrote, he decided to go public with additional details from the case.

He wrote that the "conspiracy" started when an illegal immigrant in Virginia hired smugglers to get her daughter from El Salvador to Virginia. She paid $6,000 in advance. But after the smuggling operation was interrupted by federal agents, he wrote, "the DHS delivered the child to her."

Further, he wrote, this was the fourth case he'd seen in as many weeks along these lines. In one case, he claimed, the U.S. government "flew a child to multiple locations" in the U.S. at the expense of U.S. taxpayers. "This is an absurd and illogical result," he wrote.

The judge noted that after the court inquired about the incidents, a federal prosecutor apparently "requested" that the mother in Virginia be placed in immigration proceedings. He said it's unclear whether that has happened, and he's been told the government will not pursue prosecution.

Hanen wrote that he is "not unsympathetic" to the parents in these cases, but noted the danger these children are put in.

"If [DHS officials] persist in this policy, more children are going to be harmed, and the DHS will be partly responsible because it encourages this kind of Russian roulette," he wrote.

http://www.foxnews.com/politics/2013/12/19/judge-claims-dhs-parents-smuggle/

[The material submitted by Ms. Lofgren follows:]

Statement submitted to the Committee on the Judiciary of the U.S. House of Representatives

Hearing on Unaccompanied Children at the South Texas Border

June 24, 2014

An estimated 80-90,000 unaccompanied alien children (UACs) are expected to cross the southern border of the U.S. by the end of the current fiscal year and as many as 140,000 may come next year. The journeys these children take are extremely dangerous, making them vulnerable to violence, rape, and exploitation. In most cases, the children have fled relentless violence and hopelessness in search of a safe place and a better life. Their safety and well-being must be at the heart of every policy decision made in response to this humanitarian crisis.

Although this has been widely recognized as a regional humanitarian crisis only recently, migration from the "Northern Triangle" of Central America—El Salvador, Guatemala, and Honduras—has risen steadily as violence has increased and transnational organized crime has gained a foothold in the region. It is important to note that asylum claims are increasing all over the region: Mexico, Panama, Nicaragua, Costa Rica, and Belize have shown a 435 percent increase in the number of asylum applications they have received from individuals from Northern Triangle countries. This shows that "push factors" are causing people to flee and that the influx of asylum seekers is not unique to the U.S.

The governments of El Salvador, Guatemala, and Honduras are unable to ensure citizen safety. Honduras has the highest homicide rate in the world, and as the murder rate has risen, so has migration. In these countries, gangs forcibly recruit children as young as five. Kids who

refuse are tortured and killed by the gangs. They are also targeted by vigilante groups who indiscriminately kill young people in neighborhoods known for gang activity. There are few employment opportunities; about a third of young people in the urban areas of these countries are not employed or in school. The police do not protect them and the weak governments in the region do not control the violence. A recent report from the UN refugee agency (UNHCR) found that more than half of the children they interviewed cited violence, sexual abuse, forced gang recruitment, and other forms of exploitation as the main reason they fled.

Under the law, the U.S. is required to release these children (unless they are Mexican, in which case they are usually returned quickly to Mexico) to the Department of Health and Human Services' Office of Refugee Resettlement (ORR). ORR must provide housing until the child can be released to a relative or placed in foster care, where they will wait for their immigration hearing. The law requires that the children from Central America have their cases heard by an immigration judge before they can be deported. The system was designed to serve the 6,000 to 8,000 kids who used to come to the U.S. every year. It cannot handle 80,000. Right now there is simply not enough space to house the children who are here, let alone those who are still coming, and the U.S. must meet the most basic needs of these children immediately.

Vice President Biden recently made a stop in Guatemala during his Latin America trip, where he met with government officials in an effort to get the message across to parents that sending their children to the U.S. is not a safe or viable decision. But parents already understand that the journey is dangerous. Given a choice between keeping their children at home, where they are at extreme risk of violence and there is no hope for the future, and sending them to the U.S., where they face an extreme risk of violence during the journey but have some hope of a safe future, parents are choosing hope.

More border enforcement would not in any way solve this humanitarian crisis—in fact, border resources and enforcement have been more robust than ever under the Administration, yet the migration surge continues. Considering enforcement alone in responding to this crisis could result in child refugees being barred from accessing the protection they need.

The only long term solution to this crisis is a holistic approach that prioritizes safety and opportunity for children in the countries of the Northern Triangle. This approach should also include processing refugees from these countries before they attempt to travel to the U.S. and enacting new forms of humanitarian protection for individuals fleeing the violence in the region.

In terms of immediate response, the U.S. Border Patrol and other government officials that come into contact with migrant children should be trained to deal appropriately with them. Children should be screened to determine if they would be persecuted if returned to their home countries and advised of the right to seek asylum. Children who flee the violence who have asylum claims must be able to make them, and procedures for kids in the immigration system must be fair and humane.

Furthermore, systems and funding should be in place to ensure that these children have competent legal representation and are not left alone to represent themselves in court. Congress should allocate funds to the immigration courts to process cases quickly and should fund programs to help ensure the safe return and integration of children who are sent back to their home countries.

The humanitarian situation at the southern border has caused another crisis. Because of the large shortfall in funding for the Office of Refugee Resettlement (ORR), ORR has informed Congress that it plans to "reprogram" funds that had been budgeted to pay for refugee resettlement services. These cuts would have devastating consequences for recently arrived refugees as they begin their lives anew in our communities. Many successful programs such as those that support micro-enterprise, provide child care for refugee families, support Cuban-Haitian entrants, elderly refugees, and school impact grants will no longer receive funding.

It is unconscionable that refugees should be made to bear the cost of the influx of children at our southern border. Congress must immediately increase funding to ORR by $200 million for FY14 so that the burden of the influx of children at the border is not paid for by the refugees from Iraq, Syria, and elsewhere who have been generously offered protection by the U.S.

Throughout our history, America has been defined by our generosity toward those who seek a safe haven from violence, oppression, and persecution. We must build and maintain processes that reflect the American tradition of offering a chance at a new beginning to those who seek safety and freedom. As a global humanitarian leader, the U.S. has an obligation to fairly and objectively assess asylum applicants who arrive at our borders. The U.S. must show leadership in helping unaccompanied children while maintaining our commitment to asylum seekers and refugees.

FAST | Faith Alliance Against Slavery and Trafficking

Uniquely Vulnerable:

The Nexus between Human Trafficking and Immigration

Executive Summary

The Faith Alliance Against Slavery and Trafficking (FAAST) is a Christian alliance working collaboratively to eradicate human trafficking and restore survivors. FAAST's commitment to the Biblical value of human dignity informs our approach to advocating on behalf of the vulnerable and exploited, regardless of their ethnicity, country of origin, gender, religion, legal status, or any other factor.

In the United States, immigrants are especially vulnerable to human trafficking due to disproportionately lower socio-economic status, limited education, linguistic and cultural unfamiliarity, and fear of law enforcement. In order to ensure immigrants' equal protection from exploitation, these vulnerabilities must be mitigated. Current immigration laws contribute to vulnerabilities by precluding access to the protections of legal status and creating a climate of fear of punitive treatment among the undocumented.

This compels us to advocate for reform of United States (U.S.) immigration policy to increase the number of lawful status options and increase regulation of existing options. Reform could improve accuracy in distinguishing between perpetrators and victims, increasing immigration relief options, protections, and access to services for survivors. Improvements to the immigration system can prevent human trafficking and catalyze identification and restoration of survivors.

Guided by our commitment to eliminating slavery and human trafficking, as well as by the other values of our Christian faith, the member organizations of the Faith Alliance Against Slavery and Trafficking urge the U.S. Congress to enact reforms to our nation's immigration laws as urgently as possible.

Table of Contents

Introduction 2
Background on Human Trafficking 2
Human Smuggling and Human Trafficking 3
Immigrants and Trafficking by the Numbers 4
Immigrants and Trafficking Risk Factors 5
Immigrants and Protection from Trafficking 6
Recommendations 7
About FAAST 8

Introduction

For Christians, the commitment to abolish slavery and human trafficking is driven by our conviction that all human beings are made in the image of God (Genesis 1:27). This means that every human being possess inherent dignity and the right to freedom. When Jesus, quoting from Isaiah, described his mission on earth, it included "to set the oppressed free" (Luke 4:18). As his followers, we believe we are called to seek the abolition of all slavery, involuntary servitude, and cruel treatment of people, regardless of their ethnicity, country of origin, gender, religion, mode of entry into the country, or any other factor.

As Christians fighting human trafficking, we believe that the Church is the most powerful agent of hope, restoration, and prevention. The past decade in particular, awareness about human trafficking issues has increased exponentially among evangelical churches in the United States, a development that we find encouraging. However, awareness in itself is insufficient: The Faith Alliance Against Slavery and Trafficking was established to help equip Christians to holistically respond to human trafficking, including providing support and healing to victims, preventing situations of trafficking by reducing demand, and supporting and encouraging public policies that may reduce the prevalence of human trafficking and other contemporary versions of slavery, both in the United States and internationally.

While human trafficking is not synonymous with human smuggling—many victims of human trafficking within the United States are U.S. citizens who have never crossed an international border—the foreign born are disproportionality likely to be victims of human trafficking. The U.S. Department of Justice has estimated that the number of foreign-born individuals trafficked into the United States from abroad each year may be as high as 17,500.[1] Immigrants present in the United States without valid legal status are, for a variety of reasons, uniquely vulnerable to situations of trafficking. This brief seeks to examine the intersection between immigration issues and the problem of human trafficking within the United States. FAAST hopes that it will be a helpful guide both to lawmakers and to those within local churches who want to better understand these issues so as to be able to encourage appropriate public policy changes.

Background on Human Trafficking

Nearly 150 years after the abolition of slavery in the United States, the practice of human trafficking—a modern-day version of slavery—is tragically common within the United States. Severe forms of human trafficking (or Trafficking in Persons) occur when a person is made—through force, fraud or coercion—to work against their will or is sexually exploited so that another can profit.

[1] Clare Seelke and Alison Siskin, "Trafficking in Persons: U.S. Policy and Issues for Congress," U.S. Department of State: Foreign Press Centers, last modified August 14, 2008, accessed June 23, 2014, http://fpc.state.gov/documents/organization/109559.pdf.

In 2000, the Trafficking Victims Protection Act (TVPA) was put in place to fight human trafficking. The TVPA definition rests upon basic human rights, and the principles of the 13th Amendment protections against slavery and involuntary servitude. Under the TVPA, severe forms of human trafficking include both sex trafficking and labor trafficking

- **Sex trafficking** is the recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age, (22 USC § 7102; 8 CFR § 214.11(a)).
- **Labor trafficking** is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery, (22 USC § 7102).

The TVPA also establishes that non-citizen victims of human trafficking who participate in the investigation and prosecution of trafficking cases, or who are under 18 years of age, can qualify for benefits usually available to refugees. They also have the opportunity to remain in the county through a special visa created for trafficking victims (T-visa) or through a certification of continued presence.

Human Smuggling and Human Trafficking

Human trafficking and human smuggling are not the same crimes, but situations can involve both and determining which crime has occurred is not always easy. While some people are smuggled into the United States in search of greater opportunity, their subsequent enslavement by traffickers violates both their fundamental human rights, and U.S. anti-slavery principles.

Case Study. As an example of a recent case highlighting the relationship between trafficking and smuggling, the following is an excerpt from a case prosecuted in Pennsylvania:[2]

> The Botsvynyuk Organization recruited workers from Ukraine with the promise of a better life in the United States. The Organization promised to arrange for transportation and lawful admission to the United States, housing, food and a monthly wage of $500 each. Victims were told that they would work off the cost of their transportation and accommodation for three years, and then be free to seek their own employment. Instead, their passports and immigration papers were confiscated upon arrival and they were prohibited from attending their immigration hearings. Victims typically worked long overnight shifts, seven nights a week, cleaning offices and stores (such as Walmart). Payments for the victims' labor went exclusively to the Organization, and the victims were only given limited funds for food and rent. The Organization compelled the victims' labor through threats,

[2] Excerpt from United States of America v. Omelyan Botsvynyuk, Stepan Botsvynyuk, Mykhaylo Botsvynyuk, Dmytro Botsvynyuk, and Yaroslave Churuk, Case 2:10-cr-00159-PD (2010).

> violence, and dependence, creating a climate of pervasive fear. The victims were in the United States illegally, spoke little or no English, had no passports or immigration papers, and little or no money. The Organization warned them that if they went anywhere, police would arrest them.

In this case, even though their intent was to come lawfully to the United States, they were defrauded and coerced into a situation that involved both smuggling and trafficking. As with many immigrants in the United States, their lack of legal status increased their vulnerability to trafficking.

Immigrants and Trafficking by the Numbers

It is difficult to estimate the number of trafficking victims who are immigrants (or immigrants who are trafficking victims). We know that in 2010, the U.S. Census Bureau reported there were almost 40 million foreign-born people living in the United States.[3] Of those, 17.5 million were naturalized citizens and 22.5 million were noncitizens. Of these noncitizens, the Pew Research Center's Hispanic Trends Project estimates that 11.7 million are unauthorized immigrants, approximately 3.7% of the total population living in the United States in 2012[4].

Inadequate capacity for identifying and tracking human trafficking victims complicates systematic data collection on trafficking activities[5]. However, given what is known, a 2011 Department of Justice report presents data on the legal status of confirmed victims, divided between labor trafficking and sex trafficking.[6] Based on the numbers presented in that report, excluding those for whom legal status is "unknown":

- At least 95% of labor trafficking victims were foreign-born.
- At least 17% of sex trafficking victims were non-citizens, which given that immigrants compose 13% of the overall U.S. population, means that immigrants are disproportionately likely to be victims of sex trafficking.
- At least 79% of *foreign-born* victims of sex trafficking were undocumented (while undocumented immigrants represent a total of about 31% of the overall foreign-born population).
- At least two-thirds of labor trafficking victims were undocumented.

---

[3] Elizabeth Grieco et al., "The Foreign-Born Population in the United States: 2010," United States Census Bureau, May, 2012, accessed June 23, 2014, http://www.census.gov/prod/2012pubs/acs-19.pdf.
[4] Jeffrey S Passel, D'vera Cohn, and Ana Gonzalez-Barrera, "Population Decline of Unauthorized Immigrants Stalls, May Have Reversed," Pew Research: Hispanic Trends Project, September 23, 2013, accessed June 23, 2014, http://www.pewhispanic.org/2013/09/23/population-decline-of-unauthorized-immigrants-stalls-may-have-reversed/.
[5] Office for Victims of Crime et al., "2012 National Crime Victims' Rights Week Resource Guide," National Criminal Justice Reference Service, 2012, accessed June 23, 2014, https://www.ncjrs.gov/ovc_archives/ncvrw/2012/.
[6] Duren Banks and Tracey Kyckelhahn, "Characteristics of Suspected Human Trafficking Incidents, 2008-2010," Bureau of Justice Statistics, April, 2011, accessed June 23, 2014, http://www.bjs.gov/content/pub/pdf/cshti0810.pdf.

A study by Hofstra University of human trafficking victims in New York, which included many more sex trafficking victims than labor trafficking, notes that 20.5% of victims were undocumented immigrants. Again, these data show the unique vulnerability of undocumented immigrants, since they are only about 3.7% of the total U.S. population.

Immigrants and Trafficking Risk Factors

Several risk factors can "push" a person into trafficking. Possessing more than one of these characteristics can lead to a compounding of vulnerability. Those that are most relevant to immigrants include: a lack of access to work due to barriers such as limited education, linguistic and cultural proficiency, and lack of legal documentation. Factors contributing to lower socio-economic status include gender, ethnic minority status, and economic insecurity (including debt and homelessness). Additional threats to stability related to legal status include incarceration or deportation of family members. These factors drive immigrants further into poverty and desperation, forcing them to risk safety and security for survival. Once preyed upon, immigrants are further deterred from seeking help because of a general mistrust of law enforcement and fear of deportation. [7,8]

Not only are undocumented immigrants particularly vulnerable for the reasons listed above, but also the family members of undocumented immigrants face similar vulnerabilities by association. A recent Urban Institute fact sheet shows that almost 9 million family members, who are US citizens or legal permanent residents live with these undocumented people.[9] Most of these individuals (5.2 million or 60%) are children under the age of 18 and most of these children (4.1 million) are younger than 13. Thus, the human impact of immigration policy (or the lack thereof) is nearly double the estimate of the number of unauthorized immigrants.

The United States offers limited options for the foreign-born to enter legally. Nonimmigrant visa programs, such as the H2A, H2B, H1, and J1[10] facilitate the migration and exchange of students and workers between countries. These programs increasingly rely upon foreign labor recruiters; while many of these recruiters behave ethically, others use it as an opportunity to bring people into the United States for exploitive purposes. These contractors, lure desperate foreign workers to the United States, promising jobs described as plentiful and lucrative, and rely on coercive

[7] Beth Grant et al., *Hands That Heal: International Curriculum to Train Caregivers of Trafficking Survivors* (Springfield: Life Publishers, 2007).
[8] Maria Enchautegui, "Immigration Reform: How to Turn a Path to Citizenship into a Path to Prosperity," MetroTrends, 2012, accessed June 23, 2014, http://www.metrotrends.org/commentary/immigrationreform.cfm.
[9] Maria Enchautegui, "More Than 11 Million: Unauthorized Immigrants and Their Families," Urban Institute, 2012, accessed June 23, 2014, http://www.urban.org/UploadedPDF/412979-more-than-eleven-million-fact-sheet.pdf.
[10] Alliance to End Slavery and Trafficking, "Subtitle F - Prevention of Trafficking in Persons and Abuses Involving Workers Recruited Abroad," endslaveryandtrafficking.org, 2013, accessed June 23, 2014, http://www.endslaveryandtrafficking.org/sites/default/files/ATEST%20FLR%20Support%20Letter%20to%20HOR%20(FINAL%20-%20June%2014,%202013).pdf.

tactics, charging fees that often force workers to stay in abusive or exploitative working conditions under debt bondage or other forms of slavery.

Immigrants and Protection from Trafficking

The TVPA currently offers several protections to non-citizens who have been victims of trafficking:

- T Visas – The nonimmigrant status provides immigration protection to victims of severe forms of trafficking who assist federal, state, local, tribal, and territorial law enforcement in the investigation and prosecution of human trafficking cases.
- U Visas – The U nonimmigrant status provides immigration protection for victims of certain qualifying crimes who assist federal, state, local, tribal, and territorial law enforcement in the investigation or prosecution of certain crimes, including but not limited to trafficking-related crimes.
- Continued Presence (CP) – refers to a temporary relief to an immigrant identified by federal, state, local, tribal, or territorial law enforcement as victims of human trafficking. This allows the trafficked person to stay within the United States during investigation and prosecution. CP also allows the individual to legally live and work within the U.S.

To date, approximately 2,300 victims of human trafficking have received T-visa certification[11] and more than 700 trafficking suspects have been prosecuted federally for trafficking-related crimes.[12] U-Visas are limited to 10,000 per year, a cap that has been reached every year since 2008.[13]

Despite some success, the current immigration system limits effective enforcement of the TVPA. Trafficking identification is hindered by the following limitations: [14]

- Increased local enforcement of immigration laws is often at odds with efforts to train local law enforcement agencies to identify human trafficking cases.
- Long-term detention/sanction further exploits workers, who often experience post-traumatic stress disorder as a result of labor exploitation and who do not have access to desperately needed services while in detention.

---

[11] Office of the Citizenship and Immigration Services Ombudsman, "Improving the Process for Victims of Human Trafficking and Certain Criminal Activity: The T and U Visa," U.S. Department of Homeland Security, January 29, 2009, accessed June 23, 2014, http://www.dhs.gov/xlibrary/assets/cisomb_tandu_visa_recommendation_2009-01-26.pdf.

[12] Amy Farrell et al., "Identifying Challenges to Improve the Investigation and Prosecution of State and Local Human Trafficking Cases," National Criminal Justice Reference Center, April, 2012, accessed June 23, 2014, https://www.ncjrs.gov/pdffiles1/nij/grants/238795.pdf.

[13] "USCIS Approves 10,000 U Visas for 5th Straight Fiscal Year," U.S. Citizenship and Immigration Services, December 11, 2013, accessed June 23, 2014, http://www.uscis.gov/news/alerts/uscis-approves-10000-u-visas-5th-straight-fiscal-year.

[14] "Human Trafficking and Immigrant Rights," Freedom Network USA, January, 2013, accessed June 23, 2014, http://freedomnetworkusa.org/wp-content/uploads/2012/05/Immigrant-Rights-_Updated-January-2013-for-CIR_.pdf.

- Long-term detention also tears families apart and potentially leaves citizen children unattended.[15]

Additionally, it is difficult for law enforcement personnel to effectively identify cases of human trafficking. If police do not ask the right questions, they may not realize the encountered person is a victim.[16]

If law enforcement is unable to identify immigrant victims of trafficking, they may treat them as unlawful entrants, precluding them from accessing necessary services. Additionally, victims themselves often do not understand they are victims. They may be led to believe that they are criminals by their traffickers and that if they sought police, they would be prosecuted. Further barriers to identification include a lack of knowledge and/or prioritization in police departments to investigate and prosecute trafficking cases

Recommendations

While a number of helpful policies have been put in place at various levels of government in the past decade that have assisted in the prevention of human trafficking, the prosecution of traffickers, and the care of trafficking survivors, further public policy changes are needed. Those changes must include reforms to our nation's immigration laws. The dysfunction within our current immigration system facilitates human trafficking and keeps immigrants uniquely vulnerable to exploitation.

Guided by our commitment to eliminating slavery and human trafficking, as well as by the other values of our Christian faith, the member organizations of the Faith Alliance Against Slavery and Trafficking urge the U.S. Congress to enact reforms to our nation's immigration laws as urgently as possible.

Specifically, we believe that reforms should:

- Minimize the number of immigrants who are present unlawfully within the United States—and thus uniquely vulnerable to situations of human trafficking—by establishing a fair earned legalization process. Such a process need not be an "amnesty," whereby violations of U.S. law are simply forgiven or ignored, but could include the payment of a reasonable penalty and satisfaction of other appropriate requirements by which undocumented immigrants could come out of the shadows (and out of the vulnerability to trafficking situations) and earn permanent legal status.
- Humanely secure the borders of the United States in ways that distinguish between those simply seeking to pursue economic opportunity in the United States and those with malicious intent, including those trafficking humans, drugs, or arms.

[15] See also Ajay Chaudry et al., "Facing Our Future: Children in the Aftermath of Immigration Enforcement," The Urban Institute, February, 2010, accessed June 23, 2014, http://carnegie.org/fileadmin/Media/Publications/facing_our_future.pdf.
[16] Farrell et al., "Identifying Challenges."

- Amplify the visa system so that more of those seeking employment, family reunification, or refuge from persecution in the United States are able to enter *lawfully*, reducing the dependency upon unlawful smugglers who, in many cases, have exploited the migrants' vulnerability and pressed them into situations of human trafficking.
- Increase the number of U visas for victims of particular crimes who provide assistance to law enforcement; the current cap of 10,000 per year is insufficient to adequately protect victims and could be made more useful to law enforcement agencies.
- Reform non-immigrant visa programs to ensure fair treatment of temporary workers and students.
- Increased transparency by and registration of foreign labor contractors/recruiters in order to prevent the charging of fees that result in situations of debt bondage or create vulnerability to other forms of human trafficking.
- Immediately end exploitative labor practices within immigrant detention centers, whether publicly or privately operated, particularly the practice of paying detainees as little as $1 per day for "volunteer" work opportunities within the detention centers and exploitative pricing for basic goods and services such as telephone cards.

About FAAST

FAAST was formed in 2003 when a number of faith-based organizations, each addressing human trafficking issues as individual organizations, came together to battle human trafficking and to minister holistically to survivors. Members of FAAST include The Salvation Army, World Hope International, World Relief, and the Assemblies of God's Project Rescue, the Global Center for Women and Justice, and Rescue: Freedom International.

More information about the Faith Alliance Against Slavery and Trafficking is available at www.faastinternational.org.

Works Cited

Alliance to End Slavery and Trafficking. "Subtitle F - Prevention of Trafficking in Persons and Abuses Involving Workers Recruited Abroad." endslaveryandtrafficking.org. 2013. Accessed June 23, 2014.http://www.endslaveryandtrafficking.org/sites/default/files/ATEST%20FLR%20Support%20Letter%20to%20HOR%20(FINAL%20-%20June%2014,%202013).pdf.

Banks, Duren, and Tracey Kyckelhahn. "Characteristics of Suspected Human Trafficking Incidents, 2008-2010." Bureau of Justice Statistics. April, 2011. Accessed June 23, 2014.http://www.bjs.gov/content/pub/pdf/cshti0810.pdf.

Chaudry, Ajay, Randy Capps, Juan Manuel Pedroza, Rosa Maria Castañeda, Robert Santos, and Molly M. Scott. "Facing Our Future: Children in the Aftermath of Immigration

Enforcement." The Urban Institute. February, 2010. Accessed June 23, 2014. http://carnegie.org/fileadmin/Media/Publications/facing_our_future.pdf.

Enchautegui, Maria. "Immigration Reform: How to Turn a Path to Citizenship Into a Path to Prosperity." MetroTrends. 2012. Accessed June 23, 2014.http://www.metrotrends.org/commentary/immigrationreform.cfm.

Enchautegui, Maria. "More Than 11 Million: Unauthorized Immigrants and Their Families." Urban Institute. 2012. Accessed June 23, 2014. http://www.urban.org/UploadedPDF/412979-more-than-eleven-million-fact-sheet.pdf.

Farrell, Amy, Jack McDevitt, Rebecca Pfeffer, Stephanie Fahy, Colleen Owens, Meredith Dank, and William Adams. "Identifying Challenges to Improve the Investigation and Prosecution of State and Local Human Trafficking Cases." National Criminal Justice Reference Center. April, 2012. Accessed June 23, 2014. https://www.ncjrs.gov/pdffiles1/nij/grants/238795.pdf.

Freedom Network USA. "Human Trafficking and Immigrant Rights." January, 2013. Accessed June 23, 2014. http://freedomnetworkusa.org/wp-content/uploads/2012/05/Immigrant-Rights-_Updated-January-2013-for-CIR_.pdf.

Grant, Beth, Cindy Lopez Hudlin, Faith Alliance Against Slavery and Trafficking, The Salvation Army U.S. National Headquarters, The Salvation Army World Service Office, World Hope International, World Relief, and Project Rescue International. *Hands That Heal: International Curriculum to Train Caregivers of Trafficking Survivors*. Springfield: Life Publishers, 2007.

Grieco, Elizabeth, Yeseni Acosta, G. Patricia de la Cruz, Christine Gambino, Thomas Gryn, Luke Larsen, Edward Trevelyan, and Nathan Walters. "The Foreign-Born Population in the United States: 2010." United States Census Bureau. May, 2012. Accessed June 23, 2014.http://www.census.gov/prod/2012pubs/acs-19.pdf.

Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, and National Center for Victims of Crime. "2012 National Crime Victims' Rights Week Resource Guide." National Criminal Justice Reference Service. 2012. Accessed June 23, 2014.https://www.ncjrs.gov/ovc_archives/ncvrw/2012/.

Office of the Citizenship and Immigration Services Ombudsman. "Improving the Process for Victims of Human Trafficking and Certain Criminal Activity: The T and U Visa." U.S. Department of Homeland Security. January 29, 2009. Accessed June 23, 2014.http://www.dhs.gov/xlibrary/assets/cisomb_tandu_visa_recommendation_2009-01-26.pdf.

Passel, Jeffrey S, D'vera Cohn, and Ana Gonzalez-Barrera. "Population Decline of Unauthorized Immigrants Stalls, May Have Reversed." Pew Research: Hispanic Trends Project. September 23, 2013. Accessed June 23, 2014. http://www.pewhispanic.org/2013/09/23/population-decline-of-unauthorized-immigrants-stalls-may-have-reversed/.

Seelke, Clare, and Alison Siskin. "Trafficking in Persons: U.S. Policy and Issues for Congress." U.S. Department of State: Foreign Press Centers. Last modified August 14, 2008. Accessed June 23, 2014. http://fpc.state.gov/documents/organization/109559.pdf.

U.S. Citizenship and Immigration Services. "USCIS Approves 10,000 U Visas for 5th Straight Fiscal Year." December 11, 2013. Accessed June 23, 2014. http://www.uscis.gov/news/alerts/uscis-approves-10000-u-visas-5th-straight-fiscal-year.

Statement of

JAMES R. SILKENAT
President

on behalf of the

AMERICAN BAR ASSOCIATION

for the record of the hearing on

"An Administration Made Disaster: The South Texas Border Surge of Unaccompanied Alien Minors"

before the

Committee on the Judiciary

of the

U.S. HOUSE OF REPRESENTATIVES

June 25, 2014

1050 Connecticut Ave. NW, Suite 400 - Washington, DC 20036
www.americanbar.org

Chairman Goodlatte, Ranking Member Conyers and Members of the Committee:

On behalf of the American Bar Association (ABA), I submit this statement for the Committee's June 25, 2014 hearing addressing the recent surge of unaccompanied alien children entering the United States through our southern border.

The American Bar Association is one of the world's largest voluntary professional organizations, with a membership of nearly 400,000 lawyers, judges, and law students worldwide. The ABA continuously works to improve the American system of justice and to advance the rule of law both domestically and around the world. Through its Commission on Immigration, the ABA advocates for improvements in immigration law and policy; provides continuing education to the legal community, judges, and the public; and develops and assists in the operation of pro bono legal representation programs.

In 1989, the ABA established the South Texas Pro Bono Asylum Representation Project (ProBAR), largely in response to the influx of asylum-seekers into South Texas at that time who were fleeing civil war and violence in Central America—conditions similar to what we are experiencing today on the southwest border. ProBAR staff and volunteers provide legal rights presentations and pro bono representation to indigent, detained immigrants and asylum-seekers held in facilities throughout the Rio Grande Valley.

ProBAR established its Immigrant Children's Assistance Project in 2003. The Children's Project currently serves more than 1,500 detained, unaccompanied children at shelters in South Texas by providing them with "Know Your Rights" presentations, individual screenings and pro bono legal representation. ProBAR is located in Harlingen, Texas, in the heart of the Rio Grande Valley, where the majority of unaccompanied children are apprehended by Customs and Border Protection.

As you know, the number of children being apprehended by the authorities has increased more than ten-fold over the past three years, from approximately 6,500 in 2011 to a projected number of over 90,000 in 2014. In 2013, ProBAR provided "Know Your Rights" presentations and individual legal screenings to 6,500 unaccompanied children held in federally funded detention centers, up from 3,200 the previous year. From January through April 2014, ProBAR provided these same legal rights presentations to 3,986 children, almost doubling from the previous year.

ProBAR attorneys and paralegals interact daily with children of all ages held in detention centers funded by the U.S. Department of Health and Human Services. These boys and girls come mainly from Honduras, El Salvador, and Guatemala and range in age from toddlers to 17 years old. They include pregnant and mothering teens, and although the majority of these children tend to be teenage boys between the ages of 15 to 17, the number of unaccompanied girls and young children is steadily increasing. Children travel to the United States on their own, in groups led by human smugglers, and with extended family members and friends.

The reasons that children immigrate to the United States are often complex and multifaceted. Children express both push and pull factors that cause them to leave their home countries and seek protection, opportunity, and family reunification in the United States. Reasons include escaping from abuse and very real threats by powerful and violent street gangs, including the 18th Street gang and the Mara Salvatrucha gang. These gangs frequently engage in forced recruitment of teenage boys, sexual slavery of teenage girls, and targeted extortion efforts, often focusing on children with parents and extended family members in the United States. The gangs are terrifying and relentless in their efforts to exact compliance. A more recent phenomenon, children are fleeing these countries due to threats by multinational drug trafficking organizations, demanding that children act as drug mules or look-outs for illicit cartel activities. Furthermore, many of the children ProBAR represents have been abandoned, abused, or neglected in their home countries by parents or by extended family members. In most cases involving children, there are multiple factors that fuel the decision to migrate to the United States; however there is no question that the increasing violence and lawlessness in El Salvador, Guatemala, and Honduras is a major cause of the recent influx.

Once children are apprehended by Border Patrol agents, they are transported by Customs and Border Protection (CBP) to processing stations where they are held in crowded holding cells. Children are supposed to be held for no more than 72 hours in these cells, but with the recent surge, they often remain for a week or longer, being transferred from one station to another, sleeping on the cold concrete floor, in unsanitary conditions, with inadequate food and water. Some children report being treated with aggression by Border Patrol agents, being pushed, shoved, or kicked upon arrest. Other children report being denied food, medical care, and medication. While we understand the pressures on the system caused by the recent surge in numbers, children should be held in CBP short-term custody cells for as short a time as possible, and in no circumstance longer than 72 hours. Furthermore, CBP must ensure that they are held in appropriate conditions with access to all basic services.

After children are processed at the CBP stations, they await placement at a shelter sponsored by the Office of Refugee Resettlement. Once arriving at the shelter the children are finally able to meet their basic needs by showering, eating a hot meal and accessing medical, psychological and legal services. Within a few days, the shelter caseworkers will begin to determine whether it is possible to reunify the child with a family member or other adult sponsor. The speed of reunification has increased significantly over the last year, and this has resulted in some children being reunified without the essential "Know Your Rights" presentation and the individual screening service.

It is critical that legal service providers have the time to provide basic legal information and to screen children before they are reunified with qualified sponsors. Otherwise, children who are at a heightened risk if returned to their countries and who may qualify for legal relief may never have the opportunity to access critically needed legal services. The ABA recommends that all children receive a live, in-person legal rights presentation and an individual, child-friendly screening by a qualified legal advocate before being reunified with approved sponsors.

Simply reaching the United States does not guarantee that an unaccompanied child will be allowed to remain in the country. Children who enter the United States without authorization are immediately issued a "Notice to Appear," the charging document that initiates removal proceedings. These children will be required to appear before an Immigration Judge in adversarial proceedings to defend against removal. Unaccompanied children have no right to appointed counsel in removal proceedings or to additional protections, like a Guardian ad Litem, that are standard in other U.S. legal proceedings involving children. While a recent report of the United Nations High Commissioner on Refugees found that 58% of these children present legitimate legal protection concerns, qualifying for immigration relief is difficult under our current legal framework. Children may be eligible to apply for political asylum, Special Immigrant Juvenile status, T or U visas, or other forms of relief, but these cases are very complex and only a small percentage of children will actually be granted relief. Children who are not granted relief will be ordered to return to their countries of origin, often through removal orders.

For many reasons, it is critical that these children have legal representation throughout the immigration process. Due to their age, lack of education, language and cultural barriers, and the complexity of U.S. immigration law, these children face often insurmountable obstacles to proving their claims for protection before an Immigration Judge or asylum officer on their own. The majority of these children are not in a position to determine on their own whether they might qualify for legal relief. In fact, on their own, they may not be able to understand the nature of, much less be able to meaningfully participate in, their immigration proceedings.

Fundamental principles of fairness and due process demand that these vulnerable children receive legal representation and guardians to represent their interests throughout the immigration process. Additionally, legal representation often improves the efficiency of the court process and may help ensure that a child and his or her sponsor understand the responsibility to appear for proceedings and to abide by the decision of the court. While pro bono representation should be encouraged and utilized to the maximum extent possible, it cannot meet the need in all cases, particularly for those who are detained in remote border areas. Therefore, the ABA strongly recommends that government-appointed counsel be provided for children who are not otherwise able to obtain legal representation.

For those children who receive orders of removal, the repatriation process must be completed in a manner that ensures their safety and successful reintegration in the home country. The ABA recommends that repatriations of such children include formal intercountry child welfare agency involvement and adherence to intercountry protocols designed to address concerns regarding the safety of the child during the repatriation process and the process of returning the child to a stable environment. These actions will not only help to protect these children, but may also be critical to help prevent them from attempting to migrate again.

The disturbing reality for many of these children is that a life-threatening trip northward to the United States appears less risky than remaining in their home country, where many would continue to live in broken homes, subject to abject poverty, and at risk from criminal gangs and

cartels that have overrun their communities. Until there is stability, rule of law and economic opportunity in Central America and Mexico, the current migration patterns likely will continue.

There is no question that the rapid increase in unaccompanied children entering our country presents many difficult challenges. However, in the rush to address the current crisis, the United States cannot abandon the principles of fairness and due process that make this country a beacon a light and hope for those suffering persecution around the world. Any short- or long-term solutions designed to address the influx of children must bear this ideal firmly in mind.

We appreciate the opportunity to provide this statement to the Committee and stand ready to assist the Committee in addressing the challenging problems raised by the entry across our border of unprecedented numbers of unaccompanied alien children.

Statement for House Judiciary Committee Hearing
June 25, 2014

The United States is experiencing a refugee-like crisis. Children from Central America are running for their lives because their countries have become virtual war-zones and their only choice is either run or stay and be killed. The crisis is not only on our doorstep, but it is being felt regionally. This is not an inconvenient immigration problem, it is a serious child protection issue. There is no simple and swift solution. It is complex and needs both short term and long term attention and solutions. How we respond to a crisis of children in need of safe haven says a lot about our country and ourselves. The US has correctly been quick to demand that other countries around the world protect children in danger by offering care, compassion, and a commitment to long-term solutions. We can do no less.

The numbers speak for themselves. From 2004 to 2011, the numbers of unaccompanied children coming to the US each year averaged 6,800. In fiscal year 2012, their number jumped to more than 13,000. The following fiscal year, 2013, more than 24,000 children came. This fiscal year, 2014, we're on track to see over 70,000 and some estimates are as high as 90,000. Next year their number is expected to increase to 127,000. One weekend not long ago, 1,000 children crossed alone into the U.S.

The US is not alone in experiencing the flow—this is a regional crisis. The kids are fleeing to wherever they can. Many decide to go north to the US because they have family here or a connection to the US, but the United Nations Refugee Agency (UNHCR) found that asylum requests by Hondurans, Salvadorans and Guatemalans seeking refuge in countries south has increased 712 percent. Children are also fleeing within their own borders. The top three sending nations of El Salvador, Honduras, and Guatemala are experiencing significant numbers of their own people being internally displaced.

Not only have the numbers changed, but who is coming is different. For years it was much more common to see older teens, the large majority male, coming to the US alone. Now there is a significant increase in children under age 12 and almost half the children coming are girls. Many experience sexual violence during their journey; a number are pregnant from rape that occurred either in their home country or while they were migrating. The fact that children are coming younger and that more girls are coming despite the well-known risk of sexual assault

along the journey underscores the desperation that is pushing the children out of their home countries.

Honduras has had the highest murder rate in the world for the last four years, according to the United Nations. The President of Honduras said in a visit to the US last week that the Honduran children coming alone to the US "are displaced by war." The State Department has issued a warning to Americans not to travel to Honduras or El Salvador. The violence level in all three countries is described by our own government as being "critically high" and "the police can't protect you."

A March 2014 report by the UN Refugee Agency (UNHCR) on unaccompanied children in Central America and Mexico found that the primary reason for these children's flight is increasing violence in Central America driven by drug cartels and a variety of other criminal elements, and that the majority of these children should be screened for international protection. Numerous other reports confirm this, as do the children referred to KIND: most describe fleeing forced gang recruitment and violence for refusing to join with criminal groups, as well as threats and harm to family members and friends.

Smugglers are clearly taking advantage of the situation and doing what is best for business, likely spreading false information to gain more clients. Ironically, the smugglers and traffickers are often connected to the gangs and narco-traffickers that drove the children out of their home countries to begin with. The US needs to prioritize identifying, disrupting and dismantling the transnational criminal smuggling networks.

The U.S. system that governs the custody, care, release, and social and legal services for these children was not built to address the needs of these numbers of children. The system must be entirely re-worked in order to embrace child protection as its core. Our current system does not use a best interests of the child standard in decision-making regarding these children, despite the fact that it is the cornerstone of child protection around the world and the basis of our child welfare and juvenile justice systems. Our immigration system is adversarial and treats children not much differently than adults.

Designating FEMA to lead the effort and coordinate the government's response was an appropriate first step in an emergency situation, but others with expertise in working with displaced children should also be brought in to ensure appropriate care of these vulnerable children. No one disputes that Border Patrol facilities are not appropriate places for children to be held for any length of time. We also have to be concerned about where the children are sent after they are transferred from Border Patrol to the care and custody of the Department of Health and Human Services and the conditions they are experiencing. They must be receiving adequate social services, as well as Know Your Rights presentations and legal screenings so that

the children know their rights and responsibilities within our immigration system. It is important to remember that none of these children are getting a free pass - all are placed in deportation proceedings and must appear in immigration court.

About 90 percent of children are released from HHS custody in an average of 30 days to a sponsor - but are released with very limited, if any, access to social or legal services, of which they are in dire need. This means tens of thousands of children are being released in desperate need of psychosocial services and receiving little if any care, and with little to no access to legal representation in their immigration proceedings. Only very few child advocates are appointed despite the large numbers of particularly vulnerable children. Without an attorney, access to protection is nearly meaningless, as children are unable to present their case to a U.S. immigration judge, and against the U.S. government attorney, who is arguing for the child's deportation. As a result, the children can be returned to their home countries, where their well-being, and even their lives may be in danger.

The Department of Justice's new AmeriCorps Legal Services for Unaccompanied Children program that will fund 100 young attorneys to represent children is an important first step. The private sector can also help; law firms and corporations have dedicated their time and resources to represent these kids on a volunteer basis—this should be supported and expanded. The provision of attorneys for these children would also make the system more efficient and effective, and ensure that more children stay within the system. Children with attorneys are more likely to appear for their court dates than children without, as they have help understanding the system.

This leads to another significant gap in the U.S.'s treatment of these children -- a lack of return and reintegration assistance. We largely do not know what happens to children when they are returned. In one case we do know, a boy deported from the U.S. was murdered 17 days after his return by the very gang members on whom his unsuccessful claim for U.S. protection was based. As a top destination country, we must ensure the safe return and reintegration of unaccompanied children into their home country so that we do not return these children to harm and so they can remain sustainably in their home communities.

We greatly appreciate the work of Congress in passing the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, which directed the State Department to establish a pilot return and reintegration project - which it did for 18 months in El Salvador through the International Organization for Migration, but it was limited in scope and time, and substantive best practices have not been shared, nor has State replicated this work elsewhere.

KIND's Guatemalan Child Return and Reintegration Project is an example of how such programs can be created in the future with success. KIND has partnered with four local nongovernmental

organizations in Guatemala which help provide services to returning children, based on an intake conducted by KIND social workers before the child leaves the US. The NGOs follow up with the child to check in and visit as needed. To date, KIND has helped 117 children return safely and remain sustainably in Guatemala.

Conclusions

- The United States must recognize the primary push factors that are driving children here - namely, increasing gang violence in which children are being targeted and from which their governments cannot protect them. As such, the United States must uphold its obligations to ensure that these particularly vulnerable children can access the U.S. immigration system and receive protection if they are eligible, and have a fair chance to make their case.

- The best interests of the child must be the primary consideration in all decisions relating to these children at every level of government. This would provide a basic level of protection that would lead to real change and more positive outcomes for these children.

- The children must be released from U.S. government custody to well-screened sponsors as soon as possible - **but** they must be released with access to comprehensive services that would address their social service and legal needs - this is currently the largest and most disturbing gap in our current system that puts tens of thousands of these children at risk for a variety of protection concerns. With access to these services, children are more likely to remain in the system and remain safe.

- Children must be provided a free lawyer to represent them throughout their deportation proceedings. Attorneys could be government appointed or pro bono attorneys found through the private sector, which is cost-effective and has proven successful. Any changes to the U.S. system are largely meaningless if these children do not have legal representation. Studies have shown that representation saves government resources by helping the immigration system run more efficiently and effectively.

- The U.S. should establish robust return and reintegration programs that will help children returning alone stay safely and sustainably in their home countries. KIND's pilot project in Guatemala could be seen as a model. The Child Trafficking Victims Protection Act, H.R. 2624, contains such language.

- The U.S. should address the root causes of this unprecedented migration in its development assistance to top sending countries through USAID or other agencies within the State Department. Programs such as the Central America Regional Security Initiative, or CARSI in the State Department's Western Hemisphere Bureau could be used towards this goal. USAID could also tailor its youth programming in the top sending countries to address the needs of these children and help prevent their need to migrate.

- Finally, the U.S. should view the issue of child migrants not just as a U.S. immigration issue, but also one that is linked to our foreign policy in the region. The State Department should take much needed action and help promote regional collaboration.

KIND is hopeful that this historic migration of unaccompanied children to the United States will in the end result in a U.S. system with enhanced child protection mechanisms and one in which children are treated as they need and deserve to be treated - as children first and foremost.

Statement of the U.S. Committee for Refugees and Immigrants
Submitted to the Committee on the Judiciary of the U.S. House of Representatives
Hearing on "An Administration Made Disaster:
The South Texas Border Surge of Unaccompanied Alien Minors"
June 25, 2014

The U.S. Committee for Refugees and Immigrants (USCRI) submits this statement to the full House Judiciary Committee. USCRI is the national non-profit organization that for the past 100 years has helped shape our nation's history. From publishing the first book on U.S. citizenship to helping refugees from war-torn places like Europe, Vietnam, Cuba, Burma, Iraq, and Sudan build new lives in the U.S. we have seen newcomers contribute to our nation. The mission of USCRI is to address the needs and rights of persons in forced or voluntary migration worldwide by advancing fair and humane public policy, facilitating and providing direct professional services, and promoting the full participation of migrants in community life.

As part of this mission since 2005 USCRI's Immigrant Children's Legal Program has worked with over 275 law firms and thousands of attorneys throughout the U.S. to provide unaccompanied immigrant children *pro bono* legal representation in their immigration proceedings. To date USCRI has made a difference in the lives of over 7,500 children. USCRI is also government contracted to help unaccompanied immigrant children, deemed to be in need of additional services due to extensive histories of abuse, trauma or neglect. USCRI has provided in-home social services and linkages to education, legal, health, and mental health providers to over 1,000 children. USCRI sees the direct impact of these programs and the needs of unaccompanied immigrant children.

Urgent Humanitarian Situation

The increasing number of unaccompanied immigrant children arriving in the US is due to the security concerns in Central America. Honduras leads the world in homicide rates[1], with El Salvador and Guatemala not far behind. The increase in violence is the result of many factors, poverty, corruption and impunity.[2] There has also been an increase in power of organized crime and other armed actors. These criminal actors have increased their control and reach throughout the region. They control communities through fear, kidnapping, threats, extortions and of course violence.

Various reports by civil society organizations and the UNCHR have found that law enforcement in these Central American countries, often cannot provide protection to its citizens.[3] The U.S. State department has recognized that "crime has exploded in northern Central America, and Honduras now has the world's

[1] In 2012, Honduras' homicide rate was 90.4 per 100,000 population. See the United Office on Drugs and Crime (UNODC), 2013 Global Study on Homicide, Available at: http://www.unode.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf.

[2] The Organization of American States, The Drug Problem in the Americas, (2013) available at http://www.oas.org/documents/eng/press/Introduction_and_Analytical_Report.pdf

[3] Gonzalez, Rosmery Austria deniega permiso de venta de armas a gobierno de Otto Pérez, El Periodico, (May 2, 2014) available at http://elperiodico.com.gt/es/20140502/pais/246662/

highest murder rate outside of war zones."[4] Organized criminal actors can often count on the impunity of their governments to operate freely. Moreover, in Guatemala and Honduras, there is sometimes collaboration between organized criminal groups and members of the military and police, and police and military involvement in serious crimes, which can lead to a distrust of authorities. This distrust makes reporting of crimes and seeking protection more unlikely.[5]

Another important factor to the forced displacement of children is the forced recruitment by organized crime and local gangs. In Honduras, more than 90% of violence experienced by minors goes unreported to the police, reflecting the limited capacity on the part of law enforcement to investigate cases.[6]

USCRI Data on Unaccompanied Immigrant Children
USCRI conducted an analysis of our database of unaccompanied immigrant children matched with volunteer attorneys in our pro bono network from January 2010 through April 9, 2014. During this time the overwhelming majority of our clients migrated from Central America. Honduras is the most common country of origin, followed by Guatemala and El Salvador. Nearly 60% of our clients fall between ages fifteen and seventeen. In 2013, we saw an increase in the number of clients we served, and were able to match 98 unaccompanied immigrant children to attorneys. In the first 100 days of 2014, we have already matched 22 unaccompanied immigrant children.

In the analysis of our data primary and secondary reasons for migration identified. 36% identified directed violence as the primary reason they migrated. These children received direct threats of violence from gang or other violent entities. With the exception of 2012, directed violence was the most frequently identified primary reason for migration across all years studied. Child abuse is the second most frequently cited primary reason at 26%. While unaccompanied immigrant children often come to meet family in the U.S., it wasn't until children had suffered directed violence, or child abuse that they decided to migrate.

Urgent Needs
Funding
ORR is responsible for serving refugees fleeing persecution and other vulnerable migrant populations, including unaccompanied immigrant children. In 2002 the Homeland Security Act of 2002 (HSA) granted the care and placement of unaccompanied immigrant children to the Dependent of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR). The law requires that within 72 hours of their apprehension by the Department of Homeland Security (DHS), custody of children be turned over to ORR.[7] Central American unaccompanied children are placed in removal proceedings upon apprehension at the border. While these legal proceedings are ongoing ORR attempts to reunite children with family in the U.S., otherwise children must remain in ORR custody until the end of their immigration case.

ORR's refugee programs have been underfunded for many years, but now with the increase of unaccompanied immigrant children, the already weak budget is exhausted. On May 30, 2014, the President's Office of Management and Budget (OMB) sent a letter Senate and House Appropriations Committees. The letter indicated that ORR would need $2.28 billion in FY15 to care for the children.

[4] http://www.state.gov/j/cso/releases/other/2013/205261.htm
[5] United Office on Drugs and Crime (UNODC), 2011 Global Study on Homicide
[6] Casa Alianza Honduras, "Análisis de la situación de Derechos de la Infancia Migrante No Acompañada en el marco de los procedimientos de deportación y retorno a Honduras," June 2012. Available at: http://casa-alianza.org.hn/images/documentos/Observatorio/migrante12.pdf.
[7] http://www.oig.dhs.gov/assets/OIG_Juvenile.pdf

Counsel

Immigrant children are particularly vulnerable when navigating the complexities of immigration law and procedures. It is essential that children facing immigration court proceedings or petitioning other federal agencies be afforded legal representation. Child immigrants are often forced to defend themselves against prosecution by an experienced government attorney in immigration court proceedings. These children have frequently experienced trauma, lack resources, and are generally unfamiliar with American laws, procedures, customs, agencies, and language—rendering them incapable of providing competent pro se representation. U.S. immigration law is a complex and constantly evolving area of practice that is often challenging to experienced attorneys, and therefore nearly impossible to navigate for noncitizen children lacking such specialized knowledge and language. Underfunded and overextended non-profits, law schools, and other community organizations have tried to address the problem through pro bono projects, "Know Your Rights" presentations, and legal orientation of sponsors. While pro bono initiatives have succeeded in matching large law firm resources with children in need of representation, the number of children in need far exceed available pro bono volunteers.

Recommendations

1. Additional Funding for the Office of Refugee Resettlement –Without Congressional leadership and intervention America's ability to provide protection for persecuted persons and a chance at a new life would be dramatically diminished. Unless ORR receives an additional $200 million in FY 2014 they will take funds from services supporting adult refugees and their families. Cuts to ORR would severely limit refugees' ability to become self-sufficient and work towards full integration into life in the U.S.
2. Right to Counsel- It is essential that unaccompanied immigrant children are ensured access to legal representation. Most importantly, children who cannot afford representation should, at a minimum, be given access to an attorney in all immigration court proceedings. In addition, children should have meaningful access to counsel in other immigration adjudicative proceedings before federal agencies.
3. Ensure that unaccompanied immigrant children are protected - USCRI urges your immediate intervention to honor America's history of leadership in protecting the most vulnerable.

For questions about this statement please contact Stacie Blake, Director of Government and Community Relations at sblake@uscridc.org or Esmeralda Lopez, Advocacy Officer at elopez@uscridc.org

Thank you for your consideration in this very important issue.

Safe Passage Project 185 West Broadway New York, New York 10013
www.safepassageproject.org

Statement to the House Judiciary Committee June 25, 2014

Children Fleeing Violence from Central America, In This Humanitarian Crisis, Have Legal Rights and Claims to Protection Under U.S. Humanitarian Laws

Recruiting, Training, and Mentoring Pro Bono Counsel to Represent Children

The Safe Passage Project at New York Law School works with volunteer attorneys and law students to provide *pro bono* legal representation of unaccompanied children in immigration proceedings. Since August 2012, we have volunteered at the New York Executive Office for Immigration Review (Immigration Court) and screened children as they arrive for removal hearings. As a June 17, 2014 *New York Times* article accurately stated, we screen approximately thirty children in immigration court each month, and after evaluating the possible avenues of immigration relief for the children, we then help to find them *pro bono* lawyers. We also provide training, resources, and mentoring to our volunteer attorneys. Since the Central American humanitarian crisis, our work has been more important than ever, as we encounter more and more children fleeing violence alone. Many are survivors of physical, sexual, and emotional abuse.

Preserve and Strengthen Humanitarian Law Protecting Children

We urge the House of Representatives to defend the U.S. humanitarian laws that have long protected vulnerable children fleeing violence. These laws represent the best of American ideals of compassion, justice, and human rights in humanitarian crises like these.

These children are eligible to exercise rights under both U.S. domestic law and international human rights law. The legal and moral obligation not to return refugees back into violence is a long-standing protection in U.S. asylum law. In addition, Congress offers protection for children fleeing abuse, abandonment, and neglect suffered at the hands of one or both parents and for whom it is not safe to return to their countries of origin.

These young people have a right to apply for protection under our existing laws. Not every child may qualify for protection or have a right to remain in the U.S., but every person, especially a child, deserves the opportunity to be heard. We, and other *pro bono* attorneys across the country, have been donating our time to help counsel these children about legal protections, and help immigration authorities fairly examine their claims.

Expedited Removal Must Not Be Extended to the Inspection and Removal of Children

Moreover, the United States cannot—and should not—summarily remove children. In a June 24th letter, Representative Goodlatte suggests that the government might use a procedure known as "expedited removal" to reject the children at the border. This is inappropriate. Rejecting children summarily would violate existing U.S. statutes and regulations, minimal due process protections, and international law. Both Republican and Democratic administrations have rightly understood that unaccompanied minors cannot possibly be interviewed by Customs and Border Patrol officers in a manner consistent with the statutory requirements of expedited removal. In the past, the bipartisan U.S. Commission on International Religious Freedom criticized expedited removal as insufficiently allowing persecuted adults to bring asylum claims. Their arguments apply even more so to vulnerable children.

Asylum Officer Resources Must Be Mobilized and Special Training Expanded for Interviews for Children

Under current law and regulations, unaccompanied minors, while undergoing immigration removal procedures, may file an application for asylum with the USCIS Asylum Office. This is an efficient and appropriate referral of cases that often requires children to relate difficult and traumatizing events. The Asylum Office trains its officers in appropriate techniques for conducting interviews with children. Representative Goodlatte's June 24th letter implies that the Asylum Office procedure should be abandoned. We disagree. A greater expansion of resources to those within our Department of Homeland Security who are best trained and prepared for interviewing children will result in fairer and more efficient adjudication. The immigration courts are not forums prepared for the testimony of children, especially where children are unrepresented.

Counsel Improves the Removal System and Makes Children More Likely to Appear for Hearings

When children have trained and competent immigration counsel, they are much more likely to understand the nature of the immigration proceedings and be able to articulate viable legal claims. In our experience, once a child has counsel, it is very rare for that child not to return to immigration court as required by law. Out of the approximately three hundred children screened by Safe Passage, only two young people failed to appear to immigration court hearings after we were able to match them with *pro bono* counsel. In both cases, we learned through *pro bono* counsel that the children returned to their countries of origin.

As mentioned, Safe Passage screens children and helps secure *pro bono* representation. Our work is important because children are not appointed counsel in immigration court. Moreover, even experienced immigration lawyers may not be familiar with the overlapping areas of law necessary to secure immigration relief for children. In the past few years, we have trained hundreds of lawyers and advocates about immigration remedies for children. Safe Passage *pro bono* counsel have found that many children qualify for Asylum, Special Immigrant Juvenile Status, U and T non-immigrant status, protection under the Violence Against Women Act, Deferred Action for Childhood Arrivals, family-based preference petitions, or through prosecutorial discretion. Attorneys enable the children to understand the law and navigate the system. Attorneys also counsel and assist those children who wish to return home. But *pro bono* recruitment and training of attorneys is not enough to meet the needs of every child, especially those who are in detention or who live in areas of the country where projects similar to Safe Passage do not exist.

Therefore, we strongly support H.R. 4936, the VIVA Act (Vulnerable Immigrant Voice Act) of 2014, introduced by Rep. Jeffries and five other House Judiciary Committee members this week. The bill would provide appointed counsel to unaccompanied children in immigration proceedings. We are proud to dedicate our *pro bono* work to help protect these vulnerable children who are unable to defend themselves. Yet *pro bono* efforts are not nearly enough. No child should stand alone in immigration court.

Lenni B. Benson
Professor of Law
Director, Safe Passage Project
212-431-2336 (office)
917-596-3523(cell)

Claire R. Thomas
Adjunct Professor of Law
Staff Attorney, Safe Passage Project
212-431-2100 x4725(office)

CALIFORNIA LATINO LEGISLATIVE CAUCUS

June 18, 2014

The Honorable Jeh Johnson
Department of Homeland Security
301 7th St SW #3621
Washington, DC 20024

Dear Secretary Johnson:

The California Legislative Latino Caucus wishes to express in the strongest terms possible our concern over the recent proliferation of detainers and deportations, especially among unaccompanied minors between the ages of 13-17, under the Obama Administration's current immigration enforcement strategy.

We have expressed our concerns and outrage over the Administration's deportation policies and the impact it has on the communities we represent, but have yet to hear a direct response from the President. We have also urged our Congressional delegation to join us in demanding an immediate moratorium on the deportation of non-violent undocumented residents.

Now, news reports indicate that hundreds, if not thousands, of undocumented children are being warehoused at locations all across the Country, including at Naval Base Ventura County, where they await immigration hearings.

As you know, most of these children are from Central American countries. Every day unaccompanied children and adolescents seek safe passage into the United States. Some of these children are sent by their parents, others have travelled over with their mothers, and yet others are alone and trying to reunite with their parents in the United States. The ones we are most concerned about are the potential victims of trafficking or other crimes. These detained children have lost everything; their homes, their friends, and most importantly, their parents. At such an uncertain and frightening time, these youth deserve, at the very least, benevolent care within the facility with which they are being detained.

The Caucus, on behalf of the constituents we represent, asks for the humane treatment of all detained immigrant children and would like to work with you to ensure that this happens. Collectively, we stand ready and are committed to this matter. We respectfully ask for the opportunity to visit the Ventura facility in July so that we may see first hand the conditions these youth are experiencing while being detained.

Chair: Senator Ricardo Lara *Vice Chair:* Assemblymember Luis Alejo
Senators: Ron Calderon, Lou Correa, Kevin de León, Ed Hernández, Ben Hueso, Alex Padilla, Norma J. Torres
Assembly Members: Raul Bocanegra, Ian Calderon, Nora Campos, Cristina Garcia, Lorena Gonzalez, Jimmy Gomez, Roger Hernández, Jose Medina, Henry T. Perez, Speaker John A. Pérez, V. Manuel Pérez, Sharon Quirk-Silva, Anthony Rendon, Freddie Rodriguez, Rudy Salas, Susan Talamantes Eggman
1020 N Street, Room 511 • Sacramento, CA 95814 • Phone (916) 651-1535 • Fax (916) 651-4983

Page Two
Secretary Jeh Johnson
June 18, 2014

Thank you for your consideration with this request. Please do no hesitate to contact us if you have any questions or need more information. We look forward to your response and for further dialogue around this issue.

Sincerely,

RICARDO LARA
Chair, CA Latino Legislative Caucus
Senator, 33rd District

LUIS ALEJO
Vice Chair, CA Latino Legislative Caucus
Assembly Member, 30th District

cc: Governor Edmund G. Brown Jr.
Senate President pro Tem Darrell Steinberg
Assembly Speaker Toni Atkins
CA Congressional Delegation

UNODC

Intentional homicide count and rate per 100,000 population, by country/territory (2000-2012)

Intentional homicide is defined as unlawful death purposefully inflicted on a person by another person

Region	Sub-region	Country/territory		Source	Indicator	Year												
						2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Africa	Eastern Africa	Burundi	PH	WHO	Rate													8.0
					Count													790
		Comoros	PH	WHO	Rate													10.0
					Count													72
		Djibouti	PH	WHO	Rate													10.1
					Count													87
		Eritrea	PH	WHO	Rate													7.1
					Count													437
		Ethiopia	PH	WHO	Rate													12.0
					Count													11,048
		Kenya	CJ	CTS	Rate					4.0	3.5	3.5	3.4	3.8	5.6	5.5	6.3	6.4
					Count					1,395	1,260	1,286	1,281	1,413	2,218	2,259	2,641	2,761
		Madagascar	PH	WHO	Rate													11.1
					Count													2,465
		Malawi	CJ	National police	Rate	6.2	7.7	4.8	2.5	1.3	1.5	6.2	5.0	5.5	2.2	3.5	2.2	1.8
					Count	700	900	567	300	411	200	821	690	780	320	520	343	279
		Mauritius	CJ	CTS	Rate										3.1	2.7	2.8	
					Count										38	33	34	
		Mayotte	CJ	National police	Rate							0.6	14.5	2.6	6.0			
					Count							1	27	5	12			
		Mozambique	PH	WHO	Rate													12.4
					Count													3,133
		Réunion	CJ	National police	Rate					2.8	3.2	2.4	3.0	2.2	1.8			
					Count					23	25	19	24	18	15			
		Rwanda	PH	WHO	Rate													23.1
					Count													2,648
		Seychelles	PH	WHO	Rate													9.5
					Count													9
		Somalia	PH	WHO	Rate													8.0
					Count													819
		South Sudan	CJ	National police	Rate													13.9
					Count													1,504
		Uganda	CJ	CTS/National police	Rate				8.0	7.9	8.7	9.1	8.6	8.8	9.8	9.3	10.7	
					Count				2,136	2,049	2,492	2,896	2,645	2,793	3,233	3,160	3,753	
		United Republic of Tanzania	PH	WHO	Rate													12.7
					Count													6,071
		Zambia	PH	WHO	Rate													10.7
					Count													1,501
		Zimbabwe	PH	WHO	Rate													10.6
					Count													1,450
	Middle Africa	Angola	PH	WHO	Rate													10.0

				Count													2,079
	Cameroon	PH	WHO	Rate													7.6
				Count													1,654
	Central African Republic	PH	WHO	Rate													11.8
				Count													532
	Chad	PH	WHO	Rate													7.3
				Count													907
	Congo	PH	WHO	Rate													12.5
				Count													541
	Democratic Republic of the Congo	PH	WHO	Rate													28.3
				Count													18,586
	Equatorial Guinea	PH	WHO	Rate													19.3
				Count													142
	Gabon	PH	WHO	Rate													9.1
				Count													148
	Sao Tome and Principe	CJ	CTS	Rate							2.5	2.4	8.3	2.9	3.4	3.3	
				Count							4	4	14	5	6	6	
Northern Africa	Algeria	CJ	CTS	Rate				2.0	1.3	0.6	0.9	0.8	0.9	0.8	0.7	0.7	
				Count				650	449	204	312	271	328	277	254	280	
	Egypt	CJ	CTS	Rate				0.7	0.5	0.7	0.8	0.9	1.3	1.2	2.4	3.4	
				Count				471	322	522	549	680	967	912	1,839	2,703	
	Libya	PH	WHO	Rate													1.7
				Count													103
	Morocco	CJ	CTS	Rate	1.6	1.9	1.6	1.7	1.6	1.6	1.6	1.7	1.4	1.4	1.4	1.4	2.2
				Count	462	543	462	510	470	469	498	517	426	432	451	441	704
	Sudan	PH	WHO	Rate													11.2
				Count													4,159
	Tunisia	PH	WHO	Rate													2.2
				Count													235
Southern Africa	Botswana	PH	WHO	Rate													18.4
				Count													368
	Lesotho	CJ	CTS/NSO	Rate								45.8	38.1	36.3	38.0		
				Count								895	752	723	764		
	Namibia	CJ	National police/Interpol	Rate	20.0	18.3	17.7		17.6				16.8	18.1	14.4	13.9	17.2
				Count	380	353	346		352				354	388	314	308	388
	South Africa	CJ	National police	Rate	48.5	47.0	46.7	42.3	39.5	38.4	39.3	37.3	36.1	33.1	31.0	30.0	31.0
				Count	21,758	21,405	21,553	19,624	18,793	18,528	19,202	18,487	18,148	16,834	15,940	15,609	16,259
	Swaziland	PH	WHO	Rate													33.8
				Count													416
Western Africa	Benin	PH	WHO	Rate													8.4
				Count													848
	Burkina Faso	PH	WHO	Rate													8.0
				Count													1,311
	Cabo Verde	CJ	Judicial police	Rate									6.4	6.2	10.7	15.1	10.8
				Count									31	30	52	74	51
	Côte d'Ivoire	PH	WHO	Rate													13.6
				Count													2,691
	Gambia	PH	WHO	Rate													10.2

					Count														182
		Ghana	PH	WHO	Rate														6.1
					Count														1,537
		Guinea	PH	WHO	Rate														8.9
					Count														1,018
		Guinée-Bissáu	PH	WHO	Rate														8.4
					Count														140
		Liberia	CJ	UN-PKO	Rate								2.8	4.8	3.8	3.3	3.9	3.2	
					Count								100	177	145	129	161	135	
		Mali	PH	WHO	Rate														7.5
					Count														1,119
		Mauritania	PH	WHO	Rate														5.0
					Count														191
		Niger	PH	WHO	Rate														4.7
					Count														803
		Nigeria	PH	WHO	Rate														20.0
					Count														33,817
		Senegal	PH	WHO	Rate														2.8
					Count														379
		Sierra Leone	CJ	CTS/National police	Rate					2.3	1.9	1.9	2.5	3.3	2.8	2.8	3.2	1.9	
					Count					112	98	101	134	184	158	163	187	113	
		Togo	PH	WHO	Rate														10.3
					Count														684
Americas	Caribbean	*Anguilla*	CJ	NSO	Rate	9.0	0.0	17.1	16.6	8.1	7.9	31.0	30.4	7.5					
					Count	1	0	2	2	1	1	4	4	1					
		Antigua and Barbuda	CJ	OAS	Rate	6.4	8.9	6.2	6.2	4.9	3.6	13.2	20.1	18.7	18.5	6.9		11.2	
					Count	5	7	5	5	4	3	11	17	16	16	6		10	
		Aruba	PH	WHO-MDB/PAHO	Rate			5.3	4.1	2.0	12.0	9.9	5.9	4.9	3.9	3.9			
					Count			5	4	2	12	10	6	5	4	4			
		Bahámas	CJ	CTS/OAS	Rate	24.8	14.2	16.8	15.8	13.6	15.8	18.2	22.8	21.0	24.5	26.1	34.7	28.8	
					Count	79	43	52	50	44	52	61	78	73	87	94	127	111	
		Barbados	CJ	CTS/OAS	Rate	7.5	9.3	9.3	12.2	8.1	10.6	12.7	9.8	9.0	6.8	11.1	9.6	7.4	
					Count	20	25	25	33	22	29	35	27	25	19	31	27	21	
		British Virgin Islands	PH	WHO-MDB/PAHO	Rate	0.0	4.7	4.6	9.0	17.8		8.4							
					Count	0	1	1	2	4		2							
		Cayman Islands	PH	WHO-MDB/PAHO	Rate	9.6	4.9	0.0	7.4	12.3		2.0	3.9	7.8	14.7				
					Count	4	2	0	3	6		1	2	4	8				
		Cuba	PH	WHO	Rate													4.2	
					Count													477	
		Dominica	CJ	CTS/OAS	Rate	2.9	1.4	12.9	11.4	11.4	11.3	7.1	9.9	9.9	18.3	21.1			
					Count	2	1	9	8	8	8	5	7	7	13	15			
		Dominican Republic	CJ	NGO (a)/SES/CTS	Rate	14.0	12.4	14.3	21.0	24.3	25.6	22.6	22.0	24.8	24.0	24.7	24.8	22.1	
					Count	1,210	1,095	1,279	1,902	2,239	2,394	2,144	2,111	2,394	2,375	2,474	2,513	2,268	
		Grenada	CJ	CTS/OAS	Rate	14.8	5.9	13.7	8.8	5.8	10.7	11.6	10.6	15.4	6.7	9.6	3.8	13.3	
					Count	15	6	14	9	6	11	12	11	16	7	10	4	14	
		Guadeloupe	CJ	National police	Rate					5.9	5.2	5.4	6.4	7.1	7.9				
					Count					26	23	24	29	32	36				
		Haiti	CJ	UN-PKO	Rate								5.1	5.2	8.1	6.8	9.1	10.2	

				Count								486	468	598	677	914	1,033
	Jamaica	CJ	CTS/National police/OAS	Rate	34.4	43.7	39.8	36.6	55.2	62.4	49.7	58.5	59.5	61.6	52.6	41.1	39.3
				Count	887	1,139	1,045	975	1,471	1,674	1,340	1,583	1,618	1,682	1,442	1,133	1,087
	Martinique	CJ	National police	Rate					4.8	4.8	5.8	5.8	4.3	2.7			
				Count					19	19	23	23	17	11			
	Montserrat	PH	WHO-MDB/PAHO	Rate	0.0	0.0	0.0	0.0	0.0	20.8	20.8		20.4				
				Count	0	0	0	0	0	1	1		1				
	Puerto Rico	CJ	National police	Rate	18.3	19.7	20.6	20.8	21.1	20.5	19.9	19.6	21.6	24.0	26.5		26.5
				Count	695	747	781	787	797	771	748	731	807	894	983		978
	Saint Kitts and Nevis	CJ	National police/OAS/CTS	Rate	6.6	13.0	10.7	21.0	22.7	16.3	34.1	31.7	45.0	52.2	40.1	64.2	33.6
				Count	3	6	5	10	11	8	17	16	23	27	21	34	18
	Saint Lucia	PH	OAS	Rate	14.7	21.4	26.2	22.3	22.8	24.8	25.6	17.0	22.8	22.3	24.8		21.6
				Count	23	34	42	36	37	41	43	29	39	39	44		39
	Saint Vincent and the Grenadines	CJ	NGO (b)/OAS/CTS	Rate	18.5	11.1	18.5	16.6	25.8	21.1	11.9	33.0	14.7	18.3	22.9	19.2	25.6
				Count	20	12	20	18	28	23	13	36	16	20	25	21	28
	Trinidad and Tobago	CJ	OAS/CTS	Rate	9.5	11.9	13.3	17.8	20.1	29.8	28.5	29.8	41.6	38.3	35.6	26.4	28.3
				Count	120	151	171	229	260	386	371	391	547	506	473	352	379
	Turks and Caicos Islands	PH	WHO-MDB/PAHO	Rate	0.0	0.0	11.3	0.0	0.0	0.0			6.8	6.6			
				Count	0	0	2	0	0	0			2	2			
	United States Virgin Islands	PH	WHO-MDB/PAHO	Rate	22.1	25.8	37.8	28.5	34.2	32.5	40.0	40.1	42.1	46.9	52.6		
				Count	24	28	41	31	37	35	43	43	45	50	56		
Central Americas	Belize	CJ	CTS/OAS	Rate	17.2	26.1	34.6	25.9	29.8	29.8	33.0	33.9	35.1	32.2	41.8	39.2	44.7
				Count	41	64	87	67	79	81	92	97	103	97	129	124	145
	Costa Rica	CJ	CTS/Ministry of Justice/SES	Rate	6.4	6.4	6.3	7.2	6.6	7.8	8.0	8.3	11.3	11.4	11.3	10.0	8.5
				Count	249	257	258	300	280	335	351	369	512	525	527	474	407
	El Salvador	CJ	National police/CTS	Rate	39.3	36.9	37.0	36.4	45.8	62.2	64.4	57.1	51.7	70.9	64.1	69.9	41.2
				Count	2,341	2,207	2,224	2,197	2,773	3,778	3,928	3,497	3,179	4,382	3,887	4,371	2,594
	Guatemala	CJ	CTS/National police/OAS	Rate	25.9	28.1	30.9	35.1	36.4	42.1	45.3	43.4	46.1	46.5	41.6	38.6	39.9
				Count	2,904	3,230	3,631	4,237	4,507	5,338	5,885	5,781	6,292	6,498	5,960	5,681	6,025
	Honduras	CJ	OCAVI/NSO	Rate	50.9	54.8	55.8	61.4	53.8	46.6	44.3	50.0	60.8	70.7	81.8	91.4	90.4
				Count	3,176	3,488	3,623	4,073	3,639	3,212	3,118	3,588	4,455	5,280	6,236	7,104	7,172
	Mexico	PH	NSO	Rate	10.3	9.8	9.5	9.3	8.5	9.0	9.3	7.8	12.2	17.0	21.8	22.8	21.5
				Count	10,737	10,285	10,088	10,087	9,329	9,921	10,452	8,867	14,006	19,803	25,757	27,213	26,087
	Nicaragua	CJ	National police/OAS	Rate	9.3	10.4	10.6	11.9	12.0	13.4	13.1	12.8	13.0	14.0	13.5	13.5	11.3
				Count	476	537	554	635	646	729	722	714	736	802	785	738	675
	Panama	CJ	National police	Rate	9.8	9.8	12.0	10.4	9.3	10.8	10.8	12.7	18.4	22.6	20.6	20.3	17.2
				Count	299	306	380	338	308	364	371	444	654	818	759	759	654
Northern America	Bermuda	CJ	CTS/National police	Rate	0.0	4.8	1.6	3.1	1.6	3.1	4.7	4.7	7.7	9.3	10.8	12.3	7.7
				Count	0	3	1	2	1	2	3	3	5	6	7	8	5
	Canada	CJ	CTS/OAS	Rate	1.6	1.8	1.7	1.7	1.7	1.8	1.7	1.6	1.7	1.6	1.4	1.5	1.6
				Count	489	553	523	549	550	594	559	539	555	540	492	529	543
	Greenland	CJ	NSO	Rate	23.1	30.2	21.2	8.8	19.3	17.6	17.6	3.5	10.8	19.4			
				Count	13	17	12	5	11	10	10	2	6	11			
	Saint Pierre and Miquelon	CJ	National police	Rate							0.0	0.0	16.5	16.5			
				Count							0	0	1	1			
	United States of America	CJ	National police/CTS	Rate	5.5	6.6	5.6	5.6	5.5	5.6	5.8	5.6	5.8	5.0	4.7	4.7	4.7
				Count	15,586	19,033	16,229	16,528	16,146	16,740	17,309	17,128	16,465	15,399	14,722	14,661	14,827
South America	Argentina	CJ	Ministry of Justice/CTS/OAS	Rate	7.2	8.2	9.2	7.6	5.9	5.5	5.3	5.3	5.8	5.5	5.5		

					Count	2,653	3,048	3,453	2,676	2,259	2,115	2,052	2,071	2,305	2,215	2,237			
		Bolivia (Plurinational State of)	CJ	National police	Rate						7.0	6.3	8.1	8.6	8.4	10.4	10.0	12.1
					Count						654	588	787	850	835	1,052	1,029	1,270
		Brazil	CJ	Anuario Brasileiro de Seguranca Publica	Rate								23.5	23.9	23.0	22.2	23.4	25.2
					Count								44,625	45,885	44,518	43,272	46,177	50,108
		Chile	CJ	CTS/NSO	Rate				3.2		3.5	3.6	3.7	3.5	3.7	3.2	3.7	3.1
					Count				513		576	590	616	588	630	541	636	550
		Colombia	CJ	National police/CTS	Rate	66.5	68.6	68.9	53.8	44.6	39.6	36.8	34.7	33.0	33.7	32.3	33.6	30.8
					Count	26,540	27,840	28,387	22,526	19,046	17,086	16,116	15,423	14,911	15,454	15,013	15,803	14,670
		Ecuador	CJ	CTS/OAS/SES/National police	Rate	14.6	13.0	14.6	14.6	17.7	15.4	17.0	15.9	18.0	17.8	17.6	15.4	12.4
					Count	1,833	1,658	1,906	1,937	2,390	2,121	2,385	2,273	2,607	2,625	2,638	2,345	1,924
		French Guiana	CJ	National police	Rate					29.8	22.3	20.1	13.1	14.5	13.3			
					Count					58	45	42	28	32	30			
		Guyana	CJ	NSO/CTS	Rate	9.9	10.6	18.9	27.3	17.3	18.7	20.0	14.9	20.4	15.0	17.8	16.4	17.0
					Count	74	79	142	206	131	142	153	115	158	117	140	130	135
		Paraguay	CJ	OAS/CTS	Rate	18.6	24.1	24.6	22.6	20.9	18.2	15.5	12.8	13.4	12.9	11.5	10.0	9.7
					Count	995	1,314	1,372	1,285	1,209	1,076	934	783	833	821	741	657	649
		Peru	CJ	CTS/National police/OAS	Rate	5.0	4.9	4.2	4.9	5.6	11.0	11.2	10.4	11.6	10.3	9.3	9.6	9.6
					Count	1,302	1,294	1,136	1,316	1,526	3,057	3,141	2,934	3,332	2,969	2,709	2,850	2,865
		Suriname	PH	WHO	Rate													6.1
					Count													33
		Uruguay	CJ	Ministry of Interior/SES	Rate	6.4	6.6	6.9	5.9	5.8	5.7	6.1	5.8	6.6	6.7	6.1	5.9	7.9
					Count	214	216	231	197	194	188	203	194	221	226	205	199	267
		Venezuela (Bolivarian Republic of)	CJ	NGO (c)/CTS/OAS	Rate	32.9	32.0	38.0	44.0	37.0	37.3	45.1	47.6	51.9	48.9	45.0	47.8	53.7
					Count	8,022	7,960	9,617	11,342	9,719	9,964	12,257	13,156	14,589	13,985	13,080	14,098	16,072
Asia	Central Asia	Kazakhstan	CJ	CTS/Transmonee	Rate	16.0	14.8	13.5	13.5	14.0	12.0	11.4	10.8	10.5	10.2	8.7	8.8	7.8
					Count	2,325	2,160	1,967	1,991	2,091	1,804	1,728	1,656	1,642	1,606	1,387	1,420	1,263
		Kyrgyzstan	CJ	UNECE/CTS	Rate	8.7	7.7	8.2	8.4	8.4	8.3	8.3	8.3	8.3	8.0	20.1	9.1	
					Count	430	386	411	421	420	419	422	426	429	419	1,072	494	
		Tajikistan	CJ	Transmonee/CTS	Rate	4.6	3.7	2.8	2.5	2.1	2.3	2.8	1.9	1.4	1.3	2.4	1.6	
					Count	283	231	180	164	142	157	194	132	100	97	181	126	
		Turkmenistan	PH	WHO	Rate													12.6
					Count													660
		Uzbekistan	PH	WHO	Rate													3.7
					Count													1,060
	Eastern Asia	China	CJ	CTS/NSO	Rate			2.0	1.9	1.9	1.6	1.4	1.2	1.1	1.1	1.0		
					Count			26,276	24,393	24,711	20,770	17,973	16,119	14,811	14,667	13,410		
		China, Hong Kong SAR	CJ	CTS/National police	Rate	0.6	1.0	1.0	0.8	0.7	0.5	0.5	0.3	0.5	0.7	0.5	0.2	0.4
					Count	38	66	68	52	45	34	35	18	36	47	35	17	27
		China, Macao SAR	CJ	CTS/NSO	Rate	5.1			2.9	2.2	1.5	2.3	2.2	1.6	1.9	0.7		
					Count	22			13	10	7	11	11	8	10	4		
		Democratic People's Republic of Korea	PH	WHO	Rate													5.2
					Count													1,293
		Japan	CJ	CTS	Rate				0.6	0.6	0.5	0.5	0.5	0.5	0.4	0.4	0.3	
					Count				697	699	643	619	574	646	506	465	442	
		Mongolia	CJ	CTS	Rate				13.9	13.3	15.8	13.1	11.3	8.1	8.2	8.8	9.7	
					Count				343	333	398	336	293	212	219	239	266	
		Republic of Korea	CJ	CTS	Rate												0.9	

				Count													427	
	Taiwan Province of China	CJ	NSO	Rate	5.1	4.8	5.1	4.7	4.0	4.0	4.0	3.8	3.5	3.6	3.2	3.0		
				Count	1,132	1,072	1,156	1,057	910	903	921	881	803	832	743	686		
South-Eastern Asia	Brunei Darussalam	PH	WHO	Rate														2.0
				Count														6
	Cambodia	PH	WHO	Rate														6.5
				Count														964
	Indonesia	CJ	CTS	Rate	1.1			0.7	0.6				0.6	0.6	0.4	0.6	0.6	
				Count	2,204			1,635	1,419				1,372	1,311	1,058	1,467	1,456	
	Lao People's Democratic Republic	PH	WHO	Rate														5.9
				Count														392
	Malaysia	PH	WHO	Rate														2.3
				Count														652
	Myanmar	PH	WHO	Rate														15.2
				Count														8,044
	Philippines +	CJ	CTS/National police	Rate	7.4	7.4	8.1	7.8	7.5	7.5	7.1	6.5	6.4	6.9	9.5	9.1	8.8	
				Count	5,735	5,852	6,553	6,436	6,344	6,434	6,196	5,739	5,820	6,368	8,897	8,674	8,484	
	Singapore	CJ	CTS/National police	Rate	0.9	0.7	0.5	0.6	0.5	0.5	0.4	0.4	0.6	0.4	0.4	0.3	0.2	
				Count	37	30	22	24	21	21	17	18	27	20	19	16	11	
	Thailand	CJ	National police	Rate	8.2	8.0	7.1	10.0	6.6	7.3	7.1	6.7	6.0	5.6	5.5	5.0		
				Count	5,142	5,020	4,538	6,434	4,273	4,806	4,687	4,435	3,974	3,703	3,654	3,307		
	Timor-Leste	CJ	UN-PKO	Rate					2.4	4.6	4.8	6.0	3.3	3.0	3.6			
				Count					23	46	49	62	35	32	39			
	Viet Nam	PH	WHO	Rate														3.8
				Count														3,037
Southern Asia	Afghanistan	CJ	NSO	Rate										4.0	3.5	4.2	6.5	
				Count										1,115	883	1,231	1,948	
	Bangladesh	CJ	National police	Rate	2.5	2.7	2.6	2.5	2.8	2.5	2.9	2.6	2.8	2.8	2.6		2.7	
				Count	3,343	3,678	3,503	3,471	3,902	3,592	4,166	3,863	4,099	4,219	3,988		4,169	
	Bhutan	CJ	NSO	Rate	3.2	3.3	3.2	0.8	2.4	1.7	1.4	1.2	1.0	1.1	1.7			
				Count	18	19	19	5	15	11	9	8	7	8	12			
	India	CJ	National police	Rate	4.5	4.3	4.2	3.7	3.8	3.7	3.6	3.6	3.6	3.5	3.5	3.6	3.5	
				Count	47,368	45,487	44,855	40,029	41,941	41,206	41,426	41,521	41,809	41,542	42,299	43,741	43,355	
	Iran (Islamic Republic of)	PH	WHO	Rate														4.1
				Count														3,126
	Maldives	PH	WHO	Rate														3.9
				Count														13
	Nepal	CJ	NSO	Rate	2.7	3.6	3.6	3.1	3.8	3.6	2.5	3.4	3.4	3.0	3.0	2.9		
				Count	635	848	858	757	936	913	633	893	889	806	818	786		
	Pakistan	CJ	NSO	Rate	6.2	6.5	6.3	6.1	6.3	6.1	6.2	6.4	7.2	7.3	7.6	7.9	7.7	
				Count	8,906	9,528	9,396	9,346	9,719	9,631	10,048	10,556	12,059	12,491	13,208	13,860	13,846	
	Sri Lanka	CJ	CTS/National police	Rate				6.7	7.0	6.1	10.2	8.2	7.3	4.7	3.6	3.4		
				Count				1,310	1,377	1,221	2,045	1,663	1,488	958	745	707		
Western Asia	Armenia	CJ	CTS	Rate					2.7	1.9	2.6	2.6	2.8	2.8	1.5	2.2	1.8	
				Count					83	58	79	77	85	83	44	65	54	
	Azerbaijan	CJ	CTS/Transnistria	Rate	2.8	2.7	2.6	2.2	2.4	2.2	2.2	2.0	1.9	1.8	2.1			
				Count	226	218	212	183	201	192	190	176	168	164	194			
	Bahrain	CJ	CTS/National police	Rate				0.4	0.8	0.5	0.7	0.4	0.5	1.1	0.9	0.5		

					Count				3	7	4	7	4	6	13	11	7	
		Cyprus	CJ	CTS	Rate					1.6	1.9	1.4	1.2	0.8	1.7	0.7	0.8	2.0
					Count					16	20	15	13	8	19	8	9	23
		Georgia	CJ	Transmonee/CTS	Rate	5.0	5.6	6.3	6.6	6.6	9.0	7.3	7.5	6.0	4.8	4.3		
					Count	239	253	292	302	298	403	323	330	263	210	187		
		Iraq	PH	WHO	Rate													8.0
					Count													2,628
		Israel	CJ	CTS/NSO	Rate	2.4	3.6	3.6	3.1	2.7	2.5	2.7	1.8	1.9	1.8	2.0	2.0	1.8
					Count	147	223	227	195	173	166	182	125	136	128	145	151	134
		Jordan	CJ	CTS/NSO	Rate						1.3	1.8	1.7	1.7	1.5	1.7	2.0	
					Count						67	100	98	100	91	109	133	
		Kuwait	PH	WHO	Rate													0.4
					Count													12
		Lebanon	CJ	National police	Rate					3.2	3.9	2.1	2.6	6.0	1.9	2.2		
					Count					123	156	85	108	252	81	95		
		Oman	CJ	CTS/NSO	Rate		0.6	0.6					0.7	0.7			1.1	
					Count		13	15					18	18			34	
		Qatar	PH	WHO	Rate													1.1
					Count													23
		Saudi Arabia	PH	WHO	Rate													0.8
					Count													234
		State of Palestine	PH	WHO	Rate													0.4
					Count													312
		Syrian Arab Republic	CJ	NSO	Rate	2.2	2.3	2.2	2.3	2.4	2.3	2.4	2.8	2.7	2.4	2.2		
					Count	357	376	368	405	426	430	446	533	529	476	463		
		Turkey	CJ	CTS/UNECE	Rate				4.3	4.4	4.9	4.6	3.7	3.3	3.3	2.7	2.6	
					Count				2,837	2,914	3,305	3,168	2,540	2,320	2366*	1923*	1866*	
		United Arab Emirates	PH	WHO	Rate													2.6
					Count													235
		Yemen	CJ	CTS/NSO	Rate	4.0			3.7	3.3	4.7	4.3	4.0	4.0	4.5	4.8		
					Count	697			704	646	945	895	850	874	990	1,089		
Europe	Eastern Europe	Belarus	CJ	CTS/Transmonee	Rate	10.1	9.8	10.0	9.0	8.4	8.5	7.6	6.8	5.7	5.0	5.1		
					Count	1,013	969	988	879	815	825	734	649	541	473	486		
		Bulgaria	CJ	CTS/Eurostat	Rate				3.2	3.2	2.6	2.4	2.3	2.3	2.0	2.0	1.7	1.9
					Count				247	244	199	186	177	172	150	147	128	141
		Czech Republic	CJ	National police	Rate	1.8	1.4	1.5	1.6	1.3	1.1	1.3	1.2	1.1	0.9	1.0	0.8	1.0
					Count	181	142	149	163	134	108	130	126	114	94	103	86	105
		Hungary	CJ	CTS	Rate	2.0	2.5	2.0	2.2	2.1	1.6	1.7	1.5	1.5	1.4	1.3	1.4	1.3
					Count	205	254	203	228	208	164	174	154	146	138	133	142	132
		Poland	CJ	CTS/Eurostat	Rate	2.2	2.0	1.9	1.7	1.7	1.5	1.3	1.4	1.2	1.3	1.1	1.2	
					Count	855	776	716	662	633	555	490	525	460	493	436	449	
		Republic of Moldova	CJ	CTS	Rate	10.5	10.1	10.1	8.2	7.2	7.9	7.1	5.9	6.5	6.3	7.5	8.6	6.6
					Count	433	410	399	319	277	296	262	217	236	246	267	304	229
		Romania	CJ	CTS	Rate	2.5	2.7	2.5	2.5	2.3	2.1	2.0	1.9	2.1	1.8	1.8	1.5	1.7
					Count	560	587	503	551	516	457	438	416	470	397	404	335	378
		Russian Federation	CJ	CTS	Rate									11.6	11.1	10.1	9.6	9.2
					Count									16,817	15,954	14,574	13,826	13,120
		Slovakia	CJ	Transmonee/CTS	Rate	2.7	2.4	2.6	2.7	2.3	2.0	1.6	1.6	1.7	1.5	1.6	1.8	1.4

				Count	143	129	138	146	122	106	89	89	94	84	89	96	75
	Ukraine	CJ	CTS	Rate				7.6	7.3	6.4	6.3	5.7	5.2	4.7	4.3		
				Count				3,618	3,475	3,025	2,931	2,638	2,438	2,194	1,988		
Northern Europe	Denmark	CJ	CTS	Rate	1.1	1.0	1.0	1.2	0.8	1.0	0.5	0.7	1.0	0.9	0.8	0.8	0.8
				Count	58	52	56	65	43	53	29	39	54	47	42	46	47
	Estonia	CJ	CTS/Eurostat	Rate	10.5	10.1	10.5	11.0	6.8	8.5	6.9	7.1	6.4	5.4	5.4	5.0	
				Count	143	137	142	147	91	113	91	93	84	70	70	65	
	Finland	CJ	CTS	Rate	2.9	3.0	2.5	2.0	2.6	2.2	2.3	2.5	2.5	2.2	2.2	2.1	1.6
				Count	148	156	132	105	146	117	119	130	133	120	116	114	89
	Iceland	CJ	Eurostat/CTS	Rate	1.8	0.4	1.3	0.0	1.0	1.0	0.0	0.7	0.0	0.3	0.6	0.9	0.3
				Count	5	1	4	0	3	3	0	2	0	1	2	3	1
	Ireland	CJ	CTS/National police/NSO	Rate	1.0	1.3	1.3	1.1	0.7	1.3	1.5	1.8	1.1	1.3	1.2	0.9	1.2
				Count	37	52	52	45	30	52	62	78	50	56	53	42	54
	Latvia	CJ	CTS	Rate	10.0	9.3	9.2	8.8	8.0	5.7	5.8	4.3	4.6	5.1	3.3	3.3	4.7
				Count	198	219	214	202	181	126	128	94	99	108	70	68	97
	Lithuania	CJ	CTS	Rate					10.3	11.3	8.9	8.7	9.5	8.1	7.1	6.9	6.7
				Count					343	372	288	277	298	252	219	211	202
	Norway	CJ	CTS/Eurostat	Rate	1.1	0.8	1.0	1.1	0.8	0.7	0.7	0.6	0.7	0.6	0.6	2.2	
				Count	49	37	46	51	36	33	33	30	34	29	29	111	
	Sweden	CJ	National Council for Crime Prevention	Rate	1.1	1.0	1.1	1.0	1.2	0.9	1.0	1.2	0.8	0.9	1.0	0.9	0.7
				Count	96	87	101	85	107	79	88	107	77	87	91	81	68
	United Kingdom	CJ	Eurostat/CTS	Rate	1.7	1.8	2.0	1.7	1.6	1.5	1.4	1.4	1.2	1.2	1.2	1.0	
				Count	1,002	1,039	1,201	1,039	983	896	863	873	760	714	753	653	
Southern Europe	Albania	CJ	CTS	Rate						4.8	3.0	3.3	2.9	2.7	4.0	4.5	5.0
				Count						154	95	105	93	85	127	142	157
	Andorra	CJ	CTS/Interpol	Rate					1.3			0.0	1.3	1.3	1.3		
				Count					1			0	1	1	1		
	Bosnia and Herzegovina	CJ	CTS	Rate										1.8	1.5	1.3	
				Count										71	56	51	
	Croatia	CJ	Ministry of Interior	Rate	2.3	1.8	1.6	1.5	1.8	1.5	1.6	1.4	1.5	1.3	1.4	1.1	1.2
				Count	101	81	73	67	82	66	68	61	67	49	62	48	51
	Greece	CJ	CTS/Eurostat	Rate	0.7	1.2	0.9	1.1	1.0	1.2	1.0	1.2	1.3	1.3	1.6	1.7	
				Count	81	132	94	122	111	132	110	128	138	144	179	184	
	Italy	CJ	CTS	Rate	1.3	1.2	1.1	1.2	1.2	1.0	1.1	1.1	1.0	1.0	0.9	0.9	0.9
				Count	766	709	644	719	720	610	625	631	615	590	529	552	530
	Kosovo (in compliance with UN Security Council Resolution 1244/99)	CJ	Eurostat	Rate									0.4	3.2	3.6		
				Count									77	56	64		
	Malta	CJ	Eurostat/CTS	Rate	1.0	1.5	1.5	0.0	1.7	1.0	0.0	1.0	1.4	0.9	0.9	0.7	2.8
				Count	4	6	6	0	7	4	0	4	6	4	4	3	12
	Montenegro	CJ	CTS	Rate								1.9	3.9	3.4	2.4	3.4	2.7
				Count								12	24	21	15	21	17
	Portugal	CJ	Eurostat/CTS	Rate	1.1	1.0	1.1	1.4	1.4	1.3	1.5	1.8	1.2	1.2	1.2	1.1	1.2
				Count	116	105	119	149	144	133	155	185	124	130	124	114	122
	San Marino	PH	WHO	Rate													0.7
				Count													4
	Serbia	CJ	Eurostat/CTS	Rate	2.2	2.4	2.0	1.7	1.6	1.5	1.6	1.7	1.4	1.5	1.3	1.4	1.2
				Count	228	243	200	176	164	147	156	171	140	145	123	132	111
	Slovenia	CJ	CTS	Rate	1.8	1.4	1.8	1.1	1.4	1.0	0.6	1.2	0.5	0.6	0.7	0.8	0.7

					Count	36	28	36	21	27	20	12	24	10	13	15	16	14
		Spain	CJ	Eurostat/CTS	Rate	1.4	1.4	1.4	1.4	1.2	1.2	1.1	1.1	0.9	0.9	0.8	0.8	0.8
					Count	553	577	564	587	520	518	476	482	426	398	390	387	364
		The former Yugoslav Republic of Macedonia	CJ	CTS/Eurostat	Rate	2.3	2.7	2.9	3.4	2.3	2.1	2.2	2.0	1.7	1.7	2.0	1.4	
					Count	47	55	60	70	49	44	46	42	35	35	41	30	
	Western Europe	Austria	CJ	CTS/Eurostat	Rate	1.0	0.9	0.8	0.6	0.7	0.7	0.7	0.5	0.5	0.5	0.6	0.8	0.9
					Count	82	70	65	50	59	54	61	45	45	43	53	71	77
		Belgium	CJ	CTS/Eurostat	Rate	2.1	2.7	3.1	2.2	2.6	2.1	2.1	2.0	1.9	1.7	1.7	1.9	1.6
					Count	212	282	319	230	268	221	221	211	203	188	187	206	182
		France	CJ	CTS/Eurostat	Rate	1.8	1.8	1.9	1.6	1.6	1.6	1.4	1.3	1.3	1.1	1.1	1.2	1.0
					Count	1,051	1,047	1,119	987	990	976	879	826	838	682	675	743	665
		Germany	CJ	Eurostat/CTS	Rate	1.2	1.1	1.1	1.0	1.0	1.0	1.0	0.9	0.9	0.8	0.8	0.8	
					Count	1,015	925	955	859	868	869	808	757	722	706	680	662	
		Liechtenstein	CJ	Eurostat/CTS	Rate	0.0	0.0	0.0	0.0	2.9	0.0	0.0	0.0	2.8	0.0	2.8	0.0	0.0
					Count	0	0	0	0	1	0	0	0	1	0	1	0	0
		Luxembourg	CJ	Eurostat/UNECE/CTS	Rate	0.9	2.0	1.3	0.7	0.4	0.9	1.9	1.5	1.6	1.0	2.0	0.8	
					Count	4	9	6	3	2	4	9	7	8	5	10	4	
		Monaco	CJ	CTS	Rate		3.1			3.0	3.0	2.9	0.0	0.0				
					Count		1			1	1	1	0	0				
		Netherlands	PH	NSO	Rate	1.1	1.3	1.2	1.3	1.2	1.1	0.8	0.9	0.9	0.9	0.9	0.9	0.9
					Count	180	202	195	202	191	174	128	143	150	154	144	143	145
		Switzerland	CJ	CTS/Eurostat	Rate	1.0	1.2	1.2	1.0	1.1	1.0	0.8	0.7	0.7	0.7	0.7	0.6	
					Count	69	86	86	73	78	75	60	51	54	51	52	46	
Oceania	Australia and New Zealand	Australia	CJ	Eurostat/CTS/NSO	Rate	1.9	1.8	1.9	1.7	1.5	1.3	1.3	1.2	1.2	1.2	1.0	1.1	1.1
					Count	362	347	366	341	302	259	281	255	261	263	230	244	254
		New Zealand	CJ	CTS/National police	Rate	1.3	1.3	1.5	1.1	1.1	1.5	1.2	1.1	1.2	1.5	1.0	0.9	0.9
					Count	52	51	60	44	45	61	49	48	51	67	43	38	41
	Melanesia	Fiji	PH	WHO	Rate													4.0
					Count													35
		New Caledonia	CJ	National police	Rate							3.4	5.1	4.6	3.3			
					Count							8	12	11	8			
		Papua New Guinea	CJ	CTS/National police	Rate	8.6	7.9	8.3	10.5	5.2	9.9	9.8	8.1	9.2	10.4	10.4		
					Count	465	436	470	609	309	603	610	520	603	697	713		
		Solomon Islands	PH	WHO	Rate													4.3
					Count													24
		Vanuatu	PH	WHO	Rate													2.9
					Count													7
	Micronesia	Guam	CJ	National police	Rate	1.3	5.1	1.3	5.1	5.7	4.4	6.9	0.6	0.6	3.2	1.9	2.5	
					Count	2	8	2	8	9	7	11	1	1	5	3	4	
		Kiribati	PH	WHO	Rate													8.2
					Count													8
		Marshall Islands	PH	WHO	Rate													4.7
					Count													2
		Micronesia (Federated States of)	PH	WHO	Rate													4.6
					Count													5
		Nauru	PH	WHO	Rate													1.3
					Count													1
		Palau	PH	WHO	Rate													3.1

				Count													x
Polynesia	*Cook Islands*	PH	WHO	Rate													3.1
				Count													x
	French Polynesia	CJ	National police	Rate							1.2	2.7	3.4	0.4			
				Count							3	7	9	1			
	Niue	PH	WHO	Rate													3.6
				Count													x
	Samoa	PH	WHO	Rate													3.6
				Count													7
	Tonga	CJ	CTS/National police	Rate	1.0	6.1	6.1	6.0	2.0	4.0	7.9	1.0	3.9	7.7	1.0	1.9	1.0
				Count	1	6	6	6	2	4	8	1	4	8	1	2	1
	Tuvalu	PH	WHO	Rate													4.2
				Count													x

x due to small population size the estimates count is less than 2

* CTS Victims data are continued using UNECE trend data

+ in 2009, the Philippine National Police (PNP) has implemented a new crime reporting system wherein crime data for 2009 was set as the baseline for future research, study and comparison. Thus, crime statistics in 2009 cannot be compared with those data obtained in the previous years (2008 and earlier) since the parameters were no longer the same.

[The material submitted by Ms. Jackson Lee follows:]

FIRST FOCUS
CAMPAIGN FOR CHILDREN

1110 Vermont Avenue NW • Suite 900 • Washington, DC 20005
p: 202.657.0677 • f: 202.657.0671

June 25, 2014

Dear Member of Congress,

On behalf of the First Focus Campaign for Children, a bipartisan advocacy organization dedicated to making children and families the priority in federal policy and budget decisions, I would like to express our grave concern with the letter to President Obama circulated earlier this week by Congressman Darrell Issa requesting that the Administration "end policies encouraging the border surge." We believe Congressman Issa's proposal to end the Deferred Action for Childhood Arrivals (DACA) program as a solution to address the recent influx of Central American child migrant is misguided, irresponsible, and will only result in harm to children. We urge you to reject this proposal.

There is no doubt that the recent influx of unaccompanied children across the Southern border represents a humanitarian crisis that requires immediate action. However, we believe that proposals that target children and cause them harm only distract from the urgent need to ensure that we are protecting the extremely vulnerable children who are seeking refuge in U.S. and finding long-term solutions to address the complex reasons driving their migration. Congressman's Issa's proposal to end the DACA program, which has provided relief to thousands of undocumented children who have grown up in this country and consider it their home, is mean-spirited and misguided. Furthermore, it is simply wrong to label children who are DACA beneficiaries and unaccompanied minors who have experienced serious trauma as "lawbreakers."

Congressman's Issa's proposal also undermines the fact that the recent influx of Central American children is largely driven by incredibly dangerous conditions in their home countries. According to extensive research including a recent report by the UN High Commissioner for Refugees (UNHCR), the majority of newly arriving children are escaping extreme violence and instability, spurred by increased drug trafficking and gang activity in Central America. It is also important to note that the increase in child migrants is impacting other countries, not just the United States. Contiguous countries to El Salvador, Guatemala, and Honduras such as Mexico, Panama, Nicaragua, Costa Rica and Belize have also seen a dramatic increase in the number of child asylum-seekers from Central America. While misinformation regarding lenient U.S. policies may be one of the factors motivating children and families to undertake the dangerous journey to our country, to suggest that policies like DACA are the primary reason for the influx in child refugees ignores the urgent need to address the larger, complex factors forcing children to flee.

As an organization dedicated to promoting the safety and well-being of children, we urge you to reject Congressman Issa's proposal. Rather than attacking children and pitting one vulnerable set of youth against another, Congress should be working towards solutions to protect the best interests of all children in the United States.

Sincerely,

Bruce Lesley

Bruce Lesley
President

News
- Blog
- Dáte
- Fact Sheets
- Multimedia
- **Press Releases**
- Comunicados de Prensa
- Publications
- Speeches
- Testimony
- Media Contacts
- Social Media

Secretary Napolitano Announces Deferred Action Process for Young People Who Are Low Enforcement Priorities

Release Date: June 15, 2012

For Immediate Release
Office of the Press Secretary
Contact: 202-282-8010

La Secretaria Napolitano Anuncia Proceso De Acción Diferida Para Jóvenes Que Sean De Baja Prioridad Para La Aplicación De La Ley

WASHINGTON— Secretary of Homeland Security Janet Napolitano today announced that effective immediately, certain young people who were brought to the United States as young children, do not present a risk to national security or public safety, and meet several key criteria will be considered for relief from removal from the country or from entering into removal proceedings. Those who demonstrate that they meet the criteria will be eligible to receive deferred action for a period of two years, subject to renewal, and will be eligible to apply for work authorization.

"Our nation's immigration laws must be enforced in a firm and sensible manner," said Secretary Napolitano. "But they are not designed to be blindly enforced without consideration given to the individual circumstances of each case. Nor are they designed to remove productive young people to countries where they may not have lived or even speak the language. Discretion, which is used in so many other areas, is especially justified here."

DHS continues to focus its enforcement resources on the removal of individuals who pose a national security or public safety risk, including immigrants convicted of crimes, violent criminals, felons, and repeat immigration law offenders. Today's action further enhances the Department's ability to focus on these priority removals.

Under this directive, individuals who demonstrate that they meet the following criteria will be eligible for an exercise of discretion, specifically deferred action, on a case by case basis:

1. Came to the United States under the age of sixteen;
2. Have continuously resided in the United States for a least five years preceding the date of this memorandum and are present in the United States on the date of this memorandum;
3. Are currently in school, have graduated from high school, have obtained a general education development certificate, or are honorably discharged veterans of the Coast Guard or Armed Forces of the United States;
4. Have not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise pose a threat to national security or public safety;
5. Are not above the age of thirty.

Only those individuals who can prove through verifiable documentation that they meet these criteria will be eligible for deferred action. Individuals will not be eligible if they are not currently in the United States and cannot prove that they have been physically present in the United States for a period of not less than 5 years immediately preceding today's date. Deferred action requests are decided on a case-by-

case basis. DHS cannot provide any assurance that all such requests will be granted. The use of prosecutorial discretion confers no substantive right, immigration status, or pathway to citizenship. Only the Congress, acting through its legislative authority, can confer these rights.

While this guidance takes effect immediately, USCIS and ICE expect to begin implementation of the application processes within sixty days. In the meantime, individuals seeking more information on the new policy should visit USCIS's website (at www.uscis.gov), ICE's website (at www.ice.gov), or DHS's website (at www.dhs.gov). Beginning Monday, individuals can also call USCIS' hotline at 1-800-375-5283 or ICE's hotline at 1-888-351-4024 during business hours with questions or to request more information on the forthcoming process.

For individuals who are in removal proceedings and have already been identified as meeting the eligibility criteria and have been offered an exercise of discretion as part of ICE's ongoing case-by-case review, ICE will immediately begin to offer them deferred action for a period of two years, subject to renewal.

For more information on the Administration policy reforms to date, please see this fact sheet.

###

[The material submitted by Mr. Gutierrez follows:]

Graduating police officers in Guatemala

The Guatemalan police purged 194 officers from its ranks for their criminal activities in 2012, and has fired 22 more so far in 2013, highlighting the extent of criminal infiltration in the National Police Force (PNC).

Among the Guatemalan police officers detained last year were five agents arrested for smuggling meth precursor chemicals, 11 for an attempted kidnapping, and 19 officers accused of kidnapping and money laundering, among other charges. The authorities say all 194 officers will face trial, reported Prensa Libre.

The officers were removed as part of the police anti-corruption measures being pushed by President Otto Perez Molina's administration. The Commission for Police Reform is primarily responsible for overseeing the clean-up, now relying on a staff of 89 officers trained to perform internal inspections within the police.

Government Minister Mauricio Lopez Bonilla said that the government aims continue reform efforts in the coming year by increasing personnel levels, providing officers with better equipment, and encouraging the reporting of irregular activities within the force.

The firing of the corrupt officers has been complimented by ongoing efforts to expand Guatemala's police. Mid-February saw 1,617 officers graduate from the Guatemala City police academy. Vice President Roxana Baldetti noted during the ceremony that another 4,000 are set to graduate between August and December 2013. All new graduates of the National Civil Police Academy must pass confidence tests.

The government's plan also aims to improve efforts to tackle organized crime through reassessing where police are deployed. Assistant Security Minister Edi

Juarez has said that the government has already determined which areas of the country are most in need of a larger police presence. Some of the most recent graduates will be placed in regions worst affected by the drug trade, organized crime and violence, including Peten, Escuintla, Quetzaltenango, Huehuetenango, and San Marcos.

InSight Crime Analysis

Police reform is clearly essential to improving security in a country with one of the highest homicide rates in the region, and is a purported objective of Perez Molina's presidency. The government opened a new police training school in August 2012 and, shortly afterwards, announced plans to track police officers with micro-chips, in order to better monitor any suspicious movements by corrupt agents.

However, as think-tank the International Crisis Group outlined in a report last year, Perez's deep-rooted military ties may serve as an obstacle to police reform, increasing the possibility that he will rely heavily on the military for security and thus undermine efforts to clean up the police.

Another concern is that as Guatemala continues to fire corrupt officers and train new ones, the force could face a shortage of equipment. Siglo 21 reported that following the recent graduation of newly trained officers, the government is now short 5,000 weapons for the police force. The government experienced the same problem last year when a class of officers graduated in August, one indication that resource shortages are a continuing constraint.

What are your thoughts? Click here to send InSight Crime your comments.

We also encourage readers to copy and distribute our work for non-commercial purposes, provided that it is attributed to InSight Crime in the byline, with a link to the original at both the top and bottom of the article. Check the Creative Commons website for more details of how to share our work, and please send us an email if you use an article.

USAID
FROM THE AMERICAN PEOPLE

USAID LEADERSHIP

HOME » NEWS & INFORMATION » FRONTLINES » OPEN DEVELOPMENT/DEVELOPMENT & DEFENSE » YOUR VOICE: RENEWING POLICE REFORM EFFORTS IN GUATEMALA

FRONTLINES

ONLINE EDITION

Open Development/ Development & Defense
September/October 2013

Your Voice: Renewing Police Reform Efforts in Guatemala

By Carlos A. Rosales

Students at the launching of Guatemala's bachelor's degree program in police science with a specialization in community-based policing.
Gabriela Lehnhoff, Violence Prevention Project

Your Voice, a continuing FrontLines feature, offers personal observations from USAID staff and other development voices. Carlos A. Rosales is a senior democracy and governance adviser at USAID/Guatemala.

Flory Lemus had always wanted to be a cop. Ever since she was a teenager, the 26-year-old native of Guatemala City dreamed of wearing the same police uniform her father wore so proudly, and, in January 2007, she joined the police force.

Carlos A. Rosales

Although Lemus initially encountered difficulties as a woman in a male-dominated environment, she soon gained a general sense of professional fulfillment despite being keenly aware that the institution required pressing changes.

For her, effective law enforcement is a necessary requirement in any society, especially in one as unequal and unjust as Guatemala's. Lemus also believes that capacity building and specialized training is the right way to modernize and improve the effectiveness of the Guatemalan police force.

The police force that Lemus joined suffers from many institutional weaknesses and is hardly a credible institution in Guatemala. A comprehensive effort to correct the force's deeply-rooted institutional shortcomings has been a long-standing challenge to consecutive national governments and donors like USAID.

Lemus is one of a select group of police officers who, with the support of the donor community in Guatemala, has benefited by visiting several countries to take a range of training courses—from crime prevention to community-based policing. She is also enrolled in the new USAID-supported undergraduate degree program in police science, which she believes will spawn a new meritability among her peers and the upper ranks of the institution.

The news reports about soaring violent crime in Central America have replaced the long-standing media focus on the internal armed conflict that ravaged the isthmus only a couple of decades ago. Indeed, in the last decade, the number of fatalities exceeds those reported during the conflict that bloodied the region in the 1980s and 1990s.

The public security crisis currently affecting the countries of the Northern Triangle—Guatemala, El Salvador and Honduras—has made the readiness and capacities of their police forces an issue of heated public debate. And although everyone agrees on the need to modernize and reform the region's police forces, efforts in that respect have been tired at best.

In Guatemala, the 1996 U.N.-brokered peace accords brought an end to its brutal 36-year civil conflict. The accords called for a clear separation between the police and the military and for the creation of a new police force to replace the old public security apparatus that had been complicit in human rights violations.

Flory Lemus, right, at the launch of Guatemala's bachelor's degree program in police science.
Gabriela Lehnhoff, Violence Prevention Project

However, the new National Civilian Police (PNC) was composed mainly of members of the old force it replaced. The incoming members were rapidly incorporated without adequate training or background checks. According to some reports, five years after the signing of the peace accords, more than half of the PNC rank-and-file were members of the old security force.

USAID/Guatemala Mission Director Kevin Kelly speaks to students at the launch of Guatemala's bachelor's degree program in police science.
Gabriela Lehnhoff, Violence Prevention Project

The race against rapidly deteriorating citizen security also led to measures that further compromised the professionalization of the new force. Guatemalan authorities, for example, rushed cops out of the academy and onto the streets to pursue criminals. This led to serious deficiencies in recruitment, training, leadership and internal discipline.

The PNC's reputation was furthered damaged by high-profile cases of police corruption and involvement in illicit activities. These included several allegations of extrajudicial killings and various drug-related offenses.

Police Reform Commissioner Adela de Torrebiarte, middle, cuts the ribbon at the launch ceremony of Guatemala's bachelor's degree program in police science.
Gabriela Lehnhoff, Violence Prevention Project

Encouraging Steps Toward Reform

Guatemalan President Otto Pérez Molina, who took office in January 2012, says public security is at the top of his priorities. The retired army general moved quickly to deploy troops to support police patrols in high-crime areas. This controversial measure continues to be a matter of heated public debate.

Pérez Molina announced his Pact for Security, Justice and Peace as the framework of his government's efforts to combat crime, and he took steps to rekindle police reform efforts. Six months into his mandate, he issued an executive order to reform the structure and organization of the PNC.

The move effectively transformed prevention and community-based policing as core philosophies governing the work of the police. Soon after, the government launched the new officers' school within the existing police academy. This new entity houses the academic, technical and managerial training programs for officers.

Last October, the Guatemalan public security hierarchy launched a new bachelor's degree program in police sciences, with an emphasis on community-based policing. This program, supported by USAID's Violence Prevention Project, is part of the new curricula developed for the officers' school and is the first of its kind in the country's history. The new degree is offered at the police academy in conjunction with Guatemala's Western University. It gives officers the opportunity to acquire a university-level education in law enforcement through courses taught by experts and senior police officers that bring a wealth of theoretical and practical knowledge to students.

The 218 students currently enrolled in the one-year program are officers that had received previous university education. Financial assistance from the USAID project, approximately $700,000, was used to develop the program and to fund 147 scholarships benefitting officers who have been vetted for any human rights violations, per the U.S. Leahy Law.

During the launching ceremony in October 2012, USAID/Guatemala Mission Director Kevin Kelly stressed that "better educated police officers are very likely to become better performers."

USAID/Guatemala's new Security and Justice Sector Reform Project provides technical assistance and support for the country's police and for the Police Reform Commission. It supports the development of a police career law in order to establish a merit-based career path system for the police, as well as a long-awaited police doctrine. It is also working to strengthen the PNC's financial and management systems.

The U.S. Embassy's Narcotics Affairs Section is addressing police corruption by working only with vetted units. Similarly, the U.N.-mandated International Commission against Impunity in Guatemala is aggressively working to stave off corruption among the PNC's hierarchy.

Just before the end of 2012, the government announced a restructuring of the Ministry of Government. Chief among the changes implemented was the creation of a new Vice Ministry for Violence and Crime Prevention. The move supports a new institutional climate conducive to state-of-the-art approaches to fighting crime.

All of the measures and reforms represent a historic opportunity to modernize Guatemala's PNC. Some of them even seem to echo Lemus' convictions that a cultural transformation within the PNC towards prevention and better trained personnel will generate the necessary conditions to significantly improve the effectiveness of the country's police force.

RELATED ARTICLES

Nutrition and Family Planning Intersect for a Healthier Guatemala

Community Members and Police Take Back Jamaica's Streets

Police and Prosecutors Join Forces in Mexico

Last updated: July 23, 2014

LATIN AMERICAN
Herald Tribune

Field Canvas Messenger Bag Green
$ 79.99
Free Shipping on All Orders
See all

Caracas,
Thursday
July 24,2014

Chinese President Concludes Visit to Cuba
Latin American Herald Tribune

Guatemalan Police Force Adds Over 2,000 New Officers

GUATEMALA CITY – Guatemala's National Civilian Police, or PNC, swore in 2,161 new officers on Tuesday, boosting its ranks to 23,287 uniformed members in this crime-ridden nation of roughly 13 million people.

Members of the 24th graduating class of the PNC academy were sworn in by the police command at a ceremony attended by President Alvaro Colom.

PNC chief Baltasar Gomez said the new officers would be assigned to cities in the interior of Guatemala where there were high levels of crime and violence.

"It is a commitment to society to professionalize the security forces to provide better service," Gomez said.

The PNC, founded in 1997 as part of the peace agreements signed by the government a year earlier with leftist guerrillas who battled repressive rule from 1960-1996, is considered one of the most corrupt public entities in Guatemala.

More than a dozen high-level PNC officials, including former chief Porfirio Perez, are serving prison sentences for corruption and other crimes.

Some 50 active-duty officers are being investigated for crimes ranging from abuse of authority to murder and drug trafficking, the PNC Inspector General's Office said.

Last year, 62 active-duty officers were charged with a variety of crimes, and more than 1,000 officers have been sacked since 2004 for being involved with criminal groups.

Guatemala is considered one of Latin America's most violent countries with an average of 17 murders daily and a large presence of street gangs and drug traffickers. EFE

It's gone. Undo
What was wrong with this ad?
Inappropriate
Repetitive
Irrelevant

ADD THIS

We Have A Variety Of
PRE-OWNED VEHICLES!

NEWS JUNE 6, 2014

Former Guatemalan police chief found guilty for killings

The conviction of Guatemala's former National Director of Police for a number of murders is a very significant step forward in the fight against impunity that has plagued Guatemala in the past, said Amnesty International today.

Erwin Sperisen was found guilty of the murders of seven men by a Swiss court today, and sentenced to life imprisonment. The decision can be appealed.

The court found that he had been involved in the murder of seven inmates who were killed during a police raid on the El Pavón prison in 2006. In six cases he was indirectly involved, and in one he was found to have directly committed the murder, according to the court.

"Today's result is a positive step in the fight against a culture of impunity in Guatemala. This verdict strengthens the rule of law and is a wake-up call for all those attempting to hide their crimes behind positions of authority," said Sebastian Elgueta, Researcher for Guatemala, Amnesty International.

Erwin Sperisen held the position of head of police in Guatemala from 2004 to 2007 when he fled the country and travelled to Switzerland relying on his dual Swiss-Guatemalan citizenship. He could not be extradited to Guatemala given his citizenship status, but Swiss law allows for prosecutions of crimes committed by its nationals in other countries - a form of extraterritorial jurisdiction.

A warrant was issued for his arrest by the Guatemalan authorities in 2010 and he was arrested by Swiss authorities in August 2012. His trial began on 15 May in Geneva.

In the same trial he was acquitted of the killing of three escaped inmates from Guatemala's Infernito (Little Hell) prison who were allegedly recaptured by the authorities and murdered outside the prison in 2005. The court ruled that there was reasonable doubt that he was involved.

Cases against other important former officials linked to the crime are still pending. The former Interior Minister Carlos Vielman, who was Erwin Sperisen's boss at the time of the murders, fled to Spain. He is currently awaiting trial. Former deputy director of police investigations Javier Figueroa, allegedly linked to the murders, fled to Austria and was acquitted of the killings by a court in Vienna in October 2013.

Last year three former officials were convicted for their roles in the two incidents. They were convicted by courts in Guatemala but in February 2014 those convictions were overturned and retrials were ordered. Their cases are still being processed.

"Allegations of involvement in human rights violations such as extrajudicial executions should be thoroughly investigated with those deemed responsible held to account," said Sebastian Elgueta.

Get updates on Amnesty's work to protect human rights worldwide.

YOUR EMAIL ADDRESS

Honduras: Children's Rights Defender Beaten, Detained (UA 122/14)

The Director of Casa Alianza Honduras was beaten and detained by military police on 8 May. He believes his mistreatment was in retaliation for speaking out against violence against children.

TAKE ACTION

VIEW ALL ACTIONS

Support human rights with a donation to Amnesty today.

DONATE NOW

FEATURE

Arms Trade Treaty Passes!

LEARN MORE

Background

Extrajudicial executions have been a widespread and serious human rights concern in Guatemala. A UN-sponsored investigation found that extrajudicial executions were routinely carried out by government forces during the internal armed conflict (1960-1996), and estimated that some 200,000 people had been killed, including some 40,000 victims who were forcibly disappeared.

Although most state violence during the internal conflict was directed at those perceived to be supporting armed opposition groups, investigations have also documented extrajudicial executions of those perceived by police officers to be involved in crime. In 1999 the Inter-American Court of Human Rights found the state of Guatemala responsible for the extrajudicial execution in 1990 of five children living rough on the streets and noted that there was a 'common pattern of illegal acts perpetrated by the State against street children'.

In 2007 the UN Special Rapporteur on extrajudicial executions issued a damning report on Guatemala, including a conclusion that allegations that members of the police were involved in extrajudicial executions were "highly credible".

FEATURED CAMPAIGN

Stop Torture

Amnesty International USA is partnering with human rights allies around the world for a two-year global campaign to stop torture, from Chicago to Nigeria, through concrete steps and safeguards.

LEARN MORE

TAKE ACTION

FEATURED ACTION

Pull Up a Chair!

The participation of Afghan women in shaping their country's future and engaging as equal partners will help improve and secure their political status, security, economic and social well-being, and uphold their human rights.

TAKE ACTION

VIEW ALL ACTIONS

MUSIC FOR AMNESTY

Chimes of Freedom

All profits from Chimes of Freedom, a 4-CD album featuring 76 newly recorded Bob Dylan songs, benefit Amnesty International's human rights work.

LISTEN NOW

SHOP AMNESTY

FEATURED ACTION

Tell Israel: Don't Blockade Students

The Israeli blockade prevents thousands of Palestinian students in the Gaza Strip from pursuing higher education in the nearby West Bank – part of the Occupied Palestinian Territories.

TAKE ACTION

VIEW ALL ACTIONS

Home | Site Map | Help | En español | Privacy Policy | Terms & Conditions Contact Us | Work With Us | Donate Now RSS Facebook Twitter

© 2013 Amnesty International USA | 5 Penn Plaza, New York, NY 10001 | 212.807.8400

Mr. GUTIERREZ. I want to make sure we know all about the Guatemalan police.

Mr. GOODLATTE. For what purpose does the gentleman from Texas seek recognition? Oh, actually, the gentleman from Utah. The gentleman from Utah is recognized for 5 minutes.

Mr. CHAFFETZ. Thank the Chairman.

Mr. GOODLATTE. Moving right along.

Mr. CHAFFETZ. Thank you all for being here. For those of you from the Border Patrol and ICE, question for you. Are you aware of any internal assessments regarding why these children are coming north in the way they are? Is there any internal assessment that you have seen within your organizations?

Mr. VITIELLO. There are several reports from varying locations about, you know, the intelligence and surveys of——

Mr. CHAFFETZ. Our Committee would like to have a copy of those.

Mr. Homan, are you aware of any?

Mr. HOMAN. Yes, I'm aware of external and internal intelligence reports.

Mr. CHAFFETZ. And what do they say?

Mr. HOMAN. Pardon me?

Mr. CHAFFETZ. What do they say?

Mr. HOMAN. They talk about various factors, to include——

Mr. CHAFFETZ. I guess, in the essence of time, could you please provide those to this Committee?

Mr. HOMAN. Yes, sir.

Mr. CHAFFETZ. Thank you.

Mr. Judd, when these unaccompanied minors are coming across, how are they communicating who they are and where they want to go?

Mr. JUDD. When they come to the processing center, obviously, if they're 5 years old or too young, that's a little bit difficult, we have to turn them over to HHS. But when they're older than 14 years old, they tell us, they give us numbers, we allow them to call the parents or the relatives or whomever, and they tell us exactly where they want to go.

Mr. CHAFFETZ. Some of them have, I've heard, papers in their pockets with an address or a location?

Mr. JUDD. Sometimes.

Mr. CHAFFETZ. What sort of vetting is done to figure out the authenticity of the relationships?

Mr. JUDD. We can't. There's no vetting that we can do.

Mr. CHAFFETZ. So what happens to them? Do we put them on a plane? Put them on a bus? What do we do?

Mr. JUDD. Yes, sir. We process them with the information that they give us. We take the information at face value. Then we turn them over to ERO, ERO then turns them over to HHS and so on and so forth.

Mr. CHAFFETZ. But these are ICE escorts, correct? They're hired under the ICE. Is that right, Mr. Crane?

Mr. CRANE. Yes, sir. They're turned over from CBP to ICE, and then ICE officers fly them to placement that's directed by ORR.

Mr. CHAFFETZ. And when these escorts get to the destination, what sort of vetting of the person do they actually do?

Mr. CRANE. On our end, we don't. We turn them over to ORR. Prior to that, typically, we just try to verify addresses.

Mr. CHAFFETZ. When you say verify address, that that address is a real address?

Mr. CRANE. That it is a real address and that there's someone there that's going to verify that they're going to receive the child.

Mr. CHAFFETZ. But in terms of vetting who they're giving, I mean, you could be giving them to a drug cartel, you could be giving them to a gang, could be a sex trafficker. You just say, are you you? Is that all you say?

Mr. CRANE. There's no verification of really who that person is.

Mr. CHAFFETZ. My daughter flew from Salt Lake City to Phoenix. She happens to be 13 years old. She knows what she's doing. She speaks great English. We had to provide to Delta the telephone number, a Social Security Number. They had to provide a driver's license when they approach them. You're telling me that we're taking 13-year-old kids, 12-year-old kids, 5-year-old kids, we're taking them and we are, with zero vetting, no vetting, no questions asked, and we're handing them over to somebody in the United States? That's what's happening?

Ms. LOFGREN. Will the gentleman yield?

Mr. CHAFFETZ. No. I'm asking these people.

Ms. LOFGREN. Well, because they don't know. They're not in charge of it.

Mr. CHAFFETZ. I'm asking the people that are here on this panel. I ask unanimous consent to put another 30 seconds back on the clock, please.

Mr. GOODLATTE. Without objection, the gentleman will be recognized for 30 seconds additional.

Mr. CHAFFETZ. Thank you.

The people here on this panel, are the four of you that are involved in ICE and the Border Patrol, do we do any vetting whatsoever of who we turn these minors over to?

Mr. Homan.

Mr. HOMAN. I'll defer to Border Patrol on what type of vetting they do during the initial intake and processing. When ICE takes these children and hands them over to HHS, HHS does all the vetting of where these children are going to, they do background investigations on the sponsors, and they do the vetting. That's an HHS responsibility. Before that child is placed with a family or a sponsor, HHS would do a background investigation.

Mr. CHAFFETZ. So what sort of vetting do you do in the pre-part, in the beginning?

Mr. VITIELLO. So during the arrest and the booking cycle, law enforcement professionals, Border Patrol agents interview the individual themselves. Or if it's part of a family unit, then they'll interview the parents to elicit the information about their destination in the United States, the manner in which they entered, where they're from, what country they're coming from, et cetera.

Mr. CHAFFETZ. Mr. Vitiello, what percentage of the border do you have under operational control at this point?

Mr. VITIELLO. I don't have that information in front of me.

Mr. CHAFFETZ. Is it less than 10 percent as it was last time it was assessed?

Mr. VITIELLO. I don't have that information in front of me.

Mr. CHAFFETZ. Would it be inaccurate to say that it's changed since then?

Mr. VITIELLO. The border changes every day.

Mr. CHAFFETZ. How do you say yesterday, how do testify yesterday that you have an adequate supply of personnel? Those are the words that you used.

And then, Mr. Judd, I would appreciate your perspective on this, as well.

Mr. VITIELLO. I appreciate you bringing that up. I could have been a bit more precise in my remarks yesterday.

Mr. CHAFFETZ. You were fairly precise. I mean, you said "you were adequately staffed." You went on to say that you were adequately or better staffed at the same time than you were last year.

Mr. VITIELLO. I didn't want people to imply the fact that we're not concerned about this problem. When we visited with the Secretary we were told by the folks on the ground there that the issue of large numbers of family units and these children are entering in a specific area. My remarks yesterday were designed to inform everyone that the deployments outside of those two zones are as well staffed as they were last year or better staffed.

Mr. GOODLATTE. Time of the gentleman has expired, but the gentleman, Mr. Judd, will be allowed to answer the question.

Mr. JUDD. We are adequately staffed to process them, but we have to strip the line to do it. So we create holes on the line. So, yes, we're able to process these people. There's no doubt about that. But the actual border takes a hit because we have to take people out of the field to do that processing.

Mr. GOODLATTE. The Chair recognizes the gentlewoman from California, Ms. Chu, for 5 minutes.

Ms. CHU. Well, first of all, I'd have to say, I heard Mr. Judd say that these children are released to these relatives and then they disappear. And I don't know how you could say such a thing when once they leave your jurisdiction, you don't know what the actual result is. You don't know what the end result is for these children.

Mr. JUDD. We can track that through—because what happens is we have to assign what's called an A number, an alien number, and that can be tracked, and you can see what court dates they have, everything that's associated with it, and it will actually show if they showed up for their hearing. And from what's been reported to me from intelligence is that they don't show up to their hearings. In fact, the bishop in his written testimony, on page 11, said that they don't show up to their hearings. If you don't mind, I'll quote it.

Ms. CHU. Well, let me just keep on going.

Mr. JUDD. Okay. Sure.

Ms. CHU. Just 2 weeks ago, I visited the unaccompanied minors being housed at the naval base in Ventura County, and I did see more than 175 children who had been transferred from the border. Thank goodness, the facility was clean and safe. But I came to understand after my visit to the shelter that there are a lot of misconceptions about what is going on, and I came to understand that these children are not given a free pass to enter our country.

And just like this hearing is a misnomer, "An Administration Made Disaster," also this term "catch-and-release" is a misnomer because these children are not just released into society. They, first of all, are released to a relative, but that's because of a law that dates back to 17 years ago, and that was reinforced by two laws that were signed then by President Bush. So that, yes, they are with relatives.

But then they have to have a notice to appear, they have to go through a court hearing, and they have to apply if they are going to stay here, and they can only stay here if they qualify for asylum or a special juvenile status visa or a U visa for victims of violent crimes. And so nothing has changed in the law. There is nothing that has changed with regard to the Obama administration. All these laws were done before the Obama administration.

But what we do have is a broken immigration system. We have a court system that has not been in operation because of the lack of immigration judges, the huge backlog. And so all these children are being held up with regard to their final dispensation.

And actually there's something else I want to ask about the situation to Mr. Homan, because it is very disturbing to me that children as young as 3 or 4 years old have to appear in court without counsel against an experienced ICE trial attorney. They are left alone to present a defense to their removal, making it nearly impossible for them to assert a claim for relief even if they do qualify.

And, in fact, just 2 days ago my colleagues and I, led by Mr. Jeffries and several other Members of the Committee, introduced the Vulnerable Immigrant Voice Act to provide for attorneys for unaccompanied minors and individuals with mental disabilities. I believe that this is actually cost effective because detained individuals who have information regarding their rights prior to their first hearing spend an average 11 fewer days in detention and that means more than $164 a day for every individual that is detained, which adds up to a lot of money.

So, Mr. Homan, what procedures are currently being put in place to ensure that unaccompanied minors understand the immigration proceedings that they're being placed into and have legal assistance to apply for the relief that they may be eligible for?

Mr. HOMAN. When the child goes before an immigration judge, like I said, we looked at in the last 5 years for every unaccompanied child that we filed a case with EOIR, 87 percent of them are still in proceedings, which, again, as I testified earlier, was lack of immigration judges, first of all. So these hearings aren't being heard for years. But there's a lot of continuances with unaccompanied children.

When they're placed with a sponsor or family member, they certainly can attend a hearing and help the child through. I'm aware of, our Office of Principal Legal Advisor thinks that supplying an attorney to an unaccompanied child may benefit and make the system move faster. So I would have to defer to DOJ, the immigration judges, on how those hearings are conducted. I'm sure they're conducted differently in every part of the country.

Mr. GOODLATTE. Time of the gentlewoman has expired.

Chair recognizes the gentleman from Texas, Mr. Gohmert, for 5 minutes.

Mr. GOHMERT. Thank you, Mr. Chairman.

AND I know it's been a long day for all of us, but I appreciate your patience because this is important. Having spent the weekend down at the border, McAllen, Mission, all along the border, along the Rio Grande, on public dirt, gravel roads, down miles from a hard top road, seeing dozens of people being processed out in the public area on dirt roads in the middle of the night, I've got a better sense of this.

The issue of a free pass came up in a hearing in which Pete King from New York was asking Secretary Johnson, and Pete King said, but if I were a parent in Guatemala, wouldn't I see that as being a free pass? I mean, a child, a 5 year old getting an order to show up in immigration court, you know, are you going to actually deport that child? You know, to me, that's a free pass, from their perspective.

Secretary Johnson said, Congressman, I don't see it as a free pass, particularly given the danger of migrating over 1,000 miles through Mexico into the United States, especially now in the months of July and August that we're facing. A lot of these kids stow away lay on top of freight trains. It's exceedingly dangerous.

And so he's saying, because of the danger to get here, it's not considered by Homeland Security as a free pass. But as to the child, once they enter the United States, it's a free pass. And what is occurring by this Administration luring these children into America by the promise of a free pass once they get here, there are children that are suffering and being hurt, being lured here to their detriment.

Now, if they get here successfully, that's a different story. But having looked at hundreds and hundreds of people lying on a concrete floor this weekend in McAllen, Texas, in the sally port because there's nowhere else to put them, and I ask about, well, I hear there's 18 cases of scabies here. Where are they? Oh, you see the little red crime scene tape over here, that's the best we can do because Health and Human Services won't come pick up these people in a timely manner.

So they're lying here on a concrete floor, and those 18 in that little area behind that red crime scene tape are our scabies cases. We're still looking for all the lice cases and the other cases, the flu cases. And I didn't get this from the Federal people, but from Texas folks that just sent 2,000 doses of H1N1 vaccine to Lackland Air Force Base. They say there's a case of H1N1 flu at Lackland.

Does anybody know for sure that that is not true, or do you know that we definitely have at least one case of H1N1?

Mr. VITIELLO. When we were there last Friday they did confirm a single case of H1N1.

Mr. GOHMERT. Right. And are you familiar with the incubation period? I understand it can be 1 to 7 days before it manifests itself.

Mr. VITIELLO. I spoke to the doc about that, but I don't know the particulars.

Mr. GOHMERT. And listen, I appreciate, Mr. Vitiello, your commendation of FEMA and these other Federal agencies, but the fact is, in 2008, when the Democrat-controlled House and Senate passed a bill that made children the responsibility of Health and Human Services, which is also trying to take over all our health

care now, so they seem to be kind of busy, but when that passed and was signed into law by President Bush, we really tied the hands about Border Patrol and our ICE agents because, as I was seeing this weekend, you've got hundreds of kids and you've got to wait on HHS to come get them.

Ms. LOFGREN. Would the gentleman yield?

Mr. GOHMERT. No, I wouldn't. My time is limited, and I would like that addressed.

Let me ask it this way: If Border Patrol had the responsibility of the children then you could move without having to wait for HHS, correct?

Mr. VITIELLO. Well, there's a couple of different pieces of the government that have to do this. Right now, under the law, the responsibility is to move folks into HHS. Their resources are building with the help of the interagency, with the help of DOD and FEMA, et cetera.

Mr. GOHMERT. Okay. Well, my time is running out. Let me just indicate that of all of these people that I watched in a public area in the dark of night being interviewed, they were all very honest, very candid, not one of them said they were fleeing because of violence. They were saying, well, the mother for these two is in Miami, had been there for 4 years, has a good job there. So now that we know the children can come and not have to go home, we want to get them with their mother in Miami. And these three over here, their fathers are in North Carolina and have a good job. Now that we know they can stay, get a good education, we want to get them with their fathers in North Carolina, all of them there illegally.

Folks, we have sent the message to the world that we're open to anybody that wants to come in. And I'm telling you, we are not doing our job as a Congress——

Ms. LOFGREN. Mr. Chairman?

Mr. GOODLATTE. Time of the gentleman——

Mr. GOHMERT [continuing]. And the Federal Government is not doing their job in protecting us from those people that are coming in.

Mr. GOODLATTE. Time of the gentleman has expired.

Ms. LOFGREN. I have a unanimous consent request.

Mr. GOODLATTE. The gentlewoman will state her unanimous consent request.

Ms. LOFGREN. I would like to place into the record the Homeland Security Act of 2002 that was the act that transferred this responsibility to Health and Human Services during the Republican majority and signed into law by President Bush.

Mr. GOODLATTE. There may be a limitation on the number of pages that can be submitted into the record. But if there is, we will check.******

Ms. LOFGREN. If the pages work, I would caveat the request with that.

Mr. GOHMERT. And I would ask unanimous consent to submit the bill that changed that act in 2008, modified that.

******The information referred to, the Homeland Security Act of 2002, is not reprinted in this hearing record but is on file with the Committee, and can be accessed at http://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf.

Mr. GOODLATTE. Without objection, those documents that meet the size conditions will be made a part of the record.*******

And the Chair recognizes the gentleman from Florida, Mr. Deutch, for 5 minutes.

Mr. DEUTCH. Thanks, Mr. Chairman.

Mr. Chairman, it's estimated this year more than 60,000 children will cross the U.S.-Mexican border without parents or guardians. Some estimates indicate the migration of unaccompanied children across the border could be as high as 90,000 this year, 120,000 in 2015. It's a tenfold jump from the previous year.

Now, some of my colleagues, some of my Republican colleagues on this Committee are suggesting that they're here because of the, as we just heard, the free pass that they know that they can get if they simply arrive here; that they're coming here, they're trying to come to the United States due to the Administration's immigration policies.

But as we've heard all day, and I'm sorry that I've not been able to be in the hearing the entire time, and I appreciate the witnesses very much for your being here, but as we've heard, these unaccompanied children are embarking on what are very dangerous journeys, of hundreds of miles, to escape the violence in their home countries of El Salvador, Honduras, and Guatemala. Bishop, you've spoken to this extensively today.

Honduras is the homicide capital of the world, with young boys having a 1-in-300 chance of being murdered. In 2013, a Honduran woman was killed every 15 minutes. In El Salvador, 174 people were murdered in May of 2014; a year later that number climbed to 356 in May. And in Guatemala, which is suffering from the spillover of Mexican drug cartel violence, 98 percent of crimes go unprosecuted due to fear of retaliation.

This extraordinary violence driven by organized gangs and drug cartels, as well as lack of economic opportunity, are some of the reasons that unaccompanied minors are making what is an extremely dangerous journey across Mexico to the United States. According to a recent study issued by the U.N. High Commissioner on Refugees, 58 percent of unaccompanied children crossing into the U.S. could raise potential international protection needs; 78 percent of the total number of unaccompanied children fleeing from El Salvador will qualify for international protection, 40 percent from Guatemala, 57 from Honduras, and 64 percent from Mexico.

This is a humanitarian crisis. And as a global human rights leader, if that's a role that we're to play in this country, if we take that responsibility seriously, our credibility is on the line to ensure that unaccompanied children fleeing violence in their home country are treated humanely and with fairness when they enter the United States.

Now, I also serve on the Foreign Affairs Committee, and I meet regularly with representatives from Jordan, from Turkey, and from Lebanon. Now, according to the U.N. High Commissioner for Refugees, these three countries have taken in nearly 2.5 million Syrian refugees since the conflict began. Moreover, it's been reported that

*******The information referred to, the bill that changed that act in 2008, is not reprinted in this hearing record but is on file with the Committee, and can be accessed at http://www.gpo.gov/fdsys/pkg/PLAW-110publ457/pdf/PLAW-110publ457.pdf.

Germany has offered to resettled approximately 25,000 Syrian refugees.

These countries are continuing to be inundated by hundreds of thousands, if not millions of refugees fleeing the mass slaughter in Syria, and we support their efforts and we praise these countries for keeping their borders open to people fleeing violence in their home countries who are seeking safety. We praise them for doing that.

As we urge other countries around the world to keep their borders open to people fleeing violence in their home countries, especially children fleeing violence in their home countries, it's incumbent upon us to treat people fairly and humanely who are fleeing extreme violence in Central America and seeking safety in the United States, if we're to be taken seriously at all when we speak out in support of human rights.

Now, Bishop, I have a question for you. Tell me whether you believe the United States as a global human rights leader has an obligation to treat unaccompanied children seeking safety in our country fairly and humanely.

Rev. SEITZ. I certainly believe that we have a responsibility and the world is watching us. They see us as a leader in human rights. And so how we deal with this much smaller population of people that are showing up at our borders I think will be looked at with a great deal of interest.

Mr. DEUTCH. Mr. Vitiello, what's the age of the unaccompanied children that you see crossing the border?

Mr. VITIELLO. By definition, it's anyone that's under 17.

Mr. DEUTCH. And I understand that. Do you have a sense how many of them are under 13, under 14?

Mr. VITIELLO. We could get back to you on sort of the specific breakdown of the demographics, but it's generally the older age, you know, 14 through 17. But we've seen them in each of the categories.

Mr. DEUTCH. And do these children come across the border and tell you—do you have a sense, any of you, how long the journey is walking from El Salvador or walking from Honduras or Guatemala to the United States?

Mr. VITIELLO. Not specifically, but it's got to be days. Days, weeks.

Mr. DEUTCH. Bishop, do they ever walk, or how do they get there?

Mr. GOODLATTE. Gentleman's time has expired, but the witness will be allowed to answer the question.

Rev. SEITZ. I don't think many of them walk all the way. They walk part of the way. Many of them will catch the train that's referred to as La Bestia, and some of them, if they have enough money, they will get bus tickets to take them part way.

Mr. DEUTCH. Thank you.

Mr. GOODLATTE. The time of the gentleman has expired.

The gentleman from Idaho, Mr. Labrador, is recognized for 5 minutes.

Mr. LABRADOR. Thank you very much.

Thank you, all of you, for being here.

Bishop, do you know how many refugees we accepted in the United States last year?

Rev. SEITZ. I don't have those numbers.

Mr. LABRADOR. That number is 70,000. So I think the United States has done a pretty good effort of reaching out to all communities and accepting people. Do you know how many immigrants we accepted in the United States last year?

Rev. SEITZ. Do not.

Mr. LABRADOR. It's in the millions. So for anybody to suggest that the United States is not accepting people from other countries, I would really differ with you, and especially on a refugee status.

Mr. Judd, Mr. Crane, I've heard a lot of reasons why this is happening. If you look at this chart to my right and to your left, the numbers started increasing in fiscal year 2012.

[Chart]

Mr. LABRADOR. So the law changed in fiscal year 2008, in fiscal year 2009 you had about the same number as fiscal year 2010 and fiscal year 2011, and then all of a sudden the numbers started increasing by 124 percent, then 305 percent, and then this year we're estimating that there's going to be an increase of 1,300 percent.

What has changed in those years in the country conditions in Honduras, El Salvador, and Guatemala? Do you know?

Mr. CRANE. I do not know, sir.

Mr. LABRADOR. Is there any evidence that country conditions, because we've heard a lot of bad things about those countries from the other side, and I agree that the conditions are not great. But has anything significantly changed in the last 3 years in those three countries? Do you know, Mr. Judd?

Mr. JUDD. I couldn't answer that. I have no idea.

Mr. LABRADOR. Now, is there any evidence that anything has changed in those countries, overwhelmingly, that today the police is more corrupt than it was 3 years ago? Do we have any evidence of that? Mr. Vitiello, Mr. Homan, do we have any evidence of that?

Mr. VITIELLO. Nothing specific.

Mr. LABRADOR. So we believe that the conditions are about the same as they were in fiscal year 2009, fiscal year 2010, and fiscal year 2011, do we not?

Mr. VITIELLO. I'm just not an expert on what is happening in those locations. I've synthesized the reports that we've developed, that have been developed by our agents in the field, and there are four major factors that are——

Mr. LABRADOR. And what are those four major factors, if you could say, really quickly?

Mr. VITIELLO. So it's the violence, it's the economic conditions or the lack of opportunity, it's the failed, you know, services, rule of law, et cetera. And there is open-source reporting, and we have our own reporting that say that people are under the belief, whether it's been promoted by smugglers or others, that there is some kind of benefit to be gained.

Mr. LABRADOR. But those first three factors are not any different today than they were in fiscal year 2008. Do you have any evidence that they are?

Mr. VITIELLO. I don't know the difference.

Mr. LABRADOR. And I would submit to you that they're not. They have always been corrupt countries. They have always had corrupt police. And the thing that is changing is your number four factor, which is that they now believe that they can remain in the United States.

Mr. Crane and Mr. Judd, when you talk to your agents, what are they telling you? What are they saying that these children are saying? Why are they coming to the United States?

Mr. JUDD. Again, our agents are required to interview these individuals, and the biggest report that we're getting is that they're coming here because they can stay.

Mr. LABRADOR. Because they can stay. And I find it outrageous that anyone would say that things have changed dramatically in any of these three countries, and I find it outrageous that nobody understands, it seems on the other side, that inviting and saying that we are going to actually allow people to stay, whether it's for a month or for 2 years or permanently, that anyone would imply that that is not an incentive.

Because if I had children, if I had been born in Honduras, in Guatemala, or El Salvador, and I believed that there was a chance for me to remain in the United States, I would do anything in my power to bring those children here.

What do you think, Mr. Judd and Mr. Crane, the one single thing that we could do right now to stop what I do believe is a humanitarian crisis, but it's a humanitarian crisis that has been created by this President and by the lack of enforcement, what is the one thing that we could do today to change it? Mr. Judd and Mr. Crane.

Mr. JUDD. I'm going to have to answer I want to stop the smugglers. I want these individuals to be safe. I've seen too many dead bodies in the desert. I don't want to see anymore dead bodies. I want them to present themselves at ports of entry. I want to stop the smugglers. That's what I want to stop.

Mr. LABRADOR. Thank you.

Mr. Crane.

Mr. CRANE. If it's just one answer, I would say that we have to send a different message to the world, and that starts with enforcing the laws that we have on the books and taking a second look at things like DACA.

Mr. LABRADOR. If we start enforcing the law today, I will submit to you that we can save children. You won't see those dead bodies, you won't see these girls that are getting raped, and you won't see these children that are getting abused by these criminal gangs. I think it's time that we took this very seriously and we stopped playing games on immigration.

Thank you very much, all of you, for being here.

Ms. JACKSON LEE. Mr. Chairman, I have a unanimous consent——

Mr. GOODLATTE. Chair thanks the gentleman.

The gentlewoman will state her unanimous consent request.

Ms. JACKSON LEE. Mr. Chairman, I would like to add into the record an article entitled "Why 90,000 Children Flooding Our Border Is Not an Immigration Story," and this is out of the NationalJournal.com. I ask unanimous consent.

Mr. GOODLATTE. Without objection, the document will be made a part of the voluminous record of this hearing.

[The information referred to follows:]

NationalJournal

Why 90,000 Children Flooding Our Border Is Not an Immigration Story

Virtual cities of children are fleeing their homes. This is a lot bigger than U.S. border control, a United Nations protection officer explains.

BY BRIAN RESNICK

Follow on Twitter

A boy in Mexico peers through a border fence into Arizona following a special "Mass on the Border" on April 1, 2014 in Nogales, Ariz. (John Moore/Getty Images)

June 16, 2014 The numbers are astounding.

Just a few weeks ago, the United States was projecting 60,000 unaccompanied minors [http://www.cbsnews.com/news/surge-in-unaccompanied-child-immigrants-spurs-white-house-reaction/] would attempt to illegally cross the U.S.-Mexico border by the end of the year. That projection is now 90,000 [http://www.usatoday.com/story/news/nation/2014/06/12/johnson-unaccompanied-minors-immigrants/10393001/], and it may be surpassed.

Virtual cities of children are picking up and fleeing El Salvador, Honduras, and Guatemala—some of the most dangerous places in this hemisphere. [http://www.unodc.org/documents/data-and-analysis/Studies/TOC_Central_America_and_the_Caribbean_english.pdf] In Washington, the story has stoked the longstanding debate over border policy. But U.S. immigration policy is just a small part of this story. Yes, the U.S. immigration system is now bottlenecked with the influx, [http://www.cbsnews.com/news/surge-in-unaccompanied-child-immigrants-spurs-white-house-reaction/] prompting emergency response from the Federal Emergency Management Agency. But changing U.S. border policy won't stem the root of the exodus.

"The normal migration patterns in this region have changed," Leslie Velez [http://www.unhcrwashington.org/node/106], senior protection officer at the U.N. High Commission for Refugees, explains. These people aren't coming here for economic opportunity. They are fleeing for their lives.

Earlier this year, the United Nations High Commissioner on Refugees surveyed 404 children [http://unhcrwashington.org/children] from Mexico and Central America who arrived in the United States illegally, and asked a simple question: Why did you leave? The report found "that no less than 58 percent of the 404 children interviewed were forcibly displaced" to a degree that warranted international protection, meaning that if the U.S. refused these children, it could be in breach of U.N. conventions.

Velez was one of the authors of that report, interviewing undocumented immigrant children across the U.S. immigration system for

two hours each. They told Velez and her team stories of extreme violence, and fear of being caught up in gangs. Forty-eight percent of the children "shared experiences of how they had been personally affected by the augmented violence" at the hands of "organized armed criminal actors, including drug cartels and gangs, or by state actors."

Recently, I spoke with Velez over the phone to learn more about the forces motivating children to make the journey north. Below is an edited transcript of our conversation.

When did it become apparent that something out of the ordinary was happening with migration out of Central America?

Our sister agency, the U.N. Office on Drugs and Crime, started the clock at the increase in violence and insecurity in the Northern Triangle (http://www.tikkuncenter.org/node/19779) in 2006.

Around 2008, it was probably the first time it really hit the U.N. refugee agency's radar. When we went back to the numbers, there was an increase in asylum applications starting as early as 2005. It wasn't too significant until we got to 2008. And in 2008 to 2013 we noted a 712 percent increase that were lodged in countries other than the United States (like Mexico, Panama, Belize, and Costa Rica).

So why are we hearing about this now?

The numbers have been doubling every year since 2011. And for us, that's dramatic. For the U.S. government—who has been really challenged in order to process this large number—I think their capacity has really been tested in the last few weeks. I think that's what generated a lot of attention. Because the numbers have rapidly increased.

And your next followup question is probably going to be, "Why?"

Yes it is. Why?

From reports that we are hearing from individuals on the ground, both from our U.N. offices that are there, as well as NGOs—in particular Catholic Relief Services in El Salvador—they have been really clear that on the ground a few important things are happening.

One is that the criminal armed actors, specifically gangs, are really operating with significant impunity and targeting children at a younger and younger age. Recently there was a very public massacre and dismemberment of children as young as seven who had refused to join the gang. So it was a message to show who is in power; who is in control.

This is a huge story, involving tens of thousands of personal stories and the intricate histories of three troubled countries. But for those unfamiliar with the happenings in Central America—how would you encapsulate what's going on down there?

It's a humanitarian crisis in the region. The numbers are alarming, but the stories behind them are even more so. The situation is basically this: we have weak governments, entrenched poverty, and a growing control and power of criminal actors.

Why kids?

That's a really good question. The kids are vulnerable because they are children. And they are being targeted.

We liken the situation very much to the situation of the recruitment of child soldiers on other continents. Children are particularly vulnerable, they are susceptible to harm, they are easily terrorized, and the very fact that they are children is the single factor in the harm that they are experiencing. They are specifically being target to be recruited. They are the ones who are being bullied.

Much of the news has focused on the U.S. response at the border. But is there much journalism coming out of the conflict areas?

There's really little. Most of the media that covers it well is Spanish media.

Is that changing?

I hope so.

Who is making the decision to flee, to go north? Is it the kids themselves, the parents? How much choice do the kids have in this and how do they make this decision?

I think I hear the question you are asking but I'm going to give you a different answer.

This is a situation of forced displacement. After interviewing 404 children for our own report, when the numbers came back they showed that 58 percent of them were fleeing violence. Very little choice, that they were fleeing.

I think your question went to, well, who has the agency here, is it the children making decision for themselves, the grandparents, the family members? Who is doing it?

I guess the question back to you is, is there really a choice here? Already in the context of entrenched poverty in which criminal gang armed actors can really act with impunity. This is a bad recipe.

According to reports, as many as 60,000 minors have come to our border this year. When I hear numbers that high, I wonder, is this a systematic form of travel? Are there economies involved in this mass movement of people? Exploitation?

Well, the 60,000 mark was hit maybe a good three or four weeks ago. The projections are about 90,000 by the end of the fiscal year. We're talking about unaccompanied children.

In terms of how they are getting here: So many of them are just invisible. Some people are being smuggled, some people are being trafficked, some people think that they are paying a smuggler and they end up being trafficked, some people come with other relatives. There are so many different stories. And I think there are a lot of actors that are actually exploiting the fact that these children are increasingly vulnerable. And there are a lot of for-profit entities out there that are trying to profit [off] the children who are trying to leave.

Figure 2: **Murder rates in northern Central America, 2000-2011**

Source: UNODC Homicide Database

Is the answer we just don't know? Is there a fog of information between Central America and the U.S. ?

Last year Mexico apprehended 5,500 [children] in the same year, 23,000 arrived to the United States, and I'm not including Mexicans in the 23,000 figure. These are all children from El Salvador, Honduras, and Guatemala. Twenty-three thousand of them made it through Mexico without being detected.

In the wake of these trends, some lawmakers have called on increased [http://www.texastribune.org/2014/06/11/cornyn-us-should-help-mexico-seal-its-southern-bor/] **southern border security for Mexico. What do you make of that?**

I think that's a knee-jerk reaction, which is not entirely inappropriate. But any conversation about increasing enforcement of other countries at points south has to include protection from sending people back to where they fear persecution or torture.

I've been reading that these children are coming north on rumors that the United States will let them in, that the Obama administration has lax policies toward minors. Did you find that at all in your survey?

We interviewed 404 children asking extremely open-ended questions as to the reasons and the nature of having left and what they were expecting when they arrived. Out of the 404, only 9 of them mentioned any kind of possibility of the U.S. treating children well. Two said "immigration reform"; one said "I hear they treat kids well." It's very general and from the perspective of a child. But only nine out of 404 said anything about that.

So what is attracting them to the United States?

First, I have to point out to you, it's not just the United States. That was a another red flag for us. There is an increasing trend to seek asylum in Mexico, which is much safer for them than where they are from. The number of asylum seekers in Nicaragua, in Belize, in Costa Rica, in Panama—all of that has grown 712 percent since 2008.

This is not the normal flow. For the U.N. refugee agency to register an uptick in asylum applications in places other than the United States is a huge red flag for us. People are leaving to places where they can find safety.

So what are the countries experiencing the influx?

The U.S, Canada, Mexico, Costa Rica, Panama, Nicaragua, Belize.

How many people have left El Salvador, Honduras, and Guatemala? I'm trying to imagine the long-term impacts of tens of thousands of young people leaving their homes behind.

We don't know how many people have left. I can generally signal how many have been picked up on the radar by the states. As of last month we have 45,000 adults who have indicated a fear of return to U.S. border officials. Of that number, approximately 70

percent of that 45,000 figure are from those same three countries.

These are just the folks who are claiming fear of return, getting that registered. This is what has actually hit the radar. We have no idea about how many people don't get intercepted by border authorities. There is no way for us to track the number of individuals that are part of regular migration-enforcement activities.

Already to be talking about a flow of over 100,000 people from three countries is quite alarming.

Are these refugees? Immigrants? Does the distinction matter?

What we learned from our empirical study was that 58 percent of the children we interviewed flagged an international-protection concern. Where we drew the line, was that these children feared return because of violence and insecurity. They feared harm to themselves, and had the single conviction that they could not be protected in their countries. So that was our most conservative lens that we could look at the numbers. We excluded entrenched poverty, we excluded everything else. So 58 percent of the kids, in a statistically significant pool of 404, we wanted to be able to extrapolate to have a significant pool, present international protection concerns.

So what does that mean? We did not interview them [to determine refugee status]. We interviewed them to find out why they left. We did a preliminary screening which to us was enough to say these individuals presented concerns.

Which means that if a country was to reject these people from their borders without allowing them any access to asylum protection or complementary protection processes, it actually would be in breach of the conventions.

Is the U.S. handling this well?

The U.S. is doing everything that I think it possibly can in this short-term context. We have really applauded that President Obama has recognized there is a humanitarian crisis, and that he engaged FEMA and has asked the Secretary of Homeland Security to respond. The machinery is in place, it's starting to move. The domestic response, in the short term, is doing the best that it can to get people out of the bottle necking facilities that are just not equipped to deal with this type of flow.

But what the U.S. could be doing better, is that this is really a regional issue. Each country is unique and if you look at the data in our report about what's happening in each country, you are going to see some clear difference. At the same time it's a regional challenge—people are leaving and they are going to points North, points South—it requires a regional response. It's not on the U.S. alone to solve. But were supporting it to recognize that there is a foreign policy element here to all of the challenges.

The humanitarian response is not going to solve the problem. The faucet has to be turned off or the water is going to keep flowing. To that end, the U.S. needs to address the root causes, and it has a role in addressing the root causes. First, on the tip of the list, is to continue violence-prevention efforts—like job creation, education, strengthen women's counsels—do a lot more institution strengthening, more government programs.

What is the American media getting wrong about this story? Or, what's the take-home point we miss?

This is not a migration story. This is a humanitarian crisis, and an example of consequences of weak governments. It's a humanitarian crisis and a foreign policy issue. We're responding in a humanitarian way, and supporting the government to do so, but that's not going to shut off the faucet.

The normal migration patterns in this region have changed. While it is still a mixed migration flow—people are still coming for a number of reasons. There is a growing number of people who are literally fleeing for their lives.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

Mr. GOODLATTE. And the Chair recognizes the gentleman from Illinois, Mr. Gutierrez, for 5 minutes.

Mr. GUTIERREZ. Thank you very much, Mr. Chairman.

First of all, one simply needs to Google things and you find a different reality than that being expressed here. Poorest country: Central America, Nicaragua. But you bring us your own charts and show us there is absolutely no increase in the numbers of Nicaraguan unaccompanied children to this country. None. There is no increase from Mexico.

It's increased from three specific countries. And you go back. You want to talk about the Guatemalan police. Google it 1 second. The former head of the Guatemalan police was convicted on June 6 of this month for murdering people. It is pervasive, the violence. They are part and parcel of the criminal enterprise in many instances that plagues Guatemala. And you want us to believe them, the very people that help facilitate these processes? Please.

The other thing is, let's be clear, because I would like a little more honesty here, Mr. Chairman. We have unions that come here that when their directors give prosecutorial discretion, they get together with their union, right, and then condemn their supervisors for initiating those prosecutorial discretion memorandums. That is the truth and that is the reality. So you already come.

You don't like DACA, you don't like anything that has to do with compassion. You don't like anything that has to do with prosecutorial discretion. But it is the law. And I'm happy that the President of the United States is initiating prosecutorial discretion because this is a Nation of laws, and it's also a Nation of compassion. It's also a Nation that understands that there is truth and justice in our law.

I mean, all I've heard here today is, let's lock them up and throw them back. I haven't heard a solution here. Please, tell me what the solution that has been offered here that would stop the children from coming here, other than to say that if we locked them up and sent them back, which is not the law of the land, it is simply not the law of the United States.

You want to change the law and you want to send them back? Then prepare legislation that says exactly that, get it passed by the Congress of the United States and signed by the President of the United States. But that's not the law.

What we hear is now they're bringing diseases. How many times do we have to hear about poor children fleeing drug cartels, crime, violence, murder, rape, and they finally arrive in this country, and what do we do to those children? Do we continue what was said in Virginia just a couple of weeks ago when Mr. Cantor's opponent says, I'm going to Congress to continue the Judeo-Christian tradition that this country was founded on. That's the Judeo-Christian tradition, to take children fleeing murderers, drug traffickers, human traffickers, and then demonize them and criminalize them? That is.

And then one of my colleagues on the Republican side says, oh, they're reuniting them with their parents. I'm aghast. Really? What a sin. What a sin. The government of the United States is spending money to reunite children with their parents.

I say we have sensible, comprehensive immigration reform, which I am ready to work and have been ready to work with the other side of the aisle. You know why they're coming? I'll tell you why. Because the drug traffickers and the drug cartels, they're filming this hearing. And what they have heard time and time again from the Republicans is, what? You get a free pass. How many times haven't we heard them say that, you get a free pass? You don't think the drug traffickers and the drug cartels print that stuff up and then go? Let's tell them the truth of what our laws are.

The fact is, they're being placed in removal proceedings. We know that. We know that the vast majority will not receive anything from the government of the United States and they will be ordered deported from the United States after going through these long trials and tribulations and murderous road to get here.

I've got to tell you something. I am astonished and ashamed that this Committee is going to have a trip to visit the centers in Texas and has this hearing and prejudges the very expedition that we're taking out next week.

Look, I want to continue the Judeo-Christian tradition of this country, too, and that is one that is welcoming of people that are refugees, that come here seeking peace and humanity. I don't know about the rest of my colleagues, but I think that should be our goal each and every instance. And I want to thank Mr. Deutch for reminding us of what we're doing given the terrible crisis of Syria and what we've asked other people to do. That's all we're asking. But it just seems to be that if they come from our own specific hemisphere, it's bad.

Let me tell you something. We spend trillions of dollars in countries where people don't like us. Let's spend some money in countries where people love this Nation, and I think we would be a lot better off.

Mr. GOODLATTE. Time of the gentleman has expired.

Chair recognizes the gentleman from Florida, Mr. Garcia, for 5 minutes.

Mr. GARCIA. Thank you, Mr. Chairman.

I'd like to thank the witnesses for joining us today.

I think we can all agree that we have a crisis on our hands. It's profoundly disappointing, however, that some of my colleagues are using this crisis as an excuse for inaction. Inaction is what got us here in the first place. We have now waited a full year since the bipartisan Senate bill was passed, a full year. If we had passed immigration reform, we would have taken care of the people who are already here and directed resources to criminals, traffickers, and people who wish to do this Nation harm.

We have been able to provide reintegration assistance and legal representation to these children, and we would have a comprehensive strategy at the border, so we could stop throwing money at the problem and stop militarizing border communities.

Just yesterday, Speaker Boehner wrote the President asking him to send troops to the border, to send National Guard troops to the border. To do what? These are children. They need help, not a gun in their face. Others are using this as excuse to end DACA and deport all the young people who have benefitted from that program.

DACA is a program that Secretary Johnson testified before this Committee as a success very recently.

These young people have become assets in our community. They want nothing more than to go to school and contribute to our country, to their country. In fact, I have a dreamer interning in my office this summer.

No matter who you think is at fault, the fact of the matter is that there are hundreds of kids arriving at our border each day, hungry, thirsty, often traumatized by the journey. They aren't here because they're trying to game the immigration system. They are here out of desperation. You don't hand your 10-year-old daughter to a coyote and let her travel thousands of miles through a desert on the backs of trucks through a foreign country because you're hoping she will be your immigration in. They feel they have no other choice; in fact, in many cases, they have no other choice.

These kids are coming from places where children are recruited by gangs, where they are used as pawns to coerce their families. They're here because of a foreign policy that has ignored the problems in our own backyard and because the immigration system is too broken to deal with reality. We need to fix our immigration system and invest in this part of the world to get to the root of the problem in this crisis. Using these kids to score political points is unproductive and simply beneath us. Stop finger pointing and start governing, is what we should be doing.

Now, I've just been astonished by some of the questions here, but I want to ask any of you here, have you heard any, with the exception of some of the Members across the aisle, have any of you heard U.S. officials saying to people come to the United States so you can stay?

Mr. HOMAN. I have not heard any U.S. officials say that, no.

Mr. GARCIA. Mr. Crane?

Mr. CRANE. No, sir, I have not.

Mr. GARCIA. Good.

I wanted to ask the bishop, because somehow you got involved in the conspiracy, somehow the Catholic Church is now in collusion with the coyotes trying to come here, could you state for the record what the Catholic Church thinks about people breaking the law and coming to the United States as they want to portray it?

Rev. SEITZ. Well, first of all, we do not recommend that youth, children, anyone leave their home country and make that journey. We try to discourage them from coming. However, I think we also recognize that there are people, as you said, that feel they have no other option. Like the woman said that I quoted in my testimony, she said she would rather see them die on the journey, take a chance of dying on the journey, than to die on her doorstep. And that is the option that I believe many of these people feel.

Mr. GARCIA. Bishop, one final question. I sometimes look at bumper stickers and I always love the little monogram, you know, WWJD, what would Jesus do? Could you tell me who Jesus would deport, just so I know?

Rev. SEITZ. Well, I think we have plenty of indications in the Gospel that Jesus identified in a special way with people who are on the margins, with people who have no voice. He told the story of the Good Samaritan, and he said that the neighbor was the one

who showed compassion. I don't think we ever get a pass on compassion, especially to the one who is standing before us.

Mr. GARCIA. Thank you very much. I yield back the balance of my time.

Mr. GOODLATTE. Chair thanks the gentleman.

This concludes today's hearing. Thanks to all of our witnesses for attending. Without objection, all Members will have——

Ms. JACKSON LEE. Mr. Chairman, unanimous consent to put in the record a——

Mr. GOODLATTE. I'm going to cover that right now.

Without objection, all Members will have 5 legislative days to submit additional written questions for the witnesses or additional materials for the record.

Mr. GOODLATTE. And the hearing is adjourned.

Ms. JACKSON LEE. Thank you.

[Whereupon, at 6:15 p.m., the Committee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

Questions for the Record submitted to Thomas Homan, Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement*

BOB GOODLATTE, Virginia
CHAIRMAN

F. JAMES SENSENBRENNER, JR., Wisconsin
HOWARD COBLE, North Carolina
LAMAR SMITH, Texas
STEVE CHABOT, Ohio
SPENCER BACHUS, Alabama
DARRELL E. ISSA, California
J. RANDY FORBES, Virginia
STEVE KING, Iowa
TRENT FRANKS, Arizona
LOUIE GOHMERT, Texas
JIM JORDAN, Ohio
TED POE, Texas
JASON CHAFFETZ, Utah
TOM MARINO, Pennsylvania
TREY GOWDY, South Carolina
RAUL R. LABRADOR, Idaho
BLAKE FARENTHOLD, Texas
GEORGE HOLDING, North Carolina
DOUG COLLINS, Georgia
RON DESANTIS, Florida
JASON SMITH, Missouri
VACANCY

JOHN CONYERS, JR., Michigan
RANKING MEMBER

JERROLD NADLER, New York
ROBERT C. "BOBBY" SCOTT, Virginia
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
STEVE COHEN, Tennessee
HENRY C. "HANK" JOHNSON, JR., Georgia
PEDRO R. PIERLUISI, Puerto Rico
JUDY CHU, California
TED DEUTCH, Florida
LUIS V. GUTIERREZ, Illinois
KAREN BASS, California
CEDRIC L. RICHMOND, Louisiana
SUZAN K. DELBENE, Washington
JOE GARCIA, Florida
HAKEEM S. JEFFRIES, New York
DAVID CICILLINE, Rhode Island

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6216
(202) 225-3951
http://www.house.gov/judiciary

July 10, 2014

Mr. Tom Homan
Executive Associate Director, Enforcement and Removal Operations
Immigration and Customs Enforcement
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Mr. Homan,

The Judiciary Committee held a hearing on "An Administration Made Disaster: The South Texas Border Surge of Unaccompanied Alien Minors" on Wednesday, June 25, 2014 in room 2141 of the Rayburn House Office Building. Thank you for your testimony.

Questions for the record have been submitted to the Committee within five legislative days of the hearing. The questions addressed to you are attached. We will appreciate a full and complete response as they will be included in the official hearing record.

Please submit your written answers by Thursday, August 7, 2014 to Kelsey Deterding at kelsey.deterding@mail.house.gov or 2138 Rayburn House Office Building, Washington, DC, 20515. If you have any further questions or concerns, please contact or at 202-225-3951.

Thank you again for your participation in the hearing.

Sincerely,

Bob Goodlatte
Chairman

Enclosure

*The Committee had not received a response to its questions at the time this hearing record was finalized and submitted for printing on August 25, 2014.

Mr. Tom Homan
July 10, 2014
Page 2

QUESTIONS FOR THE RECORD FROM REPRESENTATIVE FRANKS:

Mr. Homan, in 2013, ICE reportedly encountered and released 68,000 aliens with criminal convictions. ICE documents indicate that in Phoenix, Arizona, 42 percent of criminal aliens encountered – most of whom had been incarcerated after being arrested by local authorities – were released in 2013. Can you confirm whether this number is accurate? And is ICE releasing criminal aliens in order to make room for the new arrivals from the south Texas border surge?

Response to Questions for the Record from Ronald D. Vitiello, Deputy Chief of Border Patrol, Customs and Border Protection, U.S. Department of Homeland Security

Question#:	1
Topic:	current crisis at the border
Hearing:	An Administration Made Disaster: The South Texas Border Surge of Unaccompanied Minors
Primary:	The Honorable Trent Franks
Committee:	JUDICIARY (HOUSE)

Question: A 2009 audit by the Government Accountability Office that focused on Customs and Border Protection (CBP) checkpoints said that CBP reported "there were three individuals encountered by the Border Patrol at southwest border checkpoints who were identified as persons linked to terrorism."

In April 2010, FBI Director Robert Mueller told the Senate Select Committee on Intelligence, "In Detroit, Mahmoud Youssef Kourani was indicted in the Eastern District of Michigan on one count of conspiracy to provide material support to Hezbollah. ... Kourani was already in custody for entering the country illegally through Mexico and was involved in fundraising activities on behalf of Hezbollah."

At a July 25 hearing of the House Homeland Security Committee, DHS Secretary Napolitano was asked if terrorists are, in fact, crossing our southern border with the intent to do harm to the American people? She answered "from time to time, and we are constantly working against different and evolving threats involving various terrorist groups and various ways they may seek to enter the country. What I can tell you, however, is that that southern border--the U.S.-Mexico border--is heavily, heavily staffed at record amounts of manpower, materiel, infrastructure and the like, and we are constantly making sure we're doing all we can to make that border as safe as possible."

Mr. Vitiello, can you speak to this audit and to the testimonies above from Director Mueller and Secretary Napolitano, and expound on what CBP has encountered as it relates to terrorists or persons linked with terrorism crossing our border?

Response: U.S. Customs and Border Protection (CBP) monitors the movement of known or suspected terrorists who transit or attempt to enter the United States at the Northern and Southern land borders. The Terrorist Screening Database (TSDB), which contains the names of watch-listed individuals, assists CBP officers and agents in the interception of known or suspected terrorists who are encountered at our land borders. The majority of TSDB encounters occur along the U.S.-Canada border. In Fiscal Year (FY) 2013, there were 364 Northern land border encounters compared to 100 Southern land border encounters. U.S. citizens and lawful permanent residents returning to the United States from abroad account for the majority of those encounters.

Although the TSDB and other enforcement tools have assisted in intercepting known or suspected terrorists, those terrorists who are not known to U.S. law enforcement and

Question#:	1
Topic:	current crisis at the border
Hearing:	An Administration Made Disaster: The South Texas Border Surge of Unaccompanied Minors
Primary:	The Honorable Trent Franks
Committee:	JUDICIARY (HOUSE)

intelligence communities continue to pose a potential threat. The below chart shows TSDB encounters on the Northern and Southern borders from FY 2009 through FY 2013:

TSDB Encounters	**FY 2009**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**
Northern land border	406	494	405	404	364
Southern land border	103	102	95	126	100

Question: And how concerned are you that the resources needed to combat these national security threats are being diverted to deal with the current crisis at the border?

Response: Border security has not been negatively impacted by the current humanitarian crisis on the border. Through a reallocation of resources and personnel, CBP has been able to maintain its interdiction effectiveness and operational footprint.

Response to Questions for the Record from Chris Crane, President, National Immigration and Customs Enforcement Council 118, American Federation of Government Employees

QUESTIONS FOR THE RECORD FROM REPRESENTATIVE FRANKS:

1. Mr. Crane, in your opinion, did this Administration know in advance that their policy change would lead to a 2,232 percent increase since 2009 in unaccompanied children immigrating to the United States or did the Administration make the change, oblivious to the consequences their decision would have? Was it an intended outcome, using these children as a human political shield, or was the policy simply so bad that the Administration accidentally caused (what the White House referred to as) a humanitarian crisis?

In my opinion, the Administration's decisions regarding immigration policy are politically driven without consideration of consequence.

In my opinion, the Administration did not intend for this "humanitarian crisis" to occur. But instead of describing it as an "accident," I believe the Administration knowingly disregarded sound and safe enforcement practices in pursuit of its political agenda, and to satisfy influential special interests. In doing so the Administration knowingly put lives at risk. While no outcome is ever certain, the Administration had to be aware that the probability of an increase in illegal immigration was high, especially among children, as its policy changes provided those arriving as children with what most would view as "amnesty." As an indication of how obvious the outcome should have been to the Administration, its own rank and file immigration officers and agents in the field predicted that a run on the border would result from the policy changes. The current "crisis" on the border was predictable and could have been prevented.

○