AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

118TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
118–372

IMPEACHMENT OF ALEJANDRO N. MAYORKAS, SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

together with

DISSENTING VIEWS

TO ACCOMPANY

H. RES. 863

BOOK 3 OF 4

FEBRUARY 3, 2024.—Referred to the House Calendar
and ordered to be printed

IMPEACHMENT OF ALEJANDRO N. MAYORKAS, SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY
BOOK 3 OF 4

118TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
118–372

IMPEACHMENT OF ALEJANDRO N. MAYORKAS, SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

together with

DISSENTING VIEWS

to accompany

H. RES. 863

BOOK 3 OF 4



FEBRUARY 3, 2024.—Referred to the House Calendar
and ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

54–705 WASHINGTON : 2024

CONTENTS

	Page
Introduction	6
I. Impeachment Proceedings	8
A. Introduction	8
B. Background: Conduct of the House's Impeachment Proceedings and Privileges Affording to Secretary Mayorkas	9
1. Proceedings Leading to House Resolution 863 Being Referred to the Committee	9
2. Committee Hearings	9
3. Committee Letters	15
4. Interim Phase Reports	16
5. Transcribed Interviews	17
6. Southwest Border Visits	18
C. House Resolution 863 and Subsequent Proceedings	19
D. The Proceedings Were Fully Authorized by House Rules	21
E. Secretary Mayorkas Received Ample Procedural Protection	23
1. General Principles of Impeachment and Processes Used in Modern Impeachments	23
2. The Procedural Protections Afforded to Secretary Mayorkas	24
F. The Minority Was Afforded Full and Adequate Procedural Rights	25
G. Conclusion	26
II. Constitutional Grounds for Impeachment	27
A. Introduction	27
B. Relevant Constitutional History	29
III. Article I: Willful and Systemic Refusal to Comply with the Law	39
A. Secretary Mayorkas' Refusal to Comply with Statutory Detention Mandates	40
B. Secretary Mayorkas' Abuse of the Parole Power to Release Aliens from Mandatory Detention	47
C. Secretary Mayorkas' Abuse of the Parole Power to Create Categorical Parole Programs	50
D. Secretary Mayorkas' Utilization of Section 236(a) of the INA to Unlawfully Release Aliens Subject to Mandatory Detention	56
E. Consequences of Secretary Mayorkas' Refusal to Comply with the Law	59
F. Constitutional History of Impeachment Based on Failures to Comply with the Law	72
IV. Article II: Breach of Public Trust	96
A. Secretary Mayorkas' Knowingly False Statements And Knowing Obstruction of Lawful Oversight	97
1. Knowing False Statements	98
2. Obstruction of Lawful Oversight	110
B. Secretary Mayorkas' Refusal to Change Course in the Face of the Dire Consequences That Resulted From His Refusal to Comply With The Law	112
1. The Migrant Protection Protocols	113
2. Border Wall Construction	117
3. Asylum Cooperative Agreements	118
C. Constitutional History of Impeachments Based on Breach of Trust	121
D. Conclusion	127
V. Hearings (a detailed summary of the two hearings held that were specifically related to the impeachment effort)	128
VI. Committee Consideration	128
VII. Committee Votes	129
VIII. Committee Oversight Findings	135

Page

IX. Congressional Budget Office Estimate, New Budget Authority, Entitlement Authority, and Tax Expenditures 135
X. Federal Mandates Statement 136
XI. Duplicative Federal Programs 136
XII. Statement of General Performance Goals and Objectives 136
XIII. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits 136
XIV. Applicability to the Legislative Branch 136
APPENDIX A: LETTERS FROM THE HOUSE COMMITTEE ON HOMELAND SECURITY TO THE DEPARTMENT OF HOMELAND SECURITY AND ITS COMPONENT AGENCIES. 136
APPENDIX B: TRANSCRIBED INTERVIEWS OF KEY PEOPLE TO THE IMPEACHMENT AGAINST ALEJANDRO N. MAYORKAS 325
APPENDIX C: HEARINGS AND MEETINGS OF THE HOUSE OF REPRESENTATIVES IN THE 118TH CONGRESS CONDUCTING OVERSIGHT OF SECRETARY ALEJANDRO MAYORKAS, THE DEPARTMENT OF HOMELAND SECURITY, AND THE BORDER CRISIS 1797
APPENDIX D: REPORTS FROM THE GOVERNMENT ACCOUNTABILITY OFFICE AND THE DEPARTMENT OF HOMELAND SECURITY OFFICE OF THE INSPECTOR GENERAL ON THE DEPARTMENT OF HOMELAND SECURITY AND ITS COMPONENT AGENCIES 5299
XV. Dissenting Views 6196

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR 2024

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

SUBCOMMITTEE ON HOMELAND SECURITY

DAVID P. JOYCE, Ohio, *Chairman*

JOHN H. RUTHERFORD, Florida
ANDY HARRIS, Maryland
DAN NEWHOUSE, Washington
ASHLEY HINSON, Iowa
MICHAEL CLOUD, Texas
MICHAEL GUEST, Mississippi

HENRY CUELLAR, Texas
LAUREN UNDERWOOD, Illinois
ED CASE, Hawaii
DAVID J. TRONE, Maryland

NOTE: Under committee rules, Ms. Granger, as chairwoman of the full committee, and Ms. DeLauro, as ranking minority member of the full committee, are authorized to sit as members of all subcommittees.

PAUL ANSTINE, LAURA CYLKE, ANNA LANIER FISCHER, FERN TOLLEY GIBBONS, EMILY TRAPANI and BROOKLYN TUCKER
Subcommittee Staff

PART 2

DEPARTMENT OF HOMELAND SECURITY

	Page
U.S. Immigration and Customs Agency Fiscal Year 2024 Budget Request	**1**
Federal Emergency Management Agency Fiscal Year 2024 Budget Request	**61**
U.S. Coast Guard Fiscal Year 2024 Budget Request	**109**
U.S. Customs and Border Patrol Fiscal Year 2024 Budget Request	**149**

Printed for the use of the Committee on Appropriations

U.S. GOVERNMENT PUBLISHING OFFICE

53–031 WASHINGTON : 2023

COMMITTEE ON APPROPRIATIONS

KAY GRANGER, Texas, *Chairwoman*

HAROLD ROGERS, Kentucky
ROBERT B. ADERHOLT, Alabama
MICHAEL K. SIMPSON, Idaho
JOHN R. CARTER, Texas
KEN CALVERT, California
TOM COLE, Oklahoma
MARIO DIAZ-BALART, Florida
STEVE WOMACK, Arkansas
CHARLES J. "CHUCK" FLEISCHMANN, Tennessee
DAVID P. JOYCE, Ohio
ANDY HARRIS, Maryland
MARK E. AMODEI, Nevada
CHRIS STEWART, Utah
DAVID G. VALADAO, California
DAN NEWHOUSE, Washington
JOHN R. MOOLENAAR, Michigan
JOHN H. RUTHERFORD, Florida
BEN CLINE, Virginia
GUY RESCHENTHALER, Pennsylvania
MIKE GARCIA, California
ASHLEY HINSON, Iowa
TONY GONZALES, Texas
JULIA LETLOW, Louisiana
MICHAEL CLOUD, Texas
MICHAEL GUEST, Mississippi
RYAN K. ZINKE, Montana
ANDREW S. CLYDE, Georgia
JAKE LATURNER, Kansas
JERRY L. CARL, Alabama
STEPHANIE I. BICE, Oklahoma
C. SCOTT FRANKLIN, Florida
JAKE ELLZEY, Texas
JUAN CISCOMANI, Arizona

ROSA L. DELAURO, Connecticut
STENY H. HOYER, Maryland
MARCY KAPTUR, Ohio
SANFORD D. BISHOP, JR., Georgia
BARBARA LEE, California
BETTY MCCOLLUM, Minnesota
C. A. DUTCH RUPPERSBERGER, Maryland
DEBBIE WASSERMAN SCHULTZ, Florida
HENRY CUELLAR, Texas
CHELLIE PINGREE, Maine
MIKE QUIGLEY, Illinois
DEREK KILMER, Washington
MATT CARTWRIGHT, Pennsylvania
GRACE MENG, New York
MARK POCAN, Wisconsin
PETE AGUILAR, California
LOIS FRANKEL, Florida
BONNIE WATSON COLEMAN, New Jersey
NORMA J. TORRES, California
ED CASE, Hawaii
ADRIANO ESPAILLAT, New York
JOSH HARDER, California
JENNIFER WEXTON, Virginia
DAVID J. TRONE, Maryland
LAUREN UNDERWOOD, Illinois
SUSIE LEE, Nevada
JOSEPH D. MORELLE, New York

ANNE MARIE CHOTVACS, *Clerk and Staff Director*

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR 2024

TUESDAY, APRIL 18, 2023.

FISCAL YEAR 2024 REQUEST FOR THE U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY

WITNESS

TAE JOHNSON, ACTING DIRECTOR, IMMIGRATION AND CUSTOMS ENFORCEMENT

Mr. JOYCE. The Subcommittee on Homeland Security will come to order.

Today we welcome Acting Director Tae Johnson to discuss the fiscal year 2024 budget request for U.S. Immigration and Customs Enforcement.

Thank you for being here today to discuss your funding needs and critical mission of enforcing our Nation's immigration laws and investigating transnational criminal activity.

Before we discuss your budget request for the upcoming fiscal year, I would like to take a moment to thank the law enforcement and civilian personnel who play an integral part in carrying out ICE's mission.

Enforcement removal officers, homeland security investigators, ICE attorneys, and mission support staff work tirelessly for the American people, despite being told that their agency should be abolished. And I want to express my sincere gratitude for their efforts in upholding the laws of the land and ensuring our national security. Thank you.

It should come as no surprise that I believe the President's budget request falls far short of addressing the immigration crisis facing this country. And while Secretary Mayorkas and the administration won't call it that, it is obvious to the American people that we have an absolute crisis on our hands.

This request willfully underfunds the tools your agency needs to carry out its authority and serve the American people. Decreasing detention capacity in the budget by more than $550 million and reducing the average daily detained population by 9,000 is, frankly, irresponsible and shortsighted.

This administration may argue that such a reduction is accounted for in the proposed $4.7 billion contingency slush fund, but we both know that once you take detention beds offline, it is incredibly difficult to regain those losses in a timely manner when they are needed most.

We are starting to see an uptick in migrant encounters as we approach the end of title 42 on May 11. And, unfortunately, given the

failed policies of this administration, we will likely need that capacity.

Earlier this year, ICE admitted that it has a shortfall of $485 million, nearly a half a billion dollars. The largest shortfall is in custody operations, which provides funding for detention capacity.

If you don't have enough money to manage the current detained docket, why would this administration request a 26 percent reduction in detention capacity?

On top of proposing to reduce detention for migrants who have been convicted of crimes or have removal orders, your request also proposes to reduce the Alternatives to Detention program by approximately 95,000 participants, nearly $100 million.

Such a reduction, coupled with limited funding for transporting migrants, sends a signal that we are not serious about effectively deterring and removing bad actors, including those who have criminal records and are a public safety risk.

On a more positive note, I am pleased to see resources requested for countering fentanyl, human smuggling, and child exploitation within Homeland Security Investigations, although I question whether such resources are enough to tackle those challenges.

As one of the largest Federal investigative agencies with broad transnational and cross-border authority, HSI proves critical time and time again in disrupting and dismantling criminal organizations and people who attempt to exploit our customs and immigration laws.

Acting Director Johnson, I look forward to working with you, your staff, and the department throughout the fiscal year 2024 process. ICE's mission is an important one, and I am hopeful that we can come together to find the innovative solutions to address the challenges that lie ahead.

Now, before I turn to our witness for his statement, I would like to recognize our ranking member, Mr. Cuellar, for his opening remarks.

Mr. CUELLAR. Thank you, Mr. Chairman. And I would like to join you in welcoming Mr. Tae Johnson, the Acting Director of ICE, who is no stranger to the subcommittee.

Welcome back, sir. And, again, we appreciate your many years of public service and your continued willingness to lead this multifaceted organization.

As the Federal agency charged with the enforcement of violations of customs and immigration laws, the breadth of the investigatory and operational work of ICE cast a wide net, including combating Transnational Criminal Organizations, illicit drug trafficking, human trafficking, smuggling networks, and violations of trade and intellectual property.

I look forward to today's discussion of the President's budget request and how this proposal will better enable ICE to fulfill its critical national security mission.

One thing I would like to note is that in your budget justification materials, you don't mention the word "cartel," as my colleagues have pointed out in the previous meeting with the Secretary, but you do reference Transnational Criminal Organizations, which obviously includes cartels.

In fact, your budget materials use the phrase "transnational criminal" over two dozen times. And the budget request includes investments in personnel and technology to crack down on cartels, including $305 million for the non-intrusive inspections systems in CBP, with a primary focus on fentanyl detection at the ports of entry, and an increase of $40 million in ICE for tools to assist in combating human smuggling and illicit drug operations.

We certainly want to hear from you about the work that Homeland Security Investigations, HSI, what they are doing to increase the government-wide efforts to combat the opioid epidemic. As you know, it is hitting all American communities, large and small.

As we see from the deaths of these opioids, especially fentanyl, we have had a 7,000-fold increase since 2015. And we will talk about the numbers because, whether it is President Trump, President Obama, President Biden right now, we have seen an increase. It is not anything that just rose in the last 2 years. So, again, it is something that we need to address all together as Americans.

Also, I would like to hear a little bit about the administration's attempt to balance its request with the detention capacity for high-risk populations to alternatives to detention for low-risk populations.

I am concerned with the administration's proposal for a border contingency fund that rests on the premise that the Federal Government can immediately contract and execute over a billion dollars to provide resources they need after—after—a predefined level of encounters have been realized at the border.

The reality is, under this new structure, the funding would not be available until well in the execution of the fiscal year. Specifically, for ICE, if enacted, it would reduce the detention bed space by 9,000 spaces and reduce the current number of ATD participants by 189,000.

And, again, reactive strategies that leave our workforce without resources that they need in real time only ensures that we continue to play defense on the one-yard line called the U.S. border itself.

I certainly want to thank, as the chairman said, the men and women of ICE. We certainly want to make sure that we provide them the resources to look at the work that they do.

At the same time, one of the things that we want to do is find that balance between law enforcement at the border, but at the same time respect the rights of the asylum seekers.

In particular, I am sure you are familiar with the L.A. Times reported last week that there are occasions where asylum seekers are wrongfully removed from the U.S. despite having an active appeal pending before an immigration judge or some other status that would make a deportation premature.

So, Director, I know you and I have talked about it, and I look forward to working with you and your interagency partners to ensure that this doesn't happen. Again, if they are supposed to be here, they are supposed to be here. If they are supposed to be removed, they should be removed. So we need to find that balance.

And, certainly, I want to make sure that at ICE we address issues from meaningful access to counsel, improving contracting at ICE, especially for custody operations, streamlining and automating processes, and certainly want to make sure that you all

work with the Executive Office of Immigration Review to make sure that we are working together to address that issue.

Those are some of the issues that we will be working at, and I look forward to your testimony. And, again, I appreciate your many years of work with us. Thank you.

I yield back.

Mr. JOYCE. Thank you, Mr. Cuellar.

Acting Director Johnson, without objection, your full written testimony will be entered into the record. With that in mind, we would ask you to please summarize your opening statement in 5 minutes. The floor is yours.

Mr. JOHNSON. Chairman Joyce, Ranking Member Cuellar, and distinguished members of the Subcommittee on Homeland Security, good morning, and thank you for the opportunity to speak with you today.

STATEMENT OF TAE JOHNSON

My name is Tae Johnson. I am the Deputy Director and Senior Official Performing the Duties of Director for Immigration and Customs Enforcement, also known as ICE.

The mission of ICE is to promote homeland security and public safety through the broad enforcement of over 400 Federal laws governing border, customs, trade, and immigration.

Before I go any further, I would like to thank you for funding recently provided in the fiscal year 2023 omnibus to support our people and our mission, particularly, additional resources at the southwest border for processing, monitoring, medical care, and transportation.

The fiscal year 2023 funding also supported our officers and special agents by enabling ICE to focus on key initiatives, such as executing our Counter Opioid Strategy to combat fentanyl, providing enhancements to our Innovation Lab to include Cross Cyber Technology, and continuing to build on partnerships and task forces related to combating cross-border financial crime.

Critical funding was also provided to expand our litigation teams and continue ICE's information technology data modernization, among others.

Our fiscal year 2024 budget embodies a consistent approach in prioritizing for ICE custody those who posed a significant risk, prioritizing low-risk noncitizens for Alternatives to Detention, and establishing a two-year emergency Southwest Border Contingency Fund to support border operations and provide greater operational flexibility.

The fiscal year 2024 budget requests new positions and funding for staffing enhancements to better manage the non-detained docket, which has grown from 3 million cases in fiscal year 2019 to just over 4.7 million cases at the end of fiscal year 2022, without a commensurate increase in staff.

The fiscal year 2024 budget also requests funding to provide technology investments for credible fear screenings and enhanced access to counsel. It also provides funding for facility costs necessary to accommodate the required staffing growth of our Office of the Principal Legal Advisor litigation teams.

In fiscal year 2022, Homeland Security Investigations, or HSI, made nearly 37,000 criminal arrests, including 5,000 transnational gang arrests, and seized nearly 21,000 pounds of fentanyl.

The fiscal year 2024 budget prioritizes additional resources and personnel to support the DHS-led Monroe Project, which focuses on illicit drug operations along the southwest border, including fentanyl, which killed over 77,000 Americans last year.

The requested funding would also continue development efforts to achieve full operational capability in fiscal year 2028 for the Repository for Analytics in a Virtual Environment, also known as RAVEN, enabling HSI to better identify and address criminal networks involved in transnational organized crime, terrorism, and other criminality, to include online child sexual exploitation and fentanyl distribution.

Finally, the fiscal year 2024 budget would increase HSI's cyber investigations support, continue to support the HSI-led Center for Countering Human Trafficking, and continue HSI's trend of increasing victim assistance for all victims of HSI investigations.

The ICE mission support workforce serves a critical role in ICE's ability to meet our national security, public safety, and border security missions.

Despite the challenges presented by significant workloads demands in supporting a 24/7 law enforcement agency, ICE's mission support workforce continues to operate efficiently and in many cases improve operations to meet the needs of the agency.

The 2024 budget seeks new positions and funding to address capability gaps in the areas of human resources, cybersecurity, asset procurement, and body-worn camera implementation, as well as management leadership and career development among other support programs.

Again, thank you for the opportunity to testify before you today. Thank you for your continued support for the dedicated and hard-working workforce of ICE. I am honored and humbled to represent the more than 20,000 dedicated ICE workforce and proud to serve beside them.

I look forward to your questions.

[The information follows:]

U.S. Immigration and Customs Enforcement

STATEMENT

OF

TAE D. JOHNSON

DEPUTY DIRECTOR AND SENIOR OFFICIAL
PERFORMING THE DUTIES OF THE DIRECTOR

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

"Fiscal Year 2024 Request for the U.S. Immigration and Customs Enforcement Agency"

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON HOMELAND SECURITY

Tuesday, April 18, 2023
2362-A Rayburn House Office Building
10:00 a.m.

Introduction

Chairman Joyce, Ranking Member Cuellar, and distinguished Members of the Subcommittee on Homeland Security.

Thank you for your continued support for the dedicated and hard-working workforce at U.S. Immigration and Customs Enforcement (ICE). Every day, over 20,000 proud professionals promote homeland security and public safety through the broad enforcement of over 400 federal laws governing our border, customs, trade, and immigration. I am proud to serve beside them and thankful for the opportunity to appear before you today.

We appreciate the funding recently enacted in the Fiscal Year (FY) 2023 Omnibus to support our people and mission, particularly additional resources at the Southwest Border (SWB) to provide noncitizen processing, monitoring, medical care, services, and transportation. The FY 2023 funding supported our officers and agents by enabling ICE to focus on key initiatives such as executing our Counter Opioid Strategy to combat fentanyl, providing enhancements to our Innovation Lab to include Cross Cyber Technology, and continuing to build partnerships and task forces related to combatting cross-border financial crimes while continuing our victim-centered approach to our investigations. Critical funding was also provided to expand our litigation teams and continue ICE's information technology data modernization, among others. Under this Administration, ICE has focused its resources on ensuring a safe, humane, and orderly immigration system, including focusing our enforcement resources on those who pose threats to national security, preserving national security and public safety, and promoting lawful immigration. ICE personnel work tirelessly to accomplish our broad mission whether providing a safe and secure environment for those in our custody, disrupting illicit drug and human trafficking activities, or representing the government in immigration court hearings.

I look forward to discussing the state of ICE operations, the continued impacts of working in the COVID-19 environment, and our efforts to remain nimble and forward-leaning amidst shifting dynamics, including the planned sunset of Title 42. I also look forward to highlighting our continued efforts to ensure we make the most efficient and effective use of the resources provided by Congress to carry out our vital homeland security mission. We continue to place an emphasis, and have shown measured improvement, on providing timely and accurate information and data to ensure Congress can exercise its oversight function.

Enforcement and Removal Operations (ERO)

ICE is committed to enforcing U.S. immigration laws humanely, effectively, and with professionalism. Our FY 2024 Budget Request reflects budgetary priorities consistent with the Administration's focus on ensuring a safe, humane, and orderly immigration system. The FY 2024 Budget represents a consistent approach by the Administration in prioritizing for ICE custody those noncitizens who pose significant risk, prioritizing low-risk noncitizens for Alternatives to Detention (ATD) monitoring programs, and establishing a two-year emergency Southwest Border Contingency Fund to support border operations and provide additional operational flexibilities.

The FY 2024 Budget Submission includes a $97 million reduction to reduce the ATD average daily participant level to 104,236. ATD is a humane, less costly, and effective means of providing supervision of participants while they go through the immigration court process. This budget also requests detention bed funding for an adult average daily population of 25,000 – mirroring our FY 2023 Budget request.

ICE's ATD program has been in place since 2004 and uses technology, case management, and other tools to manage participants' compliance with release conditions while they are on ICE's non-detained docket. ICE uses three types of technology to monitor noncitizens on the ATD program. The first is Voice ID telephonic reporting, which uses a participant's voice to create a biometric voiceprint during the enrollment process. ICE also uses GPS technology to monitor a participant's location and movement through an ankle bracelet and SmartLINK devices, which enable participant monitoring via smartphone or tablet using biometric comparison to establish identity. Later this month, ICE also plans to begin a limited technology demonstration of a wrist-worn GPS monitor, adding an additional option to our ATD technology suite. Contract-based case managers also assist ATD participants in meeting important immigration obligations by providing recurring court appointment reminders, assisting with obtaining travel documents, and if required, arranging for departure from the United States. This assistance may also include referrals for in-community services, such as, health services, transportation, treatment for substance use disorders, food, clothing, and shelter.

The FY 2024 Budget also requests 45 new positions and $10.8 million for staffing enhancements to better manage the non-detained docket. This will improve the officer-to-docket workload ratio, particularly given the non-detained docket has grown from 3 million cases in FY 2019 to over 4.7 million at the end of FY 2022 without a commensurate increase in personnel levels. These additional personnel will allow for more effective management of workload and resources.

The FY 2024 Budget also requests $5 million to provide technology investments for credible fear screenings, supplementing access to counsel, and enhancing visitation options for detained noncitizens. These enhancements are vital to enforcing immigration laws and ensuring due process. Improving video teleconferencing capabilities will allow U.S. Citizenship and Immigration Services asylum officers flexibility when conducting credible fear or reasonable fear interviews with detained noncitizens.

Homeland Security Investigations

Homeland Security Investigations (HSI) is the principal investigative component of the Department of Homeland Security (DHS) responsible for investigating, disrupting, and dismantling transnational criminal organizations (TCOs) and terrorist networks that threaten or exploit the financial, international trade, and travel systems. HSI's workforce comprises more than 10,000 employees, including special agents, criminal analysts, and mission support personnel assigned to 237 offices across the United States and more than 90 locations in 56 countries around the world. HSI's international presence represents DHS's largest investigative law enforcement presence abroad and one of the largest international footprints in U.S. law enforcement.

HSI has legal authority to conduct federal criminal investigations into the illegal cross-border movement of people, goods, money, technology, and other contraband into, out of, and throughout the United States. HSI uses these authorities to investigate a range of transnational crime and violations of customs and immigration laws, including money laundering; financial fraud and scams; cybercrime; export control and evasion; intellectual property theft and trade fraud; narcotics smuggling; transnational gang activity; online child sexual exploitation and abuse; human smuggling; human trafficking; illegal exports of controlled technology and weapons; identity and benefit fraud; human rights violations and war crimes; and terrorism.

In collaboration with its partners in the United States and abroad, HSI special agents gather evidence used to identify and build criminal cases against TCOs; terrorist networks and facilitators; and other criminal elements that threaten the homeland. HSI works with prosecutors to criminally indict and arrest violators; execute criminal search warrants; seize criminally derived money and assets; and take other actions designed to disrupt and dismantle criminal organizations operating around the world. These efforts protect U.S. national, border, and economic security, and ensure the safety of the public and our communities.

Many of HSI's approximately 7,100 special agents are assigned to 237 field offices across the nation and HSI effectively leverages more than 4,000 task force officers with federal, state, tribal, and local partners as a force multiplier to accomplish its mission. HSI's international program combats illegal and illicit activities closest to the source with a variety of partners, many of which operate at embassies, consulates, and Department of Defense combatant commands around the globe. For example, HSI deploys agents to diplomatic posts worldwide to conduct law enforcement visa security activities and provide training to Department of State Consular Affairs officers regarding threats, trends and other topics affecting visa adjudication.

HSI continues to prioritize the investigation, disruption, and dismantlement of TCOs that illicitly introduce fentanyl, heroin, and other dangerous opioids into the United States and gravely impact the health of our citizens and the safety of our communities. HSI's multi-pronged approach entails working with foreign partners to prevent opioids and other dangerous drugs from degrading our cities and towns; combating the illicit importation and distribution of opioids and opioid precursors through international mail facilities, express consignment centers, and maritime conveyances; exploiting cutting-edge technology to deter TCOs operating in the cyber realm; attacking the illicit use of financial systems and virtual currencies; and leveraging critical partnerships with state, local, tribal, and federal law enforcement. Contained within HSI's layered technology solutions for combating transnational criminal organizations responsible for trafficking chemicals utilized in the illicit manufacturing of fentanyl and synthetics drugs, is a maritime domain awareness tool. This tool has been utilized successfully intercepting over 247,000 kilograms of pre-cursor and pre-precursor chemicals used in manufacturing these deadly drugs. The DHS Joint Requirements Council has recognized HSI as the leading DHS component for the deployment of this tool and HSI is in the process of deploying this technology to other DHS components with maritime authorities. This tool contains access to unclassified satellite imagery that has been successfully deployed in seizing embargoed oil and assets of Russian oligarchs throughout the world. In FY 2022, HSI made nearly 36,700 criminal arrests including nearly 4,780 transnational gang criminal arrests, of which approximately 660 were members of MS-13; and seized 20,981 pounds of fentanyl.

The FY 2024 Budget prioritizes an additional 4 personnel (1 law enforcement officer (LEO) and 3 non-LEOs), and a total of $40 million to support Monroe Project operations along the SWB to combat illicit drug operations, to include fentanyl, of which $20.4 million is requested for Procurement, Construction, and Improvements (PC&I) funding. The Monroe Project is a recent DHS-wide effort aimed at targeting the criminal organizations responsible for distributing the illicit fentanyl that killed more than 77,000 Americans last year. A key component of the Monroe Project is the consolidation of information to enable better data driven decision making. The Repository for Analytics in a Virtualized Environment (RAVEN) is the DHS asset designated to consolidate this information and illuminate these criminal networks. This funding also supports capacity enhancement for HSI Mexico and their Transnational Criminal Investigative Unit, which is a critical component in the DHS strategy to disrupt and dismantle TCOs specializing in the production and distribution of fentanyl.

The FY 2024 Budget supports a $15 million increase in PC&I funding for RAVEN to continue development efforts and achieve Full Operation Capability on schedule for FY 2028. This funding will be focused on building the platform to facilitate and sustain constant evolution. The new capabilities will allow HSI to better identify and address criminal networks involved in transnational organized crime, terrorism, and other crimes to include online child sexual exploitation and fentanyl distribution. This investment will be the foundation on which all future investments will be built upon.

The FY 2024 Budget also prioritizes an additional 35 personnel (15 LEOs and 10 non-LEOs) to increase HSI's capability to investigate international and domestic child sexual exploitation and abuse. HSI Child Exploitation Investigations Unit (CEIU) will utilize these resources to develop additional specialized sections within CEIU to focus on new and emerging threats, as well as the development of an online undercover program to ensure that HSI is utilizing all tools available to combat child sexual exploitation and abuse around the globe. The mission of the CEIU is to investigate producers and distributors of child sexual abuse material, as well as individuals who travel abroad for the purpose of engaging in the sexual abuse of minors, also known as transnational child sexual offenders. CEIU employs the latest technology to collect evidence and track the activities of individuals and organized groups who sexually exploit children using the open internet, DarkNet, chat rooms, peer-to-peer trading, and other app-based platforms.

Cybercrime continues to be a growing threat to our economy and our homeland. The FY 2024 Budget continues to sustain 12 personnel (4 LEOs and 8 non-LEOs) to combat significant cyber threats as mandated on the agency. This funding augments HSI cyber investigations support, including the enhancement of covert computer networks, applications, and tools to assist in the detection, disruption, investigation, and prosecution of individuals and transnational criminal organizations that exploit the internet to facilitate their criminal activities.

In 2020, DHS established the HSI-led Center for Countering Human Trafficking (CCHT) as a whole-of-DHS approach to countering human trafficking and the importation of goods produced with forced labor. The mission of the CCHT is to advance counter human trafficking law enforcement operations, protect victims, and enhance prevention efforts by aligning DHS' capabilities and expertise. The CCHT is a DHS-wide effort comprised of 16 supporting offices and components coordinating with federal, state, and local partners and non-governmental organizations to effectively respond to human trafficking threats domestically and

internationally. Through the FY 2023 Budget, the CCHT received an enhancement of 38 additional positions (27 LEOs and 11 non-LEOs) and $15.5 million to establish a dedicated budget and further strengthen the program. The FY 2024 Budget continues to enhance the establishment of the CCHT adding 6 positions (2 LEOs and 4 non-LEOs) and $2 million that support the CCHT and transfers seven existing positions (non-LEOs) and $2.5M from DHS to establish a dedicated budget for the Blue Campaign within the CCHT. With the increased funding and additional personnel dedicated to the Center, we will advance our work to identify and support victims, conduct operations that hold the traffickers accountable, and strengthen our partnerships with non-governmental organizations. We are grateful to Congressional leadership and our partners for recognizing the value of the CCHT.

The FY 2024 Budget supports a decrease of 17 personnel (4 LEOs and 13 non-LEOs) for HSI Intellectual Property Rights Center efforts to combat wildlife trafficking and counterfeiting within the Department of Defense and U.S. Government supply chains. The budget also supports a decrease of Operations & Support funding for prior year enhancements for RAVEN and certified undercover operations. HSI will use available funding and year-of-execution flexibilities to meet the anticipated wildlife trafficking case demands.

The HSI Victim Assistance Program (VAP) was established within HSI for the purpose of assisting victims identified in HSI criminal investigations in accordance with the Victims' Rights and Restitution Act (VRRA), 34 U.S.C. § 20141, and the Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771. HSI investigates a wide range of federal crimes affecting victims, including but not limited to human trafficking, child sexual exploitation, financial scams, white collar crime, human rights violations, and financial crimes and female genital mutilation. The VAP is an integral resource to HSI investigations and is committed to informing victims of the rights and services accorded to them by law. Using a victim-centered, trauma-informed, and culturally sensitive approach, and treating victims with dignity and respect, VAP provides services to victims and conducts forensic interviews of victims in support of HSI criminal investigations. Fundamental to VAP's mission is providing victims with information and referrals for victim services, and restoring victims' well-being, all of which contribute to empowering them and facilitating their ability to become an effective witness and participate in the criminal justice process. VAP personnel work in close collaboration with HSI special agents to integrate victim assistance into HSI criminal investigations and to facilitate HSI's commitment of providing victims with the information and services to which they are accorded under law.

The FY 2024 Budget annualizes the cost of the 59 positions for the VAP provided in FY 2023. These resources are paramount to continue HSI's trend of increasing victim assistance to all identified victims of HSI investigations. Victim assistance increased by 46% in FY 2022 from FY 2020 and forensic interviews increased by 79% in FY 2022 from FY 2020.

Financial crimes crosscut every programmatic area that HSI investigates. HSI will continue to utilize cutting edge technology and investigative techniques to infiltrate, investigate and dismantle criminal organizations that exploit the United States and worldwide financial systems. HSI targets illicit proceeds of crime and the financial networks and third-party facilitators that conceal and launder illegal proceeds. To accomplish our goals in combatting financial crime, we will utilize multiple approaches. HSI maintains strong public and private partnerships and works through these partnerships to increase real time sharing of data, typologies, and indicators of criminal activity with financial institutions. HSI will continue to

focus on high impact financial investigations targeting priority money laundering threats, while disrupting and dismantling the criminal exploitation of traditional financial systems and decentralized financial systems that criminally exploit virtual assets on the blockchain.

Office of the Principal Legal Advisor

The Office of the Principal Legal Advisor (OPLA) is comprised of attorneys who represent DHS in bond and removal proceedings before the Department of Justice's Executive Office for Immigration Review (EOIR). Attorneys also provide legal advice to ICE personnel on a range of matters, including on criminal, administrative, and civil customs and immigration laws and authorities.

OPLA implemented updated prosecutorial discretion (PD) guidance to promote efficient docket management in partnership with EOIR. As part of this implementation, in FY 2022 OPLA attorneys reviewed and made a decision on more than 361,540 requests for PD in the form of dismissal or administrative closure of removal proceedings. OPLA exercised PD by agreeing to dismissal or administrative closure in approximately 91,938 cases by the end of FY 2022. OPLA attorneys represented DHS in more than 840,718 removal hearings and were able to support the completion of nearly 250,000 cases over FY 2022.

Despite these significant accomplishments, OPLA litigation teams have a growing non-detained docket of over 3.6 million cases. From FY 2018 through FY 2022, EOIR received an increase of 250 new Immigration Judge teams (six positions per team for 1,500 total positions) compared to OPLA's 389 total position increase. We are appreciative of the support shown by the Committee with the 341 new attorney and support positions appropriated in FY 2023. We have previously shared with you the staffing growth disparities of OPLA litigation teams as EOIR received new Immigration Judge positions. The FY 2023 enhancements accompanied by these additional personnel will ensure ICE is represented in the new courtrooms EOIR is adding. The FY 2024 Budget seeks $7.9 million for facility costs necessary to accommodate required staffing growth.

Mission Support

ICE's mission support workforce serves a critical role in ICE's ability to meet the national security and public safety missions. These dedicated professionals address ICE's myriad operational needs, including hiring, finance, information technology, acquisition and procurement, policy and strategic planning, and tactical, leadership and career development training.

This budget request includes an increase of 76 positions and $13.4 million to plan and implement ICE policies and provide management support across the enterprise. The requested positions will enable the ICE Enterprise Services (within the Management & Administration Directorate) and Executive Leadership to address staffing deficiencies in several key business lines to support the significant growth in ICE mission operations and staffing. While ICE law enforcement and attorney personnel have seen increased resources to accommodate mission requirements, Mission Support staffing has not kept pace.

The Office of Human Capital requires much needed staffing enhancements, and the request seeks to address this by adding 37 new positions for $5.1 million. The agency has seen

an increase in personnel resources to support legal operational requirements without any commensurate growth for human capital to support the hiring and maintenance of the workforce.

The Office of Asset and Facilities Management administers and maintains the ICE motor vehicle fleet program. The requested $2 million will allow ICE to procure and refresh approximately 40 law enforcement vehicles in most critical need.

Requested resources will also enable the ICE Office of Firearms and Tactical Programs (OFTP) to continue the phased implementation and management of body-worn cameras (BWC) across the agency. The budget realigns $12 million from the Office of the Chief Information Officer to OFTP and requests additional $3 million, which will support $4.4 million in payroll, $10.6 million in general expense funds, and help expand their warehouse by 1,600 square feet for storage space to house BWC equipment.

Executive Order 14028, Improving the Nation's Cybersecurity, outlined requirements in Section 8 for logging, log retention, and log management, with a focus on ensuring centralized access and visibility for the highest-level enterprise security operations center of each agency. The event security logging increase of $500,000 will allow ICE to fully implement security logging, accommodating the 45% increase in data log storage, transitioning to user and entity behavior analytics as well as providing for the needed hardware, software, and out-year support.

Conclusion

Thank you again for inviting me to testify today. I am honored and humbled to represent the more than 20,000 dedicated ICE employees. I look forward to your questions.

Mr. JOYCE. Thank you, sir.

We will now begin with the questions. I will recognize myself to start.

Mr. Johnson, as I mentioned in my opening statement, I am concerned with your fiscal 2024 request reduction of approximately $560 million in ICE's base budget to decrease detention bed capacity from an average daily population of 34,000 to 25,000. I firmly believe that an average daily population of 34,000 is already insufficient, and this request simply exacerbates the enforcement challenges that already exist.

Yes or no, Mr. Johnson, do you believe that detention is a deterrent to illegal immigration.

Mr. JOHNSON. I think it can be, yes.

Mr. JOYCE. Then why is the administration requesting fewer beds?

Mr. JOHNSON. So the 25,000, as I understand it, that is in our base budget, and the additional 9,000 beds would be immediately available as part of this contingency plan.

When I became aware that there was this possibility that we might have to take beds offline come October 1 and then there would be some expectation of like quickly bringing beds on, I was assured that as long as we are hitting a certain threshold on September 30, that that funding would be immediately made available to ICE.

So unless something has changed, it is my understanding that we will not have to take beds offline only to have to bring them back on.

Mr. JOYCE. How many beds are currently inaccessible due to COVID protocols, litigation, cohorting, et cetera? How much have we paid for beds since the beginning of fiscal year 2023 that we aren't able to use due to these aforementioned reasons?

Mr. JOHNSON. We are using about 73 percent of our capacity right now, and this is largely, as you described, due to COVID and some of the safeguards put in place by the CDC.

We are hopeful that on May 11, when the title 42 emergency declaration is over, that there will be new CDC guidance that gives us greater flexibility to use more of the beds that we are paying for at our facilities.

Mr. JOYCE. Will you commit then to no longer taking beds offline due to COVID reasons after the public health emergency ends on May 11?

Mr. JOHNSON. I will commit to following whatever the CDC guidance is as it relates to detaining individuals in congregate settings. If CDC completely lifts the requirement and there are no restrictions, like pre-COVID, then I will commit to getting back to up 34,000 beds. But it is really dependent on where CDC lands with their new guidance, if there is new guidance.

Mr. JOYCE. Secretary Mayorkas said he cannot comply with the Immigration and Nationality Act requirement to detain all eligible migrants.

As head of the agency responsible for that, what is required for this administration to comply with the law?

Mr. JOHNSON. More beds than probably exist in the public sector and funding that we don't have. I mean, on any given year, even

before COVID, we can only detain about 200,000 people a year. Maybe in some of the better years up to 250,000 in a given year.

So you do have to make tough choices on how to use your resources. And if you are going to dedicate some beds for the southwest border, you are going to have to pick and choose which folks in the interior you choose to focus on. So that is not an entirely new phenomenon for ICE.

Mr. JOYCE. Didn't you just say that you are only at 73 percent capacity.

Mr. JOHNSON. We are, and that is largely due to COVID today, correct.

Mr. JOYCE. What about Alternative to Detention?

Mr. JOHNSON. What about it? Is it what is our capacity?

Mr. JOYCE. Are you making full use of that.

Mr. JOHNSON. We are. I mean, we are trying to get the numbers down a little bit to get into compliance with our fiscal year 2023 funding. I think the goal was to try to get that down to about 170,000 participants by the end of the fiscal year. But given May 11, we expect that number will likely increase some.

Mr. JOYCE. Can you measure or explain to us how you measure the effectiveness of the Alternative to Detention system?

Mr. JOHNSON. Well, historically, it has been measured by whether or not an individual actually complies with their terms of release, whether they show up at all their ICE appointments and check-ins, whether they allow for the home visits and the like that are required by the ATD program or some participants in the ATD program. And, most importantly, whether they show up at court for their hearings as scheduled.

Mr. JOYCE. Isn't it true that you stop monitoring them within 30 days?

Mr. JOHNSON. Not within 30 days, but it is true that, just based on current funding levels and the extensive amount of time that it takes an individual to sort of have their case adjudicated before EOIR, it is impossible to hold someone or keep someone enrolled in the ATD program for the entire period of their removal proceeding.

So right now I think the average length of stay on ATD is somewhere around a year and a half, 18 months. And as you guys are fully aware, it takes about 3 to 5 years to have an individual's case conclude.

Mr. JOYCE. I have exceeded my time, but I would like to recognize Ranking Member Cuellar for any questions he may have.

Mr. CUELLAR. Thank you, Mr. Chairman.

As you know, the administration's plan is to end the title 42 expulsion authority. And, again, I am a big believer in title 8, instead of title 42, even though I support title 42. And there are three things that the administration is doing.

They did an agreement with Panama and Colombia, number one.

Number two, they got the asylum officers that are going to do some expedited work with Border Patrol facilities.

And number three, there is a rule that should come out before May 11 that basically says that if people don't come in—if they come in between ports of entry, they will be returned, and they have to come in through a port and do it—provide an incentive to

do it the legal way and not in between ports. And since I represent a lot of border area, that is important to me, that people are not crossing our lands, number one.

Now, I want to see what ICE is doing to do this because I am concerned about a couple things. Big picture. According to Secretary Fudge's statement that she provided just recently, she says that there are a shortage of almost 7 million affordable housing units. And for every 100 extremely low-income renter, there are only 33 rentals available. So I want to put that outline out there.

Now, looking at the top ten parole notice to report appointments for backlog locations as of April 7, 2023, and as you know there is the NTR, which is a notice to report to ICE.

And then, traditionally, we have used the NTA, notice to appear, before an immigration judge. So the notice to report is a step in between before they go to an immigration judge.

So if you can work with me on this time period. The top 10 backlog locations: New York, No. 1, mostly booked through March 2033. They have got about 32,000-plus there. San Antonio. I was surprised about San Antonio, but it is number two, booked up through March 2023. Miramar, Florida. Los Angeles. It goes then Jacksonville, Milwaukee, Chicago, Washington, Denver. And then Mount Laurel NJ rounds up the top. So it goes from 2033 to March of 2027.

So they go to ICE and report. Let's take New York. They will report up to March of 2033. Then they get a notice to appear, an NTA, notice to appear, and then that is another 2, 3 years before they can go up to a judge.

So if we take 2023—2033, should I say, 2033—add another 2, 3 years, we are talking about 2035 or 2036.

So keep in mind, the affordable housing units—I mean, they have got to live somewhere. And I am concerned about what is happening here.

So my question is, what is ICE doing to expedite some of the work? Are we looking at detention, as the chairman mentioned? Are we looking at more additional removal flights for the ones that should be removed? What are we looking at? Do you have enough resources to fund to execute the strategies?

Because, again, it is a little concerning that some of them have to wait to 2033 just to appear before you, and then they have to get another 2, 3 years before they even go to an immigration judge to get either a stay to—I mean, either they stay or they get final deportation orders. And I think we have over a million final deportation orders are still pending on that.

So start off with my concern is for folks that live here in the U.S., there is not enough housing, but then we are adding all of these extra folks coming in.

Mr. JOHNSON. Good question.

I think there is a number of efforts that are underway that is going to help us issue NTAs in places like New York much sooner. There are some technology solutions that are in the works that is going to allow us to issue NTAs virtually. There is a request to the Hill to give us the authority that we could actually serve it virtually and have people agree to accept their documents electroni-

cally. So that is certainly something that we will continue to work with the Congress to sort of get the authority for.

But we are working on the technological piece of it so that we can do these telephonic interviews or virtual interviews and have individuals not have to wait 10 years to have their charging documents issued.

There is also the online change of address form or technology solution that we are working on which will allow individuals to opt in to receiving mail-out NTAs, and we think that that too will certainly help eliminate the backlog.

CBP is also, given the large number of peoples that—individuals that we have released, they are also beefing up their staff to help ICE tackle this backlog.

So with them joining the fight, and if we get the additional resources in fiscal year 2024, that we are slated for 145 ERAs, additional 45 ICE officers that are going to be assigned to the non-detained docket, we believe this additional staffing will go a long way and help more quickly eliminating the NTA backlog.

Mr. CUELLAR. Thank you, Mr. Johnson.

Thank you, sir.

Mr. JOYCE. Thank you.

We will now recognize Sheriff Rutherford.

Mr. RUTHERFORD. Thank you, Mr. Chairman.

Thank you, Mr. Johnson, for being here today to answer some of these difficult questions about how we are dealing with these populations.

When I look at the non-detained docket, and I see the 2022 annual report said there was a 29 percent increase, that number has now grown from 2019 from 3 million to 5.3 million that we are holding on that program now.

And what really confuses me is we have got 1.2 million that Mr. Cuellar just referred to. They have had their adjudication, but they are still here. We are not deporting these folks in the numbers that we should be. In fact, in 2019 ERO was moving out 247,000. Last year, we did 67,000. I don't quite understand how these numbers can work.

And then, when I look at my Jacksonville area, several ICE check-in offices have significant backlogs. For instance, Jacksonville is booked through 2028—and this goes to the point that Mr. Cuellar was making—Jacksonville is booked through 2028. And that is just for them to get into the court. And from there, it can be several more years before their case is decided.

And I think this is just a symptom of just how broken this system is, and yet we don't seem to be responding to it. We are cutting resources. We are not utilizing beds. We are just letting people come across the border.

Because Mr. Cuellar brought up the same issue, I want to ask, do you have an average number of times? I know what it is in Jacksonville. It is 5 years just to get seen. What is the average around the country? Because, as you mentioned, these folks have got to have somewhere to stay, and technology is not going to put them in a bed.

What is the average number?

Mr. JOHNSON. So the average varies pretty widely by location. If I had to sort of guess, I would say it is probably 2 years throughout the country.

Mr. RUTHERFORD. That is the shortest?

Mr. JOHNSON. No, that is probably the average. Because most of the offices aren't nearly as inundated as——

Mr. RUTHERFORD. So Jacksonville is two and a half times the average.

Mr. JOHNSON. Florida. I mean, a lot of people are going to Florida. If you are looking at some of our smaller offices, in Baltimore, for instance, or St. Paul, Minnesota, the wait time is significantly less.

So it is the major metropolitan areas that are going to have the longest wait times. And we think with the additional staffing, CBP actually joining the game and helping process some of these folks that we released on the southern border, and, obviously, the technological solutions——

Mr. RUTHERFORD. OK. So let me stop you and ask this question. Because Secretary Mayorkas was here and told this committee that ICE was removing a higher percentage of criminal aliens in 2021 than in the previous years and got into statistical numbers and that sort of thing.

Now, you ran ERO. You know what those numbers used to be. Can you as an assistant or acting director right now, can you tell me how are those numbers down so significantly?

Mr. JOHNSON. I think it is a——

Mr. RUTHERFORD. I mean, from 247,000 to 67,000.

Mr. JOHNSON. I think that the number——

Mr. RUTHERFORD. How can that be?

Mr. JOHNSON. Well, I think we do have to factor in the expulsions, because a lot of ICE's and ERO's resources that would typically be used for title 8 removals are now being diverted to the southwest border to expel individuals. They are using our planes, our seats on the planes. So you do have to factor in the 70,000, 80,000 ICE removals——

Mr. RUTHERFORD. Let me stop you. Those expulsions were going on before, too. The Secretary, when he was here, answered Mr. Cline's question, I think it was, about deportations. And he tried to merge together the expulsions too. Because that is a big number. It was like 1.2 million, I think. But it is all expulsions. It is not deportations.

Why are the deportation numbers down so low?

Mr. JOHNSON. And, again, the expulsions only started when the CDC emergency declaration order kicked in. There were always quick removals, voluntary returns, and the like at the border, but not using ICE airframes.

I would submit that when you look at the number of folks that we have expelled on ICE Air, combined with our title 8 removals, you will see that those numbers—those two numbers combined sort of get really close to what our removal numbers were in fiscal year 2019.

I also think that there was fewer people that were being introduced in the criminal justice system during the pandemic, particu-

larly the beginning of the pandemic, and that too resulted in far fewer referrals to ERO then.

Mr. RUTHERFORD. Well, I see my time has expired.

Mr. Chairman, I yield back. Thank you.

Mr. JOYCE. Thank you, Sheriff.

I recognize Ms. Underwood.

Ms. UNDERWOOD. Thank you, Mr. Chairman.

Mr. Johnson, thanks for being with us today.

In recent months, the heartbreaking stories of migrant children illegally working long hours in dangerous jobs has captured the attention of Congress and the public. These children are some of the most vulnerable among us, and this situation is unacceptable.

We need an all-of-government approach to protect these children, stop and prevent their exploitation, and hold bad actors accountable. And Homeland Security Investigations has an important role to play through its duty to conduct criminal investigations into forced child labor.

Can you describe how HSI is working in coordination with other agencies, including the Department of Labor, Health and Human Services, to combat illegal child labor?

Mr. JOHNSON. Very, very good question. And it is absolutely heartbreaking to hear stories where kids are being exploited.

HSI, just because of their international and domestic footprint, are strategically situated to lead the effort on child exploitation, and they have done a good job.

But there is tons of work to do. It starts with investigating these crimes, bringing the perpetrators to justice, and rescuing the victims. And that is a priority for HSI.

A lot of it is getting out to the communities and educating folks on some of the signs to look for and how to sort of convey that information back to HSI through our tip line if they believe that there are individuals that are being subject to sort of labor exploitation.

We have been working really closely with the Department of Labor over the last year and a half to make sure that we are getting information from them as well as working closely with HHS, who are typically responsible for releasing these kids to sponsors, to let ICE know, and work with our special agents if they have any reason to believe that kids are being sent to individuals that are making them work in these labor camps.

Ms. UNDERWOOD. More organized criminal operations may be seeing opportunities here to exploit children as well, something that HSI also investigates. For example, NBC News reported earlier this year that DHS is investigating the potential trafficking of children for work cleaning slaughterhouses. And ICE's reports have indicated an increase in forced child labor investigations and enforcement in recent years.

Obviously understanding you can't comment on open forced child labor investigations, what are the trends that you are seeing here more broadly?

Mr. JOHNSON. So in fiscal year 2022, ICE rescued 1,900 victims from child exploitation. This is, in 2022, this is the first time that ICE has actually captured that data, so we don't have the ability to compare it to prior years.

But it is a priority for us, and it is the reason why we started tracking it this year and will continue to do so in the future.

We also——

Ms. UNDERWOOD. Excuse me, Mr. Johnson. Has that data been publicly released?

Mr. JOHNSON. I am not sure if it has been released. I think we have a congressional requirement to report it. But I will have to circle back and let you know whether it has been released.

Ms. UNDERWOOD. Well, given the attention that this issue has been in the news and obviously how it is so contrary to our American values, I think that level of transparency would be warranted. And certainly we would look forward to receiving that information and any details that you would be free to share with this committee.

Mr. JOHNSON. Absolutely.

Ms. UNDERWOOD. Thank you.

I want to turn now to ICE's reputational challenges, which you and I discussed during your testimony before the subcommittee last year. These challenges are so severe that at the end of 2021, The Washington Post reported that HSI agents proposed separating from ICE because of the degree which ICE's negative reputation impedes their ability to conduct investigations.

I asked then how you were working to address the behaviors and actions that led to those reputational challenges at ICE. It has been a year since we last discussed this. Since then, can you share what you have done to improve ICE's relationship with local communities? And what specific changes is ICE making to increase accountability and build trust?

Mr. JOHNSON. Very, very good question. And like I had mentioned last year, this has been an issue that we have been grappling with within ICE for many, many years.

One of the things we did this year was to give HSI the flexibility to use whatever branding they felt was necessary to increase cooperation in the communities. So in other words, if removing the ICE moniker completely and just using the HSI brand was going to result in greater cooperation, they had the flexibility to do so.

We have also removed or gave them the option of removing the ICE part of their email exchange address, so that it is just HSI.DHS.gov instead of the ICE piece of that. That too has been extremely helpful in certain areas of the country.

So while I am not a supporter of sort of splitting the agency into two, I am a huge supporter of providing all the flexibilities I can to HSI so that they may successfully complete their mission.

Ms. UNDERWOOD. Well, ICE has a responsibility to proactively and intentionally build trust in the communities that you serve. And so I think that this is an area where the agency definitely needs to do more. And I would encourage you to continue to focus on this in 2023.

Thanks so much, Mr. Chairman. I yield back.

Mr. JOYCE. Thank you, Ms. Underwood.

I now recognize Mrs. Hinson.

Mrs. HINSON. Thank you, Mr. Chairman.

Thank you, Acting Director Johnson, for coming before our committee again. It is great to see you. And thank you to the men and

women who serve in your agency. I know it is not easy work, and I appreciate your service and theirs.

One of my top concerns with the crisis we are seeing at our southern border is that we know that individuals on the terror watch list, sex offenders, some of these transnational gang members, drug traffickers, human traffickers, the list goes on and on of the bad people with violent criminal histories that we are seeing come into our country. They have exploited that weakness at our southern border. And even the Chinese Communist Party is taking advantage of it too.

So my question to you is, are there times of year when ICE experiences increases in the number of investigations or removals of these types of criminals specifically, or surges or times where you see more criminals, that then you are having to deploy agents into the homeland to focus on those removals?

Mr. JOHNSON. So at least from an HSI perspective, it is always critically important that they focus on these individuals that pose a national security threat. So we have a cadre of seasoned agents who do nothing but work those types of cases.

Oftentimes their focus is the criminal aspect of it. The removal and sort of administrative piece is sort of secondary. And once these individuals are finished their sentences, they would be offered to ERO or put in removal proceedings for removal.

With the flow along the southwest border we have been focusing on some of the unusual populations, folks that typically we don't typically see coming across, and just making sure that we have a good response to them and designating some number of detention beds for those individuals as well.

Mrs. HINSON. All right. And, obviously, we have seen that number significantly increase.

How are you communicating with our State and local, Tribal, territorial law enforcement on these issues, especially in maybe rural communities like mine? Because, obviously, you talked a lot about the flows into some of the more populated areas, but it is an impact in States like mine as well. And the last thing we want is to see criminals come into places like this because maybe they are thinking it will be less enforced.

So what are you doing to communicate with those levels of law enforcement?

Mr. JOHNSON. So in areas where we have great cooperation—I mean, obviously, Iowa is one of them—we have really, really great relationships with our State and local partners.

We do have challenges in other areas where folks aren't as cooperative, and we will just have to continue to work with them to find some middle ground.

But our relationships with our State and local partners are the bread and butter of our success. And whether they are participating in some of our task forces or on our BEST teams, those relationships are critical, especially in smaller areas where it is just a small law enforcement community. Generally, everybody needs to just band together.

So it is certainly important. We are always out sort of working with our State and locals and try to make sure we have each other's back.

Mrs. HINSON. Well, if there are jurisdictions that are creating challenges for you in executing your mission, please let me know. I would love to work with you on making sure that they are following through. Because, ultimately, this is a safety and security issue, not only for Iowans, but for all Americans. So I want to make sure that you have the cooperation necessary to do your job.

I want to move quickly to the contingency fund conversation. You got assurances, obviously, that even with the reduction of $560 million to your budget that those detention beds would be available from the contingency fund if you are at certain levels. What levels were those exactly?

Mr. JOHNSON. I can't remember the thresholds. I just know that they were really, really low and that we have been at that threshold for the better part of the last 5 years.

Mrs. HINSON. So you would meet those levels——

Mr. JOHNSON. So, I mean, my biggest concern is on October 1, I was going to need those funds.

Mrs. HINSON. Right.

Mr. JOHNSON. And when we looked at the thresholds, we weren't going to have to wait 90 days. The funds would be available. So I am confident that we would not be required to take beds offline before we brought them back on.

Mrs. HINSON. So let me pose this question to you. What happens, though, if that fund has been depleted? Does that mean that you would not have the necessary resources to expand the beds you need?

Mr. JOHNSON. It would. It would be hard to deplete the funds 2 weeks into the new fiscal year, as I understand it.

I mean, look, there is a lot of details that have to be worked out with this contingency fund, the first time we have ever done anything like this. I think it is a good concept because we do need a way to get access to additional money when the border is seeing unusually high levels.

In my personal view, I wish the 34,000 beds would have been in my base, and then I would have been able to gain access to 5,000 or 10,000 beds as part of the contingency fund. But it didn't shake out that way.

Mrs. HINSON. Well, I think that taking funding away from your baseline budget and putting it into a contingency slush fund that could be used for other services is reckless when you need those funds to actually execute on your mission. So I see this as a budget gimmick, and I think that we should be prioritizing getting you those funds directly.

Thank you. I yield back, Mr. Chairman.

Mr. JOYCE. Thank you.

The chair will now recognize Mr. Newhouse.

Mr. NEWHOUSE. Thank you, Chairman Joyce.

Director Johnson, thank you for being with us. And I too want to thank you and the men and women that are under you for the hard work that you do.

I am going to return to one of the subjects that was already brought up as reported last year. This administration removed 72,000 and some immigrants. And that does not include title 42 removals.

This past December, 250,000-plus people were encountered by the Border Patrol. So removing less than a third of the number of encounters in a single month took an entire year, and that is on top of a record-breaking year of 2.76 million encounters.

So being in charge of removal orders and removing immigrants, a couple of questions. How would you justify that this posture benefits border and national security? And is this a sustainable posture?

The administration repeatedly had said that those without lawful asylum claims will be swiftly removed. So can you tell me today that swift removals are happening?

And also, why aren't we doing more to at least remove the known criminals and the repeat offenders?

Mr. JOHNSON. Good question.

In terms of swift removals, I would argue that we are doing it for those that are detained in ICE custody. Folks that have been following this work for a long time, you know that that is typically where the bulk of our removal orders come from, and it is extremely difficult to remove individuals from the non-detained docket.

I do not think it is sustainable, but I also do not think that there is enough detention capacity in the private sector or that exists for us to detain our way out of this.

I think that there are a number of efforts that are underway. The discussions with the Colombians and the Panamanians should go a long way. We are certainly asking for additional planes and resources so that we can fly more removal flights more quickly, more often to some of the countries that we are getting hammered the most on.

So we think that too will certainly help us get some of these folks back to their home countries quickly.

And, in addition to Border Patrol creating some efficiencies and doing some of the credible fear screenings in their custody, ICE has also identified nine facilities where we are going to try to get people through the credible fear process much quicker than it is typically done in prior years. And, hopefully, that will just help us be able to sort of cycle through those beds much quicker at those nine facilities and result in more removals

Mr. NEWHOUSE. I appreciate those suggestions.

The other thing I wanted to talk to you about, ask you about, is fentanyl. My understanding is that a small number of vehicles, cars, trucks, are inspected, but we are confiscating a huge, huge amount of fentanyl.

And due to the severe damage we are seeing in our country, I would like to know—realizing that CBP is primarily responsible for those inspections and that you are called in, I guess, after the fact—the question remains, how are we as a country going to get a handle on this? Essentially, who is going to take ownership of this problem? I think the American people want to know what is it going to take.

So I am pleading with you. Tell me what we can do to stop this scourge of drugs at the southern—coming in the southern border.

Mr. JOHNSON. Well, as you mention, I mean, CBP is at the ports of entry. They are conducting the inspections. We have deployed a significant number of HSI agents to the border to assist.

You may be familiar with Operation Blue Lotus——

Mr. NEWHOUSE. Yeah.

Mr. JOHNSON [continuing]. Where we have sent a number of folks to two ports of entry there, where in just over 30 days we have seized 8,000 pounds of narcotics——

Mr. NEWHOUSE. Some success there, yeah.

Mr. JOHNSON [continuing]. 4,000 pounds of which was fentanyl. Which just goes to show you, if you throw more resources at this problem, you will get some big wins.

I think HSI is probably best situated to sort of tackle, to combat and dismantle the TCOs that are responsible for fentanyl, particularly our relationships and our vetting units and TCIUs in Mexico, which is that is ground zero from where China is sending the precursor chemicals.

In fiscal year 2022, HSI, in close coordination with our Mexican partners, seized 3.3 million pounds of precursor chemicals. We know those were all sort of headed to the U.S. We seized 22,000 or 21,000 pounds of fentanyl in fiscal year 2022. And this year, in fiscal year 2023, through February, we have already seized 27 pounds—27,000 pounds of fentanyl.

So there is a lot of work to be done. HSI is—I mean, it is a high priority for them. And we will continue to work with our foreign partners to sort of increase our apprehension.

Mr. NEWHOUSE. I know we are out of time, Mr. Chairman. I just want to say that I believe that all those big numbers—and that is great that we are confiscating that much. My feeling is that that is probably the tip of the iceberg. There is so much more that we have got to do.

So I look forward to working with you on this and getting a handle on this huge, huge issue.

Thank you.

Mr. JOYCE. I agree with you wholeheartedly. The chair now recognizes Mr. Cloud.

Mr. CLOUD. Thank you, Chairman. Thank you, Acting Director. And, yes, I echo the thoughts with everyone on this committee. We certainly appreciate the work of your agency and boots on the ground for doing hard work. I am from south Texas, so we know this all too well about what is going on in regards to the need to secure our border.

I wanted to ask you about a couple of numbers. I was looking at the numbers of you returning people to their home country after they have entered illegally. In fiscal year 2022, it was 67,055. Comparing that to 2019, preCOVID, it was 247,835. Even during 2020, during COVID, we had a dip of—we were able to return 173,849. And so all that to say we have a substantial decrease in what your agency is doing at a time we are having a tremendous surge of illegal crossings at our border. I am curious to have your thoughts on how and why that is happening?

Mr. JOHNSON. So again, as I mentioned, I think when you are looking at our removal numbers, you also have to look at the T–42 expulsions. The 185,000 figure that you are—179,000 figure that

you provided in fiscal year 2020 that was, you know, largely COVID free for the first 9 months, and maybe the last 3 months of 2020, there was some COVID removal impacts. But if you look at what we did in fiscal year 2020, and you compare it what our removals were in fiscal year 2022, including the COVID—I mean, the title 42 expulsions of 117,000, those fiscal year 2022 numbers are pretty closely aligned with the fiscal year 2020 total removals of 179, or 180,000 that you referenced.

I also think, as I mentioned, that a good number of our removal cases, at least in the interior, are from referrals from State and locals after they make arrests and charge people, and they go through the process.

Mr. CLOUD. And I understand that, but that part—that wouldn't be part of the change. That is a constant in this. And so, I mean, what we are seeing is that at an administration shift we had 70 percent drop roughly with no change roughly in funding and actually a slight bump-up in manpower. I mean, we are the Appropriations Committee. We are supposed to be making sure resources are used properly. And so I am trying to wonder, dollar per activity here doesn't really seem to match up as to what we would expect to see due to the effectiveness of the resources we are sending your way.

Mr. JOHNSON. I think title 42 was lifted, and we are no longer doing these T42 expulsions. And we just go back to our title 8 removals, which is what ICE and ERO has done for, you know, 30 years. I think you will see the removal numbers starting to go up to where they have been historically. You know, just transitionally from title 8 to title 42 is something that was new to the agency, and I am sure there was lost efficiencies as part of the——

Mr. CLOUD. All of this part, of course, in proper context that there is a right way to come to our country in an illegal way, and every illegal entry is dollars to a cartel. You know, that is also funneling drugs into stabilizing other countries. I am out of time. I had another line of questioning, but——

Mr. JOYCE. You have a little time.

Mr. CLOUD. OK. Well, OK. I have a little time. Have you heard of ICE Council.

Mr. JOHNSON. ICE Council?

Mr. CLOUD. Yes. Are you familiar with the ICE Council.

Mr. JOHNSON. The union.

Mr. CLOUD. Yes. Yes, sir. Recently, they had essentially filed a whistleblower grievance with the DOJ, alleging that AFGE had—and I mean—a number of news articles I can print out to some nefarious actions that had happened there, misusing funds that the union had used literally to go to strip clubs and those kind of things.

And so shortly after that, the AFGE filed a separation of interest, basically, to remove the ICE Council from the parents organization, which also because of some arcane rules in the union. Basically, they were able to seize $5 million of assets from ICE Council.

Are you concerned at all about this? Did you have reach out to ICE Council while this was happening last year?

Mr. JOHNSON. I was not aware of the sort of the background that you just provided. I was only aware that the AFGE requested that

the council 118 no longer be part of AFGE but wasn't tracking what led up to it. So, no.

Mr. CLOUD. Do you think it would be important to find out why? I mean, they were being kicked out of the union basically.

Mr. JOHNSON. Given what you have said, you know, I will certainly look into it.

Mr. CLOUD. I mean, just from the sniff test, it sure seems like a union, you know, after somebody files a grievance against them with the DOJ is suddenly kicked out and millions of dollars of assets. That is it. So I would certainly appreciate if you can look into that. Thank you.

Mr. JOYCE. OK. Mr. Cloud. The chair now recognizes Mr. Guest.

Mr. GUEST. Thank you, Mr. Chairman. Director Johnson, thank you for being here today. Does what occurs on the southwest border, does that impact your agency?

Mr. JOHNSON. Yes, it does.

Mr. GUEST. And recently the Chief of Border Patrol testified before Congress that five of the nine sectors along the Southwest Border are not secure. Would you agree with his assessment?

Mr. JOHNSON. I would defer to the Border Patrol.

Mr. GUEST. So if the Chief of the Border Patrol said that, then you would defer to him versus Secretary Mayorkas who continues to maintain that the border is secure from sea to shining sea. Is that correct?

Mr. JOHNSON. I would defer to them over me making any sort of an assessment as to whether the border is secure or not.

Mr. GUEST. In your budget, there is budget decrease for detention beds. Last year, on average, according to your report from December 30, 2022, in the ICE annual report, you stated that the average of the report—and I am not saying you, I am assuming that your agency stated that on average, there were 22,630 individuals in detention. Does that number sound correct?

Mr. JOHNSON. That sounds about right.

Mr. GUEST. And we know that looking at the report as far as the docket that your agency maintains that there are over 4.7 million individuals, noncitizens that are in the United States, in some shape, form, or fashion. Roughly, 1.2 million where there are final orders of removal. And then 3½ million according to this where there have been no final orders or removal. Does that 4,750,000 figure, does that sound accurate?

Mr. JOHNSON. It does.

Mr. GUEST. And we know last year your agency removed roughly 72,000 individuals from the country, correct?

Mr. JOHNSON. That is correct.

Mr. GUEST. And of those individuals that were removed, we know that some of those individuals were individuals which were individuals who had criminal histories?

Mr. JOHNSON. That is also correct.

Mr. GUEST. Your report says that of the 72,000, that 44,096 if those individuals had criminal histories. That of those 44,000 people, there were 183,251 charges associated with them for an average of 4.2 charges and convictions per person. That there were 17,336 who were charged with assault; 7,370 charged with sex offenses or sexual assault; 4,711 individuals charged with weapon of-

fenses; 1,315 charged with homicide-related offenses; 953 were charged with convicted of kidnapping; that your agency removed 2,667 known or suspected gang members; and to me, the most troubling of all is 56 known or suspected terrorists were removed from the country last year.

And so my question is, we have got this huge number, this huge population where your agency is responsible for trying—and I know that you don't have the manpower, and I am not blaming you personally, I am blaming the system—but we have a system where we have 4.7 million people who are loose in the country that we, in many cases, don't know where those people are. We only have bed space to detain 25,000. We are not using all that bed space. We have what we know to be some of those individuals are violent criminals because we deported them last year, including known or suspected terrorists, but we are asking for a decrease in the detention beds? And to me that is worse thing we should do.

Clearly, we need detention beds because some of the people we are allowing to come into the country, your report here, your annual report talks about how bad these individuals are. That they have killed people. They have assaulted people sexually. That they are known terrorists, known or suspected terrorists. And yet you are coming in and you are asking—your agency is—and I am assuming that you approved the budget—you are asking for a decrease in detention beds.

So I am asking you to please justify to me why we need to be spending less money on detention beds when we are seeing a huge rise in immigrant population. We know that some of that population are committing violent offenses because you document it in your report. And so, please, in the last 20 seconds that I have remaining on my time, please justify to me why we should be reducing detention beds and not adding detention beds?

Mr. JOHNSON. So very good question. I would say that we are not reducing our detention beds. That 25,000 of the beds are in our base budget, and the remaining 9,000 beds are in the contingency fund that, as I have already explained, I believe I will have access to——

Mr. GUEST. Why are they not in the primary budget? Why are they in the contingency beds? Detention beds are important. Which I believe that they were. And I believe many people on this committee, Republicans and Democrats would believe that detention beds are important. For them not to be in the primary to me is a colossal failure. And so——

Mr. JOHNSON. I know.

Mr. GUEST. If you could explain why they are in the contingency versus the primary, I would love to hear that. If you can't explain it, then I understand, and I will move on because I know my time has expired.

Mr. JOHNSON. I cannot explain exactly why it was structured that way. But, you know, what was most important for me as an operator was that I was going to have access to those 9,000 beds the first day of the fiscal year, and that was what I wasn't sure of.

Mr. GUEST. Are 34,000 beds enough?

Mr. JOHNSON. Enough for what? Is like a——

Mr. GUEST. Enough to perform the mission that you are tasked to do. I mean, when we have 4.7 million people that are in the country, and we are only detaining somewhere between 25,000 and 34,000, I mean, that is, what, less than one half of 1 percent?

Mr. JOHNSON. I mean, you have to draw the line somewhere. I mean, 70,000—in my view, 70,000 beds wouldn't put much more of a dent in this problem than——

Mr. GUEST. What is the number? As the Director of this agency, what is the proper number of detention beds?

Mr. JOHNSON. It would depend on what you—and what folks actually thought was an acceptable number of——

Mr. GUEST. Well, I am asking you what your opinion—because you clearly have been involved with this agency. You know, on one hand, we are saying that we last year utilized 22,000, we are budgeting 25,000, we think we might be up to 34,000.

Mr. JOHNSON. We have, historically, made due with 34,000.

Mr. GUEST. But we have seen the immigrant surge within the last 2 years. I mean we have had record immigrant surges the last 2 years. We are on pace to break that record again. We have 4.7 million in the country; 1.2 million which should be removed because of removal orders that were not removed from the country. And we know that there are some of those people who were released in the interior are violent individuals, or at least commit violent crimes once they are released into the interior because that is documented in your report.

Mr. JOHNSON. You know, I certainly agree that the folks who commit violent crimes have to be a priority for detention beds. In 2019, there was a similar surge, probably not nearly as much, but still fairly significant, and we brought on 20,000 additional beds, and we filled those beds up in no time as well.

So I personally don't think there is a number of beds that you could actually buy that is going to solve the problems that we are—this problem that we are seeing.

Mr. GUEST. Thank you, Mr. Chairman, I am over time. I yield back.

Mr. JOYCE. Thank you, Mr. Guest. We will now recognize Dr. Harris.

Dr. HARRIS. Thank you very much, Mr. Johnson. I see by your biography, you began your Federal career in the First Congressional District of Maryland in Salisbury.

Mr. JOHNSON. I did.

Dr. HARRIS. Let me follow up a little bit because we are turning the number 4.7 million out, but that is end of fiscal year 2022, which was 6 months ago. What is the latest figure?

Mr. JOHNSON. About just under 5.3 million.

Dr. HARRIS. OK. So we are now near 5.3 million. So we are—and I assume our removals have stayed roughly in the ballpark of 70,000 per year. I mean, roughly, that ballpark?

Mr. JOHNSON. No, I actually think removals are up a little bit, but I don't have that number right——

Dr. HARRIS. Not about 600,000, right? So we are kind of in a situation where we have an accelerated number. And I can see why you would want the alternative to a detention program. But let me ask you what percent of those people now in ATD have the tech-

nology of, you know, an ankle bracelet, wrist bracelet, or whatever? Is that what we are doing for most people now?

Mr. JOHNSON. It is a combination of ankle monitors, smartphones. I would say that at least 50 percent are on some kind of technology, and that could be an ankle monitor, it could be a smartphone, or it could be a watch.

Dr. HARRIS. So 50 percent don't have that? They are just released into the interior.

Mr. JOHNSON. No, 50 percent are on some sort of lower form of——

Dr. HARRIS. Oh, a lower form. OK.

Mr. JOHNSON. Yeah. Telephonic reporting or something along those lines.

Dr. HARRIS. And of that non-detained docket of now 5.3 million, what percent don't check in, or have cut off the ankle bracelet, or whatever, you know, they are just not complying?

Mr. JOHNSON. So let me clarify, the 4.7 million, or 5.2 million, or 3 million, only about 200,000 of those—and I think that number is around 200,000 are actually on ATD. So of the—you know, so just a very small subset of the total number of people on the non-detained docket are receiving enhanced monitoring that is allowed on the ADT program.

Dr. HARRIS. So I guess I don't understand. If we have 600,000 more people on the docket in the last 6 months, but only 200,000 total have this, like who doesn't get it? I mean, the large percent of people don't get it, right? So they just release it to the interior, promise to come back?

Mr. JOHNSON. Or they start off with it. They have ATD—if they are enrolled in ATD for some period of time, and then they take it off to make room for some of the new folks that are coming across the southwest border. But there is a good number of folks that do not get put on ATD. Obviously, the kids that are part of family units wouldn't get on ATD as well.

Dr. HARRIS. Sure.

Mr. JOHNSON. And a good chunk of the 4.2 million are representative of families.

Dr. HARRIS. That makes sense. So, you know, there are some people who say, well, you know, if you cross the border illegally, it is kind of a civil offense, not criminal offense. But if you have a final order of removal, the 1.2 million final orders, does that become a criminal offense not complying with that final order?

Mr. JOHNSON. It is not a criminal offense today.

Dr. HARRIS. So it is only a civil offense.

Mr. JOHNSON. Right.

Dr. HARRIS. And the punishment being negligible, I guess, because there are 1.2 million people doing it.

Mr. JOHNSON. Or removal. I mean, that is part of the issue is just you have to figure out a way to incentivize people to comply with their removal order until something like that is done. Now, look, we get a good number of people, albeit small, that do comply with their removal order on a non-detained docket, but it is extremely staff-intensive. It takes a lot of hand-holding, but we, you know—30, 40 a month, which is certainly not as high as many would like, but it is better than zero.

Dr. HARRIS. Sure. And you know, look, you have got to be frustrated because, you know, the title of your agency has the word "enforcement" in it. But you really don't have the resource to enforce the law, do you, with regards to removals? You clearly don't have the resources——

Mr. JOHNSON. No, we certainly are underresourced.

Dr. HARRIS [continuing]. With that. Just a ballpark, if you said—and I was going to ask you, like, what is the average cost of a removal? Like, I don't know if you know the figure. What does it cost your agency, on average, to remove someone? Because I can do the math and multiply by 1.2 to tell me what your budget would have to be. But what is the average cost?

Mr. JOHNSON. From memory, it is—again, since we do the bulk of our removals via charter airlines or ICE Air, which is our, you know, flying people, 135 folks at a time, if I remember correctly, that is $17,000 per hour. Each flight on average is probably 5 hours. So I don't know what that——

Dr. HARRIS. But you have to find them also. I mean, part of removal is you have to find them and remove them. So it is labor-intensive.

Mr. JOHNSON. Most of the removals are—most of the Title 8 removals historically have come from our detained environment.

Dr. HARRIS. OK. I understand. Well, thank you very much. I yield back.

Mr. JOYCE. Thank you, Dr. Harris. We will recognize Mr. Trone for 5 minutes.

Mr. TRONE. Thank you very much. I am sorry we were late. We have too many overlapping hearings. Thank you, Director Johnson for joining us, Chairman Joyce, Ranking Member Cuellar.

ICE has worked through Homeland Security Investigations on the front line of the TCOs and the cartels. You are right there on the front line. Your budget request in 2024 has asked for an increase in the tools to assist in stopping these networks in human smuggling, fentanyl killing 100,000 Americans every year. Those budget cuts that have been proposed to go back to fiscal year 2022. How is that going to affect your ability to stop the fentanyl from these cartels that is come into the U.S. through illegal ports of entry?

Mr. JOHNSON. So I am not tracking what cuts you are referring to. I know we certainly received some additional funding in fiscal year 2024. We are asking for funding to increase——

Mr. TRONE. Probably to go back to the 2022 budget, which has been proposed. So you went up in 2023. You have asked for more in 2024, which sounds like it is needed. But going back to 2022, what is that going to do to you?

Mr. JOHNSON. Well, it is certainly—I mean, I thought the cuts had to do with the number of individuals that we just weren't able to get through the hiring process in any given fiscal year, and that is the cut that was provided. So if it is something different than the——

Mr. TRONE. No, half the employees would be cut.

Mr. JOHNSON. Well, right. But, no, I certainly agree. But at least in terms of the fentanyl context, we were given 40 million, if my memory serves, to sort of increase sort of our fight against the

fentanyl crisis. There was also funding to allow our Mexican vetted units, our TCIUs to have access to RAVEN, which we think is going to go a long way in not only dealing with this fentanyl crisis, but also child sexual exploitation and some of the other heinous crimes.

Mr. TRONE. But we need certainly to protect the budget where it deals with fentanyl. We can't let it continue to come.

How about the—I have heard about the administration's considering restarting the detention of families. While some had posed a public safety risk, I get it. But certainly a family can navigate their immigration case best from their home, not behind bars or in detention.

So FEMA and ICE community-based alternative to detention policies, particularly those utilized case management and service by qualified nonprofits have shown to be cost-effective, and have a high compliance rate with immigration obligations. Can you talk about how the 2024 budget will expand these community-based alternatives and the noise that we are hearing about restarting family detention. Is that true or not?

Mr. JOHNSON. So there has certainly been some discussions about just, like, options for dealing with the families coming across the border. You know, family detention is something that we have done historically. It was raised as a potential option, and it was something that at least was not met with great exception amongst the leaders. So there is—at this time, there is certainly no plan to restart family detention in any way, shape, or form. The current plan is to continue to use our alternatives to detention where we would put the parents or the adults. The heads of household on some sort of form of ATD. And we are also looking at potentially developing a home curfew program, which would be similar to, like, house arrest, and piloting something like that. So that is also on the horizon, but there has been no decision to restart family detention.

Mr. TRONE. Right. Talk a little bit about the 2024 budget, how is that going to expand community-based alternatives?

Mr. JOHNSON. So the 2024 budget—well, the 2023 budget actually reduced our ATD program. I think our 2024 budget may keep it steady at 170, if my memory serves. So I am not sure that there is a lot of funding to significantly increase our ATD, but I think some of what you are describing is the FEMA-based grants, which I believe is funding that FEMA gets, not necessarily ICE funding.

Mr. TRONE. OK. Great. And, secondly, according to U.S.-Mexico joint statement April 13, DHS committed expanding service to disrupt gun smuggling to Mexico through ICE's operation without a trace. Desert lightning. However, there is a GAO recommendation for ICE to identify performance measures for these. How do we plan to measure these efforts of preventing firearms? What we like to see is some data and some measurements on how we stop getting these firearms to the cartels with these new efforts?

Mr. JOHNSON. Well, very good question and good point. I mean, that is definitely been a priority over the last year. More outbound inspections. It is certainly something that the Mexican Government has been pushing us to do more of, and we have certainly committed to do the same. So I think over the last month, in the up-

coming months, you will start to see more outbound inspections that include both ICE and CBP.

Mr. TRONE. Certainly, we have asked the Mexican Government to help us on fentanyl, they have not been helpful. They have asked us to help on the guns. So someone needs to take the first step. So thank you for that. I yield back.

Mr. JOYCE. Thank you, Mr. Trone. I recognize myself for a second round of questioning.

Mr. Johnson, it is no secret that at the end of title 42 will have a significant impact on our immigration system. ICE previously released tens of thousands of noncitizens in the interior to ensure detention capacity for the projected surge following the end of title 42. Is ICE planning to release detainees into the interior in order to make room for high-border crossing projections ahead of May 11, like you did previously? And if so, how many, and what are the metrics that you are basing that decision on?

Mr. JOHNSON. Very good question, sir. We were sitting at around 25, 26,000 individuals in custody today. We are certainly going to try to get that number down to close to 22,000 or 21,000 leading into May 11. We hope to do that, primarily, through increased removals, but it may—you know, we will continue to look at our detained docket. And if there are individuals that are sitting in custody and where removal is not likely foreseeable in the reasonable future, then we would probably look to arrest—I mean, to release some individuals just to free some space up. There will be some combination of releases, but mostly removals to get our population down.

Mr. JOYCE. Do you anticipate needing additional supplemental resources to address the coming surge after the end of title 42?

Mr. JOHNSON. I do anticipate the need for additional resources. As someone pointed out early on, we were already looking at a $485 million shortfall. We have asked for funding to cure that hole. And we are certainly anticipating some additional transportation and, you know, air frame requirements as a result of the end of title 42.

Mr. JOYCE. When you make this decision to release people of the interior, what is the vetting process that you are putting these individuals through before you let them run amuck in our country?

Mr. JOHNSON. Well, obviously, we are focusing on those that are either non-crims or very low-level criminals. mean, I don't know that we have gotten to the point where we would have had to consider releasing any low-level criminals. But if there are certain border cases, we will run them through our regular checks, which includes criminal history. But, you know, most of the folks that we are releasing from custody would not have a criminal history.

Mr. JOYCE. Well, they may in the country of origin, but you don't bother to look at those, correct?

Mr. JOHNSON. We don't have access to those—many we don't have access to many of those countries' records.

Mr. JOYCE. Thank you. I will yield to my distinguished Ranking Member, Mr. Cuellar, if he has any second-round questions.

Mr. CUELLAR. Thank you, Mr. Chairman. A couple of things, just follow-up. From some of the info that you all provided, you all have here that as of 4/16 of 2023, the total CBP prosecutorial discretion

releases add up to 802,000 people. As you know, by that is when they are overwhelmed, Border Patrol will put them on the notice to report with you all and not the notice to appear before an immigration judge. This 802,000-plus, is this fiscal year, or is it since when?

Mr. JOHNSON. This is since March 21, 2021. So since they actually started——

Mr. CUELLAR. Oh, OK.

Mr. JOHNSON [continuing]. Using the parole ATD or notice to report. So basically, what, 20-, 25-month period?

Mr. CUELLAR. OK. All right. The other thing on the top 10 parole—and you mentioned that some of their ICE offices don't have that type of workload. Have you, besides asking for more resources and technology and electronics and signatures, have you all moved around some of your staff or to try to—I mean, if somebody is handling a lot less than, let's say, New York City, can you move people around? Because I know we did that in some other areas. Can you look at that possibility? I mean, if you got 10 people working here that are only handling 10 cases, you got 10 people working here, but they are handling 50 cases, as an example, then, whatever you can do to move that around, that would be good.

Mr. JOHNSON. It is typically—the limiting factor is just the infrastructure. I mean, it is still the individual—even if we have somebody in Iowa, for instance, processing somebody in New York, they actually have to come and sit in the office so that we can actually talk to them and take their fingerprints and the like. So, I mean, we are—like I said, we are working on a technological solution to help with this, but it is just not a matter of processing them virtually because they still need to come to an ICE office to be fingerprinted.

Mr. CUELLAR. Yeah. Well, let's try to think outside the box as much as possible. Finally, my last question has to do with the coordination that you have with the Executive Office of Immigration Review, that is, the new judges. We have been adding judges for many years. I think we started to post 2014, I believe. And right now, as you know, if you look at the current immigration judges, they are authorized at 734, but on-boarded only 634. So there is still 76 currencies. They take a long time to hire judges. The same thing with almost any Federal agency, the streamlining process. But the Department's asking for 150 new immigration judge teams in its budget. But I notice that your Office of Principal Legal Advisor has requested no new judges. Should we be working the same with the immigration judges so we can have a backlog? Can you tell me what efforts you all are—why not ask for any money to add new attorneys?

Mr. JOHNSON. Over the last two fiscal years in 2023 and in 2022, we have been fortunate enough to get additional funding to increase our OPLA attorneys. We currently have 341 enhancement positions on the books. And we have only hired about 144. The thought is that it was probably going to take us the rest of this fiscal year to just get through, and maybe some of next to hire the balance of the 341 enhancement positions that we have gotten over the last 2 years. And the focus in fiscal year 2024 was going to be on just the facilities piece, making sure the OPLA attorneys that

we actually have hired over the last 2 years actually have adequate office space in close proximity to the judges that they are going to be working pretty close with. So that is the focus, at least in 2024, is the facilities piece and the like. And I am sure in 2025 we will probably continue our request to beef up our staff.

Mr. CUELLAR. And, finally, the work on fentanyl with Mexico. As you know, DEA is not in the best of standing with Mexico, and they emphasized that when we were there just a few weeks ago. So that means as they get the trust back in Mexico, your department has to play a big role in making sure that whether it is air cargos or containers coming into Mexico, that we intercept that so we can stop the fentanyl from coming into the United States and mainly through ports of entry. So I appreciate your help. Thank you, Mr. Chairman.

Mr. JOYCE. Thank you, Mr. Cuellar. I recognize Mrs. Hinson for 5 minutes.

Mrs. HINSON. Thank you, Mr. Chairman. And I am going to follow up on something that we have already had quite a bit of discussion about, and that is fentanyl. As a mom to two school-aged boys, I am particularly concerned about what the cartels are doing to continue to market and employ new tactics to reach children in this fight.

And obviously, we have talked about Blue Lotus, and we are closely following the effectiveness of those operations. But my questions are really about the cross-agency communication and making sure that that is still robust. It is essential for countering cartels. But I am just curious, are there areas where you believe that communication could be strengthened between ICE and other DHS agencies to make sure that we are really exercising that cross-agency cooperation to our best ability?

Mr. JOHNSON. I mean, I think we have done a really good job, particularly working with our partners at CBP. Certainly, the DHS components, I think, were lock-step with it in sort of fighting this particular issue. Obviously, you know, some of our DOJ partners we could probably improve some of the cooperation and the like. But, you know, it is a lot of territorial stuff going on, and you know we will work through it and continue to work with our Federal partners.

But I do think that you know CBP is—as long as we are both resourced appropriately—and Blue Lotus is a great example of us just having the ability to focus and send more agents down to just help with this problem, we will get the results. So we are going to continue to ask for additional funding to deploy to the border, to the southwest border, to our best teams that are focused, heavily focused on this fentanyl crisis.

Mrs. HINSON. Well, I think everybody understands, and we have seen plenty of turf battles in the work that we do here, but we want to make sure that we are fulfilling that mission and being able to stop this fentanyl coming into the hands of our children.

Let's talk a little bit about the Monroe Project, specifically, since that is in the request. It has been successful in targeting cartels and connecting traffickers back to cartels. Can you tell us a little bit more about the work in that space? Because obviously, with the $41 million budget request, I want to make sure that this tool is

funded to the level needed for counter trafficking from a comprehensive perspective. So if you can just elaborate a little bit on the successes that you have seen.

Mr. JOHNSON. It has been extremely successful. I mean, it is focused right there on the southwest border. It is largely successful because of the relationships we have with our Mexican partners. You know, we have a sort of TCIU. It is where—Mexico is where we have our largest his footprint, which certainly results in some really, really good cases that are coming out of there.

You know, again, the biggest thing that we have asked for in fiscal year 2024 that is really going to help those investigations, and not just fentanyl, but human trafficking and drug smuggling, writ large, is just giving those folks access to RAVEN just so that we can start dumping a lot of this big data and analyzing it and being able to identify additional TCOs and the like, so.

Mrs. HINSON. And I guess in my follow-up, there would be—when you talk about access to all of that data, how are we really working to loop in local law enforcement because we want them to be able to see. Obviously, if they have detained someone, we want to make sure that they have access to those his networks as well. What are you doing to make sure that that cooperation and that information is empowered to local law enforcement as well?

Mr. JOHNSON. So there is about 4,000 State and local folks that are part of our task forces all throughout the country. And so we are pretty plugged in to the State and locals. I mean, his is—I mean, there is a lot of folks that would prefer to work with his than some of the other Federal partners. So that benefits us tremendously. And we will continue to sort of reach out to your State and locals where those relationships don't exist to try to create those partnerships.

Mrs. HINSON. Absolutely. Well, I heard from a local sheriff recently who said, you know, the cartels are so embedded even in a community in Iowa, that it is like a Hydra, you cut off one head, and then two more pop up. And it is terrifying to think that is happening right along Interstate 35 in my district.

So real quick question. Obviously, you are talking about the need for additional full-time employees. My concerns are with morale within the agency because it is a very challenging space to work in. But are you concerned about being able to fulfill the hires to meet those needs?

Mr. JOHNSON. I think we will have no issues filling the positions. We get a number of our folks, at least 30 percent, last I checked, coming from CBP. The other 60 percent or so are from the outside. At least, we have not seen a reduction in applicant interest in our positions when we—especially, you know, his and ERO in particular, these—you usually get hundreds of applicants for every one job. So, you know, despite the abolished ICE sort of rhetoric in some of the targeted acquisitions, we have still been fortunate enough to be able to keep a steady stream of applicants.

Mrs. HINSON. Thank you. I yield back.

Mr. JOYCE. Thank you, Mrs. Hinson. I now will recognize Mr. Trone.

Mr. TRONE. Thank you, Chairman Joyce, as always, I appreciate it.

Just if you could follow up on the distinguished member from Iowa's questions on Blue Lotus, I mean, talk about its success a little bit, but then talk about what we need to make it more successful and get the top of the top of the kingpins, which we never seem to quite get, or they operate with impunity in a Mexican jail that they control and run. And that is not really getting them. And then talk about why we couldn't have done this type of an operation a year ago.

Mr. JOHNSON. No, it is really about resources. And, you know, there is a lot of priorities. We have been spending a lot of time on human trafficking and human smuggling, trying to, you know, figure out a way to disrupt the flows along this Southwest Border. So you have to just pick and choose where you want to divert the resources. So we certainly don't want to pull away from the good work that is being done on human trafficking and human smuggling. But you do have to find the resources to divert to fentanyl. And Operation Blue Lotus is just one example of, you know, everybody sort of putting their resources together to focus their law enforcement investigative, sort of, focus at these two ports of entry that we actually believe are a big part of how the fentanyl is coming into the country.

So, no, we are asking for additional funding in 2024. We are going to continue to make it a priority. We are going to continue to try to bring on additional TCIUs and vetted units, get them the training here in the U.S., and increase our partnerships with countries, you know, our foreign partners so that we can continue our great work here.

I think you were here when I mentioned that the successes that, you know, the 36,700 criminal arrests that we made, the 27,000 pounds of fentanyl seizures, and then just you mentioned Blue Lotus, nearly 8,000 pounds of narcotics seized in just over 30 days which is truly remarkable.

So, you know, we see firsthand that if we send the staff to the border to assist our CBP partners, there will be great results. And I think you are going to see more of that in coming months.

Mr. TRONE. And where are we in trying to attack the heads of the cartels? Which, you know, Obrador has been totally hands-off and just had a peace, a truce, to not have an open warfare.

Mr. JOHNSON. Look, that is the goal of every his investigation is to pull on every thread until you can get as high up in the organization as possible. It is not just as a result of our work in Mexico and our Mexican partners. But even when an individual overdoses here in the U.S. and our work with the State and locals, we are right there on the scene, we are looking at their phones, figuring out who they last made contact with, and following that all the way back as far as we can, as high up in the chain as we can to target the head of the snake.

Mr. TRONE. The head of the snake—I mean, we know who the head of the cartels are. Let's go into some of the cartel. We know roughly where they are. And why are you unable to get the Mexican Government to help us target them?

Mr. JOHNSON. It is a delicate situation. I mean, it is some things that Mexican Government is going to be willing to do and some things they aren't so willing to do.

Mr. TRONE. The government is willing to tolerate having the heads of the cartels run the cartel. We know where they are, we know who they are, and they are OK with that.

Mr. JOHNSON. We work with our foreign partners as best we can. And for the things that they are willing to help us with, we accept it, and we do try to push them in certain areas where we can. But at the end of the day, we have very little legal authority in Mexico to do anything ourselves.

Mr. TRONE. Well, we thank you for your working with them and doing that, but I don't call that partnership. That is a different word. It is hardly partners when they don't partner the whole way up to the top. And we just, you know, indicted the head of the Mexican Government's—all their efforts on drug trafficking for a decade. Their top guy, you know, we just indicted him. And he is the one we shared all of our secrets with for over a decade, and we trusted implicitly. And, of course, now we know he was on the cartel's payroll the entire time. So there hasn't been a partnership, so to speak. And I think a lot of Americans are fed up with it. We are fed up with 100,000 deaths. So I yield back.

Mr. JOYCE. I think you have unanimous agreement on that, Mr. Trone. Mr. Cloud? Mr. Guest. I am sorry.

Mr. GUEST. Thank you, Mr. Chairman. I want to talk about the detention docket again. Fiscal year 2021, roughly, 3.7 million total on the detention docket. Fiscal year 2022, it grew by a million to now, roughly, 4.7, slightly over 4.7, based on what I have read and what I have heard. Also, it appears that for the first, roughly, half of fiscal year 2023, that has grown by another 600. And by the end of the year, assuming that things continue, the total number of individuals on the non-detention docket will reach close to 6 million, which is a huge increase over the last 2 years.

And so, as we have seen a growing increase in the non-detention docket, of that we know that 1.2 million on that detention docket, at least at the end of fiscal year 2022 had final orders of removal. And correct me if I am wrong, but a final order of removal means that that case has been played out through the judicial system. An immigration judge has determined that that individual has no legal status to remain in the country. And that at that point, once that individual is encountered, that individual is to be removed from the country. So we know that at least of that somewhere where we sit right now, 5.3 million, 1.2 million have already completed their legal proceedings. They have been ordered to be removed.

And so as we see these numbers grow, whether it be on the non-detention docket, you know, we have seen that the number of removals, particularly, going back from 2019, has decreased dramatically. 2019 removals were, roughly, 247,000. We know that the last 2 years, that number has hovered, I think, last year was an increase from the year before. The year before, I think, was roughly 60,000. Last year, roughly 72,000.

And so my question is as we seem to be doing a worse job of removing people from the country at a time in which we have an increase in cases—and I want to ask is that because you don't have the resources, is that the policies that have been placed down? You know, I have been told that there were policies placed by this administration that unless an individual had been convicted of a

crime, that we weren't to actually go out and enforce orders of removal. And if we have been asked not to enforce orders of removal, which were orders by a judge to go do something, I find that very problematic. And is the reason those numbers have dropped is because you have had to put all of your personnel in the southern border to address the surge, which has not gotten better. And after 42 goes away, we will probably get worse. And so, where is the disconnect?

As we have more people on the non-detention docket, as we have more orders of removal, but the people that were we are removing seems to not really be increasing and has decreased dramatically from behind 2019, please explain to me, Director, why we were not doing a better job of interior enforcement, particularly of those individuals whose cases have played their way out through the justice system?

Mr. JOHNSON. Really good questions. I think that the reason for the drop in removals are three-fold. I think it does have something to do with our focus on the southwest border and us deploying a lot of staff to the southwest border to deal with the flow. We have certainly used our planes and assets and resources to expel a lot of those folks that were coming across. And that certainly impacted our ability to put title 8 removals on those planes and in those seats as we have historically done.

I also think that, as I have mentioned previously, that the bulk of our removals come from our detention setting. So, obviously, it is much easier to move someone when they are in your physical custody as well.

Mr. GUEST. Well, and that gets back to my whole argument of why are we reducing detention beds if it is easier to remove people in detention? And I know we talked about it, whether it is in the primary budget or contingency budget. But it shouldn't be in the contingency budget. If it is easier to remove people, once they are in detention—and you have agreed with that, and I agree with that, but yet, we have a budget which is actually shrinking detention beds, I find that counterproductive. And I am not trying to be argumentative. This is something I am extremely passionate about. I know that you are, and you are passionate about making sure that you are representing the men and women that you serve with.

But to see this budget request by this administration, and to see a decrease in detention beds at a time in which we see a spike in every other number, I find that hard to justify. And I am not—and I don't place this blame solely on you. I know that you didn't get to write this budget without input of others, but the detention beds are a key component of that. And at the rate that we are going when we are removing 72,000 out of 1.2 million, that is less than 5 percent a year. And so, it is going to take 20 years just to remove the people that we have orders on. And as these additional cases work their way through the system, we are going to see those numbers grow exponentially. And it just doesn't seem to me that we either don't have the resources or we don't have the policies in place to enforce the law. And that is all we are asking. We are just asking the law be enforced. If there is an order of removal, that that person be removed. And we are not enforcing the law. And, unfor-

tunately, your agency has been tasked with enforcing the law, and we are not doing that.

And so, I am very concerned about that. And I hope that you can explain to us what you need in the form of resources, what you need in the form of detention beds, what you need in the form of technology. What can we provide you so that you and your agents can do the job that you are tasked to do? Because clearly, you don't have the resources that you need. Clearly, you don't have the manpower. You don't have the detention space. You don't have the technology.

I mean, we just talked about the fact that we are allowing people in the country, and we have no access to their criminal record from their country of origin. That is disturbing to me. It should be disturbing to all Americans that we are allowing people into the country, and we have no idea what crimes they may have committed in their home country. And yet we are deciding whether those people are sent into detention—and we know there are very limited detention beds—and just released into the interior. And so what do you need from Congress, what do you need from us on the Appropriations side that is going to allow you to enforce the law and do the job that you were created to do, you and your agency?

Mr. JOHNSON. So as I mentioned, I think we definitely need additional officers and support staff to work the significant increase in the non-detained docket, which will probably double at the end of this year, to close to $6 million if we were spit balling. I certainly—I disagree. I don't think, as I have mentioned already, I think I do have access to those 9,000 beds. So in my mind, I think we are going to be you know right around the 32- to 34,000 funding that we have historically had going into next fiscal year. And again, I am hopeful that we will actually be able to use beds that we had before COVID where, when we started off in the beginning of the pandemic, we were only using 50 percent of our capacity because of social distancing requirement, all of the mounds of litigation, and, you know, some of the litigation and some of the social distancing requirements.

Today, we are at like 73 percent of our bed capacity, our bed use. Hopefully, on May 11, we can get to the norm, which is typically around 88 to 93 percent of our capacity. So again, I think if that happens, you will see more removals as a result of us just being able to use more of our detention capacity, and you won't see the title 8—the title 42 expulsions; there will be all title 8 removals. And I think we will really be able to do an apples-to-apples comparison of where we were in 2019 compared to where we are right now.

Mr. JOYCE. Thank you, Mr. Guest. I now recognize Sheriff Rutherford.

Mr. RUTHERFORD. Thank you, Mr. Chairman. And to follow up on Mr. Guest's line of questioning, you know, earlier when I brought this issue up, you talked about we are flying all these expulsions out, and we don't have room for the others who have been adjudicated. That 1.2 million that have orders to be deported, and we are not moving them. Yet, we seem to have the ability to move everybody at the border to the interior of the country. If we have got the means to move people to the interior of the country, why

can't we move them the other way and move them south where most of them are coming from? I don't quite understand that.

I want to ask you about an executive order that the President signed sometime back on law enforcement reform that is going to require agencies that partner with Federal agencies to meet a whole lot of guidelines that actually came out of the George Floyd Justice Act. This is under section 19 in the President's executive order. I know how much you rely on partnerships with State and local law enforcement. In fact, in your own written testimony, you mentioned the 4,000 task force officers that are helping you. I believe that this section 19 is going to create a problem, because many of these agencies are not going to be able to meet those section 19 standards in that executive order. And according to the order, if they don't meet it, they are not going to be able to work with you. Are you aware that this is coming down the line?

Mr. JOHNSON. I am sorry, Representative Rutherford, I am not tracking that, but I appreciate you bringing that to my attention.

Mr. RUTHERFORD. Please look at that, because I know how important these partnerships are. It is important to law enforcement that we partner with you all, not just on the, you know, the illegal immigrants, but all of the criminal efforts that we have with his, and all of that. So I just want to be sure you were aware of that.

The other thing is that ARROW, you ran that. You know that program inside and out. You know, as a sheriff—one of the things that I have really appreciated was the 287(g) program that allowed—particularly, now when we get into the police side of it, but the correction side of it, the jail-base program.

You know, those folks have already been arrested. They are clearly the folks that we want to get out of our country. And so, can you tell me how is that program working now? Are we encouraging agencies to become 287(g), at least on the correction side? Can you talk a little bit about that? Are those numbers going up or down because I heard that we were not renewing contracts. Is that true?

Mr. JOHNSON. So we have not increased the 287(g) agreement, but we——

Mr. RUTHERFORD. Why not?

Mr. JOHNSON. Have not eliminated any existing agreements either. So the program has sort of remained the status quo. When there was a commitment to take a look and do a review of the 287(g) program, and I think that is something that the Department may continue to want to do at some point.

Mr. RUTHERFORD. Director——

Mr. JOHNSON. From my perspective, I think a totally functioning and an appropriately running 287(g) program is the best thing since sliced bread. With our workforce, the size of our workforce, they serve as a force multiplier.

Mr. RUTHERFORD. Yeah.

Mr. JOHNSON. I would much rather our officers go into a secure setting at a facility, assume custody of an individual rather than have to do an at large arrest out in a community.

Mr. RUTHERFORD. Exactly. And so let me ask, can you give me the numbers on whether that program is going up or down over the last several years, particularly since the Biden administration? And

why aren't we growing that program? I know that there has got to be some agencies that want to participate in that, and from a public safety standpoint, I mean, you just said it. These are the folks who we have already taken off the streets. These are the easiest deportations you could possibly have. You don't have to go arrest them, they are already incarcerated.

Mr. JOHNSON. So I will say, again, that the numbers have an increase or a decrease over the last 3 years. We can get you the exact numbers. I think just as there might be a few jurisdictions out there that may want to enter into an agreement; there is probably other jurisdictions out there that would actually have absolutely nothing to do with us and nor would they want to enter into a 287(g) agreement.

So I think it cuts both ways. I think we have just been on pause with entering into any new agreements until we figure out where folks might be headed on this thing.

Mr. RUTHERFORD. And just very quickly, I know I am out of time, but you think it is a great partnership?

Mr. JOHNSON. I think any time we can arrest someone in a secure location without putting our officers in danger of having to go out and arrest them, you know out on the streets or in their homes or at work then it is obviously a benefit for us.

Mr. RUTHERFORD. Thank you. Thank you very much. I yield back, Mr. Chairman.

Mr. JOYCE. Thank you, Sheriff. And for any of those questions that some of the members may have had that you are going to get back to, if you wouldn't mind, I would like to try to have you get back to them within 15 business days from today. There may be additional questions that some of the members may have and will provide to you in writing. And I would ask you to respond to those actually in a timely manner.

Again, I would like to thank you for being here today and for the work that you do. And this subcommittee is adjourned.

[Answers to submitted questions follow:]

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Budget Hearing – U.S. Immigration and Customs Enforcement
Tuesday, April 18, 2023

Representative Joyce

Homeland Security Investigations (HSI) – Organized Retail Crime

To: ICE Acting Director Tae Johnson

According to ICE, Organized Theft Groups (OTGs) are sophisticated criminal organizations that profit from illegally obtaining goods that are later sold for economic gain. OTGs are known to profit from Organized Retail Crime (ORC), cargo theft, and other theft and fraud-related criminal activities. HSI defines ORC as "the association of two or more persons engaged in illegally obtaining items of value from retail establishments, through theft and/or fraud, as part of a criminal enterprise." ORC continues to plague the retail industry, costing billions of dollars in lost sales and threatening public safety.

1a. Question: Can you describe HSI's Operation Boiling Point program and how this initiative is combating these crimes?

RESPONSE: U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) initiated Operation Boiling Point in 2022 with the goal of building partnerships with state and local elected officials, Chambers of Commerce, law enforcement, private industry, and retail associations. Operation Boiling Point is composed of the below four pillars.

- **Establish Public/Private Sector Partnerships:** The ICE Office of Partnership Engagement (OPE), ICE Office of Public Affairs (OPA), and HSI Financial Crimes Unit (FCU) are working with banks, state and local elected officials, Chambers of Commerce, law enforcement, various retail associations, and conferences that can help advance the mission.
- **Develop actionable Investigative and Intelligence Leads:** The National Lead Development Center (NLDC) is taking in tip line/email leads from federal, state, local, and foreign law enforcement agencies. NLDC has also established an email address specifically for loss prevention professionals and law enforcement to obtain assistance with combatting Organized Theft Groups (OTG).
- **Disrupt and Dismantle Organized Retail Crime (ORC)/OTG Organizations:** The information received through these partnerships and tips is processed and packaged by the

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

NLDC and presented in a format that will aid HSI field offices in presenting cases for federal, state, and local prosecution.

- **Launch a Robust Public Awareness Campaign:** OPE, OPA, and HSI FCU created an Operation Boiling Point website and partnered with private organizations, such as the Association of Certified Anti-Money Laundering Specialists, to educate the public about OTGs and to create a detailed guide for detection and reporting of OTGs, organized retail crime/cargo theft, and other related theft.

1b. How is HSI working with other federal agencies, state and local officials, and private sector partners?

RESPONSE: HSI is accepting information and tips from other federal agencies, state and local officials, and private sector partners to the NLDC. The NLDC conducts open-source research, deconfliction, and financial/intelligence analysis to create investigative leads that are distributed amongst HSI's 253 domestic field offices employing approximately 6,000 special agents. The NLDC works with field offices and special agents to assist in the investigation and route new information or leads to other HSI field offices for collateral investigation.

In addition to OTG investigations, HSI is working with the Department of Justice's (DOJ) International Organized Crime Intelligence and Operations Center (IOC-2) to leverage the resources of the Organized Crime Drug Enforcement Task Forces Fusion Center and the Special Operations Division programs. This partnership seeks to deconflict and analyze information and intelligence related to transnational organized crime, coordinate multi-jurisdictional and multi-agency law enforcement operations, develop and disseminate intelligence and leads in support of law enforcement operations, investigations, prosecutions, and forfeiture proceedings, and provide operational funding in support of field investigative efforts.

IOC-2 member agencies currently include the Bureau of Alcohol, Tobacco, Firearms and Explosives; the Drug Enforcement Administration; the Department of Commerce; the Department of Labor; Office of the Inspector General; the Federal Bureau of Investigation; HSI; the Internal Revenue Service, Criminal Investigation Division; DOJ, Criminal Division; the National Crime Agency; the United States Postal Inspection Service; the United States Secret Service; the Department of State, Bureau of Diplomatic Security; and the U.S. Fish and Wildlife Service.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

In the 118th Congress, the Combating Organized Retail Crime Act of 2023 (H.R. 895 / S. 140) has been reintroduced in both chambers. This bill would establish the Organized Retail Crime Coordination Center at Homeland Security Investigations, combining expertise from federal, state, and local law enforcement agencies along with retail industry representatives to create a cohesive national strategy to curb organized retail crime.

2a. Question: How important would this kind of Center be for facilitating a coordinated approach to combat ORC?

RESPONSE: The creation of a federally led center would serve a vital role in coordinating federal, state, and local law enforcement and private industry partners to identify, disrupt, and dismantle OTGs who's activity has crossed jurisdictional lines and grown to a level beyond which individual police departments have the resources to investigate. An HSI-led center would include:

- Coordinate federal law enforcement activities related to OTG and ORC, including investigations of national and transnational criminal organizations engaged in ORC. The center would work to leverage HSI's Border Enforcement Security Task Forces, Transnational Criminal Investigative Units, and the National Initiative for Illicit Trade Enforcement in partnership with U.S. Customs and Border Protection.
- Coalescing goals of state and local law enforcement agencies and organizations, including Organized Retail Crime Associations (ORCA), and sharing information on ORC threats with these agencies and organizations, continuing HSI's Operation Boiling Point work with ORCA and HSI field offices.
- Establishing relationships with private sector companies within the retail sector by sharing information on threats, providing mechanisms for the receipt of investigative information on OTG/ORC threats, and expanding upon the current model of using the NLDC.
- Establishing relationships with e-commerce and social media companies by sharing information on bad actors, providing mechanisms for the two-way flow of information on OTG/ORC threats, and mirroring HSI's Cyber Crimes Center's work with social media companies.
- Establishing a secure system for sharing information on OTG/ORC threats by leveraging existing information systems at the Department of Homeland Security and DOJ utilizing HSI's Innovation Lab and Data Scientists.

2b. Does ICE support the establishment of this kind of Center under HSI?

RESPONSE: ICE supports the creation of an appropriately funded, seized and staffed center which focuses on organized retail crime with an international nexus consistent with

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

HSI's mission. HSI investigates, disrupts, and dismantles terrorist, transnational, and other criminal organizations that threaten or seek to exploit the customs and immigration laws of the U.S.

3. Question: What kind of resources would HSI need to establish and operate this kind of Center?

RESPONSE: HSI needs $8.3M and 26 positions (15 LEOs and 11 non-LEOs) to establish and operate this center. For primary operation, HSI needs to staff special agents, criminal analysts, data scientists, and administrative personnel. HSI also needs to procure office spaces large enough to house personnel from various private sector partners and federal law enforcement agencies who will partner with HSI. Moreover, HSI would require additional funding to provide case support to the field investigators, criminal analysts, and administrative support staff assigned to the center. Support to the field would include equipment, case related travel, and contractor services.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Budget Hearing – U.S. Immigration and Customs Enforcement
Tuesday, April 18, 2023

Representative Underwood

Solitary Confinement

To: Acting Director Johnson

An overwhelming body of medical evidence shows that solitary confinement causes extreme psychological damage to the individuals who endure it. But there are limited federal regulations for segregation or the use of solitary confinement in immigration detention facilities.

4. Question: Can you explain how and under what circumstances non-citizens are subject to solitary confinement in immigration detention?

   RESPONSE: U.S. Immigration and Customs Enforcement (ICE) does not utilize solitary confinement and does not agree with equating ICE's use of segregation to that of "solitary confinement." ICE's Special Management Unit (SMU) placements (segregation) are designed to promote the safety of all parties–detained noncitizens and facility staff. Facility personnel are required to offer noncitizens placed into an SMU with generally the same privileges as those noncitizens housed in general population, including recreation, visitation, access to the law library and telephones, clergy, and legal visits.

   Consistent with ICE detention standards[1] and ICE Directive No. 11065.1, *Review of the Use of Segregation for ICE Detainees* (Segregation Directive) (September 4, 2013), a detained noncitizen may be placed into an SMU with either an Administrative Segregation designation (for detained noncitizens segregated for non-punitive administrative reasons) or a Disciplinary Segregation designation (for detained noncitizens segregated for disciplinary reasons). Administrative segregation is a non-punitive form of separation from the general population and is authorized only as necessary to ensure, safety of detained noncitizens, facility staff; protection of property; or security and good order of the facility.

   Further, the Segregation Directive establishes requirements regarding agency reporting, review, and oversight of every facility decision to place a detained noncitizen in segregated housing for 14 days (or 14 days out of a 21-day period), 30 days, and at every 30-day

[1] ICE Performance-Based National Detention Standards (PBNDS) 2011 (revised 2016), Standard 2.12, Special Management Units, at 171; ICE PBNDS 2008, Standard 2.15, Special Management Units, at 1-2; and National Detention Standards 2019, Standard 2.9, Special Management Units, at 53-57.

interval thereafter as well as reporting and review of segregation placements within 72 hours of placement when heightened concerns exist based on a case-by-case assessment of a detained noncitizen's health or other individualized factors.

Administrative segregation placements are for the briefest term possible and under the least restrictive conditions practicable, consistent with the rationale for placement. Generally, detained noncitizens in administrative segregation receive the same privileges as detained noncitizens housed in the general population, consistent with safety and security concerns. Administrative segregation placements are made when detained noncitizens:

- Request or require protective custody from others who may harm them;
- Are awaiting an investigation or hearing for an alleged violation of facility rules;
- Are scheduled for release, removal, or transfer within 24 hours; or
- Present a clear threat to the security of the facility, to themselves, or to others.

Disciplinary segregation is authorized only pursuant to the order of a facility disciplinary panel, following a hearing in which a detained noncitizen is determined to have committed serious misconduct in violation of facility rules. Disciplinary segregation regulates the detained noncitizen's behavior and is imposed for a maximum sanction of 30 days per incident, except in extraordinary circumstances. Extraordinary cases receive periodic review to determine whether continued detention in disciplinary segregation is warranted. Facility disciplinary panel decisions must be consistent with the Disciplinary Severity Scale described in the applicable ICE detention standards, and only when alternative dispositions would inadequately regulate the detained noncitizen's behavior.

ICE is committed to reviewing existing policies and procedures to continually improve civil detention operations, including the management and oversight of segregated housing.

5a. Question: What is the average amount of time someone is held in solitary confinement for "medical or mental health" care?

RESPONSE: As mentioned in the response to Question 4, ICE does not equate use of segregation to that of "solitary confinement." ICE publicly reports segregation data on ice.gov (https://www.ice.gov/detain/detention-management). In Quarter 2 of Fiscal Year 2023, January 1, 2023 through March 31, 2023, there were 178 SMU placements of detained noncitizens with an identified medical or mental health illness. These detained noncitizens spent an average of 10.26 consecutive days in the SMU.

ICE is committed to noncitizen segregation only as a last resort when heightened concerns exist based on a detained noncitizen's health, availability of alternative housing, or other factors. Per existing policy, detained noncitizens are removed from segregation if the ICE Health Service Corps (IHSC) determines that the segregation placement resulted in

deterioration of the individual's medical or mental health, and an appropriate alternative is available.

5b. What policies are in place to restrict solitary confinement to no more than 15 days?

RESPONSE: ICE strives to limit use of segregation to a case-by-case basis. In many instances, the use of administrative segregation is out of ICE's control if a detained noncitizen requests protective custody or requires placement in segregation due to medical concerns (e.g., suicide risks, hunger strikes, medical observations, or COVID-19 quarantine). As noncitizen-requested protective custody must be honored, ICE cannot mandate a cap on the number of cumulative segregation placements or length of segregation stay. ICE can recommend detained noncitizens in protective custody return to general population, but it cannot force them to do so.

The Segregation Directive directly addresses extended segregation placements (Section 5.1), requiring the Field Office Director and ICE Headquarters Custody Management Division be notified whenever a detained noncitizen is held in segregation for 14 continuous days or 14 days out of any 21-day period. Both the Segregation Directive and ICE detention standards impose requirements for ICE to regularly review placements to ensure that detained noncitizens are not in segregation for longer than necessary, evaluate whether a detained noncitizen's mental or medical health has not deteriorated due to placement, and consider alternative housing placements. In addition to mandatory field office level reviews as detailed in the Segregation Directive, ICE utilizes weekly multi-disciplinary reviews of detained noncitizens in segregation. A multi-disciplinary committee of facility staff, including facility leadership, medical and mental health professionals, and security staff, meet weekly to review all detained noncitizens currently housed in the facility's SMU. During multi-disciplinary review the committee covers each case individually to ensure all staff are aware of the detained noncitizen's status, current behavior, physical and mental health, and to consider if a change in status is appropriate because SMU placements are not intended to be long-term housing.

In addition to facility-level reviews, Custody Management works with representatives from IHSC, Field Operations, and the Office of the Principal Legal Advisor to conduct a weekly ICE Headquarters review of cases in which detained noncitizens suffer from mental and medical illnesses and to evaluate whether their current housing placement is appropriate. ICE Headquarters personnel provide guidance to field office leadership and, in coordination with IHSC, may help facilitate the transfer of identified cases to other locations better suited to their individual needs, when applicable.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Budget Hearing – Immigration and Customs Enforcement
Tuesday, April 18, 2023

Representative Hinson

Alternatives to Detention Program Funding

To: Acting Director Tae Johnson

CBP and ICE career law enforcement officials have testified repeatedly that the failure to detain illegal border crossers serves as a "pull factor" to incentive individuals to come to the US illegally knowing they will be released. Less people being detained and less utilization of electronic monitoring of those individuals on the Non-Detained Docket is extremely concerning. Intensive Supervision Appearance Program (ISAP) has proven successful when used correctly. It is concerning to see ICE reduce use of ISAP and funnel Alternatives to Detention (ATD) program funding to NGO partnerships. ICE has continued to use funding allocated for ADT to fund inadequate programs. There are major concerns with ICE's use of ATD funding, including an OIG report that found that ICE did not adequately justify its use of sole-source contracting in selecting Endeavors.

6. Question: Why has ICE reduced the use of ISAP with electronic monitoring in the last few weeks?

   RESPONSE: Based on Fiscal Year (FY) 2023 budget, the Alternatives to Detention (ATD) Intensive Supervision Appearance Program (ISAP) is currently projected to have a deficit. U.S. Immigration and Customs Enforcement (ICE) continually evaluates the ATD-ISAP population through recurring case reviews and data analysis to ensure appropriate noncitizens are receiving correct levels of case management and technology assignment as they move through immigration proceedings. ICE Headquarters – ATD has also identified a decline in the number of cases referred for evaluation and participation in the program due to migration trends. It is anticipated that if encounters increase, so will the referrals for evaluation and assignment to ATD-ISAP.

7. Question: Why does the proposed budget for ICE not include additional funding for ISAP?

   RESPONSE: ICE's budget request for FY 2024 is $363,401,000 for ICE's ATD program for an average daily population of 104,756 participants. Additionally, the Southwest Border

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Contingency Fund includes additional funding for ATD. The FY 2024 proposed Southwest Border Contingency Fund would make additional funding available should noncitizen participant levels on the ISAP monitoring activity increase beyond the FY 2024 appropriated budget parameters. The proposed Southwest Border Contingency Fund would set aside additional funding to be made available to ICE should U.S. Customs and Border Protection (CBP) noncitizen encounter levels exceed thresholds. Taken together, appropriations and the proposed Southwest Border Contingency Fund, the ISAP monitoring activity would have sufficient funds to meet noncitizen CBP encounters projections as forecasted by DHS.

8. Question: Who ultimately approved that the Endeavors contract would be a sole-source?

RESPONSE: In accordance with Federal Acquisition Regulation (FAR) 6.304, *Approval of the justification*; the Homeland Security Acquisition Manual (HSAM) 3006.303-1, *[Other Than Full and Open Competition] Requirements*; and the DHS Justification and Approval Guide, a justification valued at $86 million requires review by the Contracting Officer, Technical/Requirements representative, ICE Procuring Activity Advocate for Competition, the Head of the Contracting Activity, and ultimately approved by the DHS Chief Procurement Officer. The subject Endeavors Justification for Other than Full and Open Competition followed these procedures.

9. Question: Was anyone disciplined based on OIG findings of inadequate justification for sole-sourcing this contract?

RESPONSE: No disciplinary action was warranted. ICE non-concurs with OIG findings outlined in the report. This sole-source action complies with requirements of the Competition in Contracting Act as implemented by FAR in accordance with the requirements of FAR 6.303-1, *[Justifications] Requirements*; the Homeland Security Acquisition Regulations (HSAR) 3006.302-270, *Unusual and compelling urgency;* and HSAM.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Budget Hearing –ICE
Tuesday, April 18, 2023

Representative Case

Transnational Crime

To: Acting Director Tae Johnson

In your testimony you mention Homeland Security Investigations' (HSI) efforts to combat transnational cybercrime.

10. Question: What is HSI's strategy for pursuing cyber criminals abroad and how does this year's budget support that strategy?

    RESPONSE: With cybercriminals operating with ease across international borders, U.S. Immigration and Customs Enforcement Homeland Security Investigations (HSI) has increased cyber engagement with international law enforcement partners.

    HSI personnel around the world work tirelessly to protect children from predators who are involved in the production, distribution, and possession of child sexual abuse material, who livestream child sexual exploitation and abuse, and who travel internationally to sexually exploit and abuse children. HSI employs the latest technology to collect evidence and track the activities of individuals and organized groups who sexually exploit children using the dark web, chat rooms, peer-to-peer trading, and other internet-based platforms. This critical public safety mission is supported by the HSI Child Exploitation Investigations Unit (CEIU), which is housed within HSI's Cyber Crimes Center (C3). The CEIU aids HSI field offices, coordinates major investigations, conducts operations throughout the world to identify and rescue child victims and to identify and apprehend offenders. CEIU delivers training to HSI personnel, federal, state, local, and international law enforcement partners.

    In FY 2023, CEIU's budget allocated funding to increase the physical space of the CEIU Victim Identification Lab beginning in Quarter 1 of FY 2024 with an additional three employees, expanding the number of Victim Identification Lab from only five non-law

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

enforcement officer (LEO) employees to eight employees, five non-LEOs and three LEOs This increase in personnel supporting victim identification efforts will significantly aid HSI's efforts at identifying victims quicker, identifying their offenders, and the locations where abuse may be occurring. This expansion will further promote HSI's reputation and ability to participate in various international victim identification task force operations, meetings, as well as working groups focusing on enhancing technologies and capabilities for large data aggregation and analyses.

In addition, HSI recently created four International Cyber Liaison positions for strategic deployment to London, United Kingdom; The Hague, the Netherlands; Ottawa, Canada; and Sydney, Australia. These positions are managed by the corresponding HSI Attachés with collaboration from C3. In anticipation of the formal deployment of these positions, HSI placed special agents on a temporary duty basis to these locations. Beyond the initial four positions, HSI anticipates deploying four additional International Cyber Liaison positions and is currently considering placement locations for these positions. All eight positions are funded by enhancement funding received by HSI in Fiscal Year FY 2022 and FY 2023. These positions will significantly enhance HSI's ability to coordinate with its international partners to conduct transnational cybercrime investigations.

Finally, HSI recently joined Europol's Joint Cybercrime Action Taskforce (J-CAT). The HSI attaché office at The Hague (HSI The Hague) leads this effort in collaboration with C3. J-CAT helps DHS work with European partners on intelligence-led, coordinated action against key cybercrime threats and targets.

11. Question: How does HSI work with the Federal Bureau of Investigation and other agencies with jurisdiction on this issue?

RESPONSE: Pursuant to the February 7, 2023, deconfliction guidance memo from Deputy Attorney General Lisa Monaco to U.S. Attorney's Offices, HSI extended its normal practice of deconflicting cases through Deconfliction Information Coordinator Endeavor 2.0 system to include deconfliction via the National Cyber Investigative Joint Task Force. HSI's proactive cyber efforts are also coordinated with the DHS Cybersecurity and Infrastructure Security Agency (CISA) and state cyber security entities. When appropriate, HSI conducts joint investigations with the Federal Bureau of Investigation (FBI) and other partners to augment resources by utilizing HSI's unique investigative authorities. In Fiscal Year 2022, HSI and the FBI saw a significant increase in Cyber Tipline Reports reported by social media companies to the National Center for Missing and Exploited Children (NCMEC) identifying children who were being financially sextorted by individuals out of West Africa, primarily Cote d'Ivoire and Nigeria. As a result, HSI and the FBI have since worked collaboratively to deconflict investigations,

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

identify and safeguard child victims from further sextortion, identify and prosecute offenders located abroad, and raise awareness of this new online threat harming our children through press releases, social media campaigns, and updating outreach materials marketed towards children, teens, parents, and guardians.

In addition, HSI and the FBI work cooperatively to investigate and prosecute suspects who sexually prey on children. Every day around the world, agents from HSI and the FBI are sharing information, techniques, and training to better identify and bring perpetrators to justice.

12. Question: How does HSI identify cases to pursue, and has HSI developed procedures to make investigations responsive to reports of crime and scams against U.S. citizens?

HSI receives investigative leads from tip line reports received from the public, outreach engagements, confidential sources of information, and from information derived by analyzing information associated with previous criminal schemes. ICE's tip line reports are fielded by professionally trained staff and are documented and categorized by type of criminal activity and disseminated for action to the appropriate HSI field offices where they are further assessed for investigative viability. Additionally, HSI has an enterprise-wide system for disseminating investigative leads internally across all HSI field offices and Headquarters components.

In addition to these efforts, HSI engaged in proactive operations to address cybercrime. Operation Stolen Promise is a campaign to disrupt criminal activity seeking to exploit the COVID-19 pandemic for cyber financial fraud and profit. This operation has resulted in the analysis of over 92,000 domains, 66 websites removed or seized, and 182 cases initiated related to COVID-19 associated cybercrime.

Operation Cyber Centurion (OCC) is a HSI cyber threat intelligence initiative that proactively detects vulnerabilities in critical infrastructure and works with victims to remediate vulnerabilities before they are further exploited. OCC's objective is to significantly disrupt adversaries that exploit the internet to subvert U.S. laws and threaten the economic integrity, public safety, and national security of the United States. OCC focuses on the 16 critical sectors as defined by CISA. Since its inception in March 2021, OCC disseminated over 300 leads to HSI field offices resulting in successful mitigation of attacks against numerous critical infrastructure entities, including large municipal governments, law enforcement agencies, major healthcare providers, technology firms, and entities crucial to global supply chains.

Budget Hearing – U.S. Immigration and Customs Enforcement Agency (ICE)
Tuesday, April 25, 2023

Representative Trone

To: Mr. Tae Johnson, Deputy Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement

Title 21 statutory authority for counternarcotics investigations (DEA and HSI collaboration)

Question: To what extent are DEA and ICE HSI operating under the 2009 Interagency Agreement—involving the cross-designation of ICE agents to pursue counternarcotics investigations, information sharing, and deconfliction of counternarcotics investigations?

RESPONSE: Homeland Security Investigations (HSI) partners with the Drug Enforcement Administration (DEA) more than any other federal agency and works with the DEA daily on criminal investigations.

Additionally, HSI regularly partners with DEA on investigations under the Organized Crime and Drug Enforcement Task Force (OCDETF). During Fiscal Year (FY) 2021, HSI conducted 1,106 OCDETF investigations, 588 were conducted with DEA. DEA and HSI jointly sponsor 14 Regional Priority Organization Targets (RPOT) and 4 approved Consolidated Priority Organization Targets (CPOT).

HSI deconflicts all investigations and operations with DEA and other agencies. Between 2016 and 2021, HSI deconflicted nearly 2.9 million selectors with DEA. That is more than 1,100 deconflictions every single day. HSI also requires deconfliction of all enforcement events through appropriate local event deconfliction systems and for Title 21 violations, includes data fields on its enforcement operations plans outlining the date and time that specific points of contact in local DEA offices were notified for coordination.

14. Question: Since 2011, how has the Agreement been adjusted or amended to ensure its intended goal(s) are achieved.

RESPONSE: In 2020, HSI and DEA convened a working group to reinforce and refine the mechanisms for cooperation outlined in the Interagency Cooperation Agreement (ICA). The working group resulted in the creation of a Joint Letter on the DEA-ICE Interagency Cooperation Agreement and a set of Standard Operating Procedures (SOPs) for HSI and

DEA Title 21 Coordinators. The letter was signed in January 2021, by the DEA Chief of Operations and the HSI Executive Associate Director, emphasizing training, designation of Title 21 Coordinators, dispute resolution, and reaffirmation of the agencies' commitment to deconfliction, information sharing, and coordination. The group also produced an SOP outlining the role of Title 21 Coordinators and procedural mechanisms for coordinating administration of Title 21 between agencies.

15 Question: To what extent, if any, do DEA and ICE HSI have mechanisms in place to monitor the implementation of the 2009 Agreement and adjustments and assess the efficiency, effectiveness, and performance of their collaborative information sharing and counternarcotics investigation efforts?

RESPONSE: HSI and DEA meet and confer regularly as outlined in the ICA. This includes meetings by headquarters sections of both agencies to address new and on-going issues experienced by multiple field offices. Additionally, both agencies have Title 21 Coordinators who serve as the primary points of contact for coordination of Title 21 activities in their respective offices and regions. Lastly, in addition to Title 21 Coordinators, local HSI supervisors and management meet regularly to ensure cooperative engagement between agencies.

16a. Question: Are there any overarching or systemic issues of coordination or deconfliction requiring headquarters-level intervention?

RESPONSE: Headquarters-level intervention noted in the prior response.

16b. For example, how well are the local deconfliction protocols working?

RESPONSE: HSI recognizes deconfliction is an essential practice enabling law enforcement officers to identify potential conflicts with other law enforcement agencies. Deconfliction promotes officer safety and prevents "blue-on-blue" incidents and enables collaboration and information sharing. It is a procedure built into the core of HSI investigative processes and goes beyond HSI and DEA investigations. HSI's broad investigative authority requires recognition by all investigators that deconflict, regardless of the crime being investigated and is a vital component of an investigation.

For example, during money laundering investigations, HSI must deconflict with other law enforcement agencies, such as the Federal Bureau of Investigation, Internal Revenue Service, and United States Secret Service. These deconflictions serve to ensure opportunities to further cases through joint investigations are exploited, while also ensuring the safety of officers conducting an investigation. HSI also has a memorandum of understanding with the Bureau of Alcohol, Tobacco, Firearms and Explosives that recognizes both agencies have a role in firearms investigations and establishes deconfliction practices between the agencies while encouraging joint investigations when

both agencies identify investigative targets of mutual interest.

HSI's deconfliction and coordination processes are governed by agency and Department policies and are required regardless of conditions set forth in the ICA. Since 2016, DHS policy requires all DHS law enforcement components deconflict investigative data. HSI Special Agents and TFOs, in both foreign and domestic offices, submit significant investigative data identifiers to DEA's Deconfliction and Informational Coordination Endeavor (DICE) database for deconfliction and coordination. HSI deconflicts investigations through DICE and does not limit deconfliction to narcotics investigations. HSI policy further mandates that all field personnel deconflict communications of confidential informants and undercover agents via DICE.

HSI deconflicts and coordinates more with DEA than any other partner law enforcement agency. Between 2016 and 2021, HSI submitted more than 2.9 million identifiers to DICE for deconfliction and coordination purposes. HSI conducted 441,743 deconflictions in 2021 alone. Further, HSI conducted 1,832 deconfliction queries through the OCDETF Fusion Center.

17. Question: Given the emerging drug threats, what additional tools are needed for HSI to more effectively counter narcotics trafficking?

RESPONSE:

HSI could more effectively counter narcotics trafficking by deploying and utilizing a suite of new technologies including mobile handheld Xray machines, which would greatly aid in interdictions, and mobile mass spectrometers, which would aid in interdiction and immediate identification of dangerous narcotics. Additional tools which would assist in the effort include deploying robust unmanned aerial vehicles to improve surveillance of undercover operations and discrete monitoring of subjects of criminal investigations. HSI has deployed several crypto currency tracing tools which are needed to track the movements of narcotics derived proceeds. These tools are crucial and constantly changing as is the crypto currency landscape. HSI seeks to increase the number and size of its Transnational Criminal Investigative Units to improve HSI's ability to track narcotics to their foreign origin point and identify and dismantle Transnational Criminal Organizations. HSI also seeks additional tools to better enable its approximately 4,000 task force officers to participate in narcotics investigations. Traditional tools, such as T-III wire intercepts, have become limited in their application and in some cases obsolete. HSI would benefit greatly in its counter-narcotics trafficking mission from tools which could lawfully intercept encrypted communication applications.

Arms Trafficking- "Operation Without a Trace" and "Operation Desert Lightning"

According to the U.S.-Mexico joint statement on April 13, DHS is committed to expanding its

efforts to disrupt gun smuggling to Mexico through ICE's "Operation Without a Trace" and "Operation Desert Lightning."

18. Question: There is an open G-A-O recommendation for ICE to identify performance measures for these types of efforts. How does ICE plan to measure whether its efforts are having the intended effects of preventing U.S. firearms from ending up in the hands of Mexican drug cartels, and adjust its efforts as necessary?

    RESPONSE: In response to rising threats of cartel violence in Mexico using weapons sourced in the United States, U.S. Immigration and Customs Enforcement Homeland Security Investigations (HSI) and U.S. Customs and Border Protection (CBP) initiated Operation Without a Trace (WaT). To measure the program's success, HSI and CBP collect metrics and co-author intelligence reports focused on seizure increments, successful prosecutions in furtherance of disruption and dismantlement, and assess the ease of procuring weapons in Mexico. HSI continuously emphasizes collaboration with CBP, external stakeholders, and international law enforcement partners to investigate weapons trafficking outside the United States and continuously adjusts efforts to combat new and emerging threats. The willingness of the Government of Mexico (GOM) to share specific information related to firearms recovered in Mexico would allow investigators to quickly identify the origins of these firearms and improve efficiency of criminal investigations. With this data, HSI could better measure effects of their intended efforts and adjust investigative strategies.

19. Question: These operations supposedly target known trafficking corridors. How did ICE identify these corridors and to what extent has ICE incorporated ATF's tracing data—particularly data on firearms recovered in Mexico after being successfully smuggled from the United States—to identify these targeted corridors?

    RESPONSE: The southbound smuggling corridors are known to HSI through HSI's participation in operation WaT. WaT tracks HSI and CBP seizure and arrest enforcement data to identify these corridors. Intelligence analysts produce intelligence products on these enforcement data points and disseminate to CBP leadership for them to make informed decisions on when and where to surge resources. CBP Operation Desert Lightning surges resources utilized for outbound inspection operations at the ports of entry and departure. The Department of Homeland Security does not rely on the Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) tracing data collected from the GOM to identify corridors. Trace data quality depends on traces successfully submitted in the tracing system and traces only provide information of an initial firearm sale from Distributor to Federal Firearms Licensees limiting its value to accurately identify corridors. ATF can precisely answer questions on the quality of trace data.

Arms Trafficking- The Bipartisan Safer Communities Act

The Bipartisan Safer Communities Act established new gun trafficking authorities, including the

smuggling out of firearms and straw purchaser and ghost gun provisions.

20. Question: How do these new authorities affect ICE's efforts to prevent firearms from ending up in the hands of Mexican drug cartels?

    RESPONSE: The new authorities, combined with Homeland Security Investigations' (HSI) existing export control authorities, provide agents with additional statutory options for pursuing prosecution of individuals involved in international weapons trafficking.

21. Question: How do these new authorities affect ICE's cooperation with other law enforcement agencies, particularly ATF, in preventing U.S. firearms from ending up in the hands of Mexican drug cartels?

    RESPONSE: To effectively and efficiently comply with the law, HSI and the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) should enhance cooperation and information exchange related to international weapons trafficking cases. To best utilize and integrate new authorities, HSI and ATF must prioritize, update, and formalize interagency partnerships when it comes to international weapons trafficking cases. Increasing cooperation between ATF and HSI to more effectively counter international weapons smuggling networks requires a substantial commitment of resources and funding by both agencies. Additional resources and funding would create or enhance HSI participation on international weapons trafficking task forces, allow hiring of additional personnel to support interagency operations, enhance information exchange systems, and update policy and procedures regarding joint cases.

Detention programs under consideration

During your testimony, you mentioned that ICE is considering the possibility of a new home confinement program for families seeking asylum or other protection in the United States. This raises serious concerns regarding the ability of immigrants to integrate into their communities.

Question: Please provide detailed information regarding the program that is under consideration, including:

a. how ICE would select individuals to participate in this program;
b. any communication ICE has already had with potential contractors;
c. and a detailed description of why such a program would be necessary given the evidence showing that nearly 100% of families appear for immigration court when provided counsel.

RESPONSE: On May 10, 2023, U.S. Immigration and Customs Enforcement's (ICE) Enforcement and Removal Operations announced a process for family units apprehended at the Southwest Border who are processed for expedited removal and indicate an intention to apply for asylum or express a fear of persecution or torture. This process, referred to as Family Expedited Removal Management (FERM), will place certain heads of household for family units on Alternatives to Detention (ATD) technology—a GPS ankle monitor—for continuous monitoring and make them subject to a curfew.

For this process, ICE is not utilizing new outside contractors. FERM is designed to increase compliance for family units in the credible fear process, which includes participating in a timely credible fear interview with U.S. Citizenship and Immigration Services (USCIS) and any requested review by an immigration judge, without being detained. Families who receive a final negative credible fear determination are often removed from the United States within 30 days from processing into expedited removal and referral to USCIS. Heads of household are eligible for enrollment in FERM if they are processed for expedited removal, are nationals of countries to which ICE maintains regular removals via land or air and reside in a location under the jurisdiction of the ICE field office based in one of four FERM-destination cities. The heads of households not placed into FERM may be placed on ATD.

Development of biodetection capabilities

Securing our nation's border, transportation hubs, centers of economic activity (e.g., sporting arenas and entertainment venues) requires the ability to rapidly screen individuals for potential biothreats. No capability is currently available that provides this capability that is needed.

22. Question: DHS is developing digital MALDI technology that will provide a leap ahead capability to rapidly screen large volumes of individuals and that initial testing in airports and sports arenas has been very successful. Could you describe DHS plans to complete digital MALDI development and transition this capability to DHS users?

RESPONSE: The digitalMALDI prototype does not screen individuals but, screens aerosol particle data. No personally identifiable information (PII) or sensitive personally identifiable information (SPII) is involved in this activity or is captured or created by the digitalMALDI prototype sensor.

DHS is pursuing several technology development efforts to improve environmental biodetection capabilities designed to provide detection and early warning of an aerosolized bioterrorism attack, including those with applications for detecting a release to indoor environments such as airports or sports arenas. One such effort is the Matrix-Assisted Laser Desorption Ionization (MALDI) technology, initially developed by the DHS Science and Technology Directorate (S&T).

The technology Digital Matrix-Assisted Laser Desorption Ionization Time of Flight (MALDI TOF) (digitalMALDI) Mass Spectrometry (MS) for aerosol biodetection comprises a novel prototype sensor technology that could enable real-time detection of aerosolized bacteria, viruses, and toxins. The MALDI methodology uses a pulsed laser to trigger vaporization of an environmental sample and mass spectrometry to analyze the sample to determine the presence of a potential threat.

By combining multiple technologies, this novel sensor could offer continuous air

monitoring and quickly and efficaciously identify biological particles that indicate a bioterrorism event occurred within 10 – 60 minutes versus 12 – 36 hours. Additionally, limited human intervention is required for sample collection and analysis.

In 2022, DHS S&T conducted a technology readiness assessment (TRA) of the digitalMALDI prototype and determined the prototype to be at a technology readiness level 5, meaning the component has conducted some limited validation in a relevant environment. A full prototype has not yet been demonstrated in an operational environment. This information was shared with CWMD staff as a knowledge product to continue maturation in preparation for transition to CWMD in 2023. CWMD provided relevant data from Phase I and Phase II of its Multiplexed Biothreat Detection with Fieldable Mass Spectrometry project to assist with the TRA. The TRA report informs subsequent scope requirements to mature the technology in preparation for transition to CWMD for advanced development, fielding, and sustainment.

Future R&D to design and fabricate a refined prototype (digitalMALDI Gen-2) will address size, weight, and power constraints. The next generation prototype will have a reduced volume and footprint and will be the template for additional development, testing, and evaluation. Lastly, it will reduce the acquisition cost and the operation & maintenance (O&M) costs of deployed systems.

CWMD welcomes the opportunity to provide a brief on current and future CWMD environmental biodetection efforts, including MALDI and other technological approaches to this critical capability area.

TUESDAY, APRIL 18, 2023.

FEDERAL EMERGENCY MANAGEMENT AGENCY

WITNESS

HON. DEANNE CRISWELL, ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY

Mr. JOYCE. Today's hearing will come to order. This afternoon we welcome the Administrator of the Federal Emergency Management Agency, Deanne Criswell to testify on FEMA's fiscal year 2024 budget request.

Administrator Criswell, thank you for joining us today. Thank you for your decades of service to our country in the military, as a firefighter and first responder, and your years in emergency management.

FEMA has a simple, yet critical, mission of helping American people before, during, and after their disasters. The fiscal year 2024 budget request for FEMA is $25.5 billion. The majority of those funds, $20.1 billion, are requested for the Disaster Relief Fund to support response and recovery efforts for major disaster declarations, including the COVID–19 pandemic.

The requested funds are on top of the $170 billion that Congress has appropriated for the Disaster Relief Fund since 2020, and in addition to the supplemental request that we expect to receive in the coming days, to ensure that the Disaster Relief Fund continues solvency in the current fiscal year.

To date, FEMA has obligated approximately $112 billion in response to the COVID disaster, and that only represents the expenses for which the States have requested and received reimbursement so far. States will continue to incur costs through May 11, when both the disaster period and the public health emergency will officially end.

I would like to hear from you today on the biggest challenges FEMA faces to continue to manage the COVID disaster, including FEMA's projections for the total of COVID disaster spending and whether the continued focus on the COVID disaster detracts from FEMA's ability to respond to past, current, and future disasters.

Lastly, I am concerned to see a continued focus on FEMA's so-called "Road to Resilience," which represents a significant reorganization to FEMA programs and functions in the name of attaining an ill-defined nebulous goal. This initiative is, at best, merely a talking point in this Administration's ongoing resilience narrative. At worst, it has the potential to severely hamper FEMA's ability to support its core disciplines of preparedness, response, recovery, and mitigation.

Administrator Criswell, I want to thank you and everyone at FEMA for your hard work and dedication. I look forward to your

testimony today and working with you throughout the fiscal year 2024 appropriations process.

Now, before I turn to our witness for her statement, I would like to recognize our outstanding ranking member, Mr. Cuellar, for his opening remarks.

Mr. CUELLAR. Mr. Chairman, thank you so much.

First of all, good afternoon. It is a pleasure seeing you again, Administrator Criswell. Thank you, again, for the work that you do, and please thank all of your men and women that work for FEMA.

In Texas, we have seen a variety of natural disasters, including hurricanes, floods, wildlife, tornados, and droughts. The frequency and the severity of these disasters are not just in Texas, but they are all over the country, as you know. They are on the rise and increasing with severity.

FEMA's work helps communities affected by these disasters. The Disaster Relief Fund provides the funding necessary to respond to disasters like in Texas and assist with the recovery process, including providing critical resources and supplies. And, of course, one of the things that we are interested in is, how do we expedite, how do we become more efficient, how do we provide that help when—at the moment of need at that time. So, we appreciate the work that FEMA plays in helping in the greatest time of needs before, during, and after the disaster, but again looking at efficiency and effectiveness on that.

Today, you know, we certainly want to hear from you about the fiscal year 2024 funding requirements for the agency and on the challenges and the opportunities that lie ahead for FEMA. I am interested in learning about what steps FEMA is taking to ensure that it is adequately resourced as we head into wildlife and hurricane season. I am particularly concerned about the shortfall in the Disaster Relief Fund, and want to learn more about what FEMA is doing to prepare for any difficulties that may arise.

I, again, want to thank all your workforce that do a great job for y'all. And certainly, I also want to hear a little bit about the committee—I mean, about the work, the $90 million that we put for Operation Stonegarden that goes to Border Patrol and local law officials.

This program, I think we started it back in 2008, and it is critical to ensure that border communities have the resources to improve border security in their own backyard. So, I certainly want to talk about how this funding is distributed and if you are facing any challenges that we can help you with.

Finally, I do want to, you know, ask you later on if we can talk about your performance strategic plan, your key performance measures, and what we need to do. I have looked at some of them. With all due respect, I think we need to do a little bit of work on some of that.

And, with that, I say thank you, and I look forward to your testimony and your answers to these questions.

Mr. Chairman, thank you, and I yield back.

Mr. JOYCE. Thank you, Mr. Cuellar.

Administrator Criswell, without objection, your full written testimony will be entered into the record. With that in mind, we would ask you to please summarize your opening statement in 5 minutes.

Ms. CRISWELL. Thank you.

STATEMENT OF HON. DEANNE CRISWELL

Chairman Joyce, Ranking Member Cuellar, and other members of the subcommittee, thank you for the opportunity to testify before you today regarding FEMA's $30.2 billion budget request for fiscal year 2024.

Today, our Nation faces an unprecedented number of complex disasters that require emergency managers to be more adaptable and ready to act at any moment. Natural disasters are becoming more intense, more frequent, and much more destructive, and I believe this is a pattern that will continue into the foreseeable future.

In just the last few weeks before this hearing, FEMA is supporting five States with impacts from severe weather outbreaks that took many lives and displaced thousands of people. Our fiscal year 2024 funding request ensures that the agency can continue to meet these challenges and be prepared for the future as FEMA works to support our Nation before, during, and after disasters.

FEMA has aligned our budget request to support the goals outlined in our 2022–2026 strategic plan. These goals are instill equity as a foundation of emergency management, lead the whole of community in climate resilience, and promote and sustain a ready FEMA and a prepared Nation.

To begin today, I would like to highlight the work that we are doing to ensure that all disaster survivors receive the assistance for which they are eligible for. Disasters can impact anyone, but they can affect individuals and communities differently. So, our budget request has equity considerations woven into all of the work that we do.

We are also improving the customer experience to the development of more user-friendly digital tools that will reduce the time our customers spend accessing and submitting grant applications and forms for public assistance. These tools increase the capability of our customers while removing unnecessary barriers during their preparedness, recovery, and mitigation efforts.

FEMA is also requesting funding to continue building climate resilience in our Nation's disadvantaged communities by modernizing our suite of flood insurance products to make them more accessible.

The second pillar of our strategic plan is leading a whole of community in climate resilience. FEMA is not just a response and recovery agency. We are working with our partners to mitigate the impacts of future disasters. Thanks to strong bipartisan congressional support, we have made available historic levels of mitigation funding to communities over the past 2 years.

Our budget request includes $41.7 million to support strategies and products to address climate change through community partnerships. This includes further investments in Building Resilient Infrastructure and Communities, or our BRIC program, as well as our Hazard Mitigation Grant program, which will help fund projects to mitigate the impacts of future disasters. We are also implementing a building code strategy that increases hazard resilient building code adoption across our Nation.

In the fiscal year 2024 budget, we estimate setting aside $1 billion of the Disaster Relief Fund to be used exclusively for our BRIC

program. This set-aside will help communities build capacity by funding hazard mitigation projects, such as seismic retrofits, storm water management plans, and the construction of flood control and floodways.

The quicker we recognize and implement these proactive measures to reduce the loss of life and property, the safer and better off we are as a Nation.

Finally, as FEMA faces an increasing number of catastrophic disasters, we must increase our workforce along with capacity at the State and local level. Our budget request supports our work to promote and sustain a ready FEMA and a prepared Nation. The FEMA workforce is the agency's most valuable asset. Our budget request also includes $20.1 billion for the Disaster Relief Fund, which serves a vital function in addressing current and future disasters.

To reach this number, FEMA worked closely with disaster-impacted States and territories to better understand their recovery needs from ongoing catastrophic disasters. This was in addition to reviewing and evaluating the historical cost average for non-catastrophic disasters, the previously mentioned allocation for BRIC, and ensuring the reserve has available funds for initial response operations for any catastrophic event.

Just in this year alone, I have seen firsthand how tornados and severe storms have devastated communities in Mississippi, in Arkansas, and in California, and how our first responders at all levels of government came together to provide the critical resources to aid in these recovery efforts. It is imperative that we work together to ensure the DRF is sufficiently funded so that communities have the resources they need to quickly rebound from these traumatic events.

And I would be remiss to not briefly mention the work that we do through mitigation to prepare for other threats facing our country. Terrorist attacks can happen at any time or any moment, as we were reminded recently on the 10th anniversary of the Boston Marathon bombing. Our budget request includes a $55 million increase for the Nonprofit Security Grant Program. These vital grants will support our communities through physical security enhancements and other activities for nonprofit organizations that are at a high risk of terrorist attacks.

In closing, the fiscal year 2024 appropriations request will adequately position FEMA to face the critical challenges ahead in emergency management, and I look forward to your questions.

[The information follows:]

3567

65

STATEMENT

OF

DEANNE CRISWELL
ADMINISTRATOR
FEDERAL EMERGENCY MANAGEMENT AGENCY
U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON HOMELAND SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES WASHINGTON, D.C.

"Fiscal Year 2024 Budget Request for the Federal Emergency Management Agency"

Submitted
By
Federal Emergency Management Agency
500 C Street SW
Washington, D.C. 20472

April 18, 2023

Opening

Chairman Joyce, Ranking Member Cuellar, and Members of the Subcommittee, thank you for the opportunity to testify before you today to discuss FEMA's Fiscal Year (FY) 2024 $30.2 billion total appropriations request.

As our nation continues to face an unprecedented number of complex and catastrophic disasters, the field of emergency management has never been more critical. We must be ready to act at any moment. Now, more than any previous time in history, emergency managers must be adaptable and ready to execute the fundamentals of emergency management as the disaster mission evolves. Concurrently, we must continue to assess our programs and resources to ensure they are meeting the needs of our citizens they serve.

FEMA is committed to providing the support our states, tribes, territories, and communities need as they recover from both natural and human-induced disasters, incidents, and events. Between 2016 and 2022, FEMA experienced a 124 percent increase in the number of staff who deployed to support disaster operations for more than 30 days. In 2022 alone, FEMA performed recovery work during 52 major disaster declarations, with employees spending an average of 95 days on deployment serving our communities and citizens firsthand. A recent example is FEMA partnering with the New Mexico state and local partners to establish the Hermit's Peak/Calf Canyon Claims Office. Congress directed FEMA to stand up an office that would disburse funding and ensure a simple and timely claims process for the citizens and businesses as they recovered from a devastating wildfire.

As you know, following a disaster, FEMA serves both individual survivors and communities through our individual and public assistance programs. In 2022, FEMA provided more than $3.2 billion directly to disaster survivors and more than $30 billion to support the rebuilding and repair of community infrastructure following disasters. The Agency also continues to provide operational support in collaboration with our federal partners at the southern border.

The FY 2024 President's Budget request will provide the resources the Agency needs to meet its mission of helping people before, during, and after disasters. FEMA's budget request is closely aligned to support three overarching goals outlined in the 2022-2026 FEMA Strategic Plan. These goals are to: 1) instill equity as a foundation of emergency management; 2) lead the whole of community in climate resilience; and 3) promote and sustain a ready FEMA and a prepared nation. Our budget request directly reflects our continued commitment to fulfill our mission, while also effectively managing our resources. Additionally, our request promotes our ability to coordinate mitigation, response, recovery, and preparedness missions while also equipping a highly skilled and competent workforce who are ready at any moment to provide on-the-ground support to our communities.

Instill Equity as a Foundation of Emergency Management

Disasters affect everyone differently and make existing challenges in communities and the lives of survivors more difficult.

One of my priorities to ensure we're putting people first is partnering with our state, local, tribal, and territorial (SLTT) communities to instill equity as a foundation of emergency

management. Some of the ways we accomplish this is through the Agency's enhanced Building Resilient Infrastructure and Communities (BRIC) direct technical assistance and by improving program access through all of our mitigation grant programs. These programs will provide our communities access to effective and efficient tools to assist in their recovery and resilience efforts. These capabilities will expand our outreach to states, local communities, Tribal Nations, and territories and address new climate risks, promote risk mitigation and avoidance, and improve accessibility for our socially vulnerable populations.

We also recognize that under-resourced communities experience differences in preparing for and recovering from disasters. Further, they tend to face greater obstacles in resuming a new normal way of life immediately following a disaster. Our budget request reflects these considerations throughout the agency's programs, and I'll highlight a few examples.

FEMA's request includes $6.6 million to continue building climate resilience in the nation's disadvantaged communities through making our flood insurance products more accessible to our customers; building climate resilience in disadvantaged communities through our grant outreach and technical assistance programs; and enhancing our flood mitigation assistance program. For example, $1.8 million will be used to enhance our customer experience through a more streamlined, user-friendly digital platform that will reduce the amount of time our customers require to complete and submit requests for grants and public assistance. This digitized platform will aid in the removal of barriers to, and usage of, these programs by underserved communities.

In our country, disaster-related floods on average lead to more deaths each year than tornadoes and hurricanes, and no community is immune from the risk of flooding. The FY 2024 budget request includes $3.7 million to modernize our suite of flood insurance products and realigns $6.9 million within our flood mitigation assistance program to support hiring additional personnel. We are increasing our outreach efforts to enhance the customer service we provide communities.

Finally, I recognize many communities do not have the resources to develop and design mitigation projects. That is why our budget request asks for $1.1 million to enable us to build on our mitigation grant outreach through a direct technical assistance model that will increase community resilience in highly vulnerable, under-resourced small communities nationwide.

Lead Whole of Community in Climate Resilience

As stated earlier, FEMA is responding to a greater number of, and more complex, disasters. We must put practices in place to stop the repeated cycle of response and recovery. One of the ways we will do this is through greater investment in climate resilience. Our budget request invests $41.7 million to support the Administration's priorities to mitigate the effects of climate change. While we must be vigilant and prepared to respond when disasters occur, we must equally work together at all levels of government to reduce the risk to individuals and properties from disasters before they occur. To this end, FEMA plans to lead this challenge and continue proactively partnering with our communities through identifying, understanding, and building resilience to the risks we face.

Specifically, FEMA's request includes an additional $37.3 million to further our inventory of decision support products that will highlight future flood conditions and support the Federal Flood Risk Management Standard, along with the associated climate-informed activities designed for future flood events. This funding will improve RiskMAP's ability to continue building community partnerships and supporting long-term hazard mitigation planning activities. These initiatives are designed to prepare communities for future flood conditions by developing risk assessment capabilities.

FEMA's FY 2024 budget request also includes $4.3 million that will enable communities to better prepare for disasters. Included in this request is $2.4 million that will be used for hiring additional staff to improve our ability to share data on future flood risks and that will support our development of risk assessment capabilities for flooding. The request also includes $1.1 million for implementing a Building Codes Strategy and $0.8 million for establishing a new Climate Adaptation Office. The funding for the Building Codes Strategy builds on our work in FY 2021-2023, which created the strategy office and aligned building code activity across the Agency. This investment will enable us to hire additional staff to establish a Building Codes Program Office at Headquarters to implement the work previously accomplished. This office's work aims to achieve a goal of over 50 percent of the nation's communities to adopt a current code in the next three years. This work will increase hazard-resistant building codes adoption that will directly contribute to superior building performance during disasters.

The budget also proposes funds to stand up a full-time, dedicated policy coordination Climate Adaptation Office, which will holistically integrate climate adaptation initiatives, climate science, data, and perspectives into FEMA operations, programs, and communications. The office will also support national policy and guidance development in close coordination with FEMA programs, partner agencies from the Department of Homeland Security and the White House.

FEMA's FY 2024 budget request includes $1.0 billion for the Building Resilient Infrastructure and Communities (BRIC) grant program that builds on the work we have done in small and large communities alike and reassures our commitment to leading recovery efforts by providing communities with assistance after a catastrophic event. The quicker we recognize the importance of working to reduce the loss of life and property by lessening the impact of disasters, the better off we will be as a nation.

We look forward to partnering with you to implement the President's Budget for FEMA in the disaster mitigation arena to better assist under-resourced and underserved communities, and to ensure they receive equitable access to mitigation assistance.

Promote and Sustain a Ready FEMA and a Prepared Nation

The FEMA workforce is the Agency's most valuable asset and represents some of the country's best equipped and knowledgeable emergency managers. They are prepared to respond at any moment to hurricanes, tornadoes, floods, health emergencies, and other human-induced events, such as train derailments and oil spills. Even as the number and complexity of disasters continue to raise the bar, our incredible team continues to meet and exceed the requirements – we will always be there when the nation calls. The Agency's

budget includes an increase of $15.2 million to establish three additional Logistics Staging Management Teams, strategically placed across the United States, to ensure rapid delivery of resources to SLTT partners by prepositioning lifesaving and life-sustaining commodities as close to potentially impacted communities as possible.

Equipping a ready workforce while also providing user-friendly, accessible technology platforms to our external stakeholders requires ensuring our information technology (IT) infrastructure and information security posture are updated and incorporate the latest requirements. In addition to providing food, water, and other critical commodities following a disaster, one of the first things FEMA does is get money into the hands of survivors and communities to help jump start their recovery. To do this, we must ensure our IT systems are upgraded and ready to meet the nation's needs in its darkest hours. As such, our budget request includes $138.1 million that will address cybersecurity vulnerabilities, gaps in our internal controls, and modernizing the Agency's antiquated IT systems.

The Disaster Relief Fund (DRF) plays a vital function to our nation's readiness posture by providing response and recovery efforts to communities impacted by domestic major disasters and emergencies. In FY 2024, our total request includes an additional $20.1 billion for the DRF to address immediate needs and recovery for major disasters.

Our FY 2024 budget request includes $14.1 million that will support enhancements to the Integrated Public Alert and Warning System (IPAWS). IPAWS is the system that provides emergency alert warnings from the President, the National Weather Service, emergency managers, and public safety officials to the public across the country. IPAWS provides life-saving information to the public through mobile phones using wireless emergency alerts, to radio and television through the Emergency Alert System and on the National Oceanic and Atmospheric Administration's Weather Radio. Additionally, this funding will support the Grants Management Modernization, Enterprise Data and Analytics Modernization Initiative, as well as enhancements of other critical IT systems. FEMA's Enterprise Cloud Services Support includes $20.7 million in FY 2024. This funding will ensure the FEMA Enterprise Cloud continues to enable and sustain mission essential functions, disaster response and recovery, agency operations, and other mission-related activities that rely on cloud services.

We must ensure that our workforce has a secure, and safe space to conduct mission essential operations. In FY 2024, we are planning for structural and technical improvements at several of our key facilities to be ready for our nation to respond to domestic events. To that end, our budget request includes $43.6M for facility improvements. This includes $6.1 million to support regional projects, such as upgrades to the utilities' infrastructure at the Region 6 Headquarters and the lease consolidation at Region 8. FEMA is also planning $35 million in enhancements to Mt. Weather Emergency Operations Center facilities, a national asset that provides resilient infrastructure, logistics, and medical support along with support personnel for a wide variety of vital government functions. Finally, we requested $2.5 million to fund the modernization and replacement of the IT infrastructure on the National Emergency Training Center campus, where our nation's emergency managers and firefighters receive world-class training.

Consistent with congressional direction, FEMA is also one of the federal agencies that provides assistance to the migrant population at the southern border, and throughout the country. As part of the Shelter and Services Program (SSP), the FY 2024 budget includes $83.5 million to provide grant funds to nonprofits and local entities who assist noncitizens released from DHS custody. The Department's FY 2024 budget request also includes $4.7 billion for a Border Contingency Fund that will provide DHS and its Components the flexibility to provide services when responding to migration surges along the southern border. Further, this designated funding will allow the DHS Components the flexibility to respond immediately to the critical needs of the migrant population through providing transportation, medical support, and other administrative needs.

Just as FEMA must be ready to respond to natural disasters through our preparedness efforts, we must equally be ready and equipped to respond when terrorist attacks occur. Last year, the Congregation Beth Israel synagogue in Colleyville, Texas, experienced a horrific incident of targeted violence, which reminds us that threats to the homeland no longer occur only in high population areas. During my visit to Colleyville, I met with the Rabbi and the Congregants and saw firsthand how this devasting event impacted not only the community but their individual lives as well. They also shared how the funding from the Nonprofit Security Grant Program greatly benefited their efforts to recover and to protect themselves from future attacks. In FY 2024, our budget request includes a $55.0 million increase in the Nonprofit Security Grant Program. This vital grant supports local communities through target hardening, physical security enhancements, and other activities for nonprofit organizations that are at high risk of terrorist and violent extremist attacks.

The FY 2024 budget request also includes $50.0 million for establishing a Critical Infrastructure Cybersecurity Grant Program. The number of cyberattacks on schools, hospitals, research institutions, and other organizations are on the rise. Without a secure IT infrastructure, organizations are vulnerable to a cyberattack. In partnership with the Cybersecurity and Infrastructure Security Agency (CISA), this new competitive grant program will provide private and public water, transportation, and energy providers with federal assistance to implement risk reduction strategies to protect critical infrastructure from cyberattacks. This grant will enable FEMA to support CISA as they collaborate with our SLTT partners to educate them on the advantages of risk reduction strategies to secure IT systems.

Closing

Emergency management is at a critical juncture as we witness tremendous change in the landscape of risk. While our core mission is unchanged, our operating environment continues to evolve and expand. FEMA's FY 2024 budget request is intended to enable the agency to respond to the nation's current needs while preparing for what additional challenges may lie ahead. I look forward to partnering with you as we work together to build a ready FEMA and a more resilient, prepared nation.

Thank you for the opportunity to testify, and I look forward to your questions.

Mr. JOYCE. Thank you very much. And we will begin questions, if you will, and I will begin.

We have spent $112 billion on eligible COVID expenses out of the Disaster Relief Fund since fiscal year 2020, and we will likely spend additional funds as reimbursement requests from States continue to emerge. Under the latest projections, FEMA anticipates a $11.7 billion deficit in the Disaster Relief Fund this fiscal year, with funds running out sometime this summer.

As we continue to see Disaster Relief Fund balances decrease by billions each month and as we move into hurricane season, do you have a plan to curtail spending on COVID to ensure FEMA has sufficient funds available to immediately respond to a catastrophic disaster?

Ms. CRISWELL. Chairman, I would, you know, first like to recognize that the COVID–19 incident period has been the longest one in our agency's history, and it is the first ever nationwide disaster for all 50 States, the District of Columbia, our territories, and three Tribes simultaneously. And I would like to personally thank all of our staff who have worked tirelessly over the last 3 years supporting the response efforts and helping these communities.

We have taken a lot of measures over the last 3 years that we have been responding to COVID–19 to make sure that we are understanding what the costs are that communities are experiencing and that we are taking the appropriate measures to look at where they are getting funding from, other sources, so we don't have a duplication of effort.

We have, to date, already recovered over $3 billion in costs that were obligated for COVID–19 for a variety of reasons, and we will continue to do this effort to make sure that only those costs that are eligible are reimbursed, just as we do with all of our disasters.

Mr. JOYCE. Will the funds requested in the forthcoming supplemental in the fiscal year 2024 budget fully address all COVID reimbursement requirements or do you anticipate that we will need additional fiscal resources in fiscal year 2024 and beyond to continue to address COVID expenses?

Ms. CRISWELL. The amount of the supplemental that you are going to see will address all of the requirements that we expect for the remainder of this fiscal year, and I do believe that our budget request going into fiscal year 2024 will incorporate the costs as we expect them right now from COVID–19. But, I would say that this has been one of those more unpredictable events, right? With a disaster, a natural disaster, we have good data. We have an understanding of the types of costs that communities are going to experience. We have been working every day through our Regional Administrators to better understand the costs that these communities have experienced, and I do believe that we have a good understanding going into fiscal year 2024. But, we have yet to receive all of their bills. And so, as we continue to do that, we will continue to work with them, looking at all of the available funding sources that they have to cover the expenses that they experienced responding to COVID–19.

Mr. JOYCE. You mentioned in your last answer about the oversight. What measures are in place to provide proper oversight for the $112 billion obligated to date for COVID expenses? And how

are you minimizing waste, fraud, and abuse for future funding requests?

Ms. CRISWELL. This has been one of our very focused areas, right? Again, this is a disaster that we have not experienced. We adapted our policies to meet the needs of communities, and we wanted to make sure that we had all of the measures in place to make sure that we were monitoring the funds—monitoring the obligations—to make sure that they were used appropriately. We have put measures in place to address things like in our Lost Wages program, as well as our Funeral Assistance program, to monitor for fraud and abuse. And I would be happy to have my team get together with you and go over some of the details of the actual items that we have put in place to monitor those.

Mr. JOYCE. Thank you. I now recognize the ranking member, Mr. Cuellar, for his questions.

Mr. CUELLAR. Thank you, Mr. Chairman.

The disaster assistance, as you know, it is very important for different communities. And certainly, as you know, every State is diverse and different. How—one of the issues that I want to focus on is reducing the complexity in the Public Assistance Program. As you know, this is implemented through the process known as the Project Worksheet process, and even though it has been an effective tool for providing disaster assistance, there can be challenges associated with it. And one of them is the complexity.

I assume, if you are in the middle of a disaster and you are stressed out, and whether you are a public official or homeowner, renter, especially for small communities, that can be tough, and especially communities or organizations that have limited resources. And this can, of course, lead to delays in the delivery of the assistance and can be a problem when you are trying to recover and you are trying to fill out the paperwork.

Like I have always said, I wish I had the little red button where I just press it and it turns it into a one-pager, get rid of all the legalese and understand it in plain English.

So, what steps are you all taking to reduce the complexity and streamline the process, just putting yourself in the shoes of somebody who is in the middle of a disaster?

Ms. CRISWELL. It is a really great point, because one thing that we are very focused on within our mission is to ensure that all communities have access to the programs that are available and that we are reducing any barriers that might make them ineligible or have them not pursue the things that they are eligible for in order to support their recovery efforts.

We have done a couple of things that I would like to highlight. And I think first, as it relates to the Public Assistance Program, with a recent rule change, we have changed the small project threshold to a million dollars. That means that the majority of the projects that many of these communities experience will fall within this small project threshold, which simplifies the process for them in order to seek reimbursement. I mean, so we have been working with our State and local partners to help them understand the benefits of this new program and how we can streamline that, so they don't have to go through all of the complicated processes.

We will still have that for our more complex projects and those that are the more expensive projects, but making this change, I think, is going to have a big difference in many of these smaller communities that the majority of their projects will fall within that threshold.

We also have FEMA integration team members and we also have liaison officers that we embed in these small communities to help them through the process, and we want to make sure that we continue to do that, again, recognizing that every community has their own unique circumstance—their own unique need.

And I started my career in emergency management with a staff of two and a half, and I know how difficult it is navigate the bureaucracy, and I have never forgotten that. And so I continue to bring that experience with me to make sure that we are working as a team to help support these communities, bringing our services to them as much as we can, instead of forcing them to figure out how to navigate our processes. And you have my commitment to continue doing that.

Mr. CUELLAR. Yeah. And I appreciate your perspective from doing local work. That makes a big difference.

Do you have somebody that constantly—or a group of folks that constantly look at processes, regulations that might need to be amended, deleted, modified, might be obsolete? Do you have somebody that looks on this on a systematic basis? Because I think that would help us—or help you do the streamlining process.

Ms. CRISWELL. Yes, we do. I mean, that is part of our Public Assistance team, part of our Recovery team. We are constantly looking at the way that we can maximize the eligibility in the items that we can provide within the authorities that we have, and they are continuously looking at the ways that we can improve. The result of that is the recent rule change that we had with the small project threshold. We are continuing to do that right now with some changes in our individual assistance program so we can improve it.

I would add one other piece too that we are adding here, that we just posted our first ever small State and rural advocate position. We want to bring somebody in that is their voice—is their advocate. And that position is open right now, and I am looking forward to having that person come on board and assist in that process of really looking at our policies and our procedures to see, you know, where they are creating unintended barriers.

Mr. CUELLAR. Okay. Well, my time is up. But I do want to thank you for bringing that perspective from somebody who has been on the other side and now doing this work. So, thank you so much.

Ms. CRISWELL. Thank you.

Mr. CUELLAR. Thank you.

Mr. JOYCE. Thank you very much, Ranking Member Cuellar.

Mr. Newhouse is recognized.

Mr. NEWHOUSE. Thank you, Chairman Joyce.

Administrator Criswell, thank for being with us. I appreciate your taking the time to visit with us today. Just a couple of questions about the—some of your efforts.

I come from the State of Washington, where we have seen more than our fair share, I think, of catastrophic wildfires. Multiple

agencies have a shared responsibility regarding wildfires and recovery efforts, including the awarding of contracts and overall management during wildfire seasons. But I believe FEMA is the principal agency and principal adviser regarding emergency management.

Given what we have been through as a country, I mean, with the pandemic and all different challenges we have had recently, in your estimation, are we prepared for the next disaster? Is the agency ready to respond, and do you have the resources necessary?

Ms. CRISWELL. Thank you for the question. We are facing a really unprecedented time, I believe, of the increase in the number of disasters that we are seeing. In 2022 alone, we saw multiple record-breaking events, weather/rain events over a 5–week period that broke rainfall records or records that were set over a hundred years ago. We have seen multiple events already this year breaking the record number of tornadoes in the first 3 months of this year already. And I fear that this is going to be the way of the future.

And so we have to continue to work through what is the right level of readiness, not just at the Federal level, but also supporting the capacity building at the State and local level, because that is where the disasters are going to stay. They start and end with that local community, and we want to continue to work with them to build that capacity, and we do that through our grant programs and through our preparedness programs.

But more importantly, we need to start to reduce the impacts of these threats. And so, to get ahead of the need for additional staff, we have to start to invest in reducing impacts through our mitigation programs, and that is where programs like our Building Resilient Infrastructure and Communities or our Hazard Mitigation Grant Program are going to make a big difference for the threats that we are going to face in the future.

Mr. NEWHOUSE. In regard to the Disaster Relief Fund—and maybe this was brought up already—but I believe it is expecting a shortfall. Do you have an idea—any kind of a measurement of what that could be?

Ms. CRISWELL. Yes. So, we are expecting a shortfall in the Disaster Relief Fund this year in the July timeframe. Current estimates right now are around $12 billion that we will have a shortfall for. And so we are putting planning measures in place to make sure that we can continue to respond to catastrophic events while we work with Congress and the administration on a potential supplemental to make sure that we have enough funding to support the ongoing recovery efforts that we are facing right now.

Mr. NEWHOUSE. Yeah, because there is a lot of calendar left after that period of time.

Ms. CRISWELL. There is what? I am sorry.

Mr. NEWHOUSE. A lot of calendar left after that period of time.

Ms. CRISWELL. There is. There absolutely is, right? And that is taking us—we want to make sure that we have enough funding to respond to a catastrophic event as that is the beginning of hurricane season and the peak of hurricane season, which really starts in August and September.

Mr. NEWHOUSE. I am assuming the answer is yes, but have you communicated with State agencies so that they submit their reim-

bursements timely, so that the agency has a good accounting of what funds will be available?

Ms. CRISWELL. We work through our Regional Administrators consistently to make sure that we have an understanding of what their anticipated requests for reimbursement are going to be. We have a really good idea of what the expected costs are going to be for disaster obligations, for natural disaster obligations.

Our area of a little bit more uncertainly has been through the COVID–19 reimbursements, but we are working with them on a day-by-day basis to get a better understanding of what they are going to reimburse and where we can continue to recoup funding.

We are doing our part to make sure that, as we approach this potential shortfall in our Disaster Relief Fund, that we continue to recoup funding. And we have already recouped several billion dollars over the last several months in obligations and projects that were considered a hundred percent but hadn't spent all the money to put it back into our Disaster Relief Fund. And so we are making sure that we are doing our part along the way as well.

Mr. NEWHOUSE. Good. Good. I appreciate that. Thanks for your response.

I may have more questions, but at this point, I will yield back. Thank you very much.

Mr. JOYCE. Thank you very much, Mr. Newhouse.

I now recognize Mr. Case for 5 minutes.

Mr. CASE. Thank you, Mr. Chair. I thought that was assumed, Chair. Thank you.

I just wanted to continue the line of questioning by my colleague just now. Just so that I am clear, when—because you referenced the reserve in your introductory comments—you said that we wanted to make sure the reserve had available funds.

That is the same thing as the Disaster Relief Fund, right? Or is it? Are we talking about the same thing? We are talking about money stored up to fund disaster relief when it happens?

Ms. CRISWELL. Yes. Let me clarify. We don't have a separate reserve. I want to have enough reserved in the Disaster Relief Fund to support any potential events that might happen before the end of the fiscal year.

Mr. CASE. And I guess my real question is: Do you have sufficient reserve in the fund right now, given the demands on it from recent disasters, and to include COVID? I mean, how comfortable are you of your projections?

Disasters themselves are hard to predict. But are there any outstanding obligations that are uncertain at this point? I mean, how certain are you of whether you have enough money right now?

And you talked about a supplemental, by the way. So I assume that you are already working on a set of assumptions that contemplates that the reserve is not going to be sufficient unless we do a supplemental in the middle of this year. So what is your thinking on that?

Ms. CRISWELL. Yeah. Congressman, we project a shortfall in July. So our current projections are we will not have enough money in the Disaster Relief Fund past July to support the ongoing obligations for current recovery efforts. And so what we will do is we will put mechanisms in place to delay reimbursements for some of the

recovery operations, to ensure I have enough funding to support immediate response actions for life-saving, life-sustaining efforts if there is another catastrophic event.

Mr. CASE. Okay. And is that assumption based on no further disasters between now and July or are you factoring a disaster or two into that projection?

Ms. CRISWELL. We are factoring in the typical size of disasters that we experience between now and the end of the year, but it would not factor in some multiple catastrophic events that might happen.

Mr. CASE. Okay. All right. And so, the supplemental would be really a stopgap, I suppose, right, of—to get the Fund back up to some kind of solvency. But, there has to be a larger fix, doesn't there, to the Fund that is more than just, you know, putting another supplemental amount in there? Wouldn't it require some kind of more systematic adjustment in the funding mechanism for the Disaster Relief Fund?

Ms. CRISWELL. Yeah. The supplemental will make sure that we can cover all of our bills to the end of this fiscal year. The amount of funding that we have put forward in the fiscal year 2024 budget, based on our analysis of the types of events that we have, would be sufficient to cover that. Again, pending multiple major catastrophic events that might cause an increase in the demand on it is not figured in, but it is based on an average year of the type of disasters that we experience.

I think going into this year, our big unknown was COVID–19, but we have better fidelity as we have been working over the last 2 years with our States to understand what their reimbursement requests are going to be. And I think we have much better fidelity going into fiscal year 2024 and what those requests will be.

Mr. CASE. Okay. Great. Going back to the comments on small States. So, I come from a small State, and I come from a rural State also. So, I really welcomed that comment on the advocate. And I want to put this in the context of one particular area where this makes a difference, and that is your required rollover and building code updates over time that I think you roll them over something like every 3 years or something like that, roughly. I think I have this right.

It takes us a long time, given the capacity in Hawaii, to update building codes. In fact, it takes us probably 4 years every time there is a required—not required, but it is a condition of our funding, right? So of course it is designed to incentivize updated building codes along the way. But we find, you know, there is a problem in the capacity to keep up with the schedule that FEMA proposes. And therefore, obviously, we are left at a disadvantage as to grant applications along these lines.

So the money you are requesting to build capacity, I suppose that is what that is about, right, to help States without capacity to get the capacity to update their building codes to kind of stay current, right?

Ms. CRISWELL. So, FEMA does not have any authority to enforce or mandate communities, States, small jurisdictions, any jurisdiction, to adopt building codes. Our Building Code Strategy is about

encouraging and educating the value of building codes, and in some of our grant programs we have put incentives for States.

Mr. CASE. Yeah, exactly. You don't have the authority——

Ms. CRISWELL. But, we don't have a mandate.

Mr. CASE. That is correct, but as a practical matter, a State that does not update their building codes is disadvantaged from competitive FEMA grants, correct?

Ms. CRISWELL. It is. And one for our grant programs, which is our BRIC program, which is our flagship program for reducing the impacts of disasters, building codes is a piece to that.

We have recognized—this is going into our fourth year of the program—the impact of having that building code requirement in our Notice of Funding Opportunity has had. And so, as we work through this year, learning the lessons over the past 3 years of this program, we are working through solutions and options that will help build capacity for State and local communities to actually adopt building codes. And so, that is one of our areas of focus.

Going into the next round, we don't know exactly what that is going to look like yet, but we recognize that it takes a while, right, to adopt building codes. And we can't expect it to happen overnight, and we need to help incentivize and support the ability for State and local jurisdictions to do that as well.

Mr. CASE. Okay. Thank you very much.

Apologies, Chair, that probably was a good caution at the beginning on the 5 minutes.

Mr. JOYCE. Well, this morning we had a good time keeping to our 5 minutes, so I wanted to make sure you understood that, Mr. Case. Mrs. Hinson is now recognized.

Mrs. HINSON. Thank you, Mr. Chair.

I want to follow up a little bit on what my colleague from Hawaii was just asking about with the BRIC program because, obviously, within the guidance, there is points awarded for building codes in States that are mandatory. And Iowa code does not have statewide building codes. So, that automatically puts us, you know, at a disadvantage, I think, when it comes to competitive applications. And to date, there has been no BRIC application approved from the State of Iowa, only one of them approved in our FEMA region.

So, would you agree that our State is automatically at a disadvantage and underserved because we don't have statewide building codes?

Ms. CRISWELL. Congresswoman, I would say that after 3 years of the program, we have seen some of the unintentional impacts of the incentives that we thought we were putting into our program have had. And as we move forward into this next round of our BRIC applications, we are going to be making some changes that will take away a lot of the disadvantages that have happened and help actually build and support the capacity at State and/or local jurisdictions' level to either adopt building codes or have a way to be more competitive in the program.

Mrs. HINSON. Because, I mean, I heard in your opening statement that you are looking at equity considerations, and that automatically disadvantages a State like mine. So, would you be able to commit to me that you will work with our office to make sure that we are trying to prioritize going forward in a way that makes

these applications more competitive no matter if you have those building codes in place?

Ms. CRISWELL. Absolutely. We want to incentivize, not penalize communities for this. So, yes, you have my commitment.

Mrs. HINSON. Okay, great. Awesome. Thank you. And then I think I want to go back to something we talked about last year. But, I think you know Iowa is no stranger to flooding, which is the biggest issue to my district, ensuring that flood maps are accurate to protect families, homes, businesses, you name it. We just celebrated a major milestone in flood mitigation and protection in Cedar Rapids last week. But, relying on the flood insurance rate maps and making sure those are up to date is critical so that people can make informed decisions.

So, I would just ask you: What are some of the concerns that you might have with some of those outdated firms that exist?

Ms. CRISWELL. Yeah. One of the things that our FIRMs do, right, is they are a regulatory map, and they really identify those special flood hazard areas, and they look historically at the risk that is out there. But we do recognize that our landscape is changing, and the type of flooding that a FIRM really reflects is not comprehensive to other types of flooding. And so, we are working on the future of flood risk data and how we can better inform communities on the types of flood risk that are out there.

You know, I want to make sure that we also look at the difference, right—that we want to have a flood mapping program that helps communities understand the total impact of the types of flooding events that they can experience in a different sense than just our pure regulatory map, which is our FIRMs that really identify that special flood hazard area.

Our goal is to eventually get those two to come together, but right now a big focus on using our Risk MAP and our future of flood risk data to help communities understand future risk to flooding, instead of just being in a different zone, and so making sure that we help communities understand the difference between those two efforts that we have underway.

Mrs. HINSON. Well, I certainly understand there is a delta there. In my district, six counties have FIRMs that have not been updated in over 5 years. So, I think that is one thing that we have to try to jive those two things, given the amount of not only potential flooding, but flooding that has already happened and the thousands of taxpayer dollars that have flowed in to help Iowans recover.

Do you think the request, the $37 million requested, will be enough to ensure that the maps are updated and that process can efficiently move forward?

Ms. CRISWELL. I think the amount of funding that we have requested is realistic for what we can accomplish in the fiscal year to begin the process of updating those maps.

Mrs. HINSON. Would you agree that making sure that the maps reflect the best available science and data on future conditions is really crucial to making sure they can be effective?

Ms. CRISWELL. Absolutely. I have spoken many times on we can't base everything on historical risk because our landscape is changing every day. And we have to be able to use modeling and future

risk data to help inform communities, so they can take the right steps to protect themselves.

Mrs. HINSON. Okay. My biggest concern is, in Iowa, during an independent report, about 300,000 properties were identified as substantial risk for flooding, but FEMA is only identifying about 150,000 properties. So, when you look at that gap there, that is half, right?

Ms. CRISWELL. Yes.

Mrs. HINSON. And those people may not be calculating their risks correctly. So, I think—I would just ask you to make sure that you are incorporating that best data into reconciling these two things, because clearly that is a lot of people that may find themselves in a really bad situation.

Ms. CRISWELL. Yeah. Absolutely, ma'am.

Mrs. HINSON. All right. Thank you, Administrator. I appreciate it.

I yield back, Mr. Chair.

Mr. JOYCE. Thank you very much, Mrs. Hinson.

I recognize Mr. Trone.

Mr. TRONE. Thank you, Chairman Joyce and Ranking Member Cuellar, Administrator, for being here today. Appreciate it.

You guys are best known and we want to commend you and thank you for all the great work you have done on the floods we have had in California, the tornados in the Midwest, and the horrible train accidents in Ohio. So thank you for that.

I mean, the cost of these natural disasters, $171 billion. That is what NOAA estimated in 2022. It is pretty mind-boggling. And we look at it getting worse and worse with climate change. So let's talk about budgeting a second and prioritizing.

You came back in 2023, this year, and you are going to ask for a supplemental of how much, $12 billion?

Ms. CRISWELL. $12 billion. Yes.

Mr. TRONE. $12 billion. Great. And we are really three-quarters of the way through in July. So, that meant 75 percent of your year and we are $12 billion short.

And in 2022, what was the supplemental that was asked for?

Ms. CRISWELL. I don't believe we asked for—maybe we did. I would have to get back to you on the exact numbers.

Mr. TRONE. We thought there was one in 2022.

And in 2021, was there a supplemental in 2021?

Ms. CRISWELL. I don't know. I would have to get back to you.

Mr. TRONE. Yeah. I think my point was simple. You know, I run a business, and we have a budget. You know, ask for what you think you need. You know, don't be shy. And, you know, you need it. These people are really in a world of hurt. You are there to help them and, you know, we want to make sure you have the funds that you need to be successful. And that is a whole—everyone feels the same way. So, you know, feel free to try and ask originally versus having to come back and come back, and death by a thousand cuts.

I noticed on Procurement Construction Improvements, that number got almost cut by—you know, almost in half. Explain that one to me. I just missed it. Wasn't aware why that was.

Ms. CRISWELL. I don't have the specifics on why that was cut in half. I would be happy to have my team get back with you and go through that specific request, but I don't have the specifics here in front of me.

Mr. TRONE. Yeah, if you could do that. I mean, it seems like we got to think long-term, and, you know, working on your infrastructure, that is what sounds like construction improvements is part of. And to cut that from 207 down to 119 is a pretty drastic percentage cut.

Other question would be: Your folks are on the road and looking at tremendous emergencies and human devastation, and that has got to take a severe penalty on the mental health of your team at FEMA. And I want to talk about, if you could, how you prioritize, you know, the mental health of your team, your staff at FEMA, and what resources you are putting forward to that, and anything we can do to help you there be successful, because your team is the key for everything.

Ms. CRISWELL. Congressman, that is such an incredibly important question and topic, and I really appreciate you raising it. One of the things that I have been very focused on is making sure that we are prioritizing the mental health—not just the physical health, but the mental health—and the well-being of our workforce, especially as we continue to respond to an increase in the number of disasters. It is not just the amount of disasters, but also they are talking to people at their worst time, and that takes a toll on people.

We have done a number of things, from pushing out our Headspace app, a Headspace app out to everybody that they can have a resource to go to for individual help, to we have a mental health nurse on standby that is there for people to go to and talk to, and she is always available.

We have brought on our first chief medical officer, that we haven't had in the past, that helps to develop a program for us to prioritize the physical and the mental well-being of our employees.

And we do stand-down days. Our Regions do stand-down days. Our program offices within headquarters do stand-down days to help make sure that our employees have the resources and the tools they need to support themselves, but also their families—make sure that they know their families will be taken care of if they have to work long hours in response to a disaster.

And so, it has been a priority for me and all of my senior leadership across the agency at all of my Regions to make sure that that is a key in everything that we are doing.

Mr. TRONE. That is great. We have a saying at my company that says, put your people work first. If you take care of your people, all the other stuff is going to work much better. So please continue to focus on that.

And I yield back, Mr. Chairman.

Mr. JOYCE. Thank you, Mr. Trone.

The chair now recognizes Dr. Harris.

Dr. HARRIS. Thank you very much.

And thank you for your job helping, you know, protect the Nation from its emergencies and recover from its emergencies.

I just have a question for you. A news article that I saw just puzzled me a little bit, but you are going to explain it, is how the—New York City on March 29 filed a $650 million request to FEMA to reimburse the city for costs incurred from sheltering and providing services for tens of thousands of migrants between last July and February 28, came 4 days before the April 2 deadline to apply for the funds, which are coming from FEMA's Emergency Food and Shelter Humanitarian Program.

Now, I thought we kind of—the whole purpose of FEMA is kind of to respond to, like, emergencies that aren't caused by people.

Now, when we say migrants, exactly what do they mean in that news story when they say migrants? Do they mean people who cross into this country illegally perhaps, ended up in New York, and somehow New York is now going to the Federal Government and saying, wait a minute, this is not our fault, you didn't enforce the law, they are here, so now this is an emergency?

Ms. CRISWELL. Congressman, we have one program at FEMA that supports mostly nonprofit and nongovernmental organizations, but also some jurisdictions with their efforts to respond to the support that they are giving to migrants, and that is our Emergency Food and Shelter Program-Humanitarian. This is a program that Congress put forth a few years ago to provide that additional funding to support these nonprofits. It is managed through a board, a National Board, that is led by the United Way, and they make all of the decisions on where the funding is going to go. We do sit on the Board. FEMA is a member of that Board, but it is purely a reimbursement mechanism for costs that are reviewed by the Board to determine eligibility on what is going to be reimbursed.

Dr. HARRIS. But this is all Federal dollars. I mean, these are FEMA dollars, right?

Ms. CRISWELL. These are dollars that were appropriated to FEMA and given to a Board to distribute.

Dr. HARRIS. Okay. So there—so what is the total budget for this in a year, fiscal year?

Ms. CRISWELL. The budget for this has gone up over the years. The budget request in fiscal year 2022 was $150 million, and in fiscal year 2023, that has gone up to $800 million.

Dr. HARRIS. And New York City is requesting $650 million of that $800 million?

Ms. CRISWELL. They are requesting that, but that does not mean that they are going to get all of that. This is going to many different jurisdictions across the country, border communities, as well as some of the interior cities that are also incurring costs.

Dr. HARRIS. So, there is going to be—so did you say $800 million, $900 million? What was it?

Ms. CRISWELL. $800 million.

Dr. HARRIS. $800 million. So, I am going to have to explain to my people, who just paid their taxes a couple days ago—well, actually, it is today—writing a check to the government today when we are told that, you know, the people who cross the border illegally, don't worry, they don't qualify for Federal programs, the whole thing, don't worry, you are not supporting them. We are actually supporting them to the tune of $800 million out of FEMA?

I mean, again, look, I live in a district that is on the ocean. I get it. We get flooding, we get hurricanes, the whole thing. I think most people don't view FEMA as that as one of the functions—I mean, I get it, Congress did it. You know, we do a lot of crazy things up here that have led to a, you know, $31.5 trillion Federal debt, over a trillion Federal deficit, which the President's budget never, ever, ever balances.

I got to tell you, I got heartburn when FEMA is spending $800 million and New York City has the nerve to ask for $600 million to reimburse the city for costs incurred from sheltering and providing services for tens of thousands of migrants. I just don't think that is fair to ask my taxpayers to pay for that.

This is a manmade emergency. It is made by the man sitting up at the other end of Pennsylvania Avenue, who decided he was not going to enforce the law. I think that wanders way far off the FEMA reservation. I think it wanders way off what people expect FEMA to do. And, again, I would hope that we would remove all the funding from that program in this year's budget.

And, of course, cries will go up that somehow we are, you know—I don't know, we are pushing granny off a cliff or something. But I don't foresee FEMA as being there to mitigate manmade emergencies.

And, with that, I yield back.

Mr. JOYCE. Thank you, Dr. Harris.

I now recognize Ms. Underwood for 5 minutes.

Ms. UNDERWOOD. Thank you, Mr. Chairman.

Administrator Criswell, thank you for being with us. It is nice to see you again.

Last year when you testified before our committee, you and I discussed how FEMA's guidance materials lacked information on financial assistance for breastfeeding equipment. Without this guidance, nursing families were asked to figure out eligibility for supplies to keep their babies alive, all in the middle of a disaster. That is why I introduced my DEMAND Act, to ensure breast pumps and other lactation supplies are eligible for FEMA's financial assistance.

And I asked you during last year's hearing to update FEMA's website with user-friendly information on breastfeeding and explicitly include those supports in FEMA's Individual Assistance Program and Policy Guide, or IAPPG, update in 2023.

It is clear that we share goals in this area, and I want to thank you for the strong commitments you made in that hearing which, when completed, will make the changes included in my DEMAND Act.

FEMA's website is now updated to include information on breastfeeding supplies and support eligibility, so today I want to follow up on the second part of the DEMAND Act.

Can you please share a progress update on the inclusion of breastfeeding supplies and support as an eligible entity for critical needs assistance in the IAPPG update in 2023?

Ms. CRISWELL. Yes. Congresswoman, I appreciate the conversation that we had last year, and we have made changes. We have updated our website, and it has always been an eligible expense under our Critical Needs Assistance, but our ability to commu-

nicate that needed to also improve. And so, we have done a couple of things there as well.

We have updated our correspondence to survivors to make sure that, when we give out information, they can see that. We are updating our website where individuals register for assistance, and that will be clearly articulated in there as one of the items that they can be eligible for. We provided training to our staff so they can communicate this and ask the right questions, right, that somebody might not think to ask, so we can ask them whether or not they need this assistance.

And so, we are continuing to work on the way we interact with survivors as well. And then, as we update our IAPPG this year, it will be included in there. And I will be happy to send you a copy once it is released.

Ms. UNDERWOOD. Well, thank you so much for that. When the IAPPG is released, the DEMAND Act will be fully enacted. That is fantastic news.

Now, FEMA still has more work to do to make sure that families can reliably access this support in the wake of a disaster. So, I would like to hear about the progress FEMA has made on your remaining commitments from last year's hearing.

First, has FEMA put together additional fact sheets to give State and local governments awareness that breastfeeding supplies and services are eligible?

Ms. CRISWELL. Yes, ma'am. That is one of the pieces of correspondence that we have put together to help make sure that people do understand that this is an eligible expense.

Ms. UNDERWOOD. Excellent. And is information on breastfeeding support eligibility available in the Disaster Recovery Centers where survivors can see and access it?

Ms. CRISWELL. And that is part of the training to even our own staff, to make sure that they understand that as they are interacting one-on-one with survivors when they come in and ask for assistance.

Ms. UNDERWOOD. And when you mention your staff, does that include the disaster survivor assistance teams?

Ms. CRISWELL. Yes. So disaster survivor assistance teams that go door to door, I will go back and make sure it is part of their training curriculum when we leave here, but also our applicant services that staff the DRC and help individuals register there as well.

Ms. UNDERWOOD. Excellent. Well, thank you, Administrator. You and your team have been great partners on this issue, and I am certainly looking forward to continuing to work together. These changes will make a big difference for families with young children going through some of their hardest days.

I yield back.

Mr. JOYCE. Thank you, Ms. Underwood.

Second round? Sure. I will take the opportunity to kick it off.

FEMA has proposed a significant reorganization dubbed the "Road to Resilience," intended to help the agency better address, quote, all hazards resilience.

Administrator Criswell, how do you define "resilience"?

Ms. CRISWELL. You know, that is a very interesting question on resilience. And I think, you know, it really differs depending on the

lens that a person is approaching resilience from, right? It can mean economic resilience. It can mean financial resilience.

For me and where I am sitting, I define "resilience" as the ability to make sure that communities have the ability to rebound after a disaster, that they have the ability to reduce the impacts that they are potentially going to experience from a disaster through our mitigation programs, and also that we have the ability to educate individuals across the country as to what their risks are, so they can be prepared to protect their families if an event does happen to hit them where they live.

Mr. JOYCE. What metrics is FEMA using to gauge success for this potential reorganization?

Ms. CRISWELL. We are still in the very early stages of this reorganization. And the Resilience organization was put together over the last 4 years, and it combined two different parts of our organization. And what I wanted to be able to do is try to streamline the efforts that they were putting forth to help communities build their resilience.

Again, coming from my experience as a local emergency manager, from both small and large cities, I found that I had several different touch points within the Resilience part of the organization in order to get different things to help me help my communities better. And what the goal is for this realignment is to make sure that the customer, the State and local emergency manager, have a single point of entry to help them build the resilience—whether that is a grant program, whether that is technical assistance, whether that is mitigation support—that they only have one place that they need to go to enter into the system, and we make it easier on them to start to build their own programs to increase resiliency for their communities.

Mr. JOYCE. Well, how are you ensuring that FEMA maintains its focus on its primary mission and does not get distracted by buzzwords like "resilience"?

Ms. CRISWELL. You know, the fundamentals of emergency management are response and recovery, which everybody knows. But the other part of our mission is preparedness and mitigation. And the preparedness and mitigation efforts were very siloed within our agency, and by combining them under an organization under Resilience, it helps to streamline those two parts, those two fundamental efforts, pillars of the emergency management spectrum, into an area that we can build that resilience so we don't have to respond and recover as much.

Mr. JOYCE. Local fire and EMS departments provide critical lifesaving services to the communities in which they operate. When I talk with firefighters and emergency responders across northeast Ohio, I often hear about staffing and other resource challenges facing their department. The Assistance to Firefighter Grants and SAFER grants program provide resources to recruit, train, and equip our first responders.

What is FEMA doing to ensure rural communities that are traditionally supported by volunteer fire departments are able to successfully compete for this grant funding?

Ms. CRISWELL. The AFG, the Assistance to Firefighters Grant, and our SAFER grant programs are two of our most remarkable

programs to help our firefighters and our emergency medical technicians, our EMS, and our first responders really build the capability that they have.

And I am really proud when I get to go out into communities, especially our more rural communities, even some of our Tribal nations, and they tell me how impactful that program has been to help them build their ability to respond to the people within their communities.

Through our U.S. Fire Administrator, Dr. Lori Moore-Merrell, she is very focused on making sure that we are reaching all communities, and that we, again, reduce the barriers and the hassle that it takes to apply for these types of programs, by trying to simplify some of the smaller requests to help these types of jurisdictions have that capability to respond to the people in their community and help save their lives.

Mr. JOYCE. Thank you.

I now recognize Ranking Member Cuellar.

Mr. CUELLAR. Thank you, Mr. Chairman.

I want to just give a little bit of context to one of the questions or statements that one of my colleagues made on the humanitarian relief. Actually, we started that in 2014. That model didn't work very well. And then in 2018–2019, the model got changed, where it now goes with FEMA, but it was to address the issues of what we face at the border communities. It was a border—southwest border community, because you had cities and counties that were overwhelmed.

The current system that we have actually got put under statute by the appropriations—even though we don't legislate—July 1, 2019, under President Trump, he was the President, and we originally started with $30 million. And then the $30 million, as even I have said, even I feel that that has grown too much, in my opinion.

The first tranche of moneys that you all put out, 88 percent of that money went to the southwestern border, which I am glad that it still—the focus is still on the southwest border. And then the other 12 percent includes D.C., Illinois, Maine. Maine gets—it is interesting there. And then New York, they get the other 12 percent.

Originally, like I said, we had started this to focus on the southwest border because this is in, and I guess Members see pot of moneys, and they start including in it, which leads me to the next one that started off also, John Culberson and myself, I think we started this in 2008, which is the Stonegarden. That Operation Stonegarden was to help border sheriffs, law enforcement at the southwest border.

We added money. I think we started out with $55, and I think now it is about $90 million. And then once we added the money there, then the northern—which I am okay—the northern sheriffs said, hey, we want a piece of the pie. And I think most of the money is still going to the southwest border.

Then when we raised it from $55 to $90, the prior Administration said, oh, we got to help those sheriffs in Florida for reasons. And now it is distributed, when originally both of these programs started off with the southwest program, because I have been involved with both of these programs from the very beginning.

So, I guess my question for Operation Stonegarden, which is a big one. And I know I have been talking to Congressman Tony Gonzales. We are hoping we can increase it because it really helps. My question is: How is this money distributed? Do you think there is enough flexibility where the sheriffs can work with Border Patrol to make sure that they stop the bad things coming in, especially fentanyl?

Ms. CRISWELL. Congressman Cuellar, I appreciate the question, and I appreciate the conversation we had about this recently when we met.

Operation Stonegarden, I mean, it is an incredibly important program that really helps enhance the coordination and the cooperation amongst all of the different agencies at the State, local, and Federal level to support the efforts that are going on at the border.

We work very closely with CBP, right? We are administering this program on their behalf, and they use a formula to help determine what the sector-level risk is going to be to help determine what those allocations are going to be and where the greatest need is. And we will continue to work and support CBP in those efforts to make sure that we are providing the funding to the areas that have the greatest need.

Mr. CUELLAR. The only thing I ask is that you all—you know, it is a good program. We are hoping we can put a little bit more money, but I notice here in Congress, when somebody sees a pot of money and then people start going after it—and I am okay with the northern border, Florida too, to an extent, but still the focus on the southern border itself.

What I would ask you is to make sure that we have this coordination with Border Patrol. Because sometimes there are governors that take part of that money, and I want to make sure it doesn't stay with the governor and they send it off other places, but it stays with the border sheriffs, whether it is in the northern border or the southern border. But it is a good program that works, and it certainly supplements Border Patrol as they do their work down there. So, thank you so much.

Mr. Chairman, I yield back.

Mr. JOYCE. Thank you, Mr. Cuellar.

And now, Sheriff Rutherford, are you ready, do you want 5 minutes?

Are you ready?

Mr. RUTHERFORD. Sure, I am ready.

Mr. JOYCE. Sheriff Rutherford.

Mr. RUTHERFORD. Thank you, Mr. Chairman.

And I am sorry, you know, we have hearings stacked on top of each other, so bear with me.

During——

Mr. JOYCE. You were here first, before you left——

Mr. RUTHERFORD. Well—last year, Florida was hit with not one but two massive hurricanes, Ian and Nicole. And they did significant damage across the entire State. And I appreciate the men and women of FEMA. They are always some of the first on the ground. You guys, you know, as a former sheriff, I know the job that you all do.

However, after the new cycles has moved, debris has been cleaned up, and power is turned back on, these communities are saddled with a slow and cumbersome reimbursement process, many of which they have to pay the interest on. And just last month, an entity in my district was notified that FEMA was reimbursing costs from Hurricane Matthew, which hit in 2016. The long reimbursement process can leave communities, as I mentioned just a moment ago, fronting millions of dollars in paid interest on that.

Are there some things that we can do to speed up that reimbursement process or can FEMA begin to help pay some of those costs?

Ms. CRISWELL. Congressman, Hurricane Ian followed by Hurricane Nicole, just devastating events that impacted Florida. In fact, Hurricane Ian right now is the third costliest cyclone in U.S. history.

Mr. RUTHERFORD. Yeah, it is amazing.

Ms. CRISWELL. I mean, so there is—I understand that there is definitely a large amount of reimbursement needs, but there are a number of things that we can do there. You know, in the first months after a disaster, we really focus on expediting the reimbursements for their overtime and the emergency protective measures in getting that cash flow going back, especially into some of these small communities that don't have a large cushion in their budget to do that. And so, we will work with them to reimburse part of those projects as they continue to gather all of the data.

I think as we get into some of the larger permanent repair projects and those repair projects that can take years to finish, that is where we need to really understand all of the different impacts that a community is having. And we can find ways to work with them throughout the process, if it is purely a financial issue that is slowing them down from even starting a project, right? And so those are things that we have learned throughout the years, unfortunately, from so many of these different catastrophic events.

I would be happy, if there is a community specifically that you know is having a hard time, I will make sure my team works with them specifically and follows up with them to see where their struggles are and what we can do to help them.

Mr. RUTHERFORD. Is there any idea how it could take 7 years?

Ms. CRISWELL. I think a lot of the 7 years from Hurricane Matthew are, again, some of these more complicated projects. They need to go through environmental reviews, right? And going through all of those different reviews are, a lot of the time, the things that slow this reimbursement process down.

Mr. RUTHERFORD. Okay. Thank you. And I might reach out to you on some of that. Thank you.

Ms. CRISWELL. Absolutely.

Mr. RUTHERFORD. Last year when you were in front of this committee, we discussed the supply chain concerns that the power companies were facing when it comes to equipment. And I am going to bring it up again, these transformers, because I am telling you, this is a vital piece of equipment. It used to take months to get them delivered. Now we are looking at years. And as you know, power companies usually stockpile, you know, what they can to respond to these disasters, but these transformers are just not there.

Can you tell me what actions did FEMA take last year to help bolster these supply chains for this type of equipment, particularly those transformers?

Ms. CRISWELL. Yeah, I remember the conversation we had last year. And we talked about the fact—what we do, right—is we provide temporary support through generators. We don't stockpile transformers.

But following our hearing last year, I asked my team to get with our consultant that does supply chain analysis, and we did a supply chain analysis going into hurricane season last year, with one of the areas of focus being on transformers and what the impact would be. As we went through hurricane season last year, the impacts to the current stock of transformers didn't have a huge impact. But, we are now going through another supply chain analysis going into this hurricane season, so we can see if there has been any change based on the events that have happened across the country, so we can work with our private sector partners to better understand how we can utilize mutual aid amongst them or is there some other mechanism that we need to do today to make sure that we are prepared to support the initial restoration of these critical energy infrastructure pieces.

Mr. RUTHERFORD. Thank you very much, Ms. Criswell, because I tell you, that has the potential to be a really horrific situation. I lived through Hurricane Dora in 1964, when we had, you know, no power for over 3 weeks. So that is very important to our State and to our country actually, not just Florida. We have a lot of problems everywhere.

I see my time is up. With that, I yield back. Thank you.

Mr. JOYCE. Thank you, Sheriff.

Ms. Underwood.

Ms. UNDERWOOD. Administrator, I would like to talk about equity at FEMA. Bold and deliberate policies are the only way that we will be able to combat the systemic inequality that we know is built into our Federal disaster preparation, response, and recovery efforts. So, I am glad to see that, under your leadership, equity is being instilled as a foundation of emergency management. It is literally the first goal in FEMA's 2022 to 2026 strategic plan.

One way that FEMA has unfortunately contributed to wealth inequality is through its hazard mitigation grants, which help communities prepare for disasters in advance. FEMA requires applicants for these grants to use a cost-effectiveness ratio to show the value of hazard mitigation activities, but because lower income communities have less wealth to lose, it was challenging to show the real value of their projects compared to communities with high-dollar properties and infrastructure. Researchers have found this disproportionately benefits wealthy communities seeking the grants while leaving the rest behind.

To address these challenges, in October, FEMA rolled out an alternative cost-effectiveness methodology for the BRIC and Flood Mitigation Assistance programs. By modifying the thresholds for projects to be considered cost effective, FEMA is giving communities who have been locked out from these Federal grants a more equitable shot at funds that will keep them safe in the face of a disaster. This is a powerful step forward.

After the fiscal year 2022 funding cycle, will FEMA analyze how this change impacted equity for the grants both in the applicant pool and the selected grant recipients? And how will FEMA determine if this alternative equation will be used for future funding cycles?

Ms. CRISWELL. Thank you so much for that question, because it is one of those efforts that we have put forward to try to make sure that we are removing the barriers that communities have to accessing the programs that can help them.

Every community has a different experience, every community has a different need. And unfortunately, sometimes the policies that we put in place have inadvertently eliminated those who probably need our help the most. And so, I am really excited about the changes that we were able to make as it relates to benefit-cost analysis. And we are going to definitely look at what impact that has had, as well as is there anything else that we can do.

I would also say to your comment about being able to do the BCA was limiting their ability to apply for these programs. One of the other changes that we have is under-resourced communities can now also apply for BRIC without competing or completing the BCA ahead of time. And if their project has merit, then we will work with them to complete that BCA afterwards. So, they are not eliminated up front just because of the hassle and the work that it takes in order to complete that BCA to submit a project application.

Ms. UNDERWOOD. So, it will be used in future funding cycles, do you anticipate?

Ms. CRISWELL. Yes.

Ms. UNDERWOOD. Okay. What proactive steps is FEMA taking to ensure communities who haven't been eligible before are aware of a new cost-benefit method?

Ms. CRISWELL. Our community engagement strategy that we are working with our Regional Administrators on is to make sure that we are getting out to communities so they have an understanding of these changes is really going to go a long way, right? Our Regional Administrators work with our States every day, and they know which communities need to apply for these programs. And they are helping us communicate that message down to the State, but more importantly the local communities.

We are also offering technical assistance—direct technical assistance—to go into some of our more under-resourced communities to help them think about the types of programs, the types of projects that are within the realm of possibility, and help them understand and bring the right technical experts in to help them develop and scope out the types of mitigation projects that are going to have a big communitywide impact for them.

Ms. UNDERWOOD. Right. In working on these issues, I was surprised to learn that FEMA hasn't collected voluntary demographic data on who applies for and received Federal assistance. Data like this is incredibly important for evaluating existing policies, identifying gaps, and looking towards the future.

I was glad to hear from your team last August that FEMA has finally begun asking voluntary demographic questions for survivors when applying for individual assistance. Can you share any trends or insights you have noticed since beginning to collect this informa-

tion, and how can it inform our work to make FEMA more equitable?

Ms. CRISWELL. I think by having a voluntary collection of this information, it really helps us better understand the communities that are receiving our assistance and where we might still have gaps, right, where those islands are and where those deserts are.

I don't have the data right in front of me, but I would be happy to have my team follow up with you——

Ms. UNDERWOOD. Thank you.

Ms. CRISWELL [continuing]. Specifically on what we are seeing, what trends we are seeing, and then more importantly what steps we are going to take as a result of that information.

Ms. UNDERWOOD. Thank you.

Republicans in Congress have proposed reverting to a fiscal year 2022 spending level, meaning DHS would see a $3.4 billion cut. Secretary Mayorkas has reported that this would mean that FEMA's grants to help State and local governments implement preparedness strategies would be cut in half. As appropriators our job is to make hard choices about funding and committing to put people over politics when we are making those difficult decisions.

Administrator Criswell, thank you so much for all the work that you and your team does or do to center equity in disaster recovery, and I look forward to continuing to work with you.

I yield back.

Mr. JOYCE. Thank you very much.

Mrs. Hinson is recognized.

Mrs. HINSON. All right. Thank you for round two, Mr. Chair. And thank you, Administrator, for sticking around.

One of my top concerns when it comes to severe weather is ensuring that our emergency communications networks are resilient, secure, reliable in the event of that severe weather. And we talked about tornados. We obviously had several outbreaks of severe weather in Iowa. And we, last year, had a major issue when disaster struck; the communications did not work and the warning system failed. Public broadcasting in comms infrastructure also needs to be resilient to protect from issues and delays in the future as well.

So, your budget includes a $14 million request for the public warning system. Can you elaborate a little bit on the request for me, and anything else that the agency is doing to ensure that our emergency communications are secure and ready to go?

Ms. CRISWELL. Yeah. Our public alert and warning system is one of the critical tools that we have that really help communities get those messages out there. Many of you have seen the alerts that come over your cell phone, whether it is an amber alert or a National Weather Service alert, and State and local jurisdictions have the ability to use that system as well to put out alerts for their specific communities.

And so the funding in this request, I can have my team get back with you on the specifics on what it is going to cover, but it will just continue to expand that ability to use the system to get that type of alert and warning out there in a very timely manner when seconds really do make a difference.

But, I think to follow up on some of the other types of communications systems and perhaps early warning systems, sirens that communities have, those are things that we can work with communities as part of our mitigation programs. Those types of projects are things that we would love to be able—safe rooms too, right, to be able to help protect communities through our other funding sources, our other preparedness grants, to help communities make sure that they can communicate in a timely manner.

Mrs. HINSON. And I am talking with our emergency managers on the ground, obviously, before and sometimes immediately after these disasters, and so I think that is good news to hear. And I will make sure I communicate that to them as well that you are ready to partner with them there.

I am concerned a little bit. There is a cut in funding for the Next Generation Warning System as well in the request. And I see those, again, as being critical for our public media stations to ensure that they can get out those enhanced alerts and warning capabilities. So, I am just curious why that area specifically with the NextGen Warning System saw a reduction in funding in this request.

Ms. CRISWELL. Yeah, I don't have those specifics in front of me. I am sure at this point it is for sustaining capability instead of building new capability, but I would be happy again to have my team get back to you on the specifics on those cuts and what the impact would be.

Mrs. HINSON. I will just look for the context there, why that decision was made.

And then I wanted to highlight again something one of my colleagues a little bit earlier brought up, but the request for the Shelter and Services Program, $83.5 million, and that also assumes at least $800 million in total funding for the Southwest Border Contingency Fund proposal. I see that as a slush fund. $800 million is meant to be available for—in this case, it is specifically a migrant surge in 2024, correct? Is that what that is designed for?

Ms. CRISWELL. I would have to defer you to the Secretary on the Border Contingency Fund.

Mrs. HINSON. Okay. Well, my understanding, when we are looking at $800 million as part of a larger Contingency Fund, I think it is a misdirection of priorities to send that much future taxpayer funding, again, to what we consider a manmade crisis at the southern border. There are tornados wreaking havoc in my district, taking lives in Iowa; along the region, disastrous flooding, hurricanes. So many natural disasters and severe weather, and I think the focus should be on resilience and mitigation to protect lives of Americans versus $800 million to go to a border slush fund. So I see that request, combining those two, really as not aligned with anyone's priorities, so I would push back on that and say those dollars would be better used in disaster mitigation or disaster relief, programs like BRIC and the NextGen Warning System as well, to ensure that we have resilient infrastructure for Iowans.

So, with that, Mr. Chair, I am done asking questions, and I will yield back. Thank you.

Thank you, Administrator.

Mr. JOYCE. Thank you very much. I appreciate it.

Mr. Cloud.

Mr. CLOUD. Thank you, Administrator. Appreciate you being here. And let me just first off say Harvey went through my district, went over my city, twice actually. Came in and went up, and so we spent the last few years, and FEMA has been very helpful by and large. There have been obviously some learning lessons along the way. And so it has been good to work with FEMA.

But just wanted to first of all say thanks to you and your agency and the people on the ground, specifically in Region 6 for all the help in helping our community recover. It has been much appreciated. And so, thank you.

One issue I did want to bring up on that, and we were learning, I always would tell people, we are working this on two tracks; we are working to get your particular case through and then we are working to learn what we can about FEMA to kind of look at the overall processes and what could change.

And one of the issues that was concerning—because most of my district is rural. And many of the larger cities, you know, they have complete staffs. All they do is grant write all day and they look into this sort of thing. And then you have some of these communities and—Taft, for example, 4,000 people and part-time mayor, you know. And it is just they don't have the staff to kind of look into these sort of things. Yet they have to go through the same administrative burden sometimes for a much smaller project as they would a multimillion dollar project, you know, and then you would have FEMA staff change out during the process and they would have to start the whole—anyway, it could be quite a burden on rural communities.

And I was wondering your thoughts on that. And what, if anything, has been done to kind of make that easier on rural communities.

Ms. CRISWELL. It definitely is an issue, right? It is one of those things where some of our policies and programs take this one size fits all you approach. I am not, recognizing that every community has unique needs, and we know that there are some communities that have part-time emergency managers and they wear four different hats, especially in our rural communities.

And so, something that I am very cognizant of and want to make sure that we are doing everything we can to reduce the barriers that these communities have into accessing our programs just because it is too hard, even though that they are eligible. And what we find is that oftentimes those again that need our help the most have the hardest time getting that help.

So, a couple of the things that we have done is, one, through a rural change have changed the small project threshold. So to your point of they have to go through the same level of bureaucracy for a small project as they do these multi-million dollar ones, we have raised that to a million dollars, which the mass majority, the majority of the projects that communities experience will fall within that small project threshold, which means that it will reduce the burden that they have into submitting the documentation in order to seek reimbursement for those projects. That was a rule that was just passed recently late last year, and so we will continue to work

with our communities so they understand how to implement that role.

One of the other things that we have done to make sure that our rural communities have a voice is we have just posted and we are hiring our first ever small State and rural advocate, and so that person can be a voice for these communities, help look at our policies, and help us understand other barriers that are in there, not intentionally, but had these unintentional impacts on communities to receiving the assistance or accessing the type of services that we have.

And so, I am really looking forward to having that advocate come onboard to be able to really start to look at our policies from the rural lens. Because when we look at it from Washington, DC, we only see one thing, and I need somebody that is looking at it from that lens.

Mr. CLOUD. I appreciate that.

Maybe one little tidbit to consider is, I know when, you know, the community leaves to evacuate, they come back, it is destroyed. And then what they would find often is FEMA and the recovery effort was taking up all the hotel rooms, and then they would try to get in line for a trailer and then it would be many months and weeks. And just for consideration, maybe have—rethinking about deploying the staff with the trailers so that there is room for people to come back and get close to their home and property. It might be one of the many things you can consider along that.

I wanted to touch on one more thing. I am from south Texas and so, of course, the border is there. Most I think Americans and Texans for sure would be surprised to find that FEMA actually has a border mission. I was wondering if you could speak to that. My understanding is it lies outside of the Stafford Act, and so I am curious about the extra Stafford Act roles that FEMA has taken on.

And then, you know, I am obviously concerned too about FEMA's spending money to house migrants who come here illegally versus in that taking the shift off of helping Americans recover who, of course, are helping fund FEMA, and us looking at that from a budgetary standpoint is all. If you could speak to that.

Ms. CRISWELL. Yeah, absolutely. FEMA is not a border security agency. The role that we have is strictly through our Emergency Food and Shelter Program-Humanitarian assistance, which is a program that was administered by Congress to FEMA to manage a few years ago. And it provides funding that we give to a National Board that helps support and reimburse costs that nonprofit, nongovernmental organizations, and local jurisdictions are experiencing, and it is a reimbursement program. And so our——

Mr. CLOUD. Could we get a list of the grants that you have given out in the last 2 years? It is really hard to find out grant information, as far as which NGOs are receiving this with communities and cities and counties.

Ms. CRISWELL. We will work with your staff on the data that we have and try to answer all the questions that we can based on the data that we get back from the National Board. But, absolutely, we will work with you on that.

And so that is our main effort that we have to support any of the border activities. I think there is no Stafford Act impact be-

cause our Stafford Act is not supporting any of the activities at the border. And the only other effort that we have done is provide our collaboration and our coordination capabilities that we bring to a variety of different types of events to make sure that we are bringing all of the appropriate stakeholders together and support them to set up a unified coordination group—a logistics operation planning cells and so forth. And we have provided a few individuals that helped stand up the southwest border coordination cell, but we have currently nobody that is supporting that effort.

Mr. JOYCE. We managed to get through two rounds, and if you had another question or so, we have time.

Mr. CLOUD. Let me see. I could submit some for the record. I will do that.

Mr. JOYCE. Great. And so additional questions may come from members, and for those things that the members have asked you, I ask that you respond to them in 15 business days, if you would, starting today.

Ms. CRISWELL. Okay. We talked about that earlier, yes.

Mr. JOYCE. I would like to thank the witness for being here, for all the hard work she does.

And, with that, this meeting is adjourned.

[Answers to submitted questions follow:]

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Representative Joyce

1. National Flood Insurance Program (NFIP) Continuous Coverage Clarification

To: FEMA Administrator Deanne Criswell

The Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters) contained reforms to the National Flood Insurance Program (NFIP), including provisions to incentivize growth in the private flood insurance market. Specifically, this included requiring lenders to accept private flood insurance policies that meet certain conditions to satisfy the mandatory purchase requirement.

Question: If a consumer leaves the NFIP, but maintains flood insurance coverage through a private insurer, can that consumer return to the NFIP at the rate that they would have been entitled to had they never left the NFIP, as long as they maintained continuous flood coverage?

Response:
No, the National Flood Insurance Act of 1968 (Act) prohibits FEMA from offering discounted Pre-Flood Insurance Rate Map (FIRM) rates if an NFIP policy lapses for any reason, unless the policyholder decided to allow the policy to lapse because they were no longer required to carry flood insurance (See 42 U.S.C. 4014(g)).

Question: Does FEMA have the authority to clarify this policy? If so, can you explain why FEMA has chosen not to clarify this issue?

Response:
Regarding whether the Federal Emergency Management Agency (FEMA) has the authority to permit policy holders who leave the National Flood Insurance Program (NFIP), but maintain private flood coverage, to return to their NFIP Pre-FIRM premium rate, the answer is no.

The National Flood Insurance Act (NFIA) mandates that FEMA charge full-risk rates for all new NFIP policies, unless the property is eligible for a statutory discount, such as newly mapped (See 42 U.S.C. 4014(a)(1); 42 U.S.C. 4015(c); 42 U.S.C. 4014(g)). Otherwise, FEMA is prohibited from charging a less than full risk rate for property owners who leave the NFIP and come back.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Representative Hinson

1. National Flood Insurance Program – Continuous Coverage

To: Administrator Deanne Criswell

The National Flood Insurance Program (NFIP) has been reformed over the past few years to update the NFIP rate setting structure. These reforms include provisions to incentivize growth in the private flood insurance market; it does so by specifically requiring lenders to accept private flood insurance policies that meet certain conditions to satisfy the mandatory purchase requirement. Under Section 100205 of the Biggert-Waters Flood Insurance Reform Act of 2012 (the "continuous coverage" requirement) prohibits FEMA from providing subsidies to NFIP policyholders for a lapse in coverage. FEMA has chosen not to clarify the statutory prohibition on subsidies to policyholders has harmed policyholders who choose to exercise their right to find the coverage that is most suitable for their individualized needs.

Question: Why has FEMA chosen not to clarify if the Agency has the authority to decide if a consumer leaves the NFIP, but maintains flood insurance coverage through a private insurer, then the consumer can return to the NFIP at the rate they would have been entitled to with continuous flood coverage under NFIP?

Response:
The National Flood Insurance Act of 1968 (Act) prohibits FEMA from offering discounted Pre-FIRM rates if an NFIP policy lapses for any reason, unless the policyholder decided to allow the policy to lapse because they were no longer required to carry flood insurance (See 42 U.S.C. 4014(g)).

FEMA has addressed the statutory mandate in the NFIP Flood Insurance Manual at 3.1.b. "Lapse in Coverage" (pg.3 • 44). (See the October 2022 NFIP Flood Insurance Manual - RR 2.0: Equity in Action(fema.gov)).

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

2. **COVID-19 Funeral Assistance Funding**

To: Administrator Deanne Criswell

In response to the COVID-19 pandemic, FEMA began a program to reimburse or help alleviate costs of funerals for individuals who died of COVID-19.

Question: What is the Agency doing to ensure that this program is protected from fraud and that taxpayer dollars are going toward its intended use?

Response:
The Federal Emergency Management Agency (FEMA) has multiple measures in place to protect programs, such as the Funeral Assistance program, from fraud, waste, and abuse.

- FEMA accepts Coronavirus Disease 2019 (COVID-19) Funeral Assistance applications by phone in order to provide the broadest access to applicants across the nation and to ensure callers receive personalized, compassionate, and empathetic assistance from FEMA representatives. This approach reduces opportunities for fraudulent applications for example by screening out robocallers. During the call, the FEMA representative will also request information from the applicant to include:
  - The applicant's Social Security number and date of birth
  - The Social Security number and date of birth of the person who died
  - The applicant's current mailing address and telephone number
  - The address where the individual died
  - If the person who died had burial or funeral insurance policies
  - If the applicant received other funeral assistance (such as donations, CARES Act grants, state/territory assistance, or assistance from voluntary organizations)
  - If the applicants want eligible funds delivered by direct deposit; if yes, the routing and account number of your checking or savings account will be requested.

- The National Emergency Management Information System – Individual Assistance (NEMIS-IA) is used to process COVID-19 Funeral Assistance, as well as all other disaster assistance. Cases are automatically flagged in the system as potential duplicates based on the applicant or co-applicant name and social security number, and the deceased individual's name and social security number to ensure they are not claimed on multiple applications across multiple disasters.

- When FEMA implemented COVID-19 Funeral Assistance, FEMA established processing guidance for staff to verify additional assistance was not paid beyond the $9,000 maximum. The funeral assistance process requires applicants to submit verifiable documentation for reimbursement of incurred costs. Documentation may include funeral

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

home contracts, receipts, and/or invoices, and other similar documents to verify funeral expenses. Additionally, FEMA staff reviews death certificate documentation, and any documentation of assistance received from other sources, to verify eligibility for funeral assistance prior to awarding assistance.

- To ensure all applications are being processed in accordance with guidance and to mitigate improper payments, FEMA has also implemented a daily system generated report to identify data anomalies, to include: (1) funeral assistance applications containing three or more decedents; (2) applications without decedent information; (3) applications transferred to another disaster; and (4) applications canceled as exact duplicates. FEMA's Recovery Analytics Division (RAD) provides these reports to Individuals and Households Program (IHP) staff daily as part of FEMA Recovery Directorate's internal quality control measures for additional review.

- Additionally, Recovery established a new section in RAD in October 2022 solely dedicated to payment integrity, including case reviews, application of fraud prevention tools and controls, and coordination of guidance and procedure changes with the Individual Assistance and Public Assistance program offices. RAD's Program Integrity Section is specifically tasked with review and analysis of cases identified as potentially fraudulent in the COVID-19 funeral assistance program as one of the payment integrity activities.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Representative Underwood

1. Social Vulnerability Metrics

To: Administrator Criswell

In October, FEMA rolled out an Alternative Cost-Effectiveness Methodology for BRIC and Flood Mitigation Assistance programs, with the goal of making hazard mitigation grants more equitable. FEMA is using CDC's Social Vulnerability Index, along with other metrics, to determine if communities are eligible to use the alternative equation.

Question: Does FEMA have plans to continue using this as a metric when evaluating grant applications in the future?

Response:
The draft Fiscal Year (FY) 2023 Notices of Funding Opportunity (NOFO) for the Building Resilient Infrastructure and Communities (BRIC) and Flood Mitigation Assistance (FMA) grant programs are still in development. The Federal Emergency Management Agency (FEMA) will continue to assess its use of metrics for these FY 2023 NOFOs and future application cycles.

FEMA allowed the use of a lower discount rate for the FY 2022 BRIC and the FMA programs when subapplicants could demonstrate that they met one of several conditions. One of these conditions included if the community was identified as an Economically Disadvantaged Rural Community (EDRC), was within a tribal jurisdiction or insular area, or if their Centers for Disease Control and Prevention (CDC) Social Vulnerability Index (SVI) was 0.6 or greater.

Pursuant to the Infrastructure and Investment Jobs Act (IIJA) (P.L. 117-58), also commonly referred to as the Bipartisan Infrastructure Law (BIL), the FMA program will continue to assess grants using the CDC SVI to determine eligibility for enhanced cost share (90%) for sub-applications in socially vulnerable communities. For every other program, e.g., BRIC, FEMA has been directed by the White House Council for Environmental Quality (CEQ) to use the Climate and Economic Justice Screening Tool (CEJST) in the spirit of the Justice40 initiative and as directed by Executive Order 14008: *Tackling the Climate Crisis at Home and Abroad.*

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Question: Has FEMA considered creating its own metric to measure social vulnerability to evaluate grant applications?

Response:
The Federal Emergency Management Agency (FEMA) is using existing metrics.

FEMA first issued its "Interim Guidance for Establishing an Equity Data Standard for Resilience Grants" in May 2022 to create consistency and transparency in applying the terms "underserved" and "disadvantaged" across Resilience's grant programs.

At the time, Resilience grant programs were using a variety of social vulnerability tools and indices to identify underserved and/or disadvantaged communities. The interim standard defines an underserved and/or disadvantaged community using the Centers for Disease Control and Prevention (CDC)/Agency for Toxic Substances and Disease Registry (ATSDR) Social Vulnerability Index (SVI). This interim standard applied to the Fiscal Year (FY) 2022 Resilience grants, incorporating an equity data standard.

However, since the interim standard was released, the Council on Environmental Quality (CEQ) released the Justice40 Initiative's Climate and Economic Justice Screening Tool (CEJST) version 1.0 and issued a memorandum on January 27, 2023 requiring the use of CEJST to "identify geographically defined disadvantaged communities for any covered program under the Justice40 initiative and for programs where a statute directs resources to disadvantaged communities, to the maximum extent possible and permitted by law.[1]" In response to this new White House requirement, FEMA is aligning with the new CEJST requirement for FY 2023 Resilience grants.

[1] M-23-09 (whitehouse.gov)

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

2. **Applicant Correspondence**

To: Administrator Criswell

Researchers have found that racial disparities exist at every stage of FEMA's Individual Assistance application process. Complicated applications, documentation requirements, and home inspections all put the burden on the survivors who are already dealing with the fallout of a disaster.

Correspondence coming from FEMA can compound this issue. Status update letters can be read as denial letters. Applicants can dispute denials, but the denial letter does not explain how to do so. FEMA can help shift the burden off the survivor by more clearly communicating about an applicant's status.

Question: Does FEMA have plans to improve the application correspondence language it uses in denial and status update letters?

Response:
The Federal Emergency Management Agency (FEMA) completed a multi-year comprehensive review of our correspondence for the Individuals and Households Program (IHP) last year to strengthen and enhance communication to survivors with compassion, fairness, integrity, and respect. After conducting focus groups to obtain direct feedback from disaster survivors, changes were made to the letters to increase use of plain language, provide survivors with more information about why they may not be receiving assistance, and clearly identify the next steps they can take to get the help they need. The updated letters also explain the relationship between FEMA assistance and Small Business Administration (SBA) loan assistance more clearly. The improved letters were first implemented on November 21, 2022, for the Hurricane Ian disaster declaration in South Carolina.

FEMA is taking additional steps to improve our letters before the 2023 Hurricane Season. This includes changing the headers to be clearer about what next step actions are necessary. For example, the current "Not Approved" header will be changed to "Not Currently Approved – You May Appeal." It will also include making additional changes to the decision summary lines so that they more clearly explain what next step a survivor may need to take. For example, "Same Address" will be changed to "FEMA Already Provided Assistance for this Address."

FEMA's next comprehensive review of IHP letters will begin in 2024, with the goal of replacing most initial denial decisions that require an appeal with requests for additional information by the end of 2025.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

3. Strategic Plan Performance Measures

To: Administrator Criswell

In the 2022-2026 Strategic Plan, FEMA includes performance measures to analyze how it's hitting their targets.

To measure if FEMA is building a diverse workforce, one metric is: "percent of FEMA's workforce that reflects the diversity of the nation."

Question: Can you share the demographics of FEMA's workforce, especially for Full-Time Employee roles?

Response:
FEMA's workforce of 22,828 individuals is represented by the following demographic breakdown:

Demographic	All Employees	Full-Time Employees
Gender	**22,828**	**14,745**
Male	11,012	7,186
Female	11,816	7,559
Veteran Status	**22,828**	**14,745**
Veteran	3,579	2,698
Non-Veteran	19,249	12,047
Disability	**22,828**	**14,745**
No Disability	17,916	11,424
Non-Targeted Disability	2,731	1,824
Not Identified	1,616	1,092
Targeted Disability	565	405
Race	**22,828**	**14,745**
American Indian or Alaska Native	227	139
Asian	698	526
Black or African American	5,957	3,399
Hispanic or Latino	3,745	2,049
Native Hawaiian or Other Pacific Islander	113	61
Two or More	189	118
White	11,899	8,453

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Question: What internal processes and external partnerships is FEMA forging to increase workforce diversity?

Response:
For external audiences, the Federal Emergency Management Agency (FEMA):

- Coordinates outreach and recruitment strategies to maximize its ability to recruit from a diverse, broad spectrum of potential applicants, including a variety of geographic regions, academic sources, and professional disciplines.
- Designs outreach and recruitment strategies to draw from all segments of society, including those who are underrepresented, when using staffing flexibilities and alternative hiring authorities.
- Involves managers and supervisors in recruitment activities and takes appropriate action to ensure that outreach efforts are effective in addressing barriers.
- Includes multiple tasks in FEMA's Strategic Recruitment Implementation Plan geared toward increasing diversity, including updating resources and guidance documents (for example, the Hiring Guide for Managers and the Interview Guide) to include unconscious bias information and other diversity, equity, inclusion, and accessibility principles. This Strategic Recruitment Implementation Plan will guide FEMA's efforts to operationalize the Strategic Recruitment Plan the Agency published last year. The Agency views the Strategic Recruitment Implementation Plan as a working document that will evolve and adjust as it moves forward with these activities.
- Develops strategic partnerships with a diverse range of colleges and universities, trade schools, apprentice programs, and affinity organizations from across the country.

FEMA also utilizes online job boards, such as Professional Diversity Network and Institution for Diversity and Inclusion in Emergency Management, to target diverse candidates and advertise job announcements. FEMA continues to maintain strong partnerships with Historically Black College and Universities, Hispanic-Serving Institutions, Minority Serving Institutions, and diverse associations and organizations such as the American Indian Higher Education and Federally Employed Women's Organization.

Internally, FEMA has increased workforce diversity through publishing an Agency Directive on Employee Resource Groups (ERGs). This Directive established the following operational and process guidance standards:

- How to maintain a strong posture for FEMA's existing ERGs;
- How to develop new ERGs;
- The value that ERGs bring to FEMA; and
- Internal places where employees can engage, create, and innovate in the Agency.

Please see below for a current listing of FEMA's ERGs:

- African American ERG
- Hispanic-Latino Heritage ERG

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

- PRIDE ERG
- Asian American Native Hawaiian Pacific Islander ERG
- Disabilities ERG
- National Service Alumni ERG
- Seasoned Employee ERG
- Women's Forum ERG
- Tribal Affairs ERG
- Veterans Advisory Council ERG

To measure the achievable outcomes for people FEMA serves, the metric included in the Strategic Plan is "percent of FEMA programs that evaluate and report on outcomes."

Question: Can you elaborate on the specific evaluations FEMA has put in place to measure the disparities in outcomes in its programs and policies?

Response:
The Federal Emergency Management Agency (FEMA) has made progress in understanding how programs leverage data to achieve equitable outcomes and in conducting discrete analyses of equitable program delivery. To help ensure support to underserved communities, FEMA built dynamic dashboards using equity datasets and indicators and leveraged geospatial reporting in the field. Overlaying socioeconomic factors indicating high vulnerability with FEMA operational data enables better informed decisions throughout the disaster life cycle, especially during response and long-term recovery.

As an example of our work to enhance equitable program delivery, in 2022, FEMA updated multiple policies and practices that resulted in immediate improvements in access to aid by expanding the reach and benefit of disaster assistance programs, including in disadvantaged communities. FEMA was able to measure the results of this work, which included:

- More than 100,000 disaster survivors received assistance who may have been deemed ineligible previously through the updating of Individual Assistance policies.
- By opening Direct Housing eligibility to disaster survivors with smaller homes, more than 6,700 disaster survivors were considered for direct housing who previously would not have received assistance, including more than 4,000 lower-income applicants.
- By expanding Ownership Verification, more than 57,000 additional disaster survivors received FEMA assistance, totaling $444 million.

FEMA also conducted assessments across six program offices as part of a broader agency-wide approach to ensure greater equity. These offices analyzed their current data to identify opportunities to remedy data gaps and advance equity.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Consistent with the Stafford Act's statutory directive to ensure equitable treatment of disaster survivors, FEMA collects demographic data from disaster survivors. The data is collected on a strictly voluntary basis.

Aligning with the Administration's Justice40 Initiative, FEMA also has a measurable target for Justice40 covered programs. Socially vulnerable communities are more likely to be impacted by extreme weather events. By implementing the Justice40 Initiative across critical resilience programs, FEMA will be able to build on existing efforts to better serve these communities by making them more resilient when disaster strikes. Programs in FEMA covered by the Justice40 Initiative include the Building Resilient Infrastructure and Communities (BRIC) and Flood Mitigation Assistance (FMA) competitive annual grant programs, which both provide Hazard Mitigation Assistance (HMA) to state, local, tribal, and territorial governments to make communities more resilient to the effects of natural hazards. Also included in this Justice40 Initiative are FEMA Risk Mapping, Assessment and Planning (Risk MAP) and the Regional Catastrophic Preparedness Grant Program (RCPGP), which help to ensure that communities are prepared for disasters.

Although each of these activities advances the goal of ensuring equity in our program delivery, FEMA recognizes that significant opportunities exist to more comprehensively advance equity across the emergency management community.

FEMA has committed to continuing evaluation of existing equity data, decision-making tools, resources, and guidance for emergency managers to support shared equitable outcomes in the delivery of disaster assistance programs. FEMA is in the process of finalizing our first four-year Learning Agenda, which is a systematic plan for strategic investment of resources in evidence building in support of the 2022-2026 FEMA Strategic Plan. Specifically, FEMA has identified evidence and evaluation gaps needed to achieve the agency's strategic goals of Equity, Climate Resilience, and Readiness, and is working to address those gaps through research questions and evaluations detailed in the learning agenda. Over 50% of the research questions in FEMA's Learning Agenda will result in the analysis of disparities in program and policy outcomes. These research questions range from considering the existence of discernable biases toward one demographic group or another in terms of eligible applicants and assistance provided, to measuring the extent COVID-19 Public Assistance obligations were aligned to areas of social vulnerability, to how household income and other demographic characteristics influence the decision to purchase flood insurance. These evidence and evaluation resources will enable more equitable and consistent delivery of FEMA programs across the nation and provide transparency to FEMA partners and customers on the decision-making process within our programs.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Representative Case

1. Climate Adaptation Office

To: Director Criswell

Your budget requests $41.7 million to support the Biden administration's priorities to mitigate the effects of climate change. You also have proposed the establishment of a Climate Adaptation Office.

Question: Could you provide more details on how this Climate Adaptation Office would support communities and decrease some of the costs of natural disasters?

Response:
The changing climate is a force multiplier – increasing the number of storms, floods, fires, and extreme temperatures that threaten the well-being of people across our nation. These changes pose significant risks to communities, both presently and in the future. While the Federal Emergency Management Agency's (FEMA's) investments have enhanced resilience to our nation, not all investments are adaptative and applicable to our changing climate. This gap in adaptability promotes maladaptation and can lead to losses, and in some cases, repetitive losses.

FEMA is establishing a new capability to address this issue – the Climate Adaptation Office. This Office is tasked with integrating adaptation strategies, data, and understanding of future conditions into FEMA's plans, programs, projects, and collaborations with the whole of community. The goal is to facilitate behavioral changes in communities, among emergency management decision makers, and practitioners. Weather and climate disasters have more than quadrupled in both total costs and frequency since the 1980s. Without a concerted effort to create a new programmatic area to focus on future conditions disaster efforts, it is unlikely such growth in disasters and associated costs will be abated.

Operating through a service-based delivery model, the Office supports FEMA programs and interagency initiatives by incorporating climate adaptive strategies into policymaking, guide development, and communication resources for every phase of the disaster cycle. It also provides climate services across FEMA, interagency initiatives, and communities. This would enhance knowledge and understanding of the impacts of climate change on potential decisions and actions. Also, the Climate Adaptation Office serves as a bridge between communities, other federal agencies, and the private sector to facilitate access to additional resources and foster partnership opportunities.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

As we continue to actively promote and advance climate actions, FEMA's approach prioritizes planning for future-based risk and avoiding maladaptation. This focus should be rapidly adopted nationwide to avert the worst impacts of climate-enhanced disasters and reduce losses in communities. The services provided by the Climate Adaptation Office ensure FEMA supports effective response and recovery from disaster impacts, as well as fostering a more resilient nation.

This process requires complete integration, extending beyond preparedness and hazard mitigation. It also necessitates integration into the response and recovery mission areas. To achieve this comprehensive integration across FEMA, the Office needs dedicated, permanent positions with the necessary experience and expertise in resilience, adaptation, climate mitigation, economics, planning and analytics.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

2. **Urban Area Security Initiative**

To: Director Criswell

The Urban Area Security Initiative recently revised its risk methodology, and the Federal Emergency Management Agency announced another update to the methodology planned for next year.

Question: Can you describe how the new risk methodology accounts for geographic isolation?

Response:
In the Fiscal Year (FY) 2023 Risk Methodology, the Isolation data element was unchanged from FY 2022 and was weighted at six percent within the Vulnerability component. The Isolation data element reflects the fact that some states, territories, and metropolitan statistical areas are geographically isolated and beyond the reach of immediate mutual aid or outside assistance in the event of a catastrophic event. Jurisdictions outside the continental United States receive the highest possible value. Entities in the continental United States receive an isolation value based on Census Population within 100 miles of the entity. An inverse population proportion is used to assign areas with low surrounding populations a higher isolation value.

Question: Is there a plan to consider the effects of isolation for both the vulnerability and the impact of disasters?

Response:
During the Federal Emergency Management Agency's (FEMA's) recent risk model review, the agency considered including Isolation as part of the Consequence component but concluded that, at this time, it is more suitable to keep it in Vulnerability due to the available national level data being imprecise and of lower granularity. However, we are continuing to research and analyze additional ways to measure Isolation for states, territories, and metropolitan statistical areas and its possible impacts.

WEDNESDAY, APRIL 19, 2023.

U.S. COAST GUARD

WITNESS

ADMIRAL LINDA FAGAN, COMMANDANT, U.S. COAST GUARD

Mr. JOYCE. The Subcommittee on Homeland Security will come to order.

I would like to welcome everybody to the hearing on the U.S. Coast Guard's fiscal year 2024 budget request from U.S. Coast Guard Commandant Admiral Linda Fagan.

Welcome, Admiral Fagan. It is a pleasure to see you again, and I look forward—those mikes.

I thank you for your testimony today as we discuss the Coast Guard's fiscal year 2024 budget request.

Whether it is enabling the flow of commerce through our maritime transportation system, interdicting migrants on the open ocean, or combating illicit narcotic trafficking, our Nation relies on the men and women of the Coast Guard.

Demands on the Coast Guard have never been greater. The Arctic, Indo-Pacific, and maritime border have all presented challenges to the agency over the last year.

I look forward to hearing about your plan to confront the growing economic and foreign military activity in the Arctic, particularly as the polar security cutter construction falls further behind schedule.

Foreign interests, primarily China, are increasingly using illegal, unreported, and unregulated fishing activities to steal resources and undermine a maritime rules-based order. Admiral Fagan, you have characterized IUU fishing as a top maritime security threat.

With a mix of both law enforcement and military authorities, the Coast Guard is uniquely poised to address IUU fishing and prevent these illegal incursions into our Exclusive Economic Zone and those of our allies. This is proven by the increase request by the Defense Department for Coast Guard expeditionary support. The Coast Guard's presence in the Indo-Pacific allows the United States to project power far from our shores and is a vital tool of national security and diplomacy.

Moving closer to home, President Biden's failed policies have created a crisis at our borders. All the DHS components have been stretched thin, and the Coast Guard is no exception. The Coast Guard is interdicting near record numbers of migrants in the Caribbean transit zone and, over the past years, its vessels have been at capacity. Just in the past few weeks, Coast Guard Cutter *Campbell* apprehended and repatriated nearly 500 migrants who were traveling in overcrowded and unseaworthy vessels.

This mission is difficult and dangerous for our Coast Guard men and women, and I thank them for their service, especially when

you consider the Coast Guard Cutter *Campbell* was launched back in 1986.

Admiral Fagan, I want to hear how this budget supports addressing the crisis at our border and how you look to grow capacity to ensure that our maritime border is secure.

Unfortunately the Coast Guard continues to struggle with major acquisition programs. As I mentioned already, the polar security cutter, which has been originally set to be delivered in 2025, hasn't even begun construction. The 11th national security cutter is significantly behind schedule, and the newly awarded Waterways Commerce Cutter Program is marred in legal challenges.

We need to work together to ensure that the Coast Guard appropriately manages acquisition programs and delivers the assets required to protect our shores.

Admiral, I look forward to working with you as we develop this year's appropriations bill. Before I turn to you for your statement, I would like to recognize our distinguished ranking member, Mr. Cuellar, for his opening remarks.

Mr. CUELLAR. Mr. Chairman, thank you so much.

And, members, it is always a pleasure being here with you.

Again, Chairman, thank you so much for your leadership.

And good morning, Admiral Fagan. It is nice to see you again.

The Coast Guard plays a very critical role in many facets of our lives, from saving those that are in peril to securing our borders and ensuring our national security. The Coast Guard fiscal year 2024 budget request of $12.1 billion makes key investments in personnel, vessels, aircraft, and other programs that will assist in its search-and-rescue missions along with its critical activities in our maritime borders, including the interdiction of drugs and addressing the increasingly flow of migrants.

To add to its growing set of responsibilities, the Coast Guard now is playing a critical role in the Indo-Pacific and the Arctic region. We know what China is doing in both of those areas. As you know, China now continues to call itself a near Arctic nation, even procuring at least two icebreakers, despite being thousands of miles away from the Arctic itself.

China also works with Russia, a country that has at least 40 icebreakers—and some of them are armed—to increase its presence in the Arctic. We certainly are interested about the work that you all are doing in the Indo-Pacific, part of the strategic plan over there, and of course what you are doing to counter the threats of—posed by China and making sure that we have the resources to address that.

I also certainly—being from the border, I am certainly very interested in the work that you all do with the flow of drugs and how that is coming into our maritime borders, and certainly, of course, the recruiting challenges that you are looking at.

According to a recent GAO study, many cite a lack of access to childcare, education as a reason to avoid services, and, additionally, the mission demands on outpaced staffing levels. So we certainly want to work with you. As you know, later on today, we have Commissioner Troy Miller. And I know the committee has talked about what we have done for CBP. And I would ask you to spend time

with them and the Department of Defense as to some of the ideas so we don't re-invent the wheel together.

Finally, interested in your strategic plan performance measures to make sure that we measure Federal dollars, how they are being used. And, in particular, want to talk to you about how we can jam those two ports—and I mean this in a nice way—the Mexican ports, where the legal precursors—and that is what makes it hard—that information sharing is important—are coming into those two ports from China and of course ending up up here.

So we look forward working with you.

And, again, with that, Mr. Chairman, I yield back.

Mr. JOYCE. Well, thank you, the distinguished Mr. Cuellar.

Mr. CUELLAR. Thank you, sir.

Mr. JOYCE. Admiral Fagan, without objection, your full written testimony will be entered into the record. With that in mind, we ask that you please summarize your opening statement in 5 minutes.

TESTIMONY OF ADMIRAL LINDA L. FAGAN

Admiral FAGAN. Thank you. Thank you.

Good morning, Chairman Joyce, Ranking Member Cuellar, distinguished members of the subcommittee. Thank you for the opportunity to testify today, and thank you for entering my written testimony into the record.

On behalf of the entire service, thank you for your continued support of the Nation's Coast Guard.

With the funding provided in the 2023 appropriation, we are continuing our largest fleet recapitalization in decades, building vital shore infrastructure and supporting our workforce and their families. The world is changing, and that pace of change is accelerating. Our commitments to protect, defend, and save grow every day, and demand for the service around the globe has never been higher.

In these challenges, there is opportunity, and we must invest in 2024 and beyond to generate sustained readiness, resilience, and capability to build the Coast Guard of the future.

The Coast Guard workforce is my highest priority. But, like other branches of the Armed Forces, the Coast Guard is experiencing a workforce shortage. We are struggling to recruit the people we need to hire into our ranks every year. Our recruiting shortfall threatens our readiness and ability to serve the American people. We must invest, not just in workforce recruiting capacity, but in support initiatives to meet mission, healthcare, childcare, and housing are important.

We are a global Coast Guard. And, as we continue to invest in the homeland, we counter strategic competition around the world.

And the Coast Guard operates the Nation's surface presence in the Arctic and Antarctica. Our fleet of only two polar icebreakers does not deliver the high-latitude presence we require as an Arctic Nation.

The fiscal year 2024 budget request funding to grow the Coast Guard's icebreaker capacity to enable the shift from episodic presence to year-round presence in the high latitudes.

Every Coast Guard mission begins and ends at a shore facility. To generate readiness, retain our workforce, and support our fami-

lies, we must maintain and modernize our buildings, piers, housing, and other infrastructure.

The Coast Guard requires stable, predictable shore infrastructure funding to ensure facilities are ready when new assets arrive and personnel have the space they need to support the recapitalized fleet.

Consistent funding is vital to us to recapitalize our many antiquated stations, sectors, training centers, air stations, and housing, some of which were built in the late 1800s. The fiscal year 2024 budget includes funding to build out Base Charleston and to complete construction of future cutter home ports in Washington and Alaska.

My vision of the $20 billion Coast Guard of 2033 includes $400 million to $500 million a year to accomplish this infrastructure work. I am certain you will not find a better return on investment for the American people than the United States Coast Guard.

I thank you for your continued support to ensure that the Nation's Coast Guard, like every U.S. armed force, has the resources necessary to safeguard the Nation.

Thank you for the opportunity to testify. Thank you for your enduring support. I look forward to your questions.

[The information follows:]

U. S. Department of Homeland Security

United States Coast Guard

Commandant
United States Coast Guard

2703 Martin Luther King Jr Ave SE
Washington, DC 20593-7000
Staff Symbol: CCG
Phone: (202) 372-4411
FAX: (202) 372-8302

TESTIMONY OF
ADMIRAL LINDA L. FAGAN
COMMANDANT, U.S. COAST GUARD

ON
"THE COAST GUARD'S FISCAL YEAR 2024 BUDGET REQUEST"

BEFORE THE
HOUSE APPROPRIATIONS
SUBCOMMITTEE ON HOMELAND SECURITY

APRIL 19, 2023

Introduction

Chairman Joyce, Ranking Member Cuellar, and distinguished Members of the Subcommittee, thank you for inviting me to testify and I am grateful for your continuing support of the United States Coast Guard. Today, I look forward to discussing how the Administration's FY 2024 Budget request positions the Service to generate sustained readiness, resilience, and capability while building the Coast Guard of the future.

As the world's premier, multi-mission, maritime service responsible for the safety, security and stewardship of the Nation's waters, the Coast Guard offers a unique and enduring value to the American public. At all times a military service and branch of the U.S. Armed Forces, a federal law enforcement agency, a first responder, a regulatory body, and a member of the U.S. Intelligence Community, the Coast Guard serves on the front lines for a Nation whose economic prosperity and national security are inextricably linked to the sea.

Last year, your Coast Guard navigated unique challenges presented by our increasingly connected and rapidly changing world. Throughout the course of FY 2022, the Service saved or assisted over 24,000 people, removed over 335,000 pounds of cocaine and 60,000 pounds of marijuana with an approximate wholesale value of $4.2 billion, provided humanitarian assistance to over 12,500 non-citizens intercepted at sea, inspected over 15,000 shipping containers for structural and hazardous material compliance, maintained nearly 45,000 buoys and beacons across the Marine Transportation System, conducted over 10,000 waterborne patrols to protect critical infrastructure and key resources, and provided nearly 21,000 hours of support to U.S. Central Command to advance security cooperation, maritime security, and counter-piracy objectives in the Arabian Gulf.

In the aftermath of Hurricanes Ian, Fiona, and Nicole, Coast Guard personnel from across the country surged to Puerto Rico, Florida, Georgia, South Carolina, North Carolina, and Virginia where we saved or assisted nearly 1,000 persons in distress, responded to pollution incidents, and reopened vital ports and waterways to help communities recover.

In the Antarctic, Coast Guard Cutter (CGC) *Polar Star*, the Nation's only heavy polar icebreaker, created a navigable path through thick ice to enable the annual replenishment of America's McMurdo Station. In the Great Lakes, CGC *Mackinaw* – the Coast Guard's only heavy domestic icebreaker – opened passages to facilitate commercial shipping across the region.

In the Indo-Pacific, 418-foot National Security Cutters and 154-foot Fast Response Cutters conducted combined operations and exercises with allied and partner nations to counter Illegal, Unreported, and Unregulated fishing and facilitate interoperability with like-minded nations throughout the region. In the Caribbean, the Coast Guard surged assets from across the Atlantic seaboard to respond, in coordination with other federal agencies, to historic irregular maritime migration on our southern maritime border.

While I remain incredibly proud of our Coast Guard Active Duty, Reserve, Civilian, and Auxiliary workforce, we must adapt to ensure the accelerating pace of change does not overtake our ability to protect, defend, and save the American public we serve. Geopolitical competition, economic volatility, climate change impacts, shifting workforce expectations, evolving technologies, and new enterprises at sea are converging and driving changes we must make for our Service.

The FY 2024 President's Budget is the first step in advancing our efforts to transform our total workforce, sharpen our competitive edge, and advance our mission excellence as we build the Coast Guard of the future. These investments are vital to ensuring the Service has the assets, systems, infrastructure, and support needed to further the Nation's maritime safety, security, and prosperity.

Generate Sustained Readiness, Resilience, and Capability

Transform our Total Workforce

A shrinking American workforce combined with changing expectations by both employees and employers is driving significant challenges in recruiting and hiring. American workers seek flexibility, innovation, purpose, and desire employers who foster a workplace where all people are respected and empowered.

My highest priority is to modernize our talent management system, which has not significantly changed in 75 years, to best recruit and retain our workforce in the 21st century. I am committed to deploying innovative recruiting practices; revolutionizing talent management policies; developing individually tailored, on-demand, and modernized learning; and delivering point of need healthcare and family services.

The FY 2024 budget requests $273 million in military and civilian pay and benefits; $21 million to increase retention, bolster medical services, improve the Service's training systems, and better support the workforce; as well as $12 million to enhance the Coast Guard's recruiting capability by funding additional recruiting personnel and nine new recruiting offices.

Sharpen our Competitive Edge

New and rapid advancements are making access to technology ubiquitous. These technological advancements expose global systems and people to modern threats, including growing cybersecurity concerns, supply chain disruptions, and navigation vulnerabilities. However, emerging technologies also present novel opportunities to maintain a competitive edge over malign actors.

To accomplish the broad spectrum of Coast Guard missions, we will leverage new technology to enable rapid information sharing and provide decision advantage to our operational commanders. Smart application of advanced data analysis capabilities will enable us to make the best decisions as we inspect new commercial vessels, search for overdue recreational boaters, bolster our talent management system, and seek to disrupt the flow of illicit drugs across our maritime border.

The FY 2024 budget requests $49 million to sustain enterprise collaboration tools, search and rescue IT systems, and C5I capabilities on board operational assets. Additionally, the budget includes $15 million for data analytic technology development, improving how data is collected, analyzed, and leveraged to empower operations and support the workforce. Requested funding also supports the rapid development of mobile applications and bolsters telework capabilities.

Advance our Mission Excellence

The Coast Guard operates in dynamic conditions, and changes in the strategic environment impact our missions every day. Given evolving national security threats, we must prepare now for the challenges of tomorrow.

We will employ our assets and resources to the highest priority missions that we are uniquely capable to perform, build on our ability to lead in crisis, strengthen existing and forge new partnerships to improve global maritime governance, and safeguard a rapidly changing Marine Transportation System.

The FY 2024 budget requests $77 million for the operations, maintenance, crew, and mission support elements for four Fast Response Cutters; operations and maintenance for the second Offshore Patrol Cutter; crew, operations, and maintenance for a commercially available polar icebreaker; crew for the first Waterways Commerce Cutter; and crew, operations, and maintenance for four MH-60T helicopters, one HC-130J aircraft, and one HC-27J aircraft. Additionally, the budget includes $18 million for the operations and maintenance of newly acquired or recapitalized shore facilities.

Build the Coast Guard of the Future

The Service continues our largest recapitalization effort since World War II - vital to providing the capable, modern assets necessary to meet the unprecedented demand for Coast Guard services. Additionally, the Coast Guard continues to prioritize investments in our shore infrastructure because our facilities, piers, runways, and the buildings where our people eat and sleep while standing duty are as critical for operations as our ships and aircraft.

Surface

With the continued strong support of both the Administration and Congress, we are acquiring the Nation's first new heavy polar icebreakers in almost half a century. The FY 2024 request of $170 million sustains the program and procures an additional portion of long-lead time materials for the third Polar Security Cutter (PSC). When fully operational, PSCs will provide the global reach and icebreaking capability necessary to advance our national interests in the Arctic and Antarctic regions, projecting U.S. sovereignty and influence while conducting Coast Guard statutory missions in the high latitudes.

The FY 2024 request also funds the acquisition of a commercially available polar icebreaker, including the modifications and integrated logistics support required to reach initial operating capability for Coast Guard missions. The purchase and modification of a commercially available polar icebreaker represents an effective strategy to increase near-term presence in the Arctic until the PSC fleet is operational and to add regional capacity in the long-term.

The Offshore Patrol Cutter (OPC) is one of the Service's highest acquisition priorities and is absolutely vital to recapitalizing the capability provided by our legacy fleet of 210-foot and 270-foot Medium Endurance Cutters (MEC). The FY 2024 request provides $579 million for construction of the sixth OPC and long lead time materials for the seventh of a program of record for 25 hulls. The legacy assets the OPC's will replace have been workhorses for decades and continue to serve the Nation with distinction. With 13 of these cutters exceeding 50 years of Service, the MEC fleet is becoming more difficult and expensive to maintain, and we continue to see degradation in its operational availability.

Some of our inland tenders have been in service since the 1940s, maintaining both fixed and floating aids to navigation for the U.S. Marine Transportation System – the 25,000 miles of rivers and navigable channels that support $5.4 trillion in annual commerce and 31 million jobs. The FY 2024 request for $98 million supports program management, long lead time material for future hulls, and construction of the first article of the Waterways Commerce Cutter fleet. These cutters – which will replace our legacy inland tender fleet – will feature modern designs for propulsion and crew habitability to enable men and women to serve in the heartland.

Aviation Assets

The FY 2024 request includes $115M to recapitalize and sustain fixed and rotary-wing aircraft, including: sustainment of the current MH-60T helicopter fleet; modernization and sustainment of the Coast Guard's MH-65 helicopter fleet to improve reliability into the 2030s, align recapitalization efforts with DoD's Future Vertical Lift program and transition to an all MH-60 fleet; and continued missionization of HC-27J medium-range surveillance aircraft.

Shore Infrastructure

Shore facility maintenance and recapitalization is critical to mission success. As the Service deploys new, more capable assets, infrastructure projects like pier construction and workforce facilities are equally vital. The FY 2024 request includes targeted investments to continue the buildout of Base Charleston, South Carolina, funds the construction of a Fast Response Cutter homeport in Seward, Alaska, and funds construction of a Waterways Commerce Cutter homeport.

Given the Coast Guard's broad infrastructure needs, these investments and a modern approach to project planning, prioritizing, and execution are necessary to ensure the Service has the adequately maintained and resilient infrastructure required to meet the operational demands of today and tomorrow.

Conclusion

The Coast Guard is the only military Service outside the Department of Defense and the only Armed Force that is primarily funded via non-defense appropriations. Not funding the Coast Guard at the levels requested in this budget could jeopardize the long-term readiness of the Service, putting American lives, national security, and the U.S. Marine Transportation System at risk. I ask for your support to ensure the Coast Guard – like every U.S. Armed Force – has the resources necessary to safeguard the Nation.

Now is the time to move the U.S. Coast Guard forward. Our commitments at home to protect, defend, and save - grow every day, while demand for the Service around the globe has never been higher. To meet the rising challenges, we must invest to secure the homeland and counter strategic competitors.

With the support of the Administration and Congress, your Coast Guard will continue to live up to our motto – Semper Paratus – Always Ready. Thank you for your enduring support.

Mr. JOYCE. Thank you very much.

Recognized for questions, I will start with myself.

President Biden's failed immigration policies have created a crisis on our border. The maritime border is no exception. Over the last year, near record numbers of migrants have attempted to cross the Caribbean transit zone. At times, Coast Guard assets were at capacity for holding migrants.

Admiral, how does the budget support the increased number of migrants interdicted against the—along maritime routes?

Admiral FAGAN. Thank you, Mr. Chairman.

The Coast Guard is integral to the lifesaving work that is encountering migrants at sea. We have been actively involved in the current maritime migration routes.

The budget support for new assets, the offshore patrol cutter, are critical to the Coast Guard's ability to meet that challenge of maritime migration. Assets that we are using right now, some of them are—you mentioned the Campbell, built in 1986. So it is those unit types, age, unplanned maintenance, our ability to be on vector reliably is sometimes challenging. So fielding the new—the new cutters—offshore patrol cutter that will replace those medium-endurance cutters is critical.

I appreciate the budget support that we do have for offshore patrol cutter.

Mr. JOYCE. When you were developing this budget, did the Coast Guard assume there were a particular number of migrants that you were going to be dealing with in fiscal year 2024?

Admiral FAGAN. You know, the fiscal year 2024 budget and all of our budgets reflect realities around our work at sea, whether it is countering maritime migration, our work in the counternarcotics realm, particularly in both eastern Pacific and the Caribbean.

I have recently signed out a fleet mix analysis that looks at what is the fleet the Coast Guard needs to actively counter maritime threats and that those—that fleet mix is informed and supported by the 2024 budget.

Mr. JOYCE. It is my understanding Coast Guard assets has been at capacity for interdicting and holding migrants. What is the agency's plan for the number of migrants continue to increase? And, put another way, what missions suffer when faced with this increased maritime program?

Admiral FAGAN. We have moved assets into the Florida straits because of increases in migration numbers that started last fall. It peaked into the new year, and then we have experienced a decrease in numbers over the recent weeks and months.

To ensure that we have got adequate holding capacity, that means a Coast Guard cutter with a flight deck on vector, and we have moved to ensure that we have that.

The Homeland Security Task Force Southeast, which is led by a Coast Guard officer, then brings an integrated approach. Should the Coast Guard assets and other assets on scene be overwhelmed by numbers, we move to activate a—you know, plans to ensure that people are able to be safely held, that we don't then have a significant loss of life. And then, for us, key is the ability to repatriate once we have encountered a migrant at sea.

Mr. JOYCE. Thank you.

I now recognize Mr. Cuellar.

Mr. CUELLAR. Mr. Chairman, thank you again so much.

I want to talk about drug smuggling routes and threats.

As you know, from one of your reports, if you look at cocaine, marijuana, and other things that come into the United States, they are coming in from Central America, so you have got the routes.

I would appreciate if you all—and I know this is a little difficult, because the opiates or the precursors coming in from China into those two Pacific Coast, Mexican coast, as you know. I believe, when you look at your drug seizures, you have zero—for the last couple of years, you have zero for fentanyl, which means that they are probably, either by—coming in by plane, according to CBP, and then you have got the precursors that are coming in through those two ports in Mexico, and then probably mail.

So we can see that there is no fentanyl, which means that there is certain routes that we are looking at. So, therefore, focusing on the Pacific side, especially those two ports in Mexico, they come in, and it makes it hard because they are legal, you know, as you know, but there has got to be information sharing with the Mexicans.

I hope that—I think you are hopefully meeting with them. You met with them over here. That is going to be key, because, if we are looking for fentanyl in areas coming in from South America, you are going to find cocaine and other things.

So appreciate if you can talk about what can we do—and I keep using the word "jamming" because, if they are coming in to a particular area in Mexico, we have got to work there because, once they go into the border, they have got ports of entry. They can—passengers, cars, trucks, trains, and it makes it a lot harder.

Admiral FAGAN. Thank you.

We obviously are actively engaged in interdicting narcotics at sea. The most effective way is to interdict at sea while narcotics are still in bulk form. And we have not encountered fentanyl. It is still primarily cocaine, some marijuana, and occasionally some methamphetamines.

I did meet with the Mexicans last week along with a number of other senior officials, CBP and DHS, to talk about the fentanyl problems and what might—what additional actions might help with the problem as you have identified.

Encountering, you know, before those substances leave the port, where they are still in bulk form, is the most effective strategy. And we have talked about information sharing, also talked with my Mexican counterpart, the head of the Mexican Navy, around how they are implementing their captain of the port authorities, very similar to the captain of the port authorities that the United States Coast Guard executes in the U.S.

And I am traveling to Mexico next week to continue that conversation, will meet with my counterpart in the Port of Manzanillo, and this—just as a network is moving these illicit narcotics, fentanyl, it will take a network of will to counter those activities, and we are engaged in those conversations.

Thank you.

Mr. CUELLAR. Yeah. Well, we—you know, members, this makes it hard, because, I mean, it is legal precursors coming in, and so

that information sharing is going to be important, because, you know, we don't find the same type of routes like you have here. It is just very, very different.

But, anyway, appreciate it.

I yield back the balance of my time to—oh, where is Mr. Case? I yield back the balance of my time.

Mr. JOYCE. Thank you very much, Mr. Cuellar.

The chair now recognizes Mr. Newhouse for his questions.

Mr. NEWHOUSE. Thank you, Chairman Joyce.

My assistant is getting the microphone. There we go. Does that work?

Mr. RUTHERFORD. Use this one.

Mr. NEWHOUSE. Well, good thing we have a small room here.

Admiral Fagan, a pleasure to have you here. Appreciate all the work that you and the men and women under you are doing for our country.

And I also appreciate our Washington State connection, so——

Admiral FAGAN. Thank you.

Mr. NEWHOUSE. So, as you pointed out in your testimony in the written part, some of the software and IT solutions that you have are vital tools for your mission for the military. And certainly the Coast Guard, I believe, is wise to look for ways to invest in tech modernization, particularly to support the maritime domain awareness activities and respond to national security threats, to cover everything that you have been talking about so far—the illegal fishing, the human terrorism—the human and drug trafficking, particularly the Caribbean, but also in the Pacific Northwest, which we are seeing quite a bit of it there as well.

So I just wanted to ask you a little bit about that effort. What are the goals of the new maritime domain awareness system? I know you have successfully utilized data integration before to combine data from various sources across the service to create a common operating picture.

Does the Coast Guard have a strategy to identify and procure cost-effective commercial solutions that could be used just as effectively for maritime awareness?

Admiral FAGAN. Thank you.

We have embarked on a number of initiatives, one with regard to data. And we have stood up an Office of Data Governance and Analytics. Data is a competitive advantage, and so ensuring we have got the right framework around the data we already have and continue to create so that we can analyze it for decision space, use it for predictive analytics across mission sets, whether it is counternarcotics, IUU fishing, and we are embarked on that.

With regard to unmanned systems and technology, we have recently published the Coast Guard's Unmanned Systems Strategy so that we can continue to field unmanned technology into the suite of capabilities that we operate.

The—you know, we are working with CBP to jointly operate an MQ–9 and with the Joint Program Office; ScanEagle, as I am sure the committee is familiar with ScanEagle and its role with our National Security Cutters, key enabler to increase effectiveness in our mission operations; contracts with Saildrone to improve maritime domain awareness. And so we are engaged and embarked on incor-

porating unmanned technology into the suite of capabilities that we are fielding. As I said, we have got some now, and we will continue to look for that opportunity in the future.

Mr. NEWHOUSE. I appreciate that.

Could you—you have mentioned some of the challenges you are facing with attracting the number of individuals to come to the Coast Guard. Certainly not the quality. I am not questioning the quality of the individuals, but just the number that you need.

Could you talk a little bit about some of the creative things maybe you are looking at to try to crack that nut?

Admiral FAGAN. Yeah. So the recruiting challenge is here and now for the Coast Guard. It is not unique to the Coast Guard. We are competing for talent, as are the other services and industry. There has been a shrinking pool of individuals who have a propensity to serve and, frankly, who are qualified to serve.

I appreciate the support to allow us to increase investments in recruiting capacity. We are opening recruiting offices. We have stood up JROTC programs. But we are also—as we gain support with advertising dollars, recruiting dollars, we are going to where the young people are. So this means things like Twitch. It is an online gaming site. And we are actively seeking young people, going to where they are instead of a big, national, you know, billboard or ad campaign.

And so it is an all-hands-on-deck effort for us, and we are using multiple avenues to create awareness and highlight what the opportunity is that service in the U.S. Coast Guard presents.

Mr. NEWHOUSE. Very good. Thank you very much. Again, thanks for being here.

Admiral FAGAN. Thank you.

Mr. NEWHOUSE. And, Mr. Chairman, I yield back.

Mr. JOYCE. Thank you, Mr. Newhouse.

The chair now recognizes Ms. Underwood.

Ms. UNDERWOOD. Well, thank you, Mr. Chairman.

And Admiral Fagan, congratulations on your appointment as Commandant, and thanks for being with us today.

I want to turn right to the spending cuts that Republicans in Congress are discussing and what they would mean for the work of the U.S. Coast Guard. Slashing Federal spending this severely back to fiscal year 2022 enacted levels would have unspeakably harmful consequences for each of our communities and for national readiness. For DHS, this would mean a cut of $3.4 billion.

DHS reports this means the Coast Guard would, quote, immediately cease the advancement of acquisitions, procurement, and construction, resulting in a reduction to operational readiness along the maritime borders. Further, these cuts would—and I am quoting here—reduce the ability to detect, deter, prevent, and disrupt terrorist attacks and other criminal acts in the U.S. maritime domain, as well as our national defense strategy. There is no other way to say it. Republicans' proposed cuts would endanger our national security.

Admiral Fagan, can you share more about the effects that these drastic cuts would have on our defense readiness and the Coast Guard's ability to protect against terrorist attacks?

Admiral FAGAN. If the Coast Guard were held to the fiscal year 2022 enacted level, that would create an immediate $500 million shortfall in the budget. That is compounded by inflation, increased fuel costs——

Ms. UNDERWOOD. Uh-huh.

Admiral FAGAN [continuing]. increased costs of spare parts and what it makes to operate the organization.

As we build our budgets, the priority goes to operating and maintaining the organization, ensuring that our workforce is paid and has the support they need, that we have got fuel and ability to create frontline operations.

Being held to a 2022 budget level would have an immediate impact on readiness and capacity and would be particularly impactful to our acquisitions projects. It is—you can't scale on an acquisition. You have—there are step functions there that would create immediate impacts.

We would prioritize providing services to the American public, but it would come at the expense, again, major acquisitions, infrastructure investments, and otherwise.

Ms. UNDERWOOD. In the Great Lakes region, we have more than a hundred ports that fuel the economic engine for our region and the country. Since the Coast Guard is responsible for maintaining the safety and vitality of our ports, can you share how such cuts would impact global competitiveness, shipping, and overall safety at our ports?

Admiral FAGAN. So we have the role. In our captain of the port role, we have a role in ensuring the maritime security and economic prosperity of the Nation. $5.4 trillion of economic benefit flow through our ports and through our inland rivers.

Again, cuts impact capacity. We will work to preserve frontline capacity to the greatest extent possible. But, at some point, if we don't have funding support for fuel—and particularly where it becomes impactful is in maintenance, spare parts, the maintenance account to ensure that we can reliably field those aspects—any and all assets, whether they are small boats in the ports; it would impact the waterway commerce cutter acquisition, which is critical to ensuring the resiliency of our inland waterways and systems, and it would touch all aspects of Coast Guard operations.

Ms. UNDERWOOD. And which would have an economic impact?

Admiral FAGAN. It would have an economic impact.

Ms. UNDERWOOD. Okay. Now, another one of the Coast Guard's missions is environmental compliance and restoration. This includes identifying and cleaning up contamination from hazardous substances and pollutants, as well as correcting environmental damage that poses an imminent danger to public health.

In the Great Lakes, we know this work is critical. Thirty million people rely on the Great Lakes as their primary water source, so ensuring that the water is clean and safe couldn't be more important for public health.

Can you provide an update on the environmental compliance and restoration activities that the Coast Guard is focusing on, specifically in the Great Lakes, and how would your fiscal year 2024 budget request help advance Great Lakes' priorities?

Admiral FAGAN. So I don't have specifics on Great Lakes, but I affirm that we are committed to our role in environmental—protecting the environment and environmental response, our role as a pollution response organization.

Ms. UNDERWOOD. Uh-huh.

Admiral FAGAN. We continue to make investments in the resources and the people and the expertise that are needed to ensure that, you know, if—prevent pollution from occurring in the first place. Our role with regulated facilities, with the maritime industry and shipping, to inspect and ensure that both the facilities and ships are operating in compliance with State, Federal, international regulations in some cases, to prevent impacts to the environment. And we continue to make those investments to fulfill our role as an environmental protection and maritime response organization.

Ms. UNDERWOOD. Well, if you can get back to us about how your fiscal year 2024 proposal would support the Great Lakes in this area, and then how the proposed cuts would have an impact, that would be really helpful.

Admiral FAGAN. We will.

Ms. UNDERWOOD. I yield back. Thank you.

Mr. JOYCE. The chair appreciates the gentlelady's captivity with the Great Lakes. Very fond of it myself.

Ms. UNDERWOOD. I represent. I represent. Thank you.

Mr. JOYCE. Mrs. Hinson

Mrs. HINSON. Thank you, Mr. Chair.

Good morning, Admiral. Thank you so much for coming before our committee today. And I look forward to this opportunity to speak with you.

And I want to talk about an area that is very important for my district. We sit right along the Upper Mississippi River. The city of Dubuque obviously hosts the Coast Guard Cutter *Wyaconda*, a priority for me to ensure that the Mississippi River is protected and maintained also. So I think it is a stability issue for our regional economy and really for your global supply chain as well, which is why it is a priority for me. So I want to say thank you for the work that you do to make sure that the Coast Guard is supported there.

And can you just describe to me how the requested funding would aid in making sure that that installation is still supported and that we can continue to prioritize critical infrastructure along the Upper Mississippi and the Lower Mississippi River?

Admiral FAGAN. Yep. So thank you. And I appreciate the support of the committee for our waterway commerce cutter acquisition, the WCC. The 2024 budget includes $98 million to begin constructing the first two of the waterway commerce cutters and also includes money for long lead time material for an additional two.

We are excited about the design for—there is two variants for those ships. They will be replacing cutters. If you have visited, these are very, very old cutters in need of updated, new—new hulls, and we are excited to be on budget for that.

The fiscal year 2024 UPL includes $48 million to build out home ports in Sault Saint Marie and Memphis, and we are working through prioritizing the investments that are needed to ensure that

we meet and are able to ensure reliable, safe commerce flows on our inland rivers, Mississippi and others.

Mrs. HINSON. Right. Well, and especially as we have conversations about other parts of the world that are facing those challenges, it is absolutely a priority to make sure we can protect this region at home. So I am glad to hear that you share that priority and look forward to working with you to make sure we can execute on that mission.

Speaking of areas around the world, obviously the Coast Guard's mission in INDOPACOM is critical, especially with what is happening with the Chinese Communist Party's aggression, making sure we are focused on securing our allies in the region and protecting maritime security.

Can you describe a little bit the efforts that the Coast Guard maintains to stabilize INDOPACOM region, but also what the current relationships are with our strategic partners in the region?

Admiral FAGAN. Yeah. We have—we are committed to the Indo-Pacific region. The capabilities, the expertise, the professionalism that the U.S. Coast Guard brings to difficult particularly maritime problem set is valued around the world and is eagerly sought around the world. And our allies and partners around the Pacific are actively seeking engagement with the United States Coast Guard.

The 2023 budget had $41 million to provide increased presence and engagement in the Indo-Pacific. We are fielding an Indo-Pacific support cutter. We have identified it as the Harriet Lane. And that cutter will arrive into Honolulu before the end of the year and will work out of there for a couple years as we work through where the final home port will be.

On the UPL, we have signaled $400 million, which would buy an additional four fast response cutters. That would increase our ability to create a presence in the Pacific. The fast response cutters have been incredibly capable assets for us. We have them fielded in Guam, in Honolulu now, and they are doing great work engaging the kinds of partnership and engagement that our allies value.

And then mobile training teams, just bringing our expertise to nations where they are, whether it is how to do an illegal fisheries boarding, small engine repair, small boat maintenance and operations. And we will continue to lean into that as well.

Mrs. HINSON. And if you could follow up with our office with some of the countries that you have been doing that work with, that would be helpful.

Admiral FAGAN. We will.

Mrs. HINSON. Because we are working obviously—I had the opportunity to meet with the President of Taiwan just a few weeks ago, and I think continuing to show force of strength in that region is going to be critical to countering China's influence in the region. Obviously we know they are continuing to spread propaganda, misinformation throughout that region.

Are you actively countering those efforts as well? Obviously you are talking about some of the on-the-ground training and tools that you are using. Are you doing anything to counter the misinformation and the propaganda?

Admiral FAGAN. Yeah. I mean, we—our value proposition is in that competitive space, short of conflict. And so where we have got expertise, skill, are a partner of choice, we are bringing that to the region and welcome the opportunity to highlight, you know, the—it is many double—you know, it is a double-digit number of countries that we have engaged in.

You know, I have spent time in Fiji meeting with 20 of our partners throughout the Pacific to talk about maritime security, maritime governance, and look forward to getting back to you with that.

Mrs. HINSON. Wonderful. Do you think that this budget request allows you the bandwidth necessary to complete those critical missions?

Admiral FAGAN. So the budget request is supportive of that. As I have indicated, our UPL signals opportunity for additional investment, particularly in fast response cutters, to allow us to become sort of less episodic and more persistent with regard to some of the threats in the region.

Mrs. HINSON. All right. Thank you, Admiral.

And I will yield back. Thank you, Chairman.

Mr. JOYCE. Thank you very much, Mrs. Hinson.

And the chair now recognizes Sheriff Rutherford for his questions.

Mr. RUTHERFORD. Thank you, Mr. Chairman.

Commandant, great to see you again. And, you know, I am really appreciative of all that the Coast Guard does, particularly around the State of Florida, all those interdictions.

You know, in knowing how important the water operations are, but the aviation side, I want to talk about that for a moment, because I am hearing that the U.S. Coast Guard has stated that they plan to transition to all MH–60 helicopters in the fleet by acquiring used helicopters from the Navy. And I know there has been quite a bit of funding, I think, set aside for that transition.

But here is—here is what I wonder, if we are being a little penny wise and pound foolish, I will say. For the airframes that you are going to acquire from the Navy, do we have an idea what the average time is on these airframes?

Admiral FAGAN. I don't have a number with regard to time. Obviously we are committed to moving towards a single fleet of 60s, tail fold, blade folds, that they will also be flight—flight deck accessible.

As we go on budget—and the 2024 UPL asks for $113 million to outfit and assemble four of—four 60s, and that will enable us to transition another air station in 2026. I don't have the time phasing on that, but we will be happy to get back to you on it.

Mr. RUTHERFORD. OK. So are we also going to have to make hangar changes for these MH–60s, particularly on the cutters, because—

Admiral FAGAN. To the criticality—so the National Security Cutters and the offshore patrol cutters, with a tail fold/blade fold capability, the 60s will be able to be accessible to those two cutter classes.

Mr. RUTHERFORD. OK. So there won't be any need to modify the hangars on those cutters?

Admiral FAGAN. Not that I am aware of. The shore infrastructure pieces around aviation, for example, as we fielded the C–130Js,

there were modifications to shoreside hangars that were needed to make that asset—

Mr. RUTHERFORD. Well, that—yeah, that is another issue, too.

Admiral FAGAN [continuing]. larger, but I will confirm with the staff. I am not aware that we have got modifications, certainly with the new cutter classes.

The 60 is larger than some of the older. Legacy fleet would be able to accommodate the, you know, two 270s and otherwise.

Mr. RUTHERFORD. Right. And that is why I wanted to ask about, you know, the hangaring capability, both shore and fleet, the maintainers. What are we looking at as far—you know, I understand that the MH–60 has got—requires many more maintainers than some other options that might be out there.

So my question is: Can we get some information on those—just those issues? I would appreciate that.

Admiral FAGAN. OK.

Mr. RUTHERFORD. And the unmanned program. You talked about that a little bit earlier, and you mentioned the Saildrone for the water. But what about airborne unmanned?

Admiral FAGAN. Yep. So be happy to provide you more details around what the phasing of a—moving to a single fleet of 60s is as it pertains to infrastructure, people, maintainers, and happy—to provide that.

Mr. RUTHERFORD. OK.

Admiral FAGAN. The unmanned system strategy that we just published acknowledges that unmanned—you know, unmanned technology is here now. We as an organization need to look for where the opportunity is to continue to field that.

Mr. RUTHERFORD. Right.

Admiral FAGAN. ScanEagle is the program of record. The system that we have got fielded on the National Security Cutters are contractor owned, contractor operated, shipboard launched and retrieved, fixed-wing UAS. And we continue—we are getting great benefit from that, and we continue to explore other opportunities for unmanned systems in our Coast Guard operations.

Mr. RUTHERFORD. We look forward to helping you with that.

This is from right field, or left field. Last year, NOAA proposed a rule that will require all boats longer than 35 feet to go 10 knots all up and down the coast—the Atlantic Coast. And, Commandant, I have to tell you, the economic impact of that is going to be huge, particularly on our commercial fisheries and sport fishing if they could only go 10 knots.

Now, because there is a safety issue there, the Coast Guard's—and this is in response to the right whale issue, which I have got legislation to save the right whale, and—but my concern is—and I am hearing this from the bar pilots and others that, you know, this ten knots is really going to put ship safety in question. And you all are going to have to pick up the enforcement of that.

Can you talk a little bit about that? Was the Coast Guard even included in this decisionmaking process, or did NOAA just do this on their own?

Admiral FAGAN. So I am aware of the NOAA legislation. We obviously have a role in advising on maritime safety. What level of

advisement went on prior, I don't know. We can get back to you on that.

The primary enforcement method for a 10-knot limitation is AIS, and we continue to work with NOAA. Not all—there is a disparity between AIS carriage requirements and then the speed restrictions. So we continue to be engaged in that conversation.

Mr. RUTHERFORD. OK. But—so you think they did confer with the Coast Guard before they made this decision?

Admiral FAGAN. I will get back to you with certainty who and when or if not. I don't have that information.

Mr. RUTHERFORD. OK. Thank you. Thank you, Commandant.

With that, I yield back, Mr. Chairman.

Mr. JOYCE. That is a negative amount of time, Sheriff.

Mr. RUTHERFORD. Sorry.

Mrs. HINSON. Demerits.

Mr. JOYCE. Mr. Cloud?

Mr. CLOUD. Thank you, Chairman.

And thank you, Admiral, for being here. I certainly want to thank you and all the people who work with you and what you do. I am on the Texas coast, so we certainly appreciate the Coast Guard and have visited the bases in our district a number of times. And it is always good to get with them to see the work that they are doing firsthand. It is really great.

Because of that, I could also speak to the—certainly the need to make sure that they are well acquisitioned as well and that they have the parts they need. Last time I visited, I think there were some choppers that were down, and they couldn't deploy, but they would working on it. So we want to make sure that they are well supplied.

I wanted to ask you on a couple of things that are particularly sensitive to the Texas coast, and one of them is the migrant population that the Coast Guard is encountering now. I think a March 23 article highlighted the Coast Guard sector San Diego witnessed a 700-percent increase in the number of migrant maritime crossings since 2017.

Do you have the assets you need to deal with this situation? I know I have been a fan of the area's stats that were being used and deployed and would certainly advocate for those to continue to have their use along our southern border.

Anyway, if you could speak to having what you need to deal with the situation and what kind of tax that is putting on your ability to do your other missions in the area.

Admiral FAGAN. Yeah. As you have identified, maritime migration flows are up across all of the vectors, including the vector into San Diego. The fast response cutters have been a key, significant capability for us. And so, as we look at budget and support for the Coast Guard continuing to field, the new assets and capabilities that we are stepping into now will be critical to ensuring that we have got the capability that we need to counter those migration flows.

You know, the ReCoM and the other interagency effort down there, there is a great team of professionals. It is not just the Coast Guard. We are primary on-the-water presence, but we continue to, engage with our other law enforcement partners in that realm and

look to—for opportunities for, you know, unmanned systems to increase maritime domain awareness so that, you know, when a migrant attempt is made, we are able to put an asset on vector and ensure that we, one, prevent the loss of life, and then, two, have a positive interdiction.

Mr. CLOUD. And of course that is drug trafficking as well that is coming in, and we have, you know, had drugs wash up on our shore, you know, in our district a number of times, but—and kind of connected and unconnected at the same time, the illegal fishing that goes on along the coast, a lot of it coming out of Mexico, some of it seemingly to be a cover for cartel operations even at times.

Could you speak to what you need to be even more effective at what you are doing there?

Admiral FAGAN. Yeah. IUU fishing—illegal, unregulated, unreported fishing—is a global issue, and——

Mr. CLOUD. Right.

Admiral FAGAN [continuing]. We experience it in the United States, certainly in the Gulf of Mexico. We have published an IUU strategy a few years ago to help bring alignment and leadership to the problem set.

In the—specific to the Gulf Coast of the United States, again, the fast response cutters and our small boats are our primary capability that we work to counter that activity. And so, again, as we continue to field those new acquisitions, it just increases our effectiveness in those vectors as it as it pertains to IUU fishing, migration, counternarcotics, and so, you know, sort of staying—staying the course with the major acquisitions and the programs that we are on record for will be critical to ensuring that we are able to meet those missions.

Mr. CLOUD. I noticed there wasn't a budget increase request for that, so I am guessing you believe you have what you need to handle that mission?

Admiral FAGAN. Yes. All of the assets are multimission so we don't, you know, say this cutter just for this mission, so——

Mr. CLOUD. For fishing versus—yeah. Right.

Admiral FAGAN. Right. But, as—when you look at the fleet mix, we are working to field new state-of-the-art capacity. It will allow us to meet mission across those number of portfolios.

Mr. CLOUD. Yeah. One other line I wanted to ask you on, Russia and China recently conducted routine patrols in the Arctic. And obviously we—that is going to be a threat we have to continue to stay aware of.

I know that there is a request for $125 million for a commercially available icebreaker. That was taken out of—the Senate basically took it out of the last cycle, I guess because there was some concerns about retrofitting it once it was purchased, or is that figure—the 125 million, does that cover the whole getting it where you need it to be, or is there a cost beyond that after you purchase it? What is that figure detail?

Admiral FAGAN. So, if appropriated, the $125 million would allow the purchase of a commercially available icebreaker. There is an additional 25 million to help bring that to IOC. We are working——

Mr. CLOUD. So you really need $150 million—to put it to use?

Admiral FAGAN. In the 2024 President's budget, the number is reflective of what it will need to acquire and get to an initial operating capacity, that particular vessel.

We are working to monetize what the outyear—so we—what the lifecycle cost is, is still something we are working working to definitize.

Mr. CLOUD. Oh, I see what you are saying. And I also wanted to speak to the—get your take on the polar security cutters that are yet to be delivered in the time—I am out of time.

Mr. JOYCE. There is a second round.

Mr. CLOUD. I will ask again. I will ask you more later.

Mr. JOYCE. Thank you, Mr. Cloud.

Mr. Trone.

Mr. TRONE. Thank you, Mr. Chairman. I appreciate it.

Welcome, Commandant.

The Coast Guard has been underfunded for years. You said your priority is promoting, diversifying, providing for your workforce what it needs to meet demands of the modern Coast Guard. But, without increased funding, it is clear you won't come close to achieving that goal.

Can you highlight the aspects in the fiscal year 2024 budget that talk about recruiting, sustained readiness, and of course retention of your best people?

Admiral FAGAN. Thank you.

We have got a number of line items in the 2024 budget that will help across that fold. The funding support in recruiting is allowing us to field additional recruiters, open new recruiting offices, allows us to increase just advertising and engagement. We are fielding additional JROTC programs, all designed to address the recruiting challenge.

The budget also supports investments in, you know, pay; housing allowances to ensure that our personnel are able to find housing as they transfer around the country; investments in our medical capacity and medical personnel to increase, you know, access to mental health and behavioral health and other medical needs; and subsidies as well as investments in child—you know, so improving access to childcare, whether it be subsidies or access to a Coast Guard-operated child development center, the 2024 budget provides great support.

And, while we recruit an individual, we retain their families, and so ensuring we have got that support appropriate to and—for our Coast Guard members is critical.

Mr. TRONE. That is really important, the whole wraparound. If you don't take care of the family, the member—the guard is not going to be successful, no question about it. It is about everybody.

Drug interdiction, international drug interdiction, you have done quite a bit of that, I read. You know, that requires flexibility in your budget to move resources where you need to move them.

What needs to be done—how can we help you be better off and be stronger on interdiction work, especially the fentanyl precursors shipped in from China to Mexican ports?

Admiral FAGAN. So, with regard to the maritime interdictions, continuing to support the portfolio of acquisitions that the Coast Guard has embarked on are critical to ensuring we are able to

meet that mission. It is a force package of ships, helicopters, pursuit boats that allow us to interdict illegal narcotics at sea.

The fentanyl challenges, we are not encountering fentanyl to a large extent at sea, and so that becomes a partner in capacity conversations that I am engaged with my Mexican counterparts within the law enforcement agencies within DHS are working to identify ways to better counter the fentanyl threat, particularly it is the chemicals moved through ports other than the United States.

Mr. TRONE. Talk a little bit how you are using—exploring the use of long-endurance, autonomous, uncrewed surface vehicles to augment your crewed platforms and interdiction efforts.

Admiral FAGAN. So the unmanned system strategy that we have just published is designed to help us move forward strategically around what unmanned systems can provide key enabling information and capacity to us as an organization and whether it is increased maritime domain awareness or, you know, just opportunities so that, when we put a person on a ship, in an aircraft, that you know exactly where you are going and you are going to be on time, on target. And unmanned technology has a role there, and we are working to increase how we internalize that into our operating capacity.

Mr. TRONE. OK. I thank you very much.

I yield back.

Thank you, Commandant.

Mr. JOYCE. Recognizing myself for a second round of questions.

I want to follow up on something my colleague, Ms. Underwood, brought up; that is your budget request including 55 million for a Great Lakes icebreaker, the Mackinaw and your fleet of multipurpose 140-foot icebreaking tugs are essential for keeping commerce moving. These vessels are approximately 40 years old. Modern vessels could be made more capable and have improved crew accommodations.

If Congress funds the $55 million request for a Great Lakes icebreaker, would the service be available to spend the funds in fiscal year 2024?

Admiral FAGAN. Thank you.

We are excited about the opportunity for a Great Lakes icebreaker. We have completed pre-acquisition work, and the $55 million would support an ability to go out with a request for proposals for a—an icebreaker that is as capable as the Mackinaw.

I am excited about what that opportunity is for the organization. We are working through design requirements and technical requirements, but we have made progress on the Great Lakes icebreaker in the last year.

Mr. JOYCE. Are you going to be able to spend the money in fiscal year 2024?

Admiral FAGAN. We will be able to spend the money in fiscal year 2024, and we will work toward requests for proposals.

Mr. JOYCE. I understand 140-foot tugs, two which are homeported in Ohio, recently completed a service life extension. But how long did that extend their service life, and what is the ultimate replacement plan?

Admiral FAGAN. I don't have the exact number. Typically a service life extension will be 10 to 15-plus years. The waterways com-

merce cutter then becomes, you know, key new assets as we field them along our internal waterways to ensure that we are able to reliably provide for the safety, security of the inland river system.

Mr. JOYCE. If Congress provides funds for a Great Lakes icebreaker, how would the vessel complement the icebreaking assets that already exist in the Great Lakes?

Admiral FAGAN. So we operate a system of icebreakers in the Great Lakes, the *Mackinaw* being the largest of that system, and there are other smaller inland fleet of vessels. The Great Lakes icebreaker will then become an additional capacity that will help ensure year-round, you know, access on the Great Lakes.

How it then contributes to the fleet mix and what the smaller icebreaking capacity is and needs are is part of the work that is ongoing in the organization.

Mr. JOYCE. Could it replace some of the work done by the 140s?

Admiral FAGAN. We are working through all analysis. I am happy to come back to you with more detail on how *Mackinaw*, Great Lakes icebreaker, 140s, and kind of what the way ahead looks like with regard to those investments.

Mr. JOYCE. Look forward to that.

I recognize Mr. Cuellar for a second round.

Mr. CUELLAR. Mr. Chairman, thank you so much.

I want to go back to your visit with the Mexicans and ask you to continue, focus on a couple things. I want to bring up a couple things.

One, the Mexicans, for the first time, are spending almost $900 million on technology for their land ports and for their seaports. And they are pretty much using the same American companies that CBP uses on the U.S. side.

The Mexican Navy awarded about—about $330 million, and the Mexican Army, another 613. So I say this because a lot of the ports are now going to have the same type of technology—the same type of technology that we have.

So I would ask you to work with them. And I know that, when it comes to fentanyl—we have been talking about fentanyl—it is a little harder. You know, the pill pressers and the—what is legal. And the Mexicans are—actually are looking at certain chemical watchlists. They are going from 14 to 72. So make sure you focus on that.

But I would ask you to look at those ports and push them to try to get that technology and make sure that technology can be shared with us. I mean, the information.

Second thing is—let me go back to fentanyl again. You all have had, for the last few years, zero interdiction on fentanyl. And, again, we already talked about it, but, again, I would ask you to look at those two ports and put an emphasis on those two ports, because they come in, they are manipulated, and then they go up through—not in between ports, but at the ports of entry.

And, again, it is hard, because the—even the technology that we have now to try to find something this size compared to marijuana, it is very different. So I would ask you to work with them on that information sharing, especially when you look at the flows and where they are going in.

Third thing, I would ask you to think ahead. Mexico is doing their Isthmus corridor, and they are moving fast. It is incredible what they are doing. And I would ask you to look at this, because the Chinese already on the Gulf of Mexico, they are looking at investments there and on the Pacific side.

So I would ask you to look at that, because, you know, that is—members, that is a coast—you know, they are going from one to the other one. It is not a Panama Canal, but it is rail, and it is also highways. And they are moving very fast on it. I call it the new Mexican-Panama—not canal, but route also.

And, again, interesting, the Chinese are at the very beginning and at the very end, depending what side you are looking at. So I would ask you to look at that also.

Finally, talking about the Chinese, when you look at where the Chinese are at—I know we look at the Indo-Pacific. We look at other places. They are on—they are in our backyard, members, and I would be happy to share with you, but they are doing a lot of things.

And, if you look at those two ports of entry where—I mean, seaports, Chinese have investments. In fact, their cranes and all that, Chinese. So you can understand why the legal precursors are coming in easily itself. But I would ask you to look at it. I know the land ports are a little different from what—but I would ask you and ask them questions about the Chinese presence there, because they are—can't talk about it here, but I would say they are very, very close to a lot of things that we are doing here in the U.S. side.

So I would ask you to look at the Isthmus, number one. The new technology that they are buying, it is American companies that Myvina (ph) is using, and the Chinese involvement there because they are—name it, and they are there. There is industrial parks. They are there. And seaports are definitely—those two Pacific.

So, again, it is more of not a—not of a question, more of a statement, but I would ask you, when you meet with the Mexicans, focus on that if you don't mind, and then get back to us—I would appreciate it—to the committee.

Admiral FAGAN. I will. And, as I said, I will be in the Port of Manzanilla on Tuesday meeting with my Mexican counterparts, and look forward to sharing those conversations when I return.

Mr. CUELLAR. Thank you. Thank you, Admiral.

Mr. JOYCE. Thank you on behalf of all of us for doing that.

Mrs. Hinson.

Mrs. HINSON. Thank you.

Just a couple of questions. And I would actually like to follow up on something Mr. Cuellar pointed out about kind of the Chinese strategy around the world. And obviously INDOPACOM is the most visible, I think, area where we have seen recent aggression.

But can you just comment briefly about have you seen any other places in the world where they are showing that aggression directly, places that we might need to be aware of? And—yeah, if you could just elaborate on that to start, that would be great if.

Admiral FAGAN. So certainly to—you know, the Chinese are very, very active around the Indo-Pacific, but they are active in South and Central America, Africa, looking for opportunities to invest and gain access.

With regard to, you know, maritime—maritime operations, obviously as we send ships into the Western Pacific, we do that in conjunction with the U.S. Navy and continue to ensure that our ships are—you know, have the correct readiness level should—you know, should we encounter unfriendly behavior on the part of the Chinese Coast Guard.

Mrs. HINSON. What keeps you up at night about that challenge?

Admiral FAGAN. The world continues to change at a quickening pace, and as we operate in maritime areas that are competitive and, you know, challenging, ensuring that my workforce has the readiness level that they need to meet whatever the challenge is they might find in the mission that we have asked them to do.

Mrs. HINSON. Right. And you mentioned that obviously in your opening statements that you were having challenges with readiness because of recruitment. Can you elaborate a little bit on what those challenges have been and if there are any barriers or those things that this committee can be helpful with or other ways we might look at assistance there?

Admiral FAGAN. Yeah. So I appreciate the support—the funding support that we have got to build, increase recruiting capacity. You know, recruiting is a highly individualized effort. It takes—it is, you know, one on one, human being to human being. It takes a fair amount of interaction. Also appreciate the supports of the personnel—the technology systems that help make it easier once we have found the person who is coming. It is easier to onboard them, and, you know, I am committed to making sure that we have got the right resourcing in place to recruit people.

And then just telling our story. There are so many Americans that have no idea what the U.S. Coast Guard is, what we do. And then the opportunity and the value proposition that we offer as an employer.

And so I would appreciate the support, and we will continue to get out there and tell our story.

Mrs. HINSON. Did you lose any of your workforce due to the COVID vaccine challenges? I know that obviously that was something we heard a lot about, that some people may have chosen to leave as a result of that or retire.

Is anyone offering to come back? I guess I would just be curious what that did to your——

Admiral FAGAN. So we did—we had a number of individuals who we did remove from service for failure to be vaccinated. We have contacted 100 percent of those individuals, both Active Duty members and cadets, and some are choosing to come back. In fact, we had our first one come back onto the Active Duty rolls just this past Friday.

Mrs. HINSON. Okay. Can you get me some numbers on what that looks like in terms of how many actually you had to ask to leave, and then how many have been contacted, what that looks like, and just provide it to us.

Admiral FAGAN. Yeah. So it was 275 that were asked to leave. We have contacted 100 percent of them, and the first one has come back on.

We are using the same process to re-onboard people, you know, for who have left for other reasons. And I don't know what the

total—we don't—it is too early to tell how many will actually come back, but 100 percent have been contacted.

Mrs. HINSON. Okay. Thank you, Admiral.

Mr. JOYCE. Thank you, Mrs. Hinson.

Mr. Trone is recognized.

Mr. TRONE. Thank you, Mr. Chairman.

Just one quick question. Your unfunded priority list includes a need for a facility in Baltimore. Can you discuss the importance of this facility and your plans on any funding for future appropriations?

This would be a ship-handling facility capable of working on maintenance, extending service life of vehicles in the Port of Baltimore?

Admiral FAGAN. So we operate the Coast Guard Yard in Baltimore. This investment would be directed at our organic yard capacity. That capacity is critical to us maintaining our major cutter fleet.

The UPL asks for $60 million. It will include shore preparations, dredging, facility upgrades that would enable us to integrate a larger floating dry dock so that, as—it would be large enough to allow us to service the offshore patrol cutters when they come online.

So this is a future investment to ensure that we are able to maintain the fleet that we are acquiring now.

Mr. TRONE. Good. I appreciate that. I would be happy to support that as you move forward and you put that to the top of your list. Thank you.

Admiral FAGAN. Thank you.

Mr. TRONE. I yield back.

Mr. JOYCE. Thank you, Mr. Trone.

Mr. Cloud.

Mr. CLOUD. Thank you.

So my questions that I had have been answered, but I did want to continue kind of the dialogue about China, because one of my major concerns is just our shipbuilding capacity here in the United States and our ability to keep pace, and obviously that would affect a lot of the Coast Guard's acquisition. But also, just maybe speaking to that aspect of it, but also anything else that you were concerned with in our ability to keep pace with what you see China doing.

Admiral FAGAN. Yeah. So continuing to move forward with the portfolio of major asset investments and infrastructure investments are critical to fielding a capable, ready Coast Guard. So, you know, this includes polar security cutter, the waterway commerce cutter, the offshore patrol cutter, potential additional investments in fast response cutters—this is—the UPL signals $400 million for an additional four.

And that would create additional presence, particularly in the Indo-Pacific, to allow us to partner engage with ally and partner nations with, you know, our value proposition and the expertise in governance that the United States Coast Guard brings to maritime governance challenges.

And that also extends to the infrastructure investment so that we can have a safe place to tie those ships up and our people have buildings and offices to—that they can operate from safely.

Mr. CLOUD. How about, how would you say we compare in regards to requiring the speed of—speed and ease—how quickly we can——

Admiral FAGAN. Yeah. So we—you know, we acquire—major assets consistent with Federal acquisition law.

It is not a fast process. We are committed to, you know, following the process and way forward. Working through understanding requirements so that you can get the design and then begin to build takes time, but using that process is important so that you actually get the ship capability that you need, not something that does not meet your requirements.

Mr. CLOUD. Part of that obviously is the ability to staff our acquisitions, and so, to the point of recruiting, I was curious about that as well. And for those coming back, what incentive are there for them to come back? Is their rank restored, their pay restored. How does that—how does that work?

Admiral FAGAN. So we have had a process in place to bring people back who have left the service for whatever reason. We are using that same process. And, you know, there was a—I can certainly get you all the specifics on length of time, how we step back through it. But they come back into position—not necessarily a position, but pay grade and skill set that they left, and then we work to assign them and get them employed—employed by the organization.

Mr. CLOUD. And what efforts are being made—because most who leave and come back, I don't think were asked to leave in the first place, and so what is there in place to make sure that they understand that there is no reprisal or any sort of action to be taken against them for haven't being asked to leave in the first place?

Admiral FAGAN. Yeah. As I said, we contacted 100 percent of them and said we would welcome you back.

There is no—we have already gone through—as required by law, there is no evidence in anyone's records with regard to vaccination, nonvaccinated.

And so we truly are welcoming back people who are interested in coming back.

Mr. CLOUD. Thank you. And I do appreciate you reaching out to each of them. Thank you.

Mr. JOYCE. Mr. Rutherford. Sheriff Rutherford.

Technically you are next.

Mr. RUTHERFORD. Thank you, Mr. Chairman.

I want to follow up on the China involvement and threat as well. The IRI, the International Republican Institute, did a great report on malign Chinese influence in the corrosion of democracy. And one of the countries that they looked at was Ecuador and the Galapagos Islands specifically.

Can you talk a little bit about what the Coast Guard is doing down there to stop the IUU fishing that, you know, Ecuador is suffering right now?

Admiral FAGAN. So we have a global leadership role in IUU fishing. It truly is a worldwide problem. Recently, 18 months ago, Ec-

uador was experiencing a Chinese squid fleet incursion into their exclusive economic zone off of the Galapagos, and Ecuador asked for assistance.

What the U.S. Coast Guard was able to do was take one of the large cutters that was, you know, conducting counternarcotics work and shift their attention towards the Chinese squid fleet.

Mr. RUTHERFORD. Uh-huh.

Admiral FAGAN. We moved the cutter over. The squid fleet moved off 200 miles away from where they were. And so it certainly speaks to the criticality of presence.

Mr. RUTHERFORD. Right.

Admiral FAGAN. Being visible there with a ship changed the pattern of behavior of the Chinese fishing fleet in that case. And it just speaks to the network and coalition that helped counter some of these difficult maritime challenges.

Mr. RUTHERFORD. Yeah.

Admiral FAGAN. We also, in the IUU fishing realm, engage in a lot of bilateral agreements and ship rider agreements that bring a nation's expertise and authority in fisheries enforcement and onto one of our vessels and allows us to conduct joint boardings in a way that is helpful in the mission set.

Mr. RUTHERFORD. Great. Good. Yeah. That was—that was some great work down there.

Let me ask on the—we were talking earlier about the number of migrants who, you know, how that number is up, the interdictions, particularly around Florida. I am hearing that there is some countries that are resistant to repatriation, some outright blocking it, others just making it difficult, as difficult as they can.

I would ask, do we have some information on countries that are specifically rejecting repatriation?

Admiral FAGAN. When we interdict a migrant at sea, we process them, you know, provide, you know, food and shelter. And then we repatriate them to the country of origin. The primary migrant flows are Haiti and Cuba and we are able to directly repatriate to both those countries.

Mr. RUTHERFORD. Okay. They are not giving us a hard time getting those folks back?

Admiral FAGAN. There are a number of pieces—again, I will have the staff give you all of the pieces that it takes to process and then repatriate, but we are continuing to repatriate to both of those countries.

Mr. RUTHERFORD. Okay. So are you aware of any countries that are refusing repatriation?

Admiral FAGAN. I am not, but I will have the staff affirm whether——

Mr. RUTHERFORD. Okay.

Admiral FAGAN. Whether that is true or not.

Mr. RUTHERFORD. If you can let me know about that. Thank you. I do appreciate that.

And, Mr. Chairman, I will yield back and make up for the first round.

Mr. JOYCE. You are just about caught up.

Dr. Harris.

Dr. HARRIS. Thank you very much.

And thank you very much, Admiral, for being here today.

I represent the First Congressional District of Maryland, bounded by the ocean on one side and the bay on the other side in the most part. And I have been very concerned about the industrialization of the offshore Mid-Atlantic—and that is basically what these wind farms are going to be. They are just industrialization of a place that has never been industrialized before—and a place over which the Coast Guard has some jurisdiction and some interest.

Of interest to me, Monday, the Bloomberg published a story: "Pentagon Sounds Alarm Over Biden Plan for Offshore Wind Sites." But the line that I am going to refer to is on page 2 of the article: The Defense Department's concerns, which come on top of other conflicts identified by the U.S. Coast Guard.

So does Bloomberg have it right? Are there other conflicts with regards to offshore wind in the Mid-Atlantic that have been identified by the U.S. Coast Guard?

Admiral FAGAN. Our role in the wind farm conversation is around ensuring safety of navigation and, you know, advising the process to ensure that fishing vessels, other waterway users, are not negatively impacted by wind farm installations. The Atlantic Coast Route Study is part of that. We have had an active role.

I will have the team look at what that might be referring to.

Dr. HARRIS. Okay.

Admiral FAGAN. There is obviously, you know, ensuring the safety of movement of maritime traffic, and advising on that is the role of the Coast Guard plays.

Dr. HARRIS. So, in April 2013, the Coast Guard sent a letter to BOEM advising that their then-current proposed wind energy area location posed, quote, an unacceptable—posed unacceptable increases in risk to navigation safety. And BOEM went ahead anyway.

So—and that is in the first phase. Now they are—now the administration wants a second phase further offshore. The Defense Department has concerns. I don't know if the Coast Guard still has concerns.

But I am going to ask you a question: Has the Coast Guard analyzed the effect on search-and-rescue missions that these windmills might pose if they—off the coast, because I have a lot—you know, I have a lot of both private and commercial vessels who traffic in that area. God forbid something happens. You know, conditions aren't great.

Has the Coast Guard studied the effect on search and rescue of these windmills?

Admiral FAGAN. Impact on search and rescue is part of the consideration that we have looked at. I would be happy to have the team come over and sort of walk you through where exactly we are at this point in time with regard to the advise—you know, advice we have been providing to BOEM across—you know, again, ensuring safety of navigation, safety of life as the wind farms proceed.

Dr. HARRIS. Sure. And I would imagine, since—since some of the interferences with radar, I would imagine, the—you know, the newest proposed Vestas 15-megawatt windmill, 919 feet tall, much taller than ones that have been looked at in the past, I would imagine they could have deferential effects on radar. I am sure they haven't

been studied because this is a relatively new windmill and it is what is going to happen in the future.

I do have concern that you only advise BOEM on this because you all are the experts in maritime navigational safety, not BOEM. BOEM, it appears, has an agenda here, and I worry about it because their agenda, I think, conflicts with maritime safety. And I think that was in a letter—again, the April 2013 letter advising BOEM.

BOEM completely disregarded it, and here we are. You know, we are back—we are back again, because now that BOEM wants to re-expand, wants to lease new areas, I am afraid they are going to take the same attitude with that.

Anyway, if you would get back to me on that, I would appreciate it.

The second thing I have is an issue of navigational buoys. Again, these are mostly in the bay. So what has happened is that we have a couple of Federal channels—Slaughter Creek, Tar Bay Gap—where the navigational buoys were removed by the Coast Guard because, you know, the channel silted in, Coast Guard says: This is not a—you know, there is no channel here anymore. It is too shallow a depth. We are taking the markers out.

So I have two questions. One is, when that happens, do you communicate the importance of that to the Army Corps so that they take that into account when they do their dredge plans?

And the second one is, could you allow and expedite private aids to navigation being placed in those channels because, without markers, as you can imagine, you are left on local knowledge, which sometimes isn't that much? And other entities have wanted to place markers and run up to the—into the Coast Guard, I will say bureaucracy, or maybe policy, of not being allowed to put a private aid to navigation there.

So is this something that we can work with together to make sure that, look, something is in that channel? And I get it. If it is not deep enough to be a, you know, a Coast Guard marked channel, but our watermen and our private boaters do need some markers.

Admiral FAGAN. I will look forward to working with you on that and will take back that specific issue to the team and see where we are with regard to private aids to navigation.

Dr. HARRIS. Thank you very much, Admiral.

Thank you. I yield back.

Mr. JOYCE. Since we have had a second round of questions, if you had any more, you feel free to take this opportunity.

Dr. HARRIS. You know, Mr. Chairman, I appreciate that, but I think, again, we will work with the admiral on the offshore wind issues, safety issues. It is just very concerning to me as my watermen, my commercial fishermen, my private fleet, charter boat captains, et cetera, are—express a lot of concern about shortcuts being taken over at BOEM that don't take into consideration the input of interested parties and experts—not only just interested parties—and, again, I can't emphasize this. There is nobody at BOEM who knows navigational safety as well as the Coast Guard does.

Mr. JOYCE. Certainly.

Dr. HARRIS. And for them to disregard that letter back in 2013, I think, is highly problematic—highly problematic.

But no. I appreciate the offer. I yield back.

Mr. JOYCE. Thank you, Dr. Harris.

There may be additional questions from members, and I would ask that you get back to them in a timely fashion. For those that are asked today, if you could get back to us within 15 business days from today, it would be most appreciative so we can work on fashioning your budget for going into the Department's budget going into next year.

Again like to thank you for being here today.

And, with that, unless there is anything further from any members, this committee is now adjourned.

Thank you.

Admiral FAGAN. Thank you.

[Answers to submitted questions follow:]

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Wednesday, April 19, 2023

Hearing:

"U.S. Coast Guard FY 2024 Budget Request"

Witness: Admiral Linda Fagan, Commandant, U.S. Coast Guard

Representative Case

QFR #5: COAST GUARD RECRUITMENT

BACKGROUND: From Congressman Case - The Coast Guard has missed its recruitment target for the last four years, falling short by an average of 20% each year. Your budget sets aside $35 million to help the Coast Guard address the nationwide military recruiting shortage and open nine new recruiting offices.

QUESTION PART-1: What are the main factors making it difficult to recruit?

ANSWER PART-1: A recent Pentagon study found that 70 percent of the country's youth were ineligible for military service without a waiver—typically fitness or a medical condition and some are considered ineligible for culturally acceptable, but still prohibited issues like tattoos (location or content), body modifications (like gauge earrings), drug use, criminal charges, or civil indiscretions. Other limiting factors include age, number of dependents, and single parenthood requirements. In addition, two thirds of high school graduates will attend at least one semester of college; shrinking the historic post high school recruiting surge. Diminishing 'propensity to serve', defined as an individual's interest and likeliness to join a military or armed service, seen as a contributing factor for lower accession. The impacts of COVID-19, which limited in-person recruiting in high schools, also atrophied historical partnerships. The Coast Guard is now competing in a post-pandemic job market which has employers fighting for workers. Even entry level non-government service jobs have benefits similar to military packages including signing bonuses, referral bonuses, and medical.

QUESTION PART-2: What new methods can be utilized to address these recruiting challenges?

ANSWER PART-2: There are two main ways the Coast Guard is addressing these challenges. The first is by increasing the number of recruiters in the field. The second is increasing the efficiency of recruiters and the recruiting process. The Coast Guard has established an Incident Management Team to explore new and innovative ways to recruit. Innovation and policy adjustments have helped Coast Guard Recruiting Command improve recruiting trends in recent months.

QFR #6: COAST GUARD LOGISTICS

BACKGROUND: From Congressman Case - The Coast Guard plays a critical role in the Indo-Pacific, from conducting illegal, unreported, and unregulated fishing patrols; to training international partners; to conducting humanitarian operations. However, the distances that must be traversed and logistics that must be overcome to fulfill these missions in the Indo-Pacific are immense. For example, the Coast Guard's 14th District must source parts for cutters, etc. from Baltimore, which can lead to lengthy delays.

QUESTION PART-1: To manage some of these challenges, what steps has the Coast Guard taken to create or bolster logistics support efforts in forward operating bases in the Indo-Pacific in areas such as Guam?

ANSWER PART-1: In Fiscal Year (FY) 2023, the Coast Guard established the Director of Operational Logistics, Office of Expeditionary Logistics (DOL-X) to oversee the integration, coordination, and execution of mission support services to Coast Guard forces conducting expeditionary operations, including the support of deployments throughout the Indo-Pacific. DOL-X improves the delivery of mission support in this region by forward deploying logistics support personnel and implementing integrated support processes, which reduce the logistics burden on field operators and improve coordination and execution of mission support services.
The Coast Guard will also establish Base Guam this fiscal year to serve as a mission support integrator for the region. Additionally, the FY 2023 appropriation funds the first Deployable Support Team, which positions Coast Guard personnel both at Base Guam and Base Honolulu, HI to provide rapid maintenance/logistics support and operational augmentation for deployed assets across the Indo-Pacific.

QUESTION PART-2: I have been told the Coast Guard has no West Coast base storage for logistics support. Are there plans to establish base storage on the West Coast, or otherwise address the difficulties with needed logistics support, such as shipping parts to Coast Guard stations in the Indo-Pacific?

ANSWER PART-2: The Coast Guard's primary inventory control point for surface maintenance is located at the Surface Forces Logistics Center (SFLC) in Baltimore, MD. While the SFLC serves as the hub for surface fleet logistics, it centrally manages 66 remote stock locations at strategic locations across the world, 14 which are positioned for direct support of Pacific Area operations. Additionally, the SFLC maintains an Interservice Support Agreement with the Defense Logistics Agency (DLA), Distribution Depot Guam to store additional Coast Guard-owned material, with available capacity to accommodate additional Coast Guard surface assets as necessary.

QFR #7: COAST GUARD PACIFIC AREA – STRATEGIC INTENT REPORT

BACKGROUND: From Congressman Case - The Fiscal Year 2023 Homeland Appropriations Committee report directed the Coast Guard to update its Pacific Area (PACAREA) Strategic Intent document, which was last updated in 2016, over six years ago.

QUESTION: Can the Coast Guard please provide a timeline for completing the Service's update to the PACAREA Strategic Intent Report?

ANSWER: The "Coast Guard Pacific Area Strategic Action Plan" for 2022-2023 was completed and signed by Vice Admiral Mike McAllister, Commander, Coast Guard Pacific Area, in 2022.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Wednesday, April 19, 2023

Hearing:

"U.S. Coast Guard FY 2024 Budget Request"

Witness: Admiral Linda Fagan, Commandant, U.S. Coast Guard

Representative Michael Guest

QFR #3: COAST GUARD CYBER PROTECTION TEAMS (CPTS) & CYBERSECURITY INFRASTRUCTURE

BACKGROUND: From Congressman Guest – During Admiral Fagan's (Commandant) recent State of the Coast Guard Address, she briefly discussed the need for the Coast Guard to invest in the Coast Guard's Cyber Protection Teams (CPTs) to deter and respond to cyber-attacks in the Marine Transportation System and other IT infrastructure. As she stated in her address, the Coast Guard will soon be standing up its third Cyber Protection Team on the West Coast to help protect our nation's ports from cyber threats. Cyber is one of the many threats that the Coast Guard manages at our nation's ports. My understanding is that port authorities can request CPTs to conduct cybersecurity assessments, consisting of penetration testing and configuration review, to include malware vulnerability. Recently, many of my colleagues in the House have raised the issue of cybersecurity threats at our nation's ports, specifically related the wide use of Chinese technology and equipment, or Chinese cranes to be exact.

QUESTION PART-1: First, can the Coast Guard walk us through the Coast Guard's cybersecurity-related funding request for personnel working on cybersecurity to protect our nation's ports and the Marine Transportation System? Is this cyber-related funding request adequate to address the evolving threat environment at our ports?

ANSWER PART-1: The Coast Guard is not requesting additional funding in Fiscal Year 2024 for personnel to protect the Marine Transportation System (MTS). We continuously evaluate the cyber security risks to our MTS and continue to assess future requirements.

QUESTION PART-2: Second, can the Coast Guard confirm whether the Coast Guard's CPTs conduct post-delivery systems checks or any other cyber assessments on foreign manufactured cranes at our ports, specifically those from adversarial countries, such as China?

ANSWER PART-2: Coast Guard CPTs do not conduct post-delivery systems checks or cyber assessments on foreign manufactured cranes within US Ports. CPTs conduct assessments of operational technology, including cranes, once an agreement is established between the requesting port partner and the Coast Guard. The Coast Guard actively engages with port stakeholders, through the Coast Guard's Captain of the Port, to increase the number of these agreements.

QFR #4: MH-60 HELICOPTER TRANSITION: ECONOMICS-OPERATIONS-SAFETY

BACKGROUND: From Congressman Guest - The Coast Guard has stated its plan to transition to an all MH- 60 helicopter fleet, acquiring used helicopters from the Navy. For this transition, the FY24

budget requests $30 million, and the Coast Guard received over $200 million in FY22 and over $166 million in FY23. This plan would mean that the Coast Guard has only one type of larger helicopter.

QUESTION PART-1: What will be the difference in annual operating costs of the current mixed fleet vs. an all MH- 60 helicopter fleet?

ANSWER PART-1: The current mixed fleet of 98 MH-65's and 48 MH-60T's costs $1.32 billion to operate. An all MH-60T fleet of at least 127 aircraft is expected to cost $1.455 billion to operate (in 2022 dollars).

QUESTION PART-2: Are the MH-60 aircraft acquired by the Coast Guard used Navy helicopters? If so, what are the average hours on these airframes and what is the cost? Are these aircraft ready for operations upon delivery, or are there additional refurbishment costs?

ANSWER PART-2: The Coast Guard MH-60T transition plan includes aircraft acquired from the Navy. These aircraft have on average 8,430 flight hours. The aircraft are not ready for operations upon receipt and require hull configuration changes as well as dynamic component and wire harness recapitalization, all at an approximate cost of $25 million per aircraft.

QUESTION PART-3: Will the Coast Guard need more and/or larger hangars to house the MH-60s, and will the Coast Guard be requesting those funds in the future?

ANSWER PART-3: The Coast Guard's transition from the MH-65E to the larger more capable MH-60T will require minor hangar modifications at most legacy MH-65 air stations. The Coast Guard is evaluating alternatives for space-constrained hangars at five legacy MH-65 air stations.

QUESTION PART-4: Are there plans to close any air stations or Air Sub-Facilities with a transition to an all MH-60 fleet?

ANSWER PART-4: The Coast Guard is completing a study on its entire aviation force laydown, consistent with the requirements of the FY 2023 NDAA. We look forward to sharing the results of this analysis.

QUESTION PART-5: The MH-60s require more personnel to operate than other Coast Guard helicopters. What is the additional staffing cost of an all MH-60 fleet?

ANSWER PART-5: While an MH-60T helicopter requires approximately six more personnel than required to support an MH-65E, anticipated outyear personnel growth and costs are based on the aircraft delivery year and location which the Coast Guard is working to finalize. The FY 2024 President's Budget requests 92 personnel and $21.1 million to transition Air Station Ventura, CA to the MH-60T and increased capacity at its Aviation Training Center in Mobile, AL.

QUESTION PART-6: Will the Coast Guard have enough personnel to operate an all MH-60 fleet?

ANSWER PART-6: The Coast Guard is working to finalize outyear personnel analysis to support an all MH-60 fleet.

QUESTION PART-7: Can the MH-60 operate on all of the Coast Guard's ships? Does it fit in all of the Coast Guard's land and ship hangars? If not, what are the Coast Guard's plans for those ships and air station hangers that cannot accommodate the MH-60 helicopter?

ANSWER PART-7: The Coast Guard can operate the MH-60T from seven of its 13 Famous Class Medium Endurance Cutters (270 feet long) and from all its National Security Cutters (NSC). Additionally, the Coast Guard designed its newest medium endurance and polar ice-breaking cutters, the Offshore Patrol Cutter (OPC), and the Polar Security Cutter (PSC), to enable MH-60T operations. The Coast Guard will configure its entire MH-60T fleet to be blade-fold, tail-fold capable to ensure that deployed MH-60Ts will fit into hangars on both the NSC and the OPC. Though the Coast Guard will replace the Medium Endurance Cutters with OPCs, the Service will continue to support cutter-based missions on legacy major cutters primarily via the Helicopter Interdiction Tactical Squadron (HITRON) which will continue to operate MH-65E aircraft until the final phase of the rotary-wing fleet transition in the mid-2030's.
The Coast Guard is evaluating alternatives for space-constrained hangars at five legacy MH-65 air stations.

QUESTION PART-8: Do both the MH-60 and the Coast Guard's Unmanned Aircraft System (UAS), ScanEagle, fit on board Coast Guard ships together? Has the National Security Cutter deployed and operated with a MH-60 helicopter and ScanEagle UAS? If not, what equipment will be left onshore and what would be the impact to a cutter that is not fully mission capable?

ANSWER PART-8: It is possible for a NSC to deploy with both an MH-60T and a ScanEagle UAS without sacrificing capability. To date, the Coast Guard has not deployed a National Security Cutter with both an MH-60 helicopter and ScanEagle UAS.

QUESTION PART-9: Occasionally aviation fleets are grounded due to safety or maintenance concerns. Does the Coast Guard have a plan to cover all statutory missions Coast Guard helicopters are used to support if the single helicopter fleet is grounded?

ANSWER PART-9: Over 4,000 H-60 variants are operated by all branches of the U.S. Military and by the armed forces in over 30 countries worldwide. The global proliferation of the H-60, its durable domestic supply chain, and extensive operational and sustainment record make the aircraft very resilient to maintenance or safety concerns that may ground smaller fleets. Additionally, Coast Guard operational commanders will leverage the Coast Guard's nationwide search and rescue (SAR) system, consisting of an overlapping network of surface, aviation, and shore-based assets, to withstand stressors and maintain SAR response posture at units throughout the Country.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Wednesday, April 19, 2023

Hearing:

"U.S. Coast Guard FY 2024 Budget Request"

Witness: Admiral Linda Fagan, Commandant, U.S. Coast Guard

Representative Rutherford

QFR #1: MH-60 HELICOPTER TRANSITION

BACKGROUND: From Congressman Rutherford - The Coast Guard has stated its plan to transition to an all MH-60 helicopter fleet, acquiring used helicopters from the Navy. For this transition, the FY24 budget requests $30 million, and the Coast Guard received over $200 million in FY22 and over $166 million in FY23. This plan would mean that the Coast Guard has only one type of larger helicopter.

QUESTION PART-1: What is the difference in annual operating costs of the current mixed fleet vs. an all MH- 60 helicopter fleet?

ANSWER PART-1: The current mixed fleet of 98 MH-65's and 48 MH-60T's costs $1.32 billion to operate. An all MH-60T fleet of at least 127 aircraft is expected to cost $1.455 billion to operate (in 2022 dollars).

QUESTION PART-2: For H-60 aircraft acquired from the Navy, what is the average hours on the airframes and what do they cost? Are these aircraft ready for operations upon delivery or are there additional refurbishment costs?

ANSWER PART-2: The Coast Guard MH-60T transition plan includes hulls acquired from the Navy. These hulls have on average 8,430 flight hours. The aircraft are not ready for operations upon receipt and require hull configuration changes as well as dynamic component and wire harness recapitalization, all at an approximate cost of $25 million per aircraft.

QUESTION PART-3: The MH-60s require more personnel to operate than other Coast Guard helicopters. Do you have enough personnel and what is the additional staffing cost of an all MH-60 fleet?

ANSWER PART-3: While an MH-60T helicopter requires approximately six more personnel than required to support an MH-65E, anticipated outyear personnel growth and costs are based on the aircraft delivery year and location which the Coast Guard is working to finalize. The FY 2024 President's Budget requests 92 personnel and $21.1 million to transition Air Station Ventura, CA to the MH-60T and increased capacity at its Aviation Training Center in Mobile, AL.

QUESTION PART-4: Can the MH-60 operate on all of the Coast Guard's ships? If not, what are the Coast Guard's plans for those ships that cannot accommodate the MH-60 helicopter?
ANSWER PART-4: The Coast Guard can operate the MH-60T from seven of its 13 Famous Class Medium Endurance Cutters (270 feet long) and from all its National Security Cutters (NSC). Additionally, the Coast Guard designed its newest medium endurance and ice-breaking cutters, the Offshore Patrol Cutter (OPC), and the Polar Security Cutter (PSC), to enable MH-60T operations. Though the Coast Guard will replace the Medium Endurance Cutters with OPCs, the Service will continue to support cutter-based missions on legacy major cutters primarily via the Helicopter Interdiction Tactical Squadron (HITRON) which will continue to operate MH-65E aircraft until the final phase of the rotary-wing fleet transition in the mid-2030's.

QUESTION PART-5: Do both the MH-60 and the Coast Guard's Unmanned Aircraft System (UAS), ScanEagle, fit on board Coast Guard ships together? Has the National Security Cutter deployed and operated with a MH-60 helicopter and ScanEagle UAS?

ANSWER PART-5: It is possible for a NSC to deploy with both an MH-60T and a ScanEagle UAS without sacrificing capability. To date, the Coast Guard has not deployed a National Security Cutter with both an MH- 60 helicopter and ScanEagle UAS.

QUESTION PART-6: Will the Coast Guard need more and/or larger land-based hangars to house the MH- 60s?

ANSWER PART-6: The Coast Guard's transition from the MH-65E to the larger more capable MH-60T will require minor hangar modifications at most legacy MH-65 air stations. The Coast Guard is evaluating alternatives for space-constrained hangars at five legacy MH-65 air stations.

QUESTION PART-7: Which air stations do not currently have facilities that could currently house a fleet of H-60s?

ANSWER PART-7: The Coast Guard is evaluating alternatives for space-constrained hangars at five legacy MH-65 air stations, specifically Air Stations Detroit, Houston, Humboldt Bay, North Bend, and Port Angeles.

QFR #2 PROPOSED:
NOAA – NORTH ATLANTIC RIGHT WHALE (NARW) – VESSEL SPEED RULE
BACKGROUND: From Congressman Rutherford - Last year NOAA proposed a rule that would require all boats longer than 35 feet to go 10 knots for up to half of the year, up and down the Atlantic Coast. While the economic implications of this rule would be huge, I also have some safety concerns with this rule. Since the Coast Guard is tasked with maritime safety, I wanted to get the Coast Guard's perspective on this rule.

QUESTION PART-1: Could a 10-knot speed requirement cause safety concerns for people on boats over 35 feet?

ANSWER PART-1:
NOAA's proposed rule, Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule, would retain the current safety deviation provisions within the existing regulations with a few proposed changes, including: (1) expansion of the safety deviation provision to include emergency situations that present a threat to the health, safety, or life of a person; and (2) inclusion of a new

provision for vessels less than 65 feet in length to operate at speeds greater than 10 knots when transiting in areas where a National Weather Service Gale Warning (34 knots/39 miles per hour) or other National Service Warning (e.g., Storm Warning, Hurricane Warning) for wind speeds exceeding the threshold for a Gale Warning.

QUESTION PART-2: Could the enforcement of this rule take away from other important missions the Coast Guard has?

ANSWER PART-2:

Enforcement of this rule is unlikely to take away from other Coast Guard missions; however, the Coast Guard is currently reviewing and internally discussing the potential operational impacts of the proposed rule. NOAA is the agency responsible for enforcement of the rule. The Coast Guard currently assists, and would continue to assist, NOAA in the enforcement of their regulation.

QUESTION PART-3: Seems like the Coast Guard will be tasked with enforcement of this rule, was the Coast Guard consulted in the writing of this rule?

ANSWER PART-3:

Yes. Prior to NOAA's publication of the proposed rule, NOAA requested certain information from Coast Guard to inform the content of the proposed rule. Input provided by the Coast Guard included: information on the regulatory limits of AIS carriage requirements; small craft advisories; and vessel master's authority versus that of a pilot when the vessel is in pilotage waters.

WEDNESDAY, APRIL 19, 2023.

U.S. CUSTOMS AND BORDER PROTECTION

WITNESS

TROY MILLER, ACTING COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION

Mr. RUTHERFORD [presiding]. The Subcommittee on Homeland Security will come to order.

We welcome Acting Commissioner Miller. Thank you for joining us today as we discuss the Customs and Border Protection fiscal year 2024 budget submission. I will give an opening statement here very quickly.

The work agents and officers of U.S. Customs and Border Protection do every day has immense importance to both our national and economic security. But simply, their collective job is to keep bad things and bad people from entering the country illegally. However, our agents and officers jobs are made harder by the President's fundamentally unserious budget request for CBP.

Unfortunately, the fiscal year 2024 request is full of inexplicable gimmicks, and I will explain those later, but, for example, the President proposes $174 million for additional surveillance towers, but fails to adequately provide adequate funding to maintain the ones we already have in the field.

The budget request calls for an additional 350 Border Patrol agents, and at the same time cuts funding for Border Patrol pay by $63 million. We talked about this yesterday. There is not a single dollar in the CBP request to counter the small drones that the cartels are flying across the border to conduct surveillance on our agents and deliver drug loads. In fact, the holes that Congress would have to fill just to maintain the level of capability we have today totals nearly $400 million due to these gimmicks. If we funded CBP at the requested level, the border would be less secure. And I know you don't want to that, and neither do we.

The fiscal year 2024 request for CBP is disappointing, because the men and women in the field need more funding to do the very difficult job that we have given them. They need more agents, more officers, and more processing coordinators. We have fewer than 19,000 agents in the field, the lowest level in years, and we continue to lose seasoned agents at an unsustainable rate.

They need more advanced technology to detect illicit activity and prevent fentanyl from devastating the lives of our fellow Americans throughout the country, and they need more physical infrastructure. But instead, this budget asks that we spend existing barrier money on environmental remediation instead of a new fencing barrier. The President's budget request is a mere $4.2 million above

last year's level, despite the record number of crossings we have had over the last 2 years.

If you factor in the high inflation we have seen over the last few months, the administration is essentially cutting the CBP budget at a time of border crisis. Budgets communicate priorities, and it is clear by this request that the President's priority is not securing our border, not providing the men and women in the field the means to hold the line.

With title 42 about to end, the situation on the border could easily go from bad to much, much worse. Make no mistake, our adversaries, the transnational criminal organizations who control every inch of the Mexican side of the border, want to do everything in their power to continue to traffic narcotics and people, fueling violence and human suffering.

I look forward to working with my colleagues on both sides of the aisle to properly fund CBP and our border security efforts.

I will now turn to my colleague, Mr. Cuellar, for any opening remarks he may have.

Mr. CUELLAR. All right. Thank you, Mr. Chairman.

And again, it is a pleasure seeing you again, Acting Commissioner, Mr. Miller.

Again, you are the head of one of the most dynamic agencies in the Federal Government. And each day, you and your workforce are called upon to address new and increasingly complex issues. I think all the folks need to look at is the day in the CBP life, and it is incredible the number of trucks and cars and passengers, and arrests that you all make, and it is so many laws that you have to enforce. So I appreciate that.

I also appreciate that you started your career back in 1993, with the U.S. Customs Service as a customs inspector, to now heading the agency. And you bring years of experience, trust, and integrity to this role. And I would say, despite all the pressures that you face every day, you have demonstrated exceptional professionalism and leadership, and we appreciate the work that you do.

And again, I note—I say that you are a career official, not in a political capacity. And I think for some jobs, with all due respect to Democrats and Republicans, we should have more career folks like yourself. So we appreciate what you do.

And as you know, homeland is certainly a priority to me as the rest of the members. As I always say, I don't just visit the border, I live there. My family is there. I breathe the air, I drink the water, and it is a place I call home.

And I appreciate the work that y'all do because, in fact, my hometown, Laredo, if you look at the crime statistics, they are about three, four times safer than Washington, D.C., is. So I appreciate all the work that law enforcement does there.

Again, the border is important. Security is important. But at the same time, we have got to make sure that we also rely a lot on trade and tourism. In fact, with Mexico, there is over $863 million of trade every—billion dollars every year. That is $1.8 billion every single day. So trying to find that balance between security and trade and tourism is important.

Laredo, as you know, we are the largest inland port. I think in February we surpassed L.A., which means we are the largest port

in the whole country. So we appreciate all the good work Albert Flores and everybody that does the work down there in the area.

Also, I do want to talk about a couple things. Operational control—and I will be asking a question about that—was defined by the Secure Fence Act in 2006. No administration has been able to achieve it, not President Bush, it passed under him; not President Obama; not President Trump; and certainly not President Biden also. So I certainly want to talk to you about the work that—what we need to do, not political, but how do we work in a practical way, Democrats and Republicans, to get this work done. So I certainly want to work with my colleagues to address this.

Also, the same thing, talking about budgets. I do want to emphasize that the last 2 fiscal years we actually have added over $2.4 billion to the CBP budget authority. That is an over 15 percent increase, more than the prior administration. So I want to emphasize that we have added over $2.4 billion from the prior administration.

With that, we have been able to leverage funding, more Border Patrol agents, more CBP officers, intel specialists, trade enforcement staff, and other personnel, along with the technology in ports of entry and, of course, making sure that we have technology between ports of entry also. I know sometimes, you know, some folks believe in the 14th century solution called the wall, but I think we got to look at the 21st century technology.

And again, it is important to understand that in south Texas, the border, we believe in private property rights. Private property rights. So if you have been a landowner for generations, you don't want the big bad government to come over and take your property that certainly takes away the water access to cattle and wildlife and other things that we have. So I appreciate that.

And let me just say in conclusion, Commissioner Miller, I know there is a lot of work. There are some funding gaps that we have to look at. And certainly, I am hoping that we can work together to address some of the funding gaps that y'all have and address those issues.

So, with that, I say welcome. And, Mr. Chairman, thank you so much for your time.

Mr. RUTHERFORD. Thank you, Mr. Cuellar. And I would be remiss if I didn't mention that I am not Chairman Joyce.

Mr. CUELLAR. Well, you got the gavel, so you are a chairman.

Mr. RUTHERFORD. He is delayed at another hearing, but he will be here as soon as he can, Commissioner.

And, with that, Commissioner Miller, without objection, your full written testimony will be entered into the record. And with that in mind, we would ask for you to please summarize your opening statement in 5 minutes. Thank you.

TESTIMONY OF TROY A. MILLER

Mr. MILLER. Chairman Rutherford, Ranking Member Cuellar, and members of the subcommittee, I am honored to testify today on behalf of the nearly 65,000 dedicated employees of U.S. Customs and Border Protection who protect our Nation day and night from every evolving criminal and terrorist threats, while also enforcing trade compliance and facilitating the safe and efficient flow of lawful travelers and commercial goods across our borders.

This year marks the 20th anniversary of the Department of Homeland Security and the creation of CBP. We will not forget how the events of 9/11 changed our Nation and led to the creation of the world's first comprehensive border security agency. This year also represents a personal anniversary. I began my Federal career nearly 30 years ago with the U.S. Customs Service.

Over the course of my career, I have overseen many of CBP's complex responsibilities related to trade, travel, and national security. I know firsthand that CBP has an immensely difficult job, and I am constantly amazed at the perseverance of the men and women of CBP and the commitment to our mission.

I am grateful for this subcommittee's recognition of the physical and mental pressures that affect CBP employees and their families. Tragically, CBP lost 11 employees to suicide in 2021 and another 15 in 2022. These distressing figures are further compounded by a record number of line of duty deaths. The well-being of all CBP employees remains my top priority, and I am thankful for the critical resources Congress has provided towards our shared commitment to the welfare of the CBP workforce.

As you know, CBP considers considerable operational challenges on the southwest border, and the men and women of CBP continue to be up to the task. Specifically, CBP continues to counter the dynamic of threat of sophisticated transnational criminal organizations engaged in human and drug smuggling, including the production and trafficking of illicit fentanyl, an extremely lethal synthetic opioid.

We also continue to respond to the historic flow of migration in the Western Hemisphere. The United Nations recently estimated that there are approximately 660,000 migrants currently in Mexico, including over 200,000 Haitian and Venezuelan nationals, in addition to 287,000 internally displaced Mexican nationals. Many of these individuals could attempt to enter the United States in the near term.

Taking actions to address another near-term challenge, CBP continues to prepare for the transition from title 42 to full Title 8 immigration processing, in coordination with the Department of Homeland Security and other Federal partners. Our preparations align with CBP's overall strategy to prioritize national security, strengthen our border operations, protect the American people, provide for the safe and humane processing of migrants, and administer consequences for unlawful entry, including removal and prosecution.

And this approach continues to produce results. In fiscal year 2022, Border Patrol agents intercepted more than 12,000 individuals with prior criminal convictions, and CBP officers arrested more than 15,000 individuals wanted for criminal activities at our ports of entry. And nationwide, CBP seized nearly 656,000 pounds of illicit drugs, including 15,000 pounds of fentanyl.

Every seizure matters. And I cannot give enough credit to the valuable efforts of our frontline personnel. Just 2 days ago, CBP officers in Otay Mesa seized 776 pounds of fentanyl in one single event.

Our partnerships are also invaluable to our enforcement efforts. For example, through Operation Blue Lotus, CBP and our Home-

land Security Investigations partners are surging our intelligence analysis and enforcement capabilities to not only target and seize illicit fentanyl, but also pursue investigations and take down criminal networks.

Since the operation's implementation just 1 month ago, we have made 80 arrests and more than 66 seizures of fentanyl, totaling nearly 3,700 pounds. Through a concurrent operation between the ports of entry, the Border Patrol has seized an additional 825 pounds of fentanyl.

We have also enhanced our enforcement operations in the trade environment, including those to combat global forced labor by applying new authorities Congress provided through the Uyghur Forced Labor Prevention Act. Since its implementation 9 months ago, CBP has intercepted more than 3,500 shipments for forced labor concerns.

The President's fiscal year 2024 budget for CBP builds on these accomplishments by supporting continued investments in border security technology and personnel, ensuring we continue to expand our situational and domain awareness, respond to emerging threats, detect and intercept dangerous drugs and contraband, and provide efficient processing and safe humane conditions for migrants while in CBP custody.

Additionally, the budget supports our commitment to workforce care, such as expanding onsite clinician availability and enhancing suicide prevention, chaplain, and peer support programs.

In closing, I want to thank the members of this subcommittee who have traveled to the border to observe CBP's critical operations and dedicated frontline workforce.

Thank you for the opportunity to testify today. I look forward to your questions.

[The information follows:]

TESTIMONY OF

Troy A. Miller
Acting Commissioner
U.S. Customs and Border Protection

BEFORE

U.S. House of Representatives
Committee on Appropriations
Subcommittee on Homeland Security

ON

"Fiscal Year 2024 Request for the U.S. Customs and Border Protection Agency"

April 19, 2023
Washington, D.C.

Introduction

Chairman Joyce, Ranking Member Cuellar, and Members of the Subcommittee, I'm honored to appear before you today to discuss the critical mission of U.S. Customs and Border Protection (CBP) and how the Fiscal Year (FY) 2024 President's Budget — hereafter also referred to as the "Budget" — supports our operational priorities.

It is a privilege to be here today on behalf of the nearly 65,000 dedicated and talented men and women of CBP who protect our Nation from ever-evolving threats by land, sea, and air, while also promoting economic prosperity and the flow of commercial goods. CBP operates around the clock to prevent the entry of inadmissible persons and contraband into the United States at and between our nation's ports of entry (POEs), ensuring the safe and efficient flow of commerce into the United States and enforcing nearly 500 U.S. trade and travel laws and regulations on behalf of 49 Federal agencies. These are complex and difficult responsibilities that CBP personnel take seriously and perform proudly with honor.

Last month, we marked 20 years since the creation of the Department of Homeland Security (DHS) and CBP. The anniversary was a reminder of how the events of September 11, 2001, fundamentally changed our way of life and solidified our mission. The anniversary was also an opportunity to reflect on how the threats facing our borders have evolved and become more diverse and complex. CBP faces many intensely challenging and unique problem sets across our operational environments, and throughout our mission spaces, including irregular migration, the threat of transnational criminal organizations (TCOs) engaged in human and drug smuggling, emerging agricultural risks, and the evasion of and noncompliance with trade laws. We continue to address these complex and dynamic challenges with unwavering commitment and resolve.

Despite immense challenges, CBP's dedicated agents, officers, and specialists continue to protect our borders: prevent terrorist and criminal elements, drugs, and dangerous goods from harming our communities; maintain the flow of legitimate travel and commerce; and respond to increased volumes of migrants with dignity and humanity.

I would like to acknowledge and extend my sincere thanks to the Members and staff of this Subcommittee for your consistent support of, and commitment to, CBP's mission, our operations, and our workforce, as well as for the resources you have provided to us in the FY 2023 Consolidated Appropriations Act to ensure we continue to do our part to protect this country. Today I will discuss how CBP is making use of those critical resources and detail how the FY 2024 President's Budget supports CBP's enduring mission priorities: countering terrorism, combatting transnational crime, securing the border, streamlining lawful trade, protecting revenue, and facilitating lawful travel.

I could not be prouder of the dedication, innovation, and perseverance of the CBP workforce during the past year. The men and women of CBP have worked tirelessly and made countless advancements in our efforts to secure our borders and identify those who wish to do us harm, facilitate travel and trade, stop the flow of illicit drugs and other contraband, combat forced labor in supply chains, and rescue and assist those in distress. Leaning into technology, we have reduced processing times for trucks from minutes down to seconds, integrated a touchless facial biometric entry process at all U.S. airports, and expanded the use of mobile passport and customs inspections. We have introduced these and other technological improvements to serve as a force

multiplier for our workforce, allowing us to be more efficient and effective in meeting our broad array of complex security and facilitation responsibilities.

FY 2022 and FY 2023 Investments and Accomplishments

The enduring support of this Subcommittee has enabled CBP to build a strong operational foundation. Investments and assistance provided by Congress in FY 2022 and FY 2023 have allowed CBP to adjust to rapidly changing needs in a diverse set of environments, while continuing to make significant progress and advancements in CBP's various missions.

Workforce Care

I am grateful for this Subcommittee's recognition of the physical, mental, and emotional stress that affects CBP employees and their families. Tragically, CBP lost 11 employees to suicide in 2021, and another 15 employees in 2022. These figures are distressing alone but are further compounded by CBP's concurrent record number of line-of-duty deaths. The wellbeing of all CBP employees and their families remains my top priority and I am thankful for the critical funding Congress provided in the FY 2023 Consolidated Appropriations Act in support of CBP's ongoing commitment to enhancing our resilience and support programs.

CBP implemented multiple employee initiatives in FY 2022, including the establishment of a Workforce Care Directorate, providing leadership, oversight, resourcing, and operational perspective to support, develop and maintain a resilient workforce. To support the growth and development of CBP's workforce care programs, senior leaders collaborated closely with the Administration and Congress to support funding for our workforce care programs, resulting in a $23 million investment in the FY 2022 Enacted Appropriations. The FY 2023 Enacted Appropriations recurred that amount and added additional funding for program personnel, providing a total of $30 million.

With these funds, we've continued to invest in programs that benefit all our employees and enhance training across the Agency. To date, we funded the Childcare Subsidy Program, Backup Care Program, Employee Assistance Program (EAP) Core services, and the EAP Onsite Clinician Program that currently provides 32 onsite clinicians in 26 CBP operational locations. We developed and distributed a new suicide prevention train-the-trainer initiative attended by 206 CBP chaplains, peer support members, veteran support members, and professional staff. This new cadre of instructors are required to provide in-person suicide prevention training to all CBP employees by the end of Calendar Year 2023. We funded chaplain and peer support classes, delivered Resilience Skills and Training, deployed Traumatic Incidents and Events Response (TIER) teams in response to critical incidents, improved guidance, education, and information on other support services for CBP employees and their families, and delivered mental and medical health care services to CBP's frontline veteran workforce stationed along the Southwest Border in partnership with the U.S. Department of Veterans Affairs, Veterans Health Administration. Additionally, we hired specialized personnel, including field-based operational psychologists, who bring operationally relevant experience and expertise to augment field management to support the mental and physical wellbeing of our employees.

Border Security and Management

Thanks to this Subcommittee's support, the Nation's long-term investment in border security has produced significant and positive results. Because there is no single tool or capability that can detect all suspected threats in all situations and environments, CBP uses a multifaceted approach

that includes highly skilled frontline personnel; advanced detection and inspection technology; domestic and foreign partnerships; and intelligence and information sharing. Using this approach, CBP continues to combat the growing reach and influence of TCOs by disrupting these networks, imposing consequences on those engaged in these criminal activities, and enhancing technology and efforts to interdict illicit drugs and contraband.

At our Ports of Entry

At the POEs, CBP performs a full range of critical inspection, intelligence analysis, examination, and law enforcement activities relating to the arrival and departure of persons, conveyances, and merchandise. With funding provided by Congress in the FY 2022 and FY 2023 Enacted Appropriations, CBP continued to make significant investments and improvements in our POE border security operations, and particularly in our drug detection capabilities and interdiction technology.

CBP has deployed more than 350 large-scale and 4,500 small-scale non-intrusive inspection (NII) X-ray and gamma-ray imaging systems to detect the presence of illicit substances, including synthetic drugs such as fentanyl. This technology enables detection of these illicit substances hidden within passenger belongings, cargo containers, commercial trucks, rail cars, privately owned vehicles, as well as Express Consignment Carrier (ECC) and international mail parcels. In FY 2022, CBP officers used large-scale NII systems to scan more than 7.6 million conveyances, which resulted in the interdiction of more than 100,000 pounds of narcotics and approximately $2 million of undeclared U.S. currency.

CBP continues to focus on further closing the vehicle scanning capacity gap and increasing the probability of interdiction. With funding provided by Congress, CBP has made progress toward implementing new drive-through NII systems, located in pre-primary inspection versus secondary, that would transmit the image to an officer remotely located in a command center. This work builds upon prior automation and transformation initiatives, leveraging advancements made to scanning and imagery analysis capabilities. At locations where additional pre-primary systems are being deployed, CBP expects an increase in FY 2023 to NII scans of passenger vehicles and fixed occupant commercial vehicles crossing the Southwest Border to as much as 40 percent and 70 percent respectively. Overall, this approach will strengthen CBP's detection and inspection capabilities and increase both the effectiveness and efficiency of our enforcement and facilitation operations.

In FY 2022, CBP seized nearly 656,000 pounds of illicit drugs, including nearly 2,000 pounds of heroin, 175,000 pounds of methamphetamine, and more than 70,000 pounds of cocaine. We also made nearly 1,500 seizures of illicit fentanyl, totaling 15,000 pounds of the dangerous synthetic opioid. We are on track to seize just as much, if not more this year. Additionally, CBP seized 2374 weapons, and $57.93 million in U.S. currency. Every single seizure is critical. Seizures remove dangerous drugs and weapons from illicit supply chains, deny TCOs valuable profits, and keep them out of our communities. Seizures also give us valuable information through post-seizure analysis to identify networks moving loads and to support partner agencies' investigations and prosecutions.

Along with our Homeland Security Investigation (HSI) partners, CBP leads Operation Blue Lotus, a new coordinated surge operation targeting the smuggling of fentanyl. The Operation includes an increase in targeted inspections by CBP officers and HSI agents, canine units, and

advanced technology at locations along the border. Operation Blue Lotus leverages the advanced analytics and intelligence capabilities and joint enforcement efforts of CBP and HSI to facilitate effective inspections and swift initiation of investigations. Furthermore, CBP's Forward Operating Labs at POEs conduct real-time analysis of suspected substances, providing vital scientific information in support of intelligence gathering and investigations. Since its implementation on March 13, 2023, Operation Blue Lotus has led to 74 arrests and the seizure of approximately 2,500 pounds of fentanyl, 3,600 pounds of methamphetamine, 919 pounds of cocaine, and 42 pounds of heroin.

CBP is responsible for keeping dangerous people from entering the United States while facilitating lawful travel. CBP processes nearly a million travelers at POEs every day. In FY 2022, utilizing both primary and secondary inspections and a multi-layered vetting process, CBP arrested 15,010 individuals wanted for criminal activities and denied entry to 502,473 inadmissible persons, including potential national security and public safety threats.

Between Ports of Entry

Between the POEs, CBP continued to prioritize national security and deploy resources that strengthen our border security operations and protect the American people from acts of terrorism and criminality. In FY 2022 The U.S. Border Patrol (USBP) intercepted 12,028 individuals with prior criminal convictions, prevented 751 gang members from entering the United States, and seized 112,000 pounds of drugs, including 2,200 pounds of fentanyl, 18,300 pounds of methamphetamine, and 12,500 pounds of cocaine.

CBP made substantial investments in autonomous technologies that improve Border Patrol agent efficacy and safety. Examples of these investments include deploying additional Autonomous Surveillance Towers and next generation communications solutions, while continuing to equip the workforce with body worn cameras. CBP also closed 55 gates and gaps in the border barrier to date, and we are working to close an additional 74 gates and gaps along with life, safety, environmental and other remediation activities at incomplete border barrier projects.

In addition, CBP's Innovation Team transitioned counter-unmanned aerial system (C-UAS) technologies to USBP for the detection of illicit cross-border activity of small unmanned aerial systems (UAS), commonly referred to as "drones," to complement the rest of their border security capabilities. CBP continues to experience high numbers of incidents involving illicit use of drones to facilitate unlawful movement of people and narcotics across the Southwest Border. Nationwide, C-UAS trained operators detected more than 8,300 confirmed, counter-surveillance cross-border incursions by UAS in FY 2022. CBP's C-UAS authorities enable CBP to take responsible action against systems that pose a credible threat to covered facilities or assets along the Southwest border. In FY 2022, trained C-UAS operators used this specialized technology to mitigate 25 drones contributing to the seizure of more than 1,950 pounds of narcotics and the arrest of 3,200 individuals.

CBP also strengthened our engagement with the Government of Mexico (GOM) to dismantle TCOs that profit from smuggling activities involving people, illicit goods, and narcotics. Both CBP and the GOM commit resources and personnel to conduct regular, coordinated patrols, air and marine surveillance, counter-network operations, and joint enforcement actions along our shared borders. Through CBP's Joint Security Program (JSP), CBP officers and agents coordinate with the GOM on admissibility/immigration and criminal non-citizen referrals; drugs,

money, and organized crime; and migrant smuggling, special interest aliens, and terrorism-related targets.

Human smuggling is an inhumane and grievous criminal activity. Launched in 2016 as a joint effort between USBP and the GOM, "Se Busca Información," which translates to "Information Wanted," identifies individuals associated with TCOs wanted for crimes associated with human and drug smuggling on both sides of the border. The 'Se Busca Información' initiative promotes binational unity and encourages the public to anonymously report information about known smugglers. CBP has also taken the lead on Operation Sentinel, a major U.S. interagency effort supported by the GOM that aims to cut off access to TCO profits from human smuggling by denying these criminals the ability to engage in travel, trade, and finance in the United States.

CBP engages in information and intelligence sharing with GOM related to smuggling routes, weapons/cash/drug caches, TCO operational trends, and operational successes. CBP leads anti-TCO and border security focused capacity building and training under the auspices of CBP's Office of International Affairs' Anti-TCO and Border Violence Prevention Inter-Agency Agreement with the Department of State's Bureau of International Narcotics and Law Enforcement Affairs.

CBP's ongoing partnerships leverage the capabilities of our partners to stop cruel and profit-driven human smugglers and save lives at the border and beyond.

As the data clearly shows, CBP has experienced elevated levels of irregular migration since 2019. In FY 2022, along the Southwest Border, USBP encountered 2,206,436 migrants, including 482,962 individuals in a family unit and 149,093 unaccompanied children. Thanks to this Subcommittee's support, CBP has accelerated ongoing efforts to improve processing operations by deploying additional non-uniformed support personnel; expanding capacity and improving conditions at processing facilities; investing in virtual and mobile processing technologies; and strengthening coordination with partner agencies and organizations.

Thanks to the FY 2023 Consolidated Appropriations Act enacted by Congress, as well as robust support Congress has provided over the past several years, CBP has hired more than 1000 Border Patrol Processing Coordinators (BPPCs) with more finalizing training and deployment. We have also expanded the use of contract personnel along the Southwest Border to include nearly 430 contract security personnel for the Centralized Processing Centers (CPCs) and 565 contracted processors to handle data entry and management tasks, with more coming onboard.

To accommodate the intermittent increase of individuals in CBP custody, we renovated and reopened the Rio Grande Valley CPC in McAllen, Texas, in March 2022 and opened two new soft-sided facilities in El Paso and San Diego sectors in January 2023, as well as additional soft sided facilities opened previously in priority locations. These facilities include wrap around service contracts that provide sanitation, food, and medical services necessary to improve CBP's ability to process migrants efficiently, and to ensure appropriate conditions for migrants and frontline personnel. Deployed in conjunction with other processing capabilities, such as virtual and mobile processing technology, these facilities provide operational flexibility, streamline operations to ensure the safe and humane processing of migrants, and relieve agents of non-enforcement duties.

Getting agents back on the front line is unquestionably important for security, but it is also invaluable to saving lives. Smuggling organizations are abandoning migrants in remote and dangerous areas, leading to a dramatic rise in the number of rescues CBP performs. In FY 2022, CBP conducted nearly 22,500 rescues nationwide, which is 69 percent higher than the total number of rescues in all of 2021. In response, CBP launched a new heat mitigation effort to develop and deploy heat stress kits and go-bags containing helpful items to mitigate potential heat stress injuries and illnesses for agents and migrants alike. The new kits were deployed to 500 agents operating in the Tucson Sector as temperatures rose during the hottest part of the summer. CBP looks forward to expanding this effort to other areas across the Southwest Border.

Trade Enforcement and Facilitation

CBP's commitment to protecting human lives extends into the trade environment. CBP is a global leader in the prevention of forced labor and is one of the few government agencies in the world granted legal authority to take enforcement action against imported goods sourced from entities using forced labor to produce them. Thanks to the support of Congress, in 2022, CBP gained a new tool in its arsenal to combat forced labor with the passage of the Uyghur Forced Labor Prevention Act (UFLPA). The UFLPA establishes a rebuttable presumption, which became effective June 21, 2022, that any goods mined, produced, or manufactured, either wholly or in part, in the Xinjiang Uyghur Autonomous Region (XUAR) in the People's Republic of China or by an entity identified on the Forced Labor Enforcement Task Force UFLPA Entity List, are prohibited from importation and not entitled entry to the United States. The UFPLA was passed to address the well documented and systemic use of forced labor by the Chinese Government against Uyghurs and other ethnic minorities, particularly in the XUAR. In FY 2022, CBP stopped 3,605 shipments valued at $816.5 million for forced labor concerns, including 1,592 entries valued at nearly $500 million stopped under the UFLPA.

In addition to enforcing hundreds of trade laws and regulations, CBP also facilitates compliant trade, collects revenue, and protects the U.S. economy, industries, and consumers from harmful imports and unfair trade practices. For example, in FY 2022, we conducted more than 20,812 seizures of goods – valued at more than $2.9 billion – that violated intellectual property rights. CBP agriculture specialists, with their extensive training and expertise in biological sciences and agriculture inspection, conducted about 930,000 inspections of prohibited plant materials, meat, and/or animal byproducts at U.S. POEs, intercepting more than 91,000 instances of agricultural pests. CBP also launched its Green Trade Strategy in 2022. The strategy is a framework to incentivize green trade, strengthen CBP's environmental enforcement posture, accelerate green innovation, and improve climate resilience and resource efficiency.

The scope and importance of CBP's role in protecting the economic security of the United States cannot be overstated. Collecting $111.9 billion in duties, taxes, and fees in FY 2022, CBP remains the second largest collector of revenue in the Federal Government. Additionally, CBP processed more than 33.4 million cargo containers, which equates to more than 39.1 million international trade transactions worth $2.4 trillion in imports and another $1.4 trillion in U.S. exports.

Keeping legitimate trade moving is critical to the U.S. economy. With the support of this Subcommittee, CBP continues to invest in innovative tools and partnerships to enhance our trade enforcement capabilities, while simultaneously facilitating the movement of legitimate cargo, a responsibility that is critical to our nation's economic prosperity. For example, in FY 2022, CBP

fully implemented the Truck Manifest Modernization capability in the Automated Commercial Environment. This new capability allows for seamless integration between CBP systems for NII, passenger processing, targeting, examination findings, and commercial processing. Today, more than 99 percent of the 45,000-50,000 trucks CBP encounters daily clear primary processing in less than 30 seconds.

Collaboration with federal and international partners is an inherent part of CBP's trade operations. In FY 2022, CBP partnered with 13 federal agencies to implement a Global Business Identifier pilot program to test the concept of a single business identifier solution to improve the U.S. government's ability to efficiently identify high-risk shipments and facilitate legitimate trade. CBP also entered into several bilateral understandings with foreign customs administrations, including those of Uruguay, Guatemala, and Brazil. These agreements establish platforms for the exchange of information and recognition of respective administration's supply chain security programs and confirm the parties' joint commitment to combating customs and trade offenses.

Traveler Processing and Travel Security

In FY 2022, CBP officers processed nearly 317 million travelers at air, land, and sea POEs, including nearly 96 million travelers at airports. While international traveler arrivals are still less than FY 2019, the numbers are continuing to rebound as the travel industry recovers from the effects of the pandemic. With the support of Congress, CBP has taken action to do our part to welcome travelers and improve the post-pandemic traveler experience.

To facilitate enrollment in CBP Trusted Traveler Programs, CBP reopened enrollment centers in the United States and continued to respond to the high demand for Global Entry membership through opportunities such as Enrollment on Arrival. CBP's Trusted Traveler Programs topped 10 million members in March 2022 and received 3.7 million applications in FY 2022, the most CBP has ever received in a single year. Growth in these programs with the deployment of technological and biometric innovations facilitate the processing of known, low-risk, vetted travelers arriving to the United States, permitting CBP officers additional time to focus on travelers who pose unknown or higher risk.

As part of our travel process enhancement efforts, CBP expanded its Mobile Passport Control program to include the Montreal, Toronto, and Vancouver Preclearance locations and its Simplified Arrival process, which uses biometric facial comparison technology, to automate the manual document checks that are already required for admission into the United States. This process provides travelers with a safe, secure, and more streamlined travel experience while fulfilling a longstanding Congressional mandate to biometrically record the entry and exit of non-U.S. citizens. Furthermore, in FY 2022, the National Vetting Center (NVC) successfully deployed vetting support to several key U.S. Government travel and immigration programs. By utilizing the NVC's unique technology and processes, several supported programs saw a decrease in processing times while increasing national security. The NVC's importance will continue to increase as demand travel or immigration benefits continue to grow.

While conditions are improving, the residual effects of the pandemic continue to impact international air travel, causing a decline in user fee collections for CBP's largest accounts (customs and immigration inspection fees). We are thankful for this Subcommittee's provision of emergency funds in the FY 2023 appropriations to mitigate the declines. To continue to meet

mission needs during this time of fiscal constraint, CBP has leveraged user fee carryover, additional Congressionally enacted funds, and has reduced costs to the greatest extent possible while still meeting our vital mission.

FY 2024 President's Budget and Strategic Funding Priorities

Building on these accomplishments and efforts, the President's FY 2024 President's Budget includes more than $16.5 billion in net discretionary funding for CBP, including more than $1 billion for investments in effective and modern port and border security, including the modernization of facilities; enhancements in border security technology and assets; improvements in mission capabilities; care and support of our workforce; and efforts to ensure the safe and humane treatment of migrants in CBP custody.

CBP is focused on establishing a long-term operational strategy and structure that prioritizes the support and resilience of our dedicated and vital workforce. Building on investments to workforce care programs in FY 2022 and FY 2023, the Budget requests $34 million to sustain and expand existing programs, while simultaneously supporting the efforts necessary to institutionalize workforce care at CBP. These efforts include expanding EAP Core Services, the EAP Onsite Clinician Program, Childcare Subsidy Program, and Backup Care Program; enhancing training and development for suicide prevention, chaplain, peer support, TIER, and resilience skills; and improving educational opportunities and other support services for CBP employees and their families. CBP's dedicated workforce is the reason for every agency accomplishment, and, with this Subcommittee's support, we intend to integrate workforce care considerations into every aspect of our planning and operations, as well as in the development of our investments and resource priorities.

Serving as workforce multipliers, strong investments in border security technology are especially critical to CBP's efforts to maintain domain awareness and take swift action to respond to dangerous threats, such as the threat of fentanyl. While most of our fentanyl seizures still occur at POEs, as CBP becomes more efficient and effective at detecting and intercepting illicit drugs, TCOs and other bad actors may alter their concealment tactics. CBP is constantly adapting to these changes, and thanks to strong investments in border security technology and domain awareness, CBP is well equipped to counter evolving threats.

Strengthening Border Security Capabilities and Management

CBP's resource priorities in the FY 2024 President's Budget to enhance border security operations include increasing staffing and technology; strengthening domain awareness; and increasing CBP's ability to detect and prohibit illegal goods and drugs, particularly fentanyl, from entering the country. These investments will enhance and expand CBP's operational capabilities by increasing our ability to quickly detect and interdict illegal activity along U.S. borders, at POEs, and in the air and maritime domains.

Modernizing Port of Entry Technology

CBP, with the support of Congress, continues to prioritize investments to disrupt TCO drug smuggling activities by enhancing and expanding our drug detection capabilities and technology used at POEs. Our highly trained officers use a variety of technologies to detect the presence of illicit drugs, including illicit opioids, in all operating environments.

CBP's NII systems continue to demonstrate their value as part of CBP's layered enforcement strategy to screen for illicit goods and substances, including illicit drugs, entering through land POEs. To enhance enforcement, while facilitating secure and compliant trade, CBP must continue to close its scanning capability gaps. The FY 2024 President's Budget includes $305.4 million to identify, procure, and deploy enhanced inspection capabilities to interdict emerging threats in the land and mail environments. Funding for NII will provide the resources needed to execute required civil work activities to deploy the drive-through NII systems at remaining Southwest Border land POEs. The Budget also funds the procurement and deployment of 10 systems to enhance narcotic detection at nine locations in the Southwest Border region.

CBP recognizes increased scanning will result in a substantial increase of images that require analysis and adjudication. To address this area, the FY 2024 President's Budget supports CBP's ongoing work with industry partners to develop artificial intelligence and machine learning capabilities to reduce the need for a trained CBP officer to analyze each image. Without such capabilities, the expansion of pre-primary NII operations beyond current rates would require a significant increase in staffing to review images without adverse impacts to the free movement of legitimate commercial vehicles. The Budget supports continued development of narcotic detection algorithms to increase the efficiency and effectiveness when adjudicating anomalies, while establishing a library to adapt to emerging threat and enhance interdiction of precursor chemical substances, with primary focus on fentanyl detection.

Enhancing Border Security Technology, Efficiencies, and Assets

For CBP, the use of technology in the border environment is an invaluable force multiplier that provides our frontline personnel increased situational awareness and improves our ability to meet the daily challenges of a dynamic border threat environment.

With the support of Congress, CBP deploys the necessary technology, infrastructure, and personnel needed to maintain situational awareness and address current and emerging operational challenges.

The FY 2024 President's Budget supports CBP's plan to expand and enhance domain awareness capabilities through continued investments in USBP's Common Operating Picture (COP). The USBP COP ensures all accessible sensor data are transmitted, monitored, and recorded at a Command-and-Control Center at a USBP station providing a more efficient method to view the activity at the nation's borders. COP improves USBP information management, situational awareness, and decision-making capabilities. Furthermore, CBP has been working for the past few years to expand and integrate COP into fragmented Command-and-Control Centers that will integrate surveillance feeds into a smaller number of centers and utilize artificial intelligence, requiring fewer personnel to monitor feeds. The FY 2024 President's Budget includes $66.4 million for testing, training, and transitioning to Initial Operational Capability (IOC) status for COP installation at the Douglas, Arizona, USBP facility and three additional USBP locations.

Supporting an ongoing modernization effort will provide a more consistent and efficient enforcement workflow for USBP field agents and leadership, a critical need given 21st century border threats. The FY 2024 President's Budget supports $27.2 million for the continued modernization of the Border Enforcement Coordination Network (BECN), the follow-on system to the legacy Border Patrol Enforcement Systems (BPES). BECN consists of systems, services, and equipment that help USBP detect, deter, identify, classify, and resolve illegal border activity

and to manage its resources effectively. BECN contributes to situational awareness and enhances operational decision-making by enabling real-time information sharing, data analysis, and visualization. Funding will support the IT systems, equipment, and services needed to sustain system development, including hardware and software, shared services and cloud hosting costs, business intelligence and architecture support, and program management.

Aerial surveillance capabilities are a vital component of CBP's domain awareness, especially in the land environment along the Southwest Border. To ensure we continue to meet operational needs for aerial surveillance, the Budget includes $13 million for the replacement of eight obsolete, out-of-production, and expensive to support aircraft sensor integrated mission systems and $30 million to fund the acquisition and missionization of one Land Interdiction Multi-Role Enforcement Aircraft (MEA). The MEA is the optimal manned aircraft, equipped with advanced sensors for surveillance operations in regions such as the Northern and Southern Borders as well as maritime environments where water, terrain, weather, and distance pose significant obstacles to border security operations between POEs and in the littorals. In addition to detection and surveillance, the MEA serves as a force multiplier for law enforcement and emergency response personnel because the MEA provides rapid-response deployment of equipment, canines, and personnel. Funding the Land Interdiction variation of the MEA will greatly increase the security posture of the United States against drug and human trafficking and unauthorized entries along the Northern and Southern land borders.

While advanced technology multiplies workforce capabilities, it cannot replace it. To support CBP's ongoing and rigorous human resource efforts, the FY 2024 President's Budget supports the hiring of 350 new Border Patrol Agents, 150 new CBP Officers, 310 Border Patrol Processing Coordinators; and additional Mission Support Staff for Border Patrol and the Office of Field Operations to supplement those staffing additions. These additional field positions will bolster situational awareness, respond to increased levels of migration along the Southwest Border, improve agent safety, and ensure the efficient processing, safety, and care of migrants while in our custody.

Reinforcing Mission Capability and Mission Support

The President's FY 2024 President's Budget recognizes the importance of ensuring CBP personnel work in secure, safe, and functional facilities and operate modern mission-critical vehicles that facilitate their complex and critical daily activities. The Budget includes funding for design, construction, and renovation projects to ensure operational effectiveness is not hampered by a lack of adequate facilities.

For example, the FY 2024 President's Budget provides funding for a new USBP Station in Houlton, Maine, that will reduce the distance from the facility to the patrol area, accommodate existing staff plus allow enforcement flexibility for up to 50 agents, reduce overcrowding, and provide adequate equipment storage facilities, vehicle parking spaces and a safe working environment for station personnel, detainees, and visitors. The Budget also addresses administrative and storage space deficiencies at the current location of the Air and Marine Operations (AMO) Tucson Air Branch caused by a substantial increase in aircraft and personnel since the site was originally designed. Tucson Air Branch has the highest number of flight hours in the Southwest Border region and the largest volume of narcotics and currency seizures. The FY 2024 President's Budget also includes funding for facility construction and improvement

costs associated with the additional Office of Professional Responsibility agents that were funded in the FY 2022 Consolidated Appropriations Act.

Ensuring the security of our Nation's borders is USBP's highest priority and the effectiveness at which this is accomplished, is attributed in large part to USBP having the requisite number of reliable vehicles in its fleet available for agents to deploy when needed. USBP has a significant number of vehicles in its fleet operating beyond their lifecycle and eligible for replacement. The FY 2024 President's Budget also funds the replacement of approximately 470 additional mission-critical vehicles for USBP.

Conclusion

In the conduct of all our operations, CBP remains committed to maintaining the highest level of transparency and trust by Congress and the American people.

As prudent stewards of taxpayer money, we intend to ensure that taxpayer-funded investments are made in a smart and cost-effective way, while still meeting border security requirements and complying with appropriations statutes. We will continue to maximize the investments already made as part of our comprehensive strategy to secure and protect our borders.

Day after day the men and women of CBP persistently safeguard the economic interests and public health of the American people by ensuring travelers and goods move safely and efficiently across U.S. borders, that migrants and visitors are properly processed, and that trade laws, regulations, and related international agreements are enforced.

We are absolutely committed to balancing the need to maintain border security, properly care for those in our custody, and keep the American people and our workforce safe.

Thank you for the opportunity to testify today. I look forward to your questions.

Mr. RUTHERFORD. Thank you, Commissioner.

And I will now recognize myself, for Mr. Joyce, and ask my questions.

As I mentioned in the opening statement, the President's budget significantly underfunds, I believe, the current level of border security capabilities that we have in the field today. So my first question: How do the cuts to border security technology programs like the ASTS, the surveillance towers, how does that impact the agency? And if Congress decided to accept the President's budget as is, what kind of consequences would there be for border security operations?

Mr. MILLER. So, Mr. Chairman, thank you for your question. Certainly, I recognize the structural deficiencies in the 2024 budget due to timing and some other administrative concerns. That being said, I would look forward to working with Congress to ensure that those structural deficiencies are corrected.

Mr. RUTHERFORD. Absolutely. And we look forward to working with you on that as well.

And kind of following up along that same vein of questioning, among the cuts, this budget proposes a $63 million dollar reduction to Border Patrol pay, even while we are trying to bring new officers on.

How harmful would that be if Congress doesn't fix the hole that is created by this request?

Mr. MILLER. Yeah. So for the pay, as you know, we continue to work—and I can talk more about this at length—but we continue to work on our hiring to actually bring our staffing up to the appropriated levels that Congress is funding us for, as you know. We haven't be able to hire Border Patrol agents, additional Border Patrol agents, above the 19,555 since 2011. We were appropriated an additional 300 agents last year, an additional 350 agents this year.

So we are making strides and really looking at our hiring pipeline to ensure that we are increasing recruiting, that we are fixing our academy and our attrition rates, and a number of other issues. So, you know, we are confident that we have the funds right now going into next year to hire the additional agents.

Mr. RUTHERFORD. Do you have a percentage of authorized positions that were filled that—you know, with your throughput at the academy?

Mr. MILLER. So right now, we are sitting at about 19,000 agents. And again, we are authorized 19,855.

Mr. RUTHERFORD. But how many agents are you putting through the academy in a year when those positions are authorized, like the 350?

Mr. MILLER. So we are continuing—I don't have the exact number. I can get back to you on that. But we are continuing to—so if I could, I will take just a second.

Mr. RUTHERFORD. Sure.

Mr. MILLER. Number 1, we looked at our academy, and our attrition rate at the academy was over 30 percent. So we worked with the chief of the academy to look at why the attrition rate was what it was. And without changing the requirements of the academy, we resequenced some of the testing, got additional mentors for the chief counsel, the legal training. In addition, we took the physical

fitness aspect, and we used the entire 117 days to get from A to Z, instead of right about the 6–month or the halfway mark.

So that has allowed us to get the attrition rate down to 9 percent.

Now, on the front end, we have ramped up our hiring. So we need to really get to about 6,000 applications a month, and we were around 4,000. So for the last 2 months, our applications have really driven and we are getting close to that level. So that is at the front end. That is on the back end.

In between, we are looking at our HRM process, through our expertise, we have learned with the Office of Field Operations when we had a similar hiring surge. So we are confident. And we thank Congress, for the flexibility you gave us in the 2023 budget, which allowed us to hire Border Patrol processing coordinators while we fix our hiring pipeline.

So that is not a direct answer, but we are working on it.

Mr. RUTHERFORD. No. Listen, as a training center director myself for a very large law enforcement agency, what you did was great management. So thank you for that.

Last question I think for this round: Commissioner, is CBP ready for a migrant surge? You know, we talk about the numbers of people currently waiting in Mexico. When title 42 goes away, can you talk about the impact that that is going to have going from 6,000 encounters a day to up to 18,000 maybe? Can you—and can you also tell me, in the—well, let's just leave it there because I don't think you will have time to answer the second part of that.

Mr. MILLER. So, if I may, to start with, what we are doing to surge resources to the southwest border, obviously, May 11, title 42 is going away. We do know that there is a large amount of folks on the north of Mexico. So, really, in the last 12 months or so, we have brought on 1,100 Border Patrol processing coordinators. We have let the contract to bring in contract processing coordinators. So we have brought on 590 processing coordinators. We have doubled our transportation contract.

We have the first ever air transport contract in the history of Customs and Border Protection. On top of that, we have increased our capacity across the southwest border to over 6,000 for holding capacity, and we will have an additional 2,500 added to that in the near future. I just took a trip down to Panama and Colombia last week to work with the Panamanians and the Colombians on an agreement to slow down the flow through the Darien. I have a Border Patrol team onsite working with the Panamanians this week.

So we are doing a whole host of things to prepare for the ending of title 42. Obviously, we are working with our other government partners through the volunteer force, through law enforcement personnel, to get those folks to the southwest border. I can tell you our efforts over the last year have allowed us to get a significant amount of badges back to the border, Border Patrol agents in between the ports of entry, and we have actually seen the results of that through the results of our operations against fentanyl.

Mr. RUTHERFORD. Thank you, Commissioner. And thanks for the efforts to stop them from getting to our border to begin with. That is where the real answer is at, not processing them faster when they get there.

With that, I will yield to the ranking member, Mr. Cuellar.

Mr. CUELLAR. Thank you, Mr. Chairman.

Commissioner, again, I want to talk a little bit about operational control measures. As you know, that trend was defined in the Secure Fence Act of 2006 as, quote, the prevention of all—and the key is "all"—unlawful entries into the United States, including entries by terrorists and other unlawful aliens, and instruments of terrorism, narcotics, and other contraband.

Keep in mind, as I said during my opening statement, that the last 2 fiscal years, more than the prior administration, we have added over $2.4 billion to the CBP budget authority. That is over a 15 percent increase.

Now, can you tell me how many of the 1,954 miles that we have with Mexico are under, quote, operational control? And I want you to go by the Bush administration, the Obama administration, the Trump administration, and the current administration.

Mr. MILLER. Well, thank you, Ranking Member. You know, I don't believe that we have ever had operational control by that definition.

Mr. CUELLAR. Under Bush?

Mr. MILLER. Under any, since the definition was published in 2006.

Mr. CUELLAR. Yeah. Bush, Obama, Trump, or even all that. And again, you know, I know that metric can be hard to achieve, but I think we all want to work with you to try to reach that goal. I think it is a goal that we need to reach, and whatever way we can help you with the right resources, please let us know.

Now, I want to follow up on what the chairman said right now. I believe that we—you know, using football as an example. I hate playing defense on the 1 yard line called the U.S-Mexico border. A lot of times, people want to emphasize everything on the 1 yard line, but I rather play defense on their 20 yard line.

So I think there is three things, in my opinion, if you all implement it correctly, if you implement it correctly, I think it should work to address what is going to happen on May 11.

One, the agreement with Colombia, Panama, and the U.S., if you all work on that, you should be able to stop a lot of folks from coming in there. It is a 60-day, but hopefully you all can keep it longer than 60-day. I assume it is a pilot program. Number one.

The asylum officers that will be now—is the right word "embedded" in CBP Border Patrol facilities, where they can do the expedited decisions. And as you know, that is important, because if you have a hundred people asking for asylum, 88 to 90 percent are going to be rejected. So I don't think we ought to be letting a hundred percent in. So those asylum officers, if we do it correctly, should work.

And then finally, the new rule, which I am hoping will come out before May 11. And I know that there are some folks—more progressive folks might not like it, but I like two parts of it.

One, if somebody is asking for asylum, they should not come in between ports of entry, because I have got a lot of landowners that don't like that one bit at all. And they should go through the port of entry without disrupting trade and tourism, which are so important to us. And then, the other thing is the third party, third coun-

try, it is something that I have been advocating for many years, even before the Trump administration; tried to add that in the appropriations, but I wasn't successful. But that basically means that if somebody has a fear and they pass through another country where they could have asked asylum, then that fear is gone. The U.S., we welcome people, but the U.S. is not the only place where you take the fear away.

So the rule hopefully will be coming out, but if you can talk about those three things. And again, I believe in law and order at the border, but at the same time respect the rights of the legitimate asylum—folks that are asking for asylum, should I say.

Mr. MILLER. Thank you, Ranking Member. So a couple things. Couldn't agree more on the collaboration with our foreign partners, whether, you know, the regional strategy, whether it is visa policies that are the same throughout the region, whether it is working with our Panamanians and Colombian partners, to ensure that they are stopping the transnational criminal organizations from trafficking these vulnerable people through the Darien. So we continue to work with a number of foreign countries, including Panama, Colombia, Mexico, and South America.

As you pointed out, we have made some modifications to our facilities so that we can do enhanced removal—and this is important—enhanced expedited removal from CBP facilities of single adults from easy-to-remove countries. As you know, we are not a long-term detention facility for families and the like. We have deployed 600-plus interview booths with video/audio capability to our facilities, and we are working with CIS and EOIR on the video and audio capabilities. We have been testing out this process in RGV last week and across the southwest border last week—last week in RGV and across the southwest border this week. So we continue to work out the kinks.

And lastly and most importantly, you know, I truly believe in what you said is that we need both a pathway and a consequence.

Mr. CUELLAR. Without consequences, as you know, Mr. Chairman, they will see—folks will see the border as a speed bump, and we need to have consequences.

Thank you, Mr. Miller.

Mr. RUTHERFORD. Absolutely. Good point, Mr. Cuellar.

And now we will turn to my good friend, Mr. Newhouse.

Mr. NEWHOUSE. Thank you, Acting Chair Rutherford.

And, Acting Commissioner Miller, thank for being here. Very much appreciate it. And just let me say, if you could convey the committee's thanks to all the men and women that you work with to secure our border. Difficult job, and we stand as a partner with you to help accomplish that.

As has been mentioned, over the last couple of years, this committee has provided, and I might say with strong bipartisan support, significant resources for force multiplying border technology that is used between the ports of entry. We heard—we have heard directly from Border Patrol sector chiefs as well as agents about the value of an autonomous surveillance tower, innovative technology that leverages autonomy to serve as that force multiplier for those agents that are stretched so thinly.

In fact, we even had, just recently, the Secretary, Mr. Mayorkas, testify, and I think I can almost quote him saying, harnessing these innovations including exploring how we can use AI to be a force multiplier for our brave, heroic personnel.

So just, first of all, a question. Could you share with us how the increased deployments of autonomous technology has actually supported agents in the field? Are we getting—what are we getting for our investment there?

Mr. MILLER. Well, first of all, I will relay your thank you to the men and women of CBP, and we do appreciate it.

And second of all, the technology that we have deployed along the southwest border has been extremely valuable to the men and women of CBP, when you are talking about autonomous surveillance towers, when you are talking about ISTs, the remote towers, the mobile towers; the UGS, the underground sensors; the cameras with autonomous technology on them that will identify events. And when you are talking about the autonomous, that means we don't have to have a person evaluating every single image, obviously every single radar signature and the like. And what we have been able to do through the funding is take that autonomous capability and bring it in—and again, thank you for the funding—to a COP, a common operating picture, with less people.

So in the past, we used to have nine screens looking at nine different feeds from nine different towers, and a person trying to figure out which each one of these—which each one of these events were. Now, with the autonomous technology, it brings it all together, very few people, one screen, and it gets it to people, agents, out in the field on their handheld, and tells them where they have to go. And it directs them to where they are, so we don't have to have—so, number one, our command and control center isn't filled with people and screens. And number two, we are getting that information to our agents real time so they can respond to that threat.

So the technology that has been provided to the men and women of CBP has been extremely valuable in allowing us to get out there and look at those events that we need to.

Mr. NEWHOUSE. Awesome. Good. Thank you.

So similar to my colleague, Mr. Cuellar, I live on the northern border. And CBP's figures tell us that in 2021, just over 27,000 aliens were encountered. By 2022 that figure had gone up to, I believe, 109,000. And just through the end of January of this year, the encounters have been at 56,000 on the Canadian line. So I would guess, following that trend, we are going to be over 200,000 by end of the fiscal year, at a double of where we were last fiscal year.

So my understanding in Blaine in the State of Washington, there is only one mobile surveillance capability, which is basically a truck-mounted surveillance system. I know you can't easily move fixed assets, but given the increase that we have seen and that which we are anticipating, wouldn't it make sense to reallocate and acquire more assets to focus on the over 5,000-mile long border that we have with Canada? So I didn't see any request for resources to do that in this document. So could you talk about that?

Mr. MILLER. Yeah. I mean, most certainly along the northern border, technology is a force multiplier across the northern border, and we need to continue to look at what assets we have up there and get the appropriate assets. I will have to get back to you on exactly what our plan is to get the right technology on the northern border. But a hundred percent with you, we have to get that technology up there as a force multiplier for the men and women.

Mr. NEWHOUSE. Yeah. I agree. We are not nearly the numbers that we are seeing in the southern border, but certainly the trend is not good, and we need to get ahead of it. So thank you very much.

Mr. Chairman, I yield back.

Mr. RUTHERFORD. Thank you, Mr. Newhouse.

And we will now turn to the gentlelady, Ms. Underwood.

Ms. UNDERWOOD. Thank you, Mr. Chairman.

Mr. Miller, as a nurse, one of my focuses on this subcommittee has been healthcare and safety of CBP agents and migrants in your care. Over the last 4 years, I have been able to visit CBP facilities at the U.S.-Mexico border, and I have seen the health operations, from intake assessments to the medical supplies and teams onsite.

I was proud to secure funding for CBP to switch to electronic medical records, and I am very glad to see that your most recent budget overview reports that this has, quote, markedly improved medical documentation, resulting in significant enhancements to patient care and safety as well as operational efficiency.

It is critical that no matter what the migration levels are or whether our immigration system is operating under title 42 or title 8, health and safety remains a top priority at CBP.

So, Mr. Miller, with the anticipated end of title 42, what actions has CBP taken, and what plans do you have in place to ensure the health and medical needs of both migrants and CBP personnel are fully met?

Mr. MILLER. Well, thank you. Number one, I appreciate your continued support for the medical support of the men and women and the migrants alike. I will start with the current situation where we are at with medical support and what we are doing to ensure that we have appropriate medical support.

So as you know, we have approximately 1,400 medical professionals along the southwest border today. So we are at the numbers that we were looking to be at. We are looking at adding additional child caregivers in order to do that. We are looking at a contract modification so that we can up the pay that we are paying the child caregivers, as we found a little bit of a tough time recruiting, but we still have 109 per shift across the southwest border which, as you know, is a significant improvement.

We continue to work with the chief medical officer from the Department of Homeland Security to have those RFAs available, should we need additional support, whether it is from HHS, continuing to work with our U.S. Coast Guard partners as well.

So, you know, I think we are well suited, number one, with the people we have at the border and, number two, with the partnerships we have developed over the last 2 years to ensure that we

have the appropriate medical support for the migrants in our custody.

On the CBP front, the money that has been allocated to the Customs and Border Protection over the last really 3 years—2 years, and with the request for $34 million in fiscal year 2024, you know, we have really made huge strides in what we are doing to take care of our workforce. We have got behavioral clinicians, 30-some onsite. We will have 50 onsite by the end of this year.

Ms. UNDERWOOD. Great.

Mr. MILLER. The psychologist. We have 13 psychologists on board across the southwest border this year. We have increased our training for all of our supervisors, called live works, I believe, which ensures that they know what the science looks like. As my colleague, the deputy commissioner, always states, we want to get to the left of it, we want to be able to identify those indicators before they get to that point.

Ms. UNDERWOOD. Yup.

Mr. MILLER. So we are working also with Veterans Affairs, who has been really a force multiplier along the southwest border. We are working with an NGO that is providing a specific service in El Paso right now. I think that is going to be hugely beneficial as well.

And then really, going forward, we continue to have a trust deficit with our employees. We want our employees to use the services that we are putting out there. And what do I mean by that? As we are looking at the voluntary alcohol treatment program, we want individuals to know that they can sign up for that, and they can come back and they have a job after they are finished. While the same——

Ms. UNDERWOOD. Great.

Mr. MILLER [continuing]. If there is a mental health issue.

So we are working with the union to update our policies and our procedures to ensure that the men and women are using the services that this committee has been so kind to put forth to us the last 2 years and now 3.

Ms. UNDERWOOD. Thank you. Well, as we know, in the news, there is a series of budget cuts that have been proposed by Republican leadership, and the plan would revert spending levels to fiscal 2022, which means DHS would see a $3.4 billion cut.

Can you explain how the funding cuts—the proposed funding cuts to DHS would impact the health and safety of CBP personnel, migrants in U.S. custody, and our entire border management system?

Mr. MILLER. Thank you for the question. Certainly, at Customs and Border Protection, we could not sustain that cut for operations or for the health, safety, welfare of the migrants. I think from the American public standpoint, we would not be able to surge resources to the southwest border to attack the fentanyl problem. We would most likely have to cut back on our medical contract. We would probably have to take down some of the soft-side facilities where we are providing the wraparound care.

Certainly, our Border Patrol processing coordinators—contract processing coordinators, we would no longer be able to employ, which means we would have less agents in between the ports of entry doing their border security work. On the trade side, you

know, the trade and travel at our ports of entry would be decimated. We would have long lines and cargo containers would be sitting in ports of entry for a longer amount of time. Our Uyghur Forced Labor Act, we would probably not be able to enforce it the way we are enforcing it today. So there is a whole host of issues that would happen if we would go backwards with the budget.

Ms. UNDERWOOD. I yield back.

Mr. RUTHERFORD. Thank you, Ms. Underwood.

And now we call on Mrs. Hinson.

Mrs. HINSON. Thank you, Mr. Chair.

Thank you, Acting Commissioner, for coming before us today. I appreciate, again, the hard work of the men and women at the CBP.

I just want to follow up on something really quick. When did the soft-sided facilities pop up? When did we start enacting those at the border to handle the surge?

Mr. MILLER. It would—I believe fiscal year 2021. I can't remember the exact day we put the first one up.

Mrs. HINSON. Right. So I visited the border in late spring, early summer at Eagle Pass and had a chance to see that. How much is that costing every quarter?

Mr. MILLER. So the soft-side facilities right now are about $991 million year.

Mrs. HINSON. A year. So nearly a billion dollars a year going to these soft-sided facilities that could be eliminated if we would control the southern surge at our border.

And I know CBP is stretched thin. I would rather see those resources go toward stopping forced labor materials from coming into our country, interdicting those drugs. And this could all be eliminated with a different posture toward immigration at our southern border.

I think that is a goal of mine at this committee is we want you to be able to strengthen CBP's efforts at our southern border. You have been stretched thin. The challenges you are facing surge at a historic level we haven't seen that has been under this administration since 2021. Exponentially worse than we have ever seen.

And I am extremely concerned about the number of known terrorists and criminals who have come across our southern border as a result of the weakness, not as a weakness at CBP, but as a weakness of policy at our southern border.

And nearly a year ago, I actually wrote to you and ICE Acting Director Johnson, asking for answers about how a suspected member of the terror watch list was able to not only get into our country but be released by CBP into the homeland, and ICE as well. So I never got an answer from either agency. Very disappointed in that. And I would ask you to respond to how this disastrous situation could have occurred in the first place, and what are we doing with the funding that we are giving you to make sure that this does not happen again?

Mr. MILLER. So, ma'am, thank you for the question. I am not aware of the particular instance, but I can tell you, you know, how the process does work.

Mrs. HINSON. This was a person who was apprehended in Arizona, released into the interior, and then apprehended again in

Florida. But this is a person who was on our terror watch list. So we can't let this happen, right? I mean, this is a vulnerability for the safety and security of our country, is it not?

Mr. MILLER. Well, so I concur that we cannot allow it to happen, but I can tell you how the process works.

Mrs. HINSON. Please explain.

Mr. MILLER. Yeah. So when an individual—well, number one, we have developed a number of—so I am not aware of this individual's citizenship, but we have established a number of partnerships throughout the Western Hemisphere, whether it is biometric-sharing partnerships or sharing of information of folks entering the hemisphere. So we are continually monitoring that information and working with our foreign partners. But when the person crosses the southwest border and is apprehended, we will take the biometrics and we will run the biometrics in——

Mrs. HINSON. And I have seen that in person, the intake.

How are you communicating, then, with these other agencies under Department of Homeland Security?

Mr. MILLER. So I used to run the National Targeting Center, which does all the coordination for CBP. So what will happen is the Border Patrol agent will apprehend the individual. And if the person is on the terrorist watch list, they are mandated to call the National Targeting Center, and they will coordinate with the Terrorist Screening Center, the Threat Screening Center to determine if that person is a possible match or not a match.

Mrs. HINSON. So where did this weakness come, then, where this person was not caught in that——

Mr. MILLER. So again, I am not aware of the particular instance. I am more than willing to walk through that particular case. But I can tell you, if the person is a match, then we would turn that person to ICE ERO, and they would put them into removal proceedings. It could have been an instance where that person was determined not to be a match and later on additional information came into the system where it was identified to be a match. And we are continually vetting those individuals. So we would have identified that and coordinated with ICE ERO to apprehend that person, pick them up, and put them into removal proceedings at that point.

So we do have a layered approach. If somebody is released, we will identify them and we will go apprehend them. And I am more than happy to look at this particular case and determine exactly what happened. But like you——

Mrs. HINSON. Yeah. I think that is my goal is to make sure this does not happen again. And obviously, this IC is just a massive hole in our security, and anything we can do to make sure that we are not releasing these kinds of people into our country, I mean, it makes us all less safe, and that is what keeps me up at night. I have got 10- and 12-year-old boys. The last thing I want in my community is to be less safe and secure, and we know that people are literally going all over the country. So a huge concern.

And I am almost out of time, but real quick wanted to ask a question about the CCP, because we have seen an increased influx in Chinese nationals obviously coming across our southern border as well. Can you touch on what the CBP is doing to counter kind

of that initiative from the CCP in exploiting the weaknesses or vulnerabilities, whatever they are doing, to obviously take advantage of that to get more people into our country?

Mr. MILLER. Yes, ma'am. So we work very closely with the Joint Terrorism Task Force and the Counterintelligence Task Force led by the FBI, number one. Number two, with the Chinese migrants specifically coming across the southwest border, it is the third largest migrant population in the United States. And historically, we have seen a number of, you know, surges up and down with Chinese nationals, both at our ports of entry, in between our ports of entry. And I can tell you with—as you pointed out, the oppressive regime, the religious persecution, and the fact that these folks couldn't travel for the last 3 years because of the COVID lockdown, it is not a—we expected that we would see more Chinese migrants coming into this hemisphere.

So what I can tell you is we will identify how they enter the hemisphere. We will work with Department of Justice Joint Task Force Alpha and HSI to identify the networks that are smuggling these individuals into the hemisphere. We will work with the Colombians and the Panamanians, because we know that they are coming through the Darien. And we will try to disrupt these transnational criminal organizations.

When they do get to our southwest border, we will ensure that we are running them with our partners, LE and IC partners, against the databases, and then we will do the—we will take appropriate action based on those results.

Mrs. HINSON. Thank you. And I am out of time. I will yield back. Thank you, Mr. Chair.

Mr. RUTHERFORD. Thank you, Mrs. Hinson.

Next up is Mr. Guest.

Mr. GUEST. Mr. Miller, thank you for being here today. I know we had the opportunity to speak by phone a week or so ago.

Just earlier this week, we saw DHS released encounter numbers for the month of March, national encounters, 257,000. That marks the 12th straight month of 200-plus encounters along the border. The 24th straight month of 185,000-plus encounters. We know that fiscal year 2021, we set a record with 1.9 million. That record was broken in fiscal year 2022 with 2.7. And we are on pace in fiscal year 2023 to break that record once again.

I think clearly that we are seeing a humanitarian crisis along the southwest border. That is one not caused by CBP. You and your agents are doing the best job that you can to manage a very difficult situation. And I applaud you for your budget request asking for additional agents. I think those agents and more are much needed. And I think the agents that work along the southwest border are underpaid and that we need to recognize the incredible work that they do each and every day under a very difficult situation.

But as we see the border at historic levels—matter of fact, Chief Ortiz in March testified before the Homeland Security Authorizing Committee that five of the nine sectors along the southwest border, in his opinion, were not secure. And we see the budget that has been presented. And if I am reading the figures correctly, it appears to me that Customs and Border Patrol, that we are—that the

President's budget is asking for a 7.5 percent decrease from the funds that were received last Congress.

And so as we talk about all of the issues that we are facing, how—should this not be one of the agencies that Congress should invest and invest robustly in because we know, and you mentioned it very briefly, title 42 goes away in less than a month, that we expect a surge along the southwest border—I think you told me, and correct me if I am wrong, that there are individuals that you have intelligence on or groups of individuals who are in Mexico waiting for title 42 to expire before they attempt to enter the country.

Is that correct, or did I misconstrue something that you said?

Mr. MILLER. No, sir. That is correct.

Mr. GUEST. And you also spoke about the Darien Gap and the number of individuals that come across the Darien Gap. CNN did a recent article on that—I don't know if you saw it. I think it came out maybe earlier this week—about individuals that were making that trek through the Darien Gap.

They said last year—and again, these are CNN numbers, so they are not CBP numbers—but said that roughly 250,000—so a quarter million people—came through the Darien Gap last year, that that was twice the number the year before, that that was 10 times the average of 2010 through 2020, and that so far year-to-date, based on their figures, we were six times higher in the first few months of the year, first quarter of the year, I guess, than what we saw last year.

And so it seems to me that the numbers of encounters along the southwest border are—they don't seem to be going down. If anything, based on the information I received—and correct me if I am wrong—we are expecting that 250,000, which was what we saw last month with title 42 going away—do you expect that number to increase at least through the next several months?

Mr. MILLER. The number of encounters between the ports of entry last month on the southwest border was about 163,000. Still, you know, historic numbers.

Mr. GUEST. And you are right. I think it was 191 last year on the southern—or last month, in March, for the southern border, and the total for the northern and southern was 257. So, yeah, just looking at the southern border, this month, 191,000, which was up from 153,000 the month before, but down from the all-time high of a quarter of a million in December.

So the numbers along the southwest border, particularly as we get into the warmer months—because we know traditionally that January and February, the number of encounters along the southern border are generally, just because of the temperature, that those numbers are generally down, and they begin increasing in March continuing through the end of the year.

With title 42 going away, do you see that trend continuing again?

Mr. MILLER. Yes, I do. I do expect the numbers will go up after May 11.

Mr. GUEST. And you talked a little bit, and you said something about you recognized some sort of structural deficiencies in the budget request. Explain to me what you were meaning when you talk about structural deficiencies within the budget request.

Mr. MILLER. Sir, thank you for the question. And really mostly the deficiencies I am seeing is the O&S, the operation—the O&S funds to continue operating some of the technology that we have requested and received the last 2 years. So some of the very same towers I think it was alluded to, some of the very same towers we are talking about.

So, obviously, our goal is to work with this committee to ensure that we sustain what we have already been given before we purchase new.

Mr. GUEST. And last question—I don't have a clock, Mr. Chairman, so I apologize if I am over.

Mr. RUTHERFORD. You are way over.

Mr. GUEST. Okay. With that time, I will yield back and wait for the second round.

Mr. RUTHERFORD. Okay. Thank you, Mr. Guest.

And Mr. Trone has joined us. We will go to you next, sir.

Mr. TRONE. Sorry I am late. Got too many things going on. You are always over, though. He is consistently over.

Hey, thanks for joining us, Commissioner Miller. Appreciate it.

The challenges facing CBP are substantial, complex, requiring more effective technologies to maximize your resources. Your innovation team has been successful in identifying and demonstrating some new promising technologies, but we need to increase our return on the investment by transitioning successful stress-tested technologies into the base budget as soon as possible.

So for your experience at the National Targeting Center, you understand the long-term value of leveraging precision targeting capabilities over casting a wider net. So this let's us use our resources much more effectively, both on this northbound, but also on the southbound flow of guns and cash.

So expanding these preprimary scanning would close the scanning capacity gap and could be a game changer on contraband interdiction. So as of now, those scanned images at the port of entry are sent to an officer in a common center, and CBP is not adequately deploying the AI and machine learning to maximize interdiction capabilities of the NII systems.

Can you discuss your role on the rollout and how you are going to use artifical intelligence and ML technology more effectively?

Mr. MILLER. Thank you, Congressman, for the question. And, again, thanks to the committee for the funds that we have received on the southwest border, in particular to the nonintrusive technology, as we deployed across the southwest border so we can screen more vehicles, both passenger vehicles and commercial vehicles, at our ports of entry.

So, sir, directly to your point, in January, we—and thank you for your support of our INVNT team, by the way. So in January, our Office of Information Technology and our Innovation Team had a conference with 68 companies to discuss just that, our requirements for artifical intelligence, machine learning, so that we can process these images before primary and get that information to our officers and agents to make an informed decision.

We discussed our requirements, our challenges, what we were looking for with those companies. We put out an RFP. That RFP is due back to us at the end of this month. And through some of

the procurement vehicles we have, when we get that written response at the end of April, we will be able to act on some of that new emerging technology that is out there. And we will continue to work with this committee for funds to fund additional technology as it becomes available. But thank you for your question.

Mr. TRONE. Now, when you look at the total number of multi-energy and low-energy portals ordered, how many of them have been paid for fully or partially?

Mr. MILLER. 138 have been paid for fully.

Mr. TRONE. Would you describe the agency as being on track with respect to deployments of these systems?

Mr. MILLER. So as you know, sir, there have been some delays, a number of different things. As you know—you have been to the southwest border—each port is not equal. It is not the same. Some, we have challenges with the distance. So remember, we are fundamentally changing the way we do business on the southwest border in that we are trying to do the scans prior to primary. Some of these locations don't have the space before primary. Some of these locations have other technology that interferes with the NII and it doesn't make it useful.

So we have done a study across the southwest border. We have procured the equipment. We are working with GSA and the bridge owners on construction. Mexico itself has also purchased additional scanning technology for their side of the border that we will be working with them on. So by 2024, we believe that we are going to at least have started to put all of that technology in the ground at the same time, to your previous question, developing that artifical and machine learning to get it on top of it.

Now, I am with you, I want to do it quicker, and we are going to do it as quick as possible. But this is a once in, you know, my lifetime chance to change the way we are doing business and really getting all that information to our officers and agents real time so they can make the best decision.

Mr. TRONE. Seventy-three million cars coming across the border at legal ports of entry, 200,000 a day, you know, we have really got to use technology, or we have got no shot.

And I want to just stress—I know my time has run out, but follow my Republicans' lead—stress the importance of the southbound. I mean, the Mexican Government is obsessed with the southbound flow of guns going into the cartels, which has made the country so unstable and leading to immigration issues, et cetera.

You know, we have got to make sure we work on that 30 million CBP got in 2023, and make sure that happens again in 2024, and we work on the southbound gun issue.

I yield back.

Mr. MILLER. Thank you, sir.

Mr. JOYCE [presiding]. The chair will recognize Mr. Cloud.

Mr. CLOUD. Thank you, Chairman.

And thank you, Acting Commissioner, for being here. And just want to echo the sentiments that we certainly appreciate what the boots on the ground are doing and what your Department's tasked with.

You know, I live in south Texas, and so, I got the opportunity, of course, to tour, as many people have, and shake hands a know

many of the people who work in the communities and what have you. And it is a yeoman's effort in very difficult circumstances, and so, certainly appreciate that.

A lot has been said about what operational control is, and I will read the definition again. It has been read already, but in this section, the term operational control means the prevention of all unlawful entries into the United States, including entries by terrorists and other unlawful aliens, instruments of terrorism, narcotics, and other contraband.

And you have said, you know, by that definition, we do not have operational control, neither has anyone since this definition was meant.

It seems to me that the hang-up is on the word "all," in the sense, like, until we get that number to zero, we will never have—you know, and I would just like to ask you: Why do you think that word "all" is there, and what is the purpose of that?

Mr. MILLER. I can guess. I mean, it is certainly an aspirational goal that we would all like to attend.

Mr. CLOUD. Yeah. It would seem to me like that is meant to make very clear what the goal is, as opposed to being some sort of get-out-of-accountability-free card when members come before us in the sense of, you know, we shouldn't be creating exclusions or exceptions or creating—redefine parole and all these different kind of things, that we need to do what the law says and not make exceptions to what the law says.

I wanted to ask you about the budget. You are advocating for the hiring of 100 more Border Patrol agents, yes?

Mr. MILLER. I believe it is 350, yes.

Mr. CLOUD. Oh, 350? Okay. Oh. That is—I am sorry. Border Patrol—that is Border Patrol agents and processing, or—and support, or that is just the agents?

Mr. MILLER. I believe it is 350 agents, 300 Border Patrol processing coordinators, and 150 OFO officers.

Mr. CLOUD. Okay.

Mr. MILLER. And I have got a lot of numbers in my head, so——

Mr. CLOUD. Okay. 350 agents, 350 border processing?

Mr. MILLER. 350 agents, 300 Border Patrol processing coordinators, and 150 CBP officers for our ports of entry, I believe.

Mr. CLOUD. Okay. That is great.

There has been a good number of—a good amount of attrition lately. Could you speak to what you are seeing and why?

Mr. MILLER. So there is a number of issues that affect attrition, frankly. With our Office of Field Operations, the folks at the ports of entry, they got a law enforcement status in 2008, which means, in 2028, we are going to have a large retirement surge. And Congress tasked us with a study to do what we needed to do.

The southwest border, very much the same. We have had hiring surges in the last 20 years, so a lot of these folks are now available for retirement, when we are talking about Border Patrol agents, so certainly that is part of the attrition rates.

Mr. CLOUD. I know a number of people that I talked to—a number of agents I talked to were very concerned that, at the same time the administration was talking about getting rid of title 42, it was placing a new COVID testing regime on the agents, using,

ironically, tests that were imported from China that had agents on—on the testing.

Basically, they had to put a carcinogen in their nose to test. I asked about this before. The director at the time didn't know that was even happening.

Is that testing regime still in place?

Mr. MILLER. No.

Mr. CLOUD. Okay. Thank you. I am happy—happy to know that.

Have the agents that were falsely accused of being whipped been—been apologized to?

Mr. MILLER. Not to my knowledge.

Mr. CLOUD. Okay. Have they been reinstated to their former role?

Mr. MILLER. So the process is still ongoing.

Mr. CLOUD. It is still ongoing? And how long has it been?

Mr. MILLER. Let's see. About 18 months or so. Is that right?

Mr. CLOUD. Do you think actions like being falsely accused of doing something that you are not doing, when you are doing your stated mission, leads to low morale?

Mr. MILLER. So the—the investigation is ongoing, and most certainly, you know, we are concerned about the morale of the Customs and Border Patrol folks.

Mr. CLOUD. Okay. My time is up. I just saw that. Finally figured out where the clock was, and so, I will save the rest of my time——

Mr. JOYCE. It is not as fancy down here as it is upstairs. We have a clock.

Mr. CLOUD. Maybe buzzers and bells are—would help.

Mr. JOYCE. No worries.

Dr. Harris.

Dr. HARRIS. Thank you very much.

I am just going to ask one question. I will yield the balance of my time.

Global entry—CBP is in charge of global entry. Is that right? Global entry program?

Mr. MILLER. Yes, sir.

Dr. HARRIS. Yeah. So I have got a lot of complaints in my office, my district office, that it takes literally years to book an appointment for global entry. Is that true, to book an interview?

Mr. MILLER. No, that is not true.

Dr. HARRIS. So—so is there—and I will follow up—now that you say it, I will follow up with my person in the district. But what is the maximum acceptable time in your mind that you should have to wait for an interview?

Mr. MILLER. So, if I may, we have established a number of additional venues to be able to complete your interview, and one of, I think, the best ways to do it is enrollment on arrival, so you can actually complete your interview when you arrive from international travel.

Dr. HARRIS. Right. But if you are planning to do it—I mean, again, I live in a rural area. I mean, my people don't take a lot of international flights, but what is the maximum time you think someone should wait for—to have to wait for an interview?

Mr. MILLER. Well, again, if they are—I mean, I am not trying to be difficult, but if you are not traveling internationally, global entry——

Dr. HARRIS. Well, they are traveling internationally, but, you know, I—they have to go to Dulles or BWI from the Eastern Shore of Maryland. You know this little bridge over there sometimes has a lot of traffic. You know, so it is—when they call to set up their appointment for an interview in the future—not on arrival—what is the allowable amount of time that you think they should be having to wait for that interview?

Mr. MILLER. So right now, it is approximately 6 months. You know, we would like to get that process down to maybe 30 to 60 days.

Dr. HARRIS. Okay. So you think it shouldn't be more than 6 months. Okay. Thank you very much. I yield the balance of my time to Mr. Guest, because I know he has got a lot of questions, but they are good questions.

Mr. GUEST. Thank you.

Walk me through this and tell me if my figures are correct. I show that the CBP fiscal year 2024 request to be $16.87 billion. Is that number accurate?

Mr. MILLER. Yes, sir.

Mr. GUEST. And this would be a $1.37 billion decrease from fiscal year 2023 levels?

Mr. MILLER. No. The——

Mr. GUEST. Because I have fiscal year 2023 being 18.374 billion.

Mr. MILLER. So I think what you are referencing is that also includes the Border Management Fund that we received last year. This year, that is covered by the Contingency Fund.

Mr. GUEST. Okay. And so the Contingency Fund is money that is really not going to hire agents, invest in technology, build walls. I mean, that money is going to transport migrants, medical care, alternative to detention, processing, kind of what we have seen over the last 2 years where we are investing money not really in anything of any substantial nature, but really just investing money to process people through the system quicker. Is that correct?

Mr. MILLER. So the contingency funding will cover things like Border Patrol processing coordinators, as we talked about, doubling our transport, the medical support, the soft-side facilities, and the capacity to hold individuals as we are doing enhanced expedited removal.

We have also put in some of the booths that we talked about. So there is a number of different things that we will continue to do with those funds.

Mr. GUEST. Is any of that money going—from the Contingency Fund—and this is separate. I know you are talking about trying to hire 350 new agents and 300-plus new processors. But, from the Contingency Fund, none of the money from the Contingency Fund is going to hire new agents, correct?

Mr. MILLER. Correct.

Mr. GUEST. And none of the money is going into technology as far as ports of entry, screening processes, as far as things of that nature?

Mr. MILLER. Correct.

Mr. GUEST. All right. And so, overall, is it your testimony that you are asking for an increase from last year's budget, or a decrease, because, again, the numbers I am getting were the numbers that I relayed to you, which were a budget decrease?

But the total numbers, are you saying, is an increase from last budget year?

Mr. MILLER. The total number is almost exactly the same.

Mr. GUEST. Okay. So you are asking for basically level funding?

Mr. MILLER. Yes, sir.

Mr. GUEST. Okay. And, based on what you are asking for, on the historic nature of what we have seen and the fact that we expect another surge to be coming when title 42 ends, are you saying that that money is adequate for Customs and Border Patrol to do the job that they are tasked with doing?

Mr. MILLER. Well, sir, to start, I mean, I think I relayed that we do have some structural shortfalls that we are going to have to fix in our budget to ensure that we sustain the technology that we received in the last—last several years.

And, secondly, you know, given the flow of migrants across the southwest border, we are certainly going to hit the triggers for the Contingency Fund.

Mr. GUEST. I yield back.

Mr. JOYCE. Thank you, Mr. Guest.

I apologize for being late, Acting Commissioner Miller, but I would like to ask you: Do you believe that physical barriers are an important border security tool?

Mr. MILLER. Yes, sir. I believe personnel, technology, and infrastructure is very important for CBP.

Mr. JOYCE. The President abruptly canceled contracts to build physical barriers. And, while the Secretary has authorized closing some gates and gaps, no substantial amount of physical barriers have been built since January of 2021.

Does the agency need additional physical barriers to help secure the border and buy time for agents to apprehend migrants who cross the border illegally?

Mr. MILLER. Sir, you know, I believe, as I stated, we need additional infrastructure, technology, and personnel to ensure that our agents have the tools that they need to respond.

Mr. JOYCE. Okay. Well, last Congress, my bill, the PREVENT Act, was signed into law to require CBP to provide the frontline personnel with containment devices to prevent secondary exposure to illicit narcotics in the line of duty, including fentanyl and other potentially dangerous substances. Has CBP moved to procure or provide these containment devices? Where is the CBP in the process of ensuring our officers and agents on the front lines of the opioid epidemic have access to these containment devices?

Mr. MILLER. Sir, first of all, thank you for the Act. I am aware of the Act. And, you know, secondly, obviously, the physical well-being of our agents and officers, hugely important to us. So obviously you know that we have—we have given them PPE. We have given them the appropriate training. We have given them the Naloxone and, you know, provided them with containment training and the like.

And we are working very closely, you may or may not know, but with our Office of Science and Technology to look at the containment technology, and we will procure it in conjunction with S&T if determined to be viable technology.

Mr. JOYCE. Sir, it exists, and it is not having to look at it. It exists. And, if one of these—if powder form had exploded in one of your offices, it would kill everybody in your office.

Mr. MILLER. No. Again, sir, we are working very closely with S&T, and as you know, we have our forward operating labs to ensure we are containing appropriately, and we look for additional technology as it becomes available to ensure our officers and agents are safe.

Mr. JOYCE. Thank you.

Mr. Cuellar.

Mr. CUELLAR. Thank you, Mr. Chairman.

Border wall, 14th century solution. If you look at the 11, 12 million undocumented aliens, whatever the number is in the U.S., the last figure I saw—and I was just double-checking this again—maybe you have better figures—two-thirds of them were visa overstays. And at that time, the number one violator was Canada.

Now, I don't know if my friends are talking about putting a fence at the northern border, which I hope they are not. And so I—I just want to make sure that we secure the border and believe in a 21st century technology, AI, other things that are important. I think it is the way to look at.

And, also, I would like to remind my friends that, in the last 2 years, from the prior administration, $2.4 billion have been added to the CBP budget authority. That is a 15 percent increase of dollars.

So we want to find a way, working together, to secure the border, including the northern border.

And I remind that 9/11 terrorists didn't come through the southern border, but they actually came through the northern border.

One of the things that I also want to look at also is the fact on the south-sided facilities, let's keep in mind that Border Patrol facilities were set up to handle small amounts, mainly male adults—in the old days, they were coming from Mexico to come and do a little bit of work, and then they would go back.

So the border facilities—Border Patrol facilities were not set up to handle a lot of folks. So the south side, which I think the first one—I think it was year 2019. President Trump was the President. The Senate, I think at that time, was Senate controlled by Republicans, and of course the House by Democrats.

So it was set up to handle—because Border Patrol facilities don't have that.

Now, having something different—and, again, I don't want to—if you have heard me say—I don't want to—I don't want to have the border just be a processing center. I want to make sure that we keep whoever is supposed to stay here and go back. Usually the numbers are 88 to 90 percent of the people that ask for asylum are going to be rejected.

And, by the way, looking at some of the latest numbers, China was the one that was getting the biggest asylum granted, 16.2; then Venezuela was 14.5; and then you have other folks.

By the way, who are the largest folks who have been—the number sector folks who have been staying here lately? It is India and China, right? Isn't it?

Mr. MILLER. Excuse me. Repeat the question.

Mr. CUELLAR. Where is China and India in number of folks who are being—coming into the U.S. or staying here in the U.S.?

Mr. MILLER. Oh, I think the migrant population, India is number two, and China is number three.

Mr. CUELLAR. Number 3. And No. 1 are Mexicans.

Now, one of the things that I want to look at is—and, by the way, I want to thank—you remember David Higgerson? He was the one that gave me the idea about border processing centers. We need to use agents to do their job, but there are certain jobs that I think the support staff or border processing or whatever you want to call them, are important. So, you know, we want to get agents, but we also want to get the support staff. And that includes ICE also to make sure.

Now, one of the things that concerns me is—and I agree with my friends—the attrition. We have been losing folks. You know Border Patrol sometimes—at one time, we were losing more folks than we were actually hiring. So anything you can do to speed up the hiring process, and I would appreciate that. But one of your former Border Patrol chiefs gave me some numbers that are alarming.

He said that, besides the regular attrition, the mandatory retirements coming up, for fiscal year 2024, 800 Border Patrol folks that would be hit by mandatory retirements; fiscal year 2025, 1,500; and then fiscal year 2026, 2,200 mandatory retirements.

Now, that worries me, because, besides regular attrition and the time it takes, we have got to do a better job. So let us know what we can do to help you in that aspect.

Mr. MILLER. Yeah. No. Thank you so much. I mean, I think a lot of the things that—the flexibility that this committee has given us to spend our money, certainly on retention bonuses; hiring bonuses; you know, what we are doing to, as we already discussed, shorten the timeframe, but, you know, we have to continually look at that and continue and also look at potentially some waivers for folks as they hit those caps.

So there is a number of different things we have to do to ensure that we continue to not only hire—fix the hiring process, but keep the folks that we have to the point of your colleagues.

Mr. CUELLAR. And, Mr. Chairman, I know this was at—when you were out, but Mr. Miller is a career individual.

Mr. JOYCE. Okay.

Mr. CUELLAR. And 30 years, right, this year?

Mr. MILLER. [Nonverbal response.]

Mr. CUELLAR. And I know sometimes there is political appointees by Democrats and Republicans, but we really should look a lot to these career folks that know and know the trends and have seen it before. Something new might be something that has been tried. So I really appreciate the career folks like Mr. Miller.

Thank you, Mr. Chairman.

Mr. JOYCE. I think we all agree, Mr. Cuellar.

Sheriff Rutherford.

Mr. RUTHERFORD. Thank you, sir.

Commissioner, I presume that CBP has either general orders or SOPs or training manuals for how to vet individuals that they run across. Is that correct?

Mr. MILLER. Yes, sir.

Mr. RUTHERFORD. Okay. I would like to request through the chair, if we could—I would like to see those documents, the training that they get, the processes that they are supposed to go through.

And I am going to tell you why. And it goes back to the questioning that Ms. Hinson had earlier as well, and I keep—I keep bringing this case up.

My question is: So we have an individual who crosses the border, no ID. We go to vet them. They are not in the biometrics system. They have no documents. We have no way of knowing who they are.

What is the default policy of CBP with an individual like that?

Mr. MILLER. So there would be a number of questions I would have to ask, number one. You know, certainly, just like you said, we would do the biometric, biographic checks. And certainly, if it is a minor or——

Mr. RUTHERFORD. They go to HHS.

Mr. MILLER. They go to HHS.

Mr. RUTHERFORD. And they go through the same vetting process.

Mr. MILLER. Right.

Mr. RUTHERFORD. Now, here is my question, because the individual that Ms. Hinson spoke of was later determined somehow, through vetting, to be on the terrorist watch list.

Mr. Ulloa, who went to Jacksonville, Florida, and killed one of my citizens, one of my constituents, he actually came across and used a fake name and fake ID—I am sorry. Not a fake ID. Just a fake name and fake date of birth that made him a juvenile.

CBP couldn't tell who he was, so they—but, since he used a date of birth that made him a juvenile, they turned him over to HHS. HHS couldn't tell who he was, so they sent him to Jacksonville because he has got a relative there allegedly, who turns out not to be a relative, because they didn't vet him either.

He gets—he murders my constituent. Then we find out who he is. How did we not—so here is my question: If he can go into a—if he can go into the Duval County jail and eventually we could identify who he is, how did we not identify who he was before we shipped him to Jacksonville?

So my question is: Is the default policy of CBP, if you can't tell who they are, let them in, because that is what it appears to be.

Mr. MILLER. No, sir. That is not the default policy. Again, I have spent my career trying to increase information sharing, vet individuals against all available databases, whether they are IC-held databases, LD-held databases.

Mr. RUTHERFORD. And we are doing all we can in that regard. But, when you can't tell who they are, what do we do with them?

Mr. MILLER. So, in the case of a minor, we are mandated by the TV——

Mr. RUTHERFORD. You don't know that he is a minor.

Mr. MILLER. Well, they claim to be, so I am just telling you, we follow—we have to follow the law, too, which is the TVPRA, and

we have to turn a minor over to Health and Human Services. And, as discussed at length——

Mr. RUTHERFORD. But there is my question. How do you know he is a minor?

Mr. MILLER. We have to use all available information that we have, and we have to make that determination.

Mr. RUTHERFORD. So we take whatever they tell us, and we are making—we are making decisions about the security of this country based on what somebody that just illegally crossed the border is telling us.

I have serious problems with the way we vet—we are vetting people. And the fact that we can't tell who they are at the border, yet when he gets sent—when he gets arrested in Duval County, we find out who he is—he is doing 60 years now. Why couldn't we determine that before they sent him to Jacksonville? Why couldn't we determine that—what—what changed? How did they determine who he was later?

Mr. MILLER. You know, again, sir, you know, first of all, my condolences to the family in your community.

Mr. RUTHERFORD. Look, I—I understand completely. And I am not blaming you. I am just saying it looks like the default policy is to let them in.

Why wouldn't we say, No, I can't prove who you are, so you are not coming in. Why wouldn't—should that not be our policy, or is that our policy?

Mr. MILLER. Well, again, when somebody comes in, we are going to use all the available information that we have, so the biometrics, to the facial comparison.

Mr. RUTHERFORD. You can't tell who they are, because they are not in any system. What do we do with them?

Mr. MILLER. And so we are going to coordinate——

Mr. RUTHERFORD. We are letting them in.

Mr. MILLER. Or we are going to coordinate as appropriate.

Mr. RUTHERFORD. We are letting them in.

We need to look at that policy, because we are letting killers into this country. That has got to stop.

I yield back.

Mr. JOYCE. Thank you, sir.

Mrs. Hinson.

Mrs. HINSON. Thank you.

And thank you, Sheriff, for bringing that up, because that is a true concern in my district. And I am pretty sure I—let's see if it stays on. Can you hear me?

Okay. This is the finicky one from earlier, I want to echo my colleague's concerns about the attrition at CBP. And you talk about the 25 suicides in the last 2 years.

And that is truly heartbreaking, that people are facing these challenges and they feel like there is no other way out. And we want to do everything we can to make sure your workforce feels supported.

But can you talk a little bit more about the morale? And, you know, I think that it is very clear something has got to change with policy, because people feel like they have no other option but to ei-

ther quit, or take their own life. And we don't want to put people in that position.

Can you talk about what policies should change at DHS to make sure that we don't face these major problems with our CBP agents?

Mr. MILLER. Well, first of all, thank you, you know, for the support for the men and women of Customs and Border Protection. It is much appreciated.

Second of all, thank you for the funding we have received the last couple of years. Number one, we have to take care of our folks.

But, you know, No. 2 you know, I think one of the things we have done over the last 6 months, specifically for the Border Patrol agents, well, the last year or so, is really making a concerted effort to get the men and women of CBP, or Border Patrol in particular, back in between the ports of entry.

Mrs. HINSON. Back to actually fulfilling their mission, not processing people, but back in the field?

Mr. MILLER. Back to, yeah, in between the ports of entry. And we have made significant strides with the Border Patrol processing coordinators, that we have got over a thousand. We have additional classes. And, in fact, those folks are being—becoming our biggest recruiting pipeline that folks who want to do that same job that the Border Patrol agents are——

Mrs. HINSON. And then you might feed them into those positions more quickly?

Mr. MILLER. Exactly.

Mrs. HINSON. We are happy to hear that, obviously, but, I mean, you still have a pretty good delta to get to your full force. So can you speak a little bit—you know, obviously you are asking for these new agents.

And I asked Acting Director Johnson the same question with ICE, right? You have got this need, and you have got a gap here, over 800 open slots that you currently have, and you are asking for more.

Can you tell me more about how you are going to get these people into these slots so we can actually keep our border under control?

Mr. MILLER. Yes. So thank you, ma'am.

So, again, I think the flexibility has helped us. Certainly getting the hiring engine back up and running was extremely important. So our application numbers are going up. So we are getting more people into the pipeline.

The Border Patrol processing coordinators are actually one of our top recruits. We have looked at the back end, and we spoke at this at length, and Sheriff Rutherford actually mentioned as well at the Academy, and fixing our attrition rate, or our——

Mrs. HINSON. Changing the testing, yes.

Mr. MILLER. Changing the testing. So, in between, we are looking at our HRM processes to try to—really for me, it is yield rate, the number of folks coming into the pipeline, making it to Border Patrol agent and the time to hire, so we have to fix those two things. It is about 260 days right now from the time somebody applies for the job to the time that they get hired. So we need to shrink that, and my challenge to the team is in half. And we are

doing that by looking at the processes and procedures of our HRM staff.

Mrs. HINSON. Well, because I think—when I was down there—I have been down there twice to hear directly from folks. And it was shocking to me to see how many people were being pulled from other areas of DHS, including FEMA, to help with these positions. And that is just unacceptable. These should be CBP agents, not FEMA agents. FEMA should be dealing with hurricanes in Florida and flooding in Iowa, not our southern border.

So another thing that the agents pointed out to me is that technology is helpful, you know, and I have been a big supporter of automated surveillance technologies, technical kits, mobile surveillance capabilities. All of those are force multipliers, and I believe that cross-border tunnel detections—you know, I have learned a lot about that technology and how effective that is, especially when we are talking about stopping fentanyl and these transnational gangs and cartels.

Can you talk about the number of encounters with—that CBP is experiencing at the border, the growing number of people that the cartels are bringing across to distract you from doing your mission, right? And I think it is very clear they are doing that.

How valuable are those technologies to your Border Patrol agents?

Mr. MILLER. The technology is—we need the technology. We have to have the technology now. It really—especially with the new automation, machine learning, artificial intelligence that shrinks the number of folks that we need in these command centers to actually look at the screens and try to determine what is happening.

And, to your point, with the tac devices and getting that information directly to our officers and agents so they can respond to those events, it is vitally important. We need the technology. We need the continuing funding. And, you know, I think our Office of Information Technology and Border Patrol is doing a good job to really get that actionable information to the hands of the frontline agents so they can respond appropriately.

Mrs. HINSON. Yeah. And I know I am out of time, but I will submit some follow-up questions for the record, specifically about countering things like new threats, like xylazine that we are seeing as an amplifier for our fentanyl problems that are already a huge challenge. So thank you.

Mr. MILLER. Thank you, ma'am.

Mrs. HINSON. Appreciate it.

I yield back.

Mr. JOYCE. Thank you, Mrs. Hinson.

Mr. Guest.

Mr. GUEST. Commissioner, again, I don't want anything that I say to make you believe that we don't fully support Border Patrol. I support personally—as a new member on this committee, I can tell you that I will fight as hard as I can as a member of this committee to make sure that we are hiring new agents, a number in addition to the ones that you have requested; that we are getting agents pay increases; that we are investing in technology; that we are investing in what we need to vet the individuals coming into the country.

My frustration, and I believe the frustration of many people on this committee, is the amount of tax dollars that we are having to spend every year on processing. The $4.7 billion Contingency Fund that has been requested, that is roughly 28 percent of the entire budget of CBP. And so, one out of every $4 would then be going to doing nothing but processing.

And so we are incredibly frustrated. And I don't want you to feel when you leave here that we are intentionally taking our frustration out on you. We know you don't make those decisions, that those decisions are made—you are career law enforcement officer, and we want to thank you for that.

Now, one of the things that the chairman mentioned that I want to talk about as well is physical barriers, wall construction. And we know it is not feasible to build a wall from sea to shining sea, that we are not going to build a wall from RGV to San Diego. But under Secretary Mayorkas, we have had zero wall construction.

If I am not mistaken, there is $7 million in this budget for wall construction. Is that correct? Or how much is in it? Maybe I should just ask you. It is my understanding that it was seven, but how much money is in the budget request for this physical year for wall construction?

Mr. MILLER. I would have to look. I didn't know that there was money in this budget for wall construction.

Mr. GUEST. Are physical barriers an important component to securing the border?

Mr. MILLER. I will say time and time again, we need infrastructure, we need personnel, and we need technology.

Mr. GUEST. All right. But there is no money in this budget for wall construction?

Mr. MILLER. I don't believe so.

Mr. GUEST. All right. And so do you agree or disagree with that?

Do you think it should be in there? Do you think we should put money in there? If we are going to be writing the budget, should we write money in the budget for wall construction?

Mr. MILLER. I would have to work with, you know, the Border Patrol and their requirements and get back to you on technical assistance on exactly what we need in our budget.

Mr. GUEST. All right. Chief Ortiz—do you know Chief Ortiz?

Mr. MILLER. Of course.

Mr. GUEST. All right. Chief Ortiz testified—

Mr. MILLER. Twenty-plus years.

Mr. GUEST. Chief Ortiz testified before Congress just last month. He testified that five of the nine sectors along the southwest border are not secure.

Do you agree with the assessment of Chief Ortiz?

Mr. MILLER. Well, thank you for the question.

You know, certainly—and I think we discussed this a little bit the other day. In my 29, almost 30 years of experience, I have seen, you know—it is an evolving situation. It is an evolving situation every single day.

Today, we might have a situation in El Paso where we need to surge additional resources because of a surge that we are experiencing. Like I am doing in the southwest, I may surge resources

so I can attack the fentanyl that is coming across the southwest border which that surge is certainly having.

So I guess my answer is, you know, I defer to Chief Ortiz on his expertise. He runs the Border Patrol. It could be three sectors today. It could be five sectors tomorrow. And it has been that way ever since we have had a border.

Mr. GUEST. And final question: title 42 ends May 11. I know we have talked just very briefly about it. The most recent figures that you have seen as far as expected number of immigrants—we saw some numbers that came out in December. It seemed to me that they were somewhere in the—potentially up to 15,000-a-day range, and I could be wrong. And I apologize. I don't have those figures in front of me.

But do you have any recent information as to what we can expect when title 42 ends?

Mr. MILLER. So we are certainly going to see a surge higher than the numbers, you know, and I am doing my best to answer the questions directly. We are going to certainly see numbers higher than we are seeing today. We are going to see a surge in migrants.

We are also going to immediately, when title 42—and, as you know, there are certain court rulings that really are hindering what we can and can't do at the particular moment. So, when title 42 goes down, we will immediately start doing enhanced expedited removal across the southwest border, but it is going to take some time for that consequence to take effect in my opinion.

We are certainly going to see a surge. What that exact number, I don't know what that exact number is. I know I am preparing for, you know, certainly 10,000 or so a day. But again, we will—we can continue to surge resources and look at the intelligence every single day, the—each sector—individual sector every single day, work with the chief of the Border Patrol, Chief Ortiz, the Office of Field Operations, to ensure that we are getting resources down there to respond to the best of our ability.

Mr. GUEST. Thank you, Mr. Chairman. I yield back.

Mr. JOYCE. Thank you, Mr. Guest.

Mr. Cloud is recognized.

Mr. CLOUD. Thank you.

And I do want to echo what Mr. Guest said about we have nothing but appreciation for the members of CBP and appreciation for the understanding and—that we need to get you the resources that you need to do your job, and you are in a very difficult situation.

A lot of the issues we have is with the policy that you are being asked to implement, and certainly recognize that.

I wanted to ask you about visa overstays. By my understanding, there was, in 2020, about 684,499 visa overstays. Does that sound about right?

Mr. MILLER. I am sorry, sir. I would have to get back to you on the particular numbers.

Mr. CLOUD. Okay. Do you know how many gotaways there were last year?

Mr. MILLER. I just looked at the numbers this morning. I can tell you if you give me 2 seconds. I just looked up the numbers this morning, but I don't want to not give you the right number.

Mr. CLOUD. I think it is also 600,000.

Mr. MILLER. Yes.

Mr. CLOUD. Is that correct?

Mr. MILLER. Yep. That is correct. I just wanted to make sure I had them in front of me.

Mr. CLOUD. And that is what we actually call known gotaways, right?

Mr. MILLER. It is.

Mr. CLOUD. Yeah. So do you know how many unknown gotaways we had?

Mr. MILLER. No.

Mr. CLOUD. No, because it is unknown, right? So—and those are not coming through the port of entry, by and large? Is that correct? They are not running the port of entry? That is—the gotaways are coming in between ports of entry?

Mr. MILLER. Yeah, the gotaways are coming in between the ports of entry.

Mr. CLOUD. And so the infrastructure would be helpful in stopping gotaways. Infrastructure, everything you were saying—infrastructure, manpower, technology.

Mr. MILLER. And let's not forget access. Access is one of the—and having—roads access to make sure our agents can get to respond to that technology alert that you are talking about.

Mr. CLOUD. Exactly. And removal of the Caruso gang and everything else, right?

Mr. MILLER. Yes.

Mr. CLOUD. I wanted to also talk to you about the apprehensions, because, if we are looking at last year encounters, we are 200 or 2,300,000-plus. If we go back to 2020, or if we go back to 2020, COVID was certainly allowance for 450,000, but even going back a year before that, we are talking a million, so half of where we are at right now.

Going back to the definition of operational control, I mean, the idea is to be moving toward it, not away from it. It would seem that we are moving away from it.

Now, you gave a pretty bleak picture when someone on the committee mentioned the fact that we are looking at going back to discretionary spending levels back to pre-COVID. So pre-COVID traffic would have us at about half of what we have right now with the budget that they had then.

And I am not suggesting that we need to cut the budget for it. I am for raises for our men and women. But like it has been said, I am not for paying for processing.

And so, you gave a pretty bleak picture, almost a Chicken Little list of all the things that could not happen, yet I am looking at this saying, Well, at the pre-COVID budget, they were able to have a more secure border.

So there seems to be a disconnect there. Could you address that? To me anyway.

Mr. MILLER. Certainly, sir. As we know, agents' salary—let's start with the budget. Seventy-five percent of our budget is salary, and salaries continue to go up. Obviously, inflation continues to go up. Construction costs continue to go up. And I am not only talking when—you know, the Chicken Little scenario.

In between the ports of entry, it is also at the ports of entry as well. So, you know, certainly our CBP officers, the technology that they are using, the technology we are talking at the southwest border, really the civil works projects that we are trying to do along the southwest border, all those costs are going up.

So, if we were to go back to our budget 2 years ago, most certainly, that would affect us across our organization. But to your point, most certainly at the southwest border.

Mr. CLOUD. But we are seeing a lot of the funding go to not protection, but go to processing. Is that correct?

Mr. MILLER. It is correct, but, if I may on the processing, we have made significant advancements in automating our A-file, significant advancements in being able to process people in between the ports of entry through the facial recognition, biometrics. We are testing out where you can actually take a picture of the prints and enroll the individuals, again, making us safe and secure and run against that information, things that we have been talking about. So there is a number of different things that we are talking about when we are talking about processing, sir.

Mr. CLOUD. Okay. But it still seems like we could find some efficient—it is the ROI, if that makes sense, that we are looking for? We are looking for protection, which is actually the P, not processing—CBP, Customs and Border Protection, not Customs and Border Processing. So we are looking for dollars for protection. And the concern here is that we are seeing the border get less secure, and we are spending more money doing it.

And some of that, I know, is no big contracting. The grants processing is very opaque. I would like to see that—and I know we are talking more agency secretary-level on some of this stuff, but we will be working on that.

Thank you, Chairman. Thank you for your being here today, and, again, appreciate your work.

Mr. MILLER. Thank you, sir. Appreciate it.

Mr. JOYCE. Thank you, Mr. Cloud.

Acting Commissioner Miller, all good things must come to an end, and I know you have been having a great time here.

Mr. CUELLAR. We can keep going. Round three.

Mr. JOYCE. Appreciate your tour of duty in the agency and your hard work.

There has been some questions asked that you are going to give answers to or some other things you would get back to us. We would ask that you do that within 15 business days from today. That gives you roughly 3 weeks or so to get those things accomplished.

Any other questions or concerns? With that——

Mr. RUTHERFORD. It was general orders, SOPs, and training documents.

Mr. JOYCE. All the documents you requested.

Mr. RUTHERFORD. Thank you.

Mr. JOYCE. Okay. This meeting is now adjourned.

Mr. MILLER. Thank you.

Mr. JOYCE. Thank you.

[Answers to submitted questions follow:]

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Budget Hearing –
U.S. Customs and Border Protection
Wednesday, April 19, 2023

Representative Joyce

Cross-Border Tunnel Detection

To: CBP Acting Commissioner Troy Miller

For over a decade, the United States, through Customs and Border Protection (CBP) and the Department of Defense (DOD), have worked closely with Israel's Ministry of Defense developing counter-tunneling technologies. The U.S. faces numerous subterranean threats on the southern border, the Korean Peninsula, and in various locations in the Middle East. The Department of Homeland Security, specifically CBP, has been working hard to address the tunnel challenge at home where cartels are building and operating tunnels to bring fentanyl, weapons, and other contraband into the United States.

Question 1: Can you expand on the scale of the current tunneling threat at our southwest border?

Answer: Please see separate attachment.

Question 2: Is our technology and overall capacity at the level required to effectively locate, map, and destroy these illicit tunnels?

Answer: NSO collaborates closely with the Cross Border Tunnel Threat (CBTT) Program of Record and DOD counterparts to deploy various technologies needed to effectively combat tunnel threats. Due to the adaptive nature of the mission, CBTT and NSO codified the need for additional solutions beyond Persistent Surveillance Detection (PSD) systems currently in progress. Once approved, additional capabilities outlined within the Mobile Detection Tunnel Toolkit (MDTT) will build user confidence in potential threats and narrow the search area for tunnel adjudication missions. Together, these capabilities represent a technology layering approach enabling the user to use a variety of sensor modalities to detect, localize, and map cross border tunnels.

Question 3a: Much of the funding put towards this initiative is in the R&D space. Are these counter-tunneling technologies operational and ready to be fielded?

Answer: Several technologies developed through the partnership with Department of Defense Special Operations/Low-Intensity Conflict (SOLIC) Irregular Warfare Technical Support Directorate (IWTSD) are mature and currently deployed by the NSO and Tunnel Reachback Center operationally. In tandem with those efforts, USBP leverages the CBTT program to focus on mature, commercially, and/or governmentally available technologies with proven operationally relevant for this mission space. MDTT is currently going through acquisition lifecycle reviews needed to move forward with procurement and deployment.

Question 3b: If so, where is CBP in that procurement process?

Answer: Last fiscal year, CBTT procured three prototype components (half of a Mobile Tunnel Detection Toolkit (MDTT)) currently available for operational use. Two additional MDTT units will be procured following approval of the Acquisition Decision Event 2A. Additionally, CBTT has one open contract and one Interagency Agreement (IAA) with U.S. Army Corps of Engineers, Engineering Research and Development Center (ERDC) to deliver six miles of PSD system capabilities to achieve the program's Initial Operating Capability.

Question 3c: How much funding would be needed to ensure each mile of the southern border is sufficiently protected?

Answer: CBTT program requires approximately $189.2 million in Procurement, Construction and Improvements funds to meet the Full Operating Capability (FOC) of 36 miles of PSD system deployment and 4 MDTT units, as captured in the CBTT Life Cycle Cost Estimate (LCCE). Additionally, CBTT requires approximately $550,000 per mile per fiscal year to sustain those systems once completed, $2 million per year for tunnel adjudication missions, and $3 million per year to remediate tunnels upon discovery.

Non-Intrusive Inspection

To: CBP Acting Commissioner Troy Miller

Question 4: CBP's FY2024 Budget Request includes $305 million for Non-Intrusive Inspection (NII) Procurement, but over $200 million is for civil works, and only $65.3 million was requested for just 10 large-scale NII scanners at Southwest Border Land Ports of Entry. Please provide the Committee with CBP's plans to procure the remaining 113 large-scale scanners by Fiscal Year 2026, or if the remaining 113 large-scale scanners were previously procured with prior year appropriations, then please share deployment plans for those 113 systems, as well as the total number of large-scale scanners that will be required beyond 123 systems to fully furnish all Land POEs on both the Southern and Northern borders of the U.S., and achieve 100% Scanning in accordance with Public Law 116-299, the "Securing America's Ports Act."

Answer: CBP is actively working to deploy 123 arge Scale NII systems at Land Ports of Entry. The 123 systems were procured with prior year funds.

Please see the attachment, LS NII Deployment Status May 1, 2023, which includes planned deployment locations and projected kickoff timeframes for 123 systems and 12 High-Energy Rail Systems that were also procured with prior year funds.

Table 1 below provides estimated procurement quantities, by equipment type, to achieve 100 percent scanning of commercially owned vehicles (COVs), privately owned vehicles (POVs), and railcars at U.S. Land Ports of Entry (LPOE). The second column indicates the number of systems CBP estimates for 100 percent scanning at all LPOEs (Northern and Southwest Border), and the third column indicates the number of systems CBP has procured with prior year funds. Further details of this estimate are contained within CBP's FY21 Congressional Report titled, "Large Scale Non-Intrusive Inspection Scanning Plan," as required by Public Law (P.L.) 116-299.

Table 1 – Estimated Unit Quantities to Achieve 100% Scanning at U.S. LPOEs

System Type	# 100% U.S. LPOEs	# Procured in Prior Year
Multi-Energy Portal	65	35
Low-Energy Portal	337	88
High-Energy Rail	32	12
Total	**434**	**135**

Question 5: CBP's FY2024 NII Procurement Budget Request also includes $12.6 million for Algorithms to Enhance Narcotic Detection. Please provide the Committee with a timeline of when you will have AI and Algorithms in place that will allow for increased efficiency of the recently deployed NII systems and also allow for additional manpower savings?

Answer: CBP is actively working with industry and government partners to assess the effectiveness of applying AI algorithms along with instituting responsible AI practices in line with the DHS/CBP Sensitive Security policies. The broader program goal is to leverage AI technology to reduce manpower hours needed to adjudicate NII images and address mission critical requirement of increased vehicle scanning throughput of existing and emerging NII technology. To meet this goal, CBP is on track to begin supervised machine learning on algorithms in FY23 and conduct a pilot of production data in FY24. The number of officer hours redirected from reading NII scans is not fully quantifiable at this time and is dependent on several factors, not limited to how advanced technology capabilities are, increased vehicle throughput CBP is able to handle, and the ability for AI technology to assess risk and identify anomalies.

Question 6: CBP's FY2024 NII Procurement Budget Request also includes $12.1 million for Integration of Systems to enhance the overall effectiveness and efficiency of CBP's inspection process at POEs.

Please provide the Committee with a timeline of when you will complete the Integration of Systems at all POEs on the Southern and Northern Borders that will allow for increased efficiency of the recently deployed NII systems and also allow for additional manpower

savings?

Answer: CBP is currently conducting civil works installation of NII systems to POEs. Integration of the NII systems along with automation within the CBP infrastructure is scheduled to begin in FY24.

Question 7: This Committee (and the Senate Appropriations Committee) have asked you to address outbound operations, when will we see a plan to increase screening of outbound vehicles and passengers to disrupt the flow of illegal weapons and cash flowing out of our U.S. POEs, which is funding the Transnational Criminal Organizations (TCOs) who are smuggling hard narcotics such as fentanyl into the U.S. through our POEs?

Answer: Though not at the same rate as inbound inspections, CBP has always performed outbound inspections of vehicles and passengers to disrupt the flow of illegal weapons and currency out of the United States..

Throughout the previous fiscal years, the four CBP Southwest Border (SWB) field offices (Laredo, El Paso, Tucson, and San Diego) performed many successful outbound enforcement operations aimed at interdicting weapons, firearms components and ammunition, and currency. These outbound enforcement operations are strategically conducted using a pulse and surge method, based upon analysis and intelligence, and usually in collaboration with the U.S. Border Patrol (USBP), Immigration and Customs Enforcement's Homeland Security Investigations (ICE I), the Drug Enforcement Administration (DEA), state and local law enforcement agencies, and often with Government of Mexico law enforcement officials. Furthermore, CBP's specialized resources, including non-intrusive inspection technology and CBP canines, are utilized during these operations.

CBP's sustained outbound efforts along the SWB in FY22 included 7,057 operations resulting in the seizure of almost $7 million in U.S. currency, 415 weapons, and over 385,000 rounds of ammunition. CBP outbound enforcement is a standard operating environment as can be seen in previous results: in FY20, CBP seized 355 weapons and in FY21 CBP seized 421 weapons outbound to Mexico. At the mid-way point of FY 2023, CBP has seized 423 weapons and is set to surpass the amount seized during the last three fiscal years.

	FY20	FY21	FY22	FY23 (April 1)
Currency (in millions)	$17.10	$14.65	$7.35	$4.17
Weapons	355	421	415	423
Ammunition	223,086	160,711	385,418	68,145

CBP BorderStat: Outbound seizures effected by OFO on the SWB only.

Much of the success above for FY23 is attributed to Operation Desert Lightning, a CBP outbound enforcement operation utilizing focused and enhanced analytics and intelligence developed through HHSI and USBP enforcement actions in furtherance of leveraging relationships with the Government of Mexico (GoM). This operation, led by OFO in collaboration with the National Targeting Center (NTC), USBP, the Bureau of Alcohol, Tobacco, Firearms., and Explosives (ATF), and ICE HSI, identify new targets and encourage robust information and intelligence

sharing to drive both U.S. and Mexican enforcement operations on the SWB.

Operation Desert Lightning plans to execute a phased approach utilizing local field assets as an intelligence gathering venture. Concurrently, GoM conducted operations at locations where OFO is not set up for pulse and surge enforcement actions. This will cover geographic gaps and attempts by TCOs to divert smuggling routes when spotters identify increased enforcement. The first iteration of Desert Lightning was conducted at the Laredo POE and Nuevo Laredo, Mexico, Port in from January 25-31, 2023, and resulted in the following:

- 61 total operational hours dedicated to Op Desert Lighting;
- 129 participating CBP Officers over the duration of the operation;
- 196 secondary referrals;
- 674 travelers interviewed;
- 5 seizures which yielded 7 handguns, 140 rounds of ammunition, and $169,243.

CBP plans to continue outbound enforcement actions to disrupt the flow of illegal weapons and cash out of the U.S. by TCOs, impacting their operations with enforcement operations planned throughout the remainder of FY 2023.

Question 8: CBP is required by law to maintain 100% of Radiological/Nuclear (R/N) screening of conveyances entering the U.S. at land and seaports of entry, but the DHS Countering Weapons of Mass Destruction (CWMD) Budget Request indicates that CWMD has canceled or delayed indefinitely the Radiation Portal Monitor (RPM) Recapitalization (RAPTER) program because they are waiting on CBP to update and document mission needs/gaps/requirements to replace approximately 1,400 RPM outdated and obsolete RPM systems at U.S. Land and Sea ports of entry. Has CBP identified and provided CWMD with your needs/gaps/requirements to replace or upgrade the outdated RPM fleet? If not, when will CBP provide CWMD with your needs/gaps/requirements to replace or upgrade the outdated RPM fleet?

Answer: CBP worked very closely with CWMD to develop and deliver its radiation scanning mission needs, gaps, and requirements, inclusive of replacing the fixed RPM fleet. Findings from CWMD's RPM Replacement Analysis of Alternatives (AoA), coupled with CBP's operational documents, were utilized to inform a replacement investment strategy that ensures the Department meets the 100 percent radiation scanning mandate. The July 2015, AoA found that replacement of the fixed RPM fleet should be driven by the need for improved functionality – not concerns due to the age of the fixed RPM fleet. This was largely due to robust maintenance support provided through CBP's integrated logistics and sustainment contracts.

CWMD and CBP's joint and agreed upon investment strategy incorporates integrated logistics and maintenance support; periodic and targeted replacement of systems at high priority ports of entry (POE) and decommissioning and re-deploying refurbished fixed RPMs to address POE requirements, including newly constructed POEs. This collective approach ensures the fleet is sustained and modified to maximize performance and efficiency. Investment activities are executed as follows:

- CBP funds integrated logistics and maintenance support of the installed fixed RPM fleet through its Operations and Support appropriations.

- CWMD's RPM Program funds requirements associated with deploying, decommissioning and redeploying refurbished RPMs to address existing and new POE requirements; and evaluating, acquiring, and deploying improvements to fielded fixed RPM systems.
- CWMD's RPM Replacement Program funds requirements associated with replacing a limited number of fixed RPMs to improve effectiveness of the current fleet of fixed RPMs at select, high-priority, POEs.
- CBP does plan to formally transmit mobile RPMs (mRPM) replacement requirements to CWMD in 2023. CBP and CWMD have regular communications regarding the 61 mRPMs that were deployed in 2005 (17 years old), including the overall state of health of the systems. A rapid replacement approach is ideal given the fleet's condition and the operational utility when performing radiation scanning. The systems are utilized to scan cargo at on-dock rail locations, low-volume seaports, and play a crucial role as stopgap emergency stand-ins when fixed RPMs at exit gates are unavailable.

Air Travel

To: CBP Acting Commissioner Troy Miller

All indications point to another record summer travel season. The travel and tourism industry are preparing for the summer travel surge. However, last summer we learned difficult lessons of the importance of planning and operating in a new environment. Air Traffic Controllers, Transportation Security Administration, and Customs & Border Protection staffing need to meet the need and be prepared to provide the government services the traveling public count on so they can make it to their destinations and support economic activity.

Some airports are already seeing the strain of increased passenger volumes and we are not yet at the peak travel season. Long lines and missed flights will shake confidence in our tourism industry.

Question 9: What adjustments has CBP made to ensure that there is a sufficient number of CBP Officers at air ports of entry at domestic airports and preclearance locations this summer?

Answer: CBP continually monitors operations and shifts resources when needed. At POEs this includes using overtime funding to address staffing workload, reassignment of CBP officers from other work units within the port to primary and secondary passenger processing, and meeting with our stakeholders to ensure staffing meets anticipated passenger flow. At the national level CBP can solicit TDY officers and deploy them to ports anticipating staffing shortfalls. CBP also leverages everchanging technology to improve the processing proficiency. CBP has recently deployed Biometric Entry and Exit, which uses facial comparison technology to create entry-exit records for foreign nationals, and upgraded Global Entry kiosks to eliminate issuing paper receipts and leverage mobile officer technology to provide a secure, streamlined, and touchless experience for Global Entry members.

Question 10: Please elaborate on what resources CBP has available to remain flexible and responsive to the summer demand.

Answer: CBP closely monitors passenger volumes and adjusts resource allocation accordingly. During peak summer travel periods, CBP can deploy additional officers to airports to ensure wait times remain reasonable. CBP uses advanced technology to streamline the processing of travelers and reduce wait times. Additionally, our frontline officers receive regular training to ensure they can adapt to changing circumstances. CBP leverages everchanging technology to improve processing proficiency. CBP has recently deployed Biometric Entry and Exit, which uses facial comparison technology to create entry-exit records for foreign nationals, and upgraded Global Entry kiosks to eliminate issuing paper receipts and leverage mobile officer technology to provide a secure, streamlined, and touchless experience for Global Entry members. Overall, CBP's approach to summer demands at airports involves a combination of technology, resource allocation, partnerships, and training.

Question 11: What does CBP consider to be reasonable or acceptable wait times? How is CBP ensuring those wait times are kept at air ports of entry?

Answer: At an enterprise level, CBP does not have goals for wait times at air ports of entry. Field Offices and individual ports of entry work closely with local stakeholders to strive for efficiency and facilitate legitimate travel and trade as expeditiously as possible while carrying out OFO's multifaceted border security mission.

Question 12: How does CBP's budget factor in overtime costs needed to manage operational challenges and competing needs at air, sea, and land ports of entry?

Answer: Overtime is utilized to maximize employee resources, as well as for seizure/arrest processing that goes beyond an officer's regular duty hours. .

The following outlines how OFO currently assigns overtime:

- "Backfills" are assigned to maintain minimum daily staffing levels to address regular and reoccurring workload. Backfills are usually required due to officers who are on leave, attending training and/or are on a temporary duty assignment to another port.
- At non-24 hour ports of entry, overtime is utilized to address after-hours international flight and/or vessel arrivals that require CBP processing.
- During peak seasons (traditionally in the summer), CBP will utilize overtime to augment regular staff to address increased passenger workload.
- To execute special operations that address specific threats (terrorism and/or narcotics), CBP will use overtime to have the appropriate staff available.
- To handle detentions of travelers found to be inadmissible who need to be transported to overnight facilities until they are scheduled to depart on a subsequent date.
- To handle detentions of potential internal narcotics couriers who are transported to a medical facility until they pass all of their ingested contraband.
- To complete the processing of a seizure or arrest that goes beyond a standard tour of duty.

Question 13: How are you working with aviation stakeholders including airlines and airports to ensure the necessary staffing is available and performing at acceptable levels?

Answer: Our teams at international airports meet with key stakeholders (airlines, airports, ground handling agents, etc.) in preparation for peak travel seasons. These meetings focus on current operational conditions, anticipated increases in passenger flow, flights, diversion preparation, resources available, and other factors directly affecting operational conditions. This engagement with our stakeholders allows POEs, based on their stakeholder input, to create projections of workload, staffing, expected staffing needs, overtime considerations, and a plan to meet stakeholder expectations wherever possible.

Question 14a: CBP has been a leader in testing and piloting touchless technology in the aviation environment, how is CBP capitalizing on automation and biometric technology to enhance the passenger experience to address processing times?

Answer: CBP has created a cloud-based service, the Traveler Verification Service (TVS), that uses facial biometrics to compare a live photo of the traveler against photographs from U.S. passports, U.S. visas, or photos from previous DHS encounters that are staged in a gallery prepopulated from advance passenger data. Biometric facial comparison technology is designed to replace the manual travel document comparison process, reducing the need to scan travel documents and take fingerprints of travelers.

Question 14b: What tools can CBP deploy to augment the CBP Officers at air ports of entry?

Answer: CBP leverages mobile technology to augment officers at air ports of entry. Our mobile solutions include a suite of officer-facing applications built by the CBP Office of Information Technology (OIT) used to support traveler processing and enforcement operations and are available for use on any CBP-issued phone or Windows device. A major benefit of the mobile applications is the ability to perform inspections at a location where a CBP workstation is not immediately available. Officers rely on these applications to arrive/depart travelers, run queries, capture biometrics (face and fingerprint), and conduct enforcement inspections. Operational use cases for this technology in the air environment include mitigation of primary system outages, outbound enforcement operations, biometric exit, general aviation, and roving operations.

CBP developed Simplified Arrival (SA), an innovative and modernized primary processing application that leverages the TVS, for primary inspections at entry in the air, land, and sea environments. SA was deployed to all international airports, including 14 Preclearance locations, performing the same function as manual identity verification but significantly faster.

Additionally, Mobile Passport Control (MPC) allows U.S. citizens and Canadian (B1/B2) visitors to submit their passport and customs declaration information through a free secure app on their mobile device, that streamlines the entry process into the United States at 43 international airports, including 10 Preclearance sites. MPC will expand eligibility to Legal Permanent residents before the summer travel season. MPC provides traveler(s), up to a family of 12, with a single Quick Response (QR) code that is scanned once travelers reach the CBP officer. The QR code provides the CBP officer with biometric verification for traveler(s) along with the CBP general declaration responses. In late 2022, CBP partnered with airlines and port authorities to increase awareness of the CBP MPC application. Airline advertising and social media push has resulted in an average increase of 15 percent month over month since December 2022.

Representative Guest

Light Enforcement Helicopters

To: Commissioner Miller

For 35 years, CBP has flown a fleet of about 100 Light Enforcement helicopters, made in Mississippi, in support of border security, counternarcotics, and search & rescue missions. CBP has started replacing the oldest airframes, some which are between 20-35 years old, with new helicopters. However, despite CBP reorganizing these helicopters into the Light Enforcement Platform (LEP) program, your FY24 budget only included $8 million for one new helicopter in the Light Enforcement Platform (LEP) program.

Question 15: Why did the Department not request more funds to provide CBP with modern, safer, technologically advanced helicopters? At the rate of this request, CBP would take 75 years to replace the current helicopter fleet.

Answer: The President's FY24 Budget funds the second Light Enforcement Platform (LEP) as the program ramps-up to full production. The first two LEPs will be used to conduct initial testing on configuration changes driven by obsolescence and minor requirement changes.

Question 16: What is the Department's plan, now that the Light Enforcement fleet has been reorganized, to recapitalize the fleet with modern, safer, and technologically advanced helicopters?

Answer: CBP intends to standardize the LEP on the H125, of which 26 are already in service as Light Enforcement Helicopters (LEH) which Congress has funded since 2017. If this standardization strategy is approved, CBP hopes to accelerate operational test and evaluation activities in coordination with Departmental oversight.

Question 17: Is CBP's ability to patrol and secure the border affected by operating 20–35-year-old equipment?

Answer: CBP Air and Marine Operations has a rigorous maintenance program that ensures all aircraft, regardless of age are safe to operate.

Non-Intrusive Inspection Program

To: Commissioner Miller

As you know, vehicles are a primary source of drug trafficking. While extremely well resourced over the past five years thanks to Congress's support, CBP has had extreme difficulty evaluating, fielding, and installing vehicle screening systems. It's particularly disconcerting that only 33 percent of passenger vehicle portals will have an under-vehicle screening capability, despite continued indication that this is a primary smuggling area and potentially more effective for

future autonomous detection.

Question 18: CBP awarded three different and distinct configurations of low energy portals for pre-primary passenger vehicle screening. What was the rationale in awarding three separate, but equal contracts?

Answer: CBP identified three solutions which met operational requirements mitigating the risk of procurement delays from a single vendor and lead time to manufacture the equipment, conduct factory acceptance testing, site acceptance testing and ultimately deploy it to the field. Additionally, this shifted responsibility to the vendor to deliver technology in a competitive manner. An additional benefit is future actions can be competed, which has historically reduced pricing significantly, broadening the industrial base to improve CBP's chances of having long-term access to this technology, and allowing CBP to be less dependent on a particular vendor. According to Federal Acquisition Regulation 16.504(c), Contracting Officers must use multiple-award contracts to the maximum extent practicable.

Question 19: Was drug detection performance part of the criteria for selecting screening portal vendors? If so, please indicate how that was weighted in selection criteria.

Answer: Scan Quality was a technical performance parameter evaluated as part of the technical evaluation factor. Performance parameters included functional requirements surrounding system penetration, contrast sensitivity and spatial resolution image quality. CBP measured these image quality requirements in accordance with ANSI N42.46-2008.

The technical factor was evaluated as part of Phase 2 of the source selection process. The evaluation factors that apply for Phase 2 included: Factor 1 – Technical [Sub-factor 1 – Technical Approach; Sub-factor 2 – Management Approach], Factor 2 – Past Performance, and Factor 3 - Price.

The non-price factors above were listed in order of importance. Factor 1 was deemed more important than Factor 2. Subfactor 1 was deemed more important than Subfactor 2. Non-price factors, when combined, are significantly more important than price. The importance of price will increase if more than one offer is considered essentially equal in terms of their technical factors, or if a price is so significantly high as to diminish the value to the government of the proposal's technical superiority.

Question 20: Was cost part of the criteria for selecting screening portal vendors? If so, please indicate how that was weighted in selection criteria and explain how CBP chose to award an equal number of systems to each vendor, given three distinctly different configurations.

Answer: Yes, cost was a factor in the evaluation criteria. Cost is a consideration when we issue requests for quotation to vendors. Selection criteria permita the government to make a best value determination. The technical factor was evaluated as part of Phase 2 of the source selection process. The evaluation factors that apply for Phase 2 included: Factor 1 – Technical [Sub-factor 1 – Technical Approach; Sub-factor 2 – Management Approach], Factor 2 – Past Performance, and Factor 3 - Price.

Non-cost factors above were listed in order of importance. Factor 1 was deemed more important than Factor 2. Subfactor 1 was deemed more important than Subfactor 2. Non-cost factors, when combined, are significantly more important than cost. The importance of cost will increase if more than one offer is considered essentially equal in terms of their technical factors, or if a cost is so significantly high as to diminish the value to the government of the proposal's technical superiority.

The Orders were issued as the initial/minimum buys on the indefinite delivery/indefinite quantity (IDIQ). CBP stated in the IDIQ solicitation that CBP would issue orders for roughly equal system numbers. Part of the idea is that this would assist CBP in fielding the units faster since the production would be split between three vendors and improve production resilience in case one or two vendors could not ultimately produce the units.

Question 21: Is the expectation that all three configurations will detect equally?

Answer: CBP expects all three configurations will meet operational requirements for this technology. However, this does not preclude vendors from exceeding operational requirements.

Question 22: Has CBP evaluated and analyzed port seizures, intelligence of threats at ports of entry, and/or guidance from U.S. drug interdiction experts indicating drug concealment areas? If so, please provide the Committee with information on where contraband is increasingly being concealed and how this procurement helps identify these potential threat areas of the vehicle.

Answer: CBP Office of Intelligence consistently analyzes drug seizure data at and between ports of entry. The vast majority of CBP drug seizures occur at ports of entry in privately owned vehicles and commercial trucks. The loads are typically concealed within the structure and internal environment for privately owned vehicles, typically within door firewalls, gas tanks, car batteries, tire wells, spare tire compartments, within purpose-built hidden compartments, and any natural void that can fit a load. Commercial truck drug loads are typically within the tractor trailer structure, such as walls or ceiling, within the commodity of the trailer both concealed within the physical commodity and storage containers, loaded as rip loads within duffel bags or other easily removed storage in close proximity to the doors for quick removal, and within external compartments such as fire extinguishers, tire wells, and structural voids.

CBP deployed Large-Scale NII to aid in the interdiction of illicit contraband. Low-Energy Portal (LEP) – The LEP is a drive through NII system utilizing low radiation doses to image an occupied vehicle in motion in pre-primary, primary, and secondary. It provides a detailed vehicle images that allows operators to quickly identify organic compounds (drugs, currency, and explosives), high density objects, weapons, and stowaways.

Multi-Energy Portal (MEP) (Fixed) is a drive through NII system utilizing low radiation doses to image an occupied conveyance in pre-primary, post-primary and secondary. The system also has an X-ray feature that provides detailed images of container contents, even when there is heavy shielding. The radiation detection option detects and locates nuclear material, and the optical character recognition (OCR) option identifies containers as they are scanned.

Medium-Energy Mobile system offers high-quality detection capabilities in a compact mobile configuration. The system uses dual-energy transmission imaging to inspect trucks and cargo containers for weapons, explosives, drugs, and other contraband.

High-Energy Mobile system uses dual-energy transmission imaging to inspect trucks and cargo containers for weapons, explosives, drugs, and other contraband. The system itself, along with the associated radiation-controlled zone, is smaller than typical high-energy mobile systems, allowing operators to set up scanning areas at congested USBP checkpoints.

X-Ray undercarriage Inspection is a fixed, in-the-ground system that provides real-time undercarriage and lower vehicle imaging for officers and agents. This system is operationally deployed with MEP systems.

High-Energy Gantry is designed to penetrate dense cargo and conveyance for clear imaging of the presence of contraband, weapons, explosives, and drugs. This high-energy range of scanners is designed to optimize security checks at ports, airports, and border crossings.

Question 23: What percentage of the vehicle does CBP anticipate being scanned with the systems that include an under-vehicle system compared to those without an under-vehicle system?

Answer: Please see separate attachment.

Question 24: Is there a plan to address the lack of scanning coverage applied to the under-vehicle?

Answer: CBP's plan is to continue to utilize small-scale systems, physical search, canine teams, and intrusive tools to identify concealment of illicit substances.

Representative Hinson

Border Security Technology Acquisition

To: Acting Commissioner Troy Miller

The flexibility provided in the "border security pot" has caused lengthy internal reviews and approval processes for associated spend plans. Several technology and security programs are behind schedule or have no plans for acquisition and deployment. Autonomous Surveillance Towers (ASTs), for example, were provided $70 million in of the $250 million FY22 border security pot. This funding was delayed by months due to internal review and approval processes for spend plans at CBP; only 16 of the 74 ASTs funded in FY22 have been fielded. The border security funding pot lacks transparency to ensure that CBP is executing funding by Congress in a timely manner and ensure these capabilities are provided to agents in the field as soon as possible.

Question 25: Why does CBP continue to have lengthy delays in contracting and

deploying technology programs from the allocated "border security pot" of funding?

Answer: CBP worked to deploy technology as expeditiously as possible. In FY22 and FY23 the appropriations language required a report to Congress on the plan for all Procurement, Construction, and Improvement funding within 90 days of enactment, which is where the Border Security Technology funding resides. The FY22 DHS Appropriations Act (P.L. 117-103) was signed into law on March 15, 2022, and the FY22 "Expenditure Plan: U.S. Customs and Border Protection – Procurement, Construction, and Improvements" was delivered to Congress on May 31, 2022, (47 days). The FY23 DHS Appropriations Act (P.L. 117-328) was signed into law on December 29, 2022, and the FY23 "Expenditure Plan: U.S. Customs and Border Protection – Procurement, Construction, and Improvements" was delivered to Congress on March 24, 2023 (85 days). $242 million of the $276 million enacted for border security technology in FY22 was obligated in the four months that remained in FY 2022. This has been an exceptional 88 percent obligation rate, and CBP is on track to attain a similar obligation rate in FY 2023.

Two hundred and twenty-three (223) of the 282 Autonomous Surveillance Towers (AST) funded through FY22 were operational as of April 22, 2023. The remaining 59 ASTs will be operational by the end of this fiscal year. The additional 51 ASTs will be procured with funding received in FY23 and are planned for operational use by the end of FY24, bringing the total to 333, which is a 131 percent increase from FY21.

CBP is committed to the rapid deployment of technology between the ports of entry. However, several obstacles must be overcome. First, acquiring or gaining access to the real estate of operational relevance to place fixed and relocatable towers must occur. CBP, in partnership with the U.S. Army Corps of Engineers (USACE), is required by law to obtain legal possession of a property before installing technology or any other assets. It is always CBP's preference, in partnership with USACE, to acquire private property through a voluntary sale. The process to obtain legal possession starts with acquiring rights of entry for survey and exploration, followed by appraisal, then the landowner is presented with an Offer to Sell (OTS) which is negotiated. If the landowner(s) and USACE/CBP are unable to reach an agreement on an OTS, the landowner is unknown, or there is the absence of a clean title, it is referred to the local U.S. Attorney's Office (USAO) to initiate condemnation proceedings. The USAO attempts to negotiate an OTS before instituting condemnation proceedings. If unsuccessful, the USAO files a Declaration of Taking (DT) in the U.S. District Court in which the property is located. Upon filing the DT and depositing what the government estimates is just compensation for the property it is acquiring, the government has title to the property. The Government can access the property once the Court grants it possession. While this process has many steps, both CBP and USACE have years of experience with successful acquisition of real estate in accordance with the law, but this process does take time.

In addition, the National Environmental Policy Act (NEPA) establishes procedural requirements, applying that national policy to proposals for major Federal actions significantly affecting the quality of the human environment by requiring Federal agencies to prepare a detailed statement on: (1) the environmental impact of the proposed action; (2) any adverse effects that cannot be avoided; (3) alternatives to the proposed action; (4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and (5) any irreversible and irretrievable commitments of resources involved in the proposed action. NEPA ensures agencies consider significant environmental consequences of their proposed

actions and inform the public about their decision making, but this process takes time.

Finally, supply chain issues have lengthened the time it takes to deliver technology over the past two years. Despite these challenges, the amount of technology CBP deployed in the last two years is unprecedented. In FY22 and by the end of FY23 CBP will deploy 138 AST (96 percent increase), 56 Counter Unmanned Aircraft Systems (0 at the end of FY21), over 10,000 Incident Driven Video Recording Systems (0 at the end of FY21), 30 Mobile Surveillance Capability Lite systems (0 at the end of FY21) to replace the aging MSC fleet, more than 360 Small Unmanned Aircraft Systems (250 percent increase), nearly 19,000 Team Awareness Kits (0 at the end of FY21), four miles of Cross Border Tunnel Threat Persistent Surveillance Detection system equipment (200 percent increase), and 148 miles of Linear Ground Detection Systems (161 percent increase).

Question 26: Are these delays caused by bureaucracy within DHS or a failure of leadership to execute these funding programs in a timely manner?

Answer: CBP is committed to the rapid deployment of technology between ports of entry. However, several obstacles must be overcome. First, acquiring or gaining access to the real estate to place fixed and relocatable towers must occur. CBP, in partnership with the U.S. Army Corps of Engineers (USACE), is required by law to obtain legal possession of a property before installing technology or any other assets. It is always CBP's preference, in partnership with USACE, to acquire private property through a voluntary sale. The process to obtain legal possession starts with acquiring the rights of entry for survey and exploration, followed by appraisal and then the landowner is presented with an Offer to Sell (OTS) which is negotiated. If the landowner(s) and USACE/CBP are unable to reach an agreement on an OTS, the landowner is unknown, or there is the absence of a clean title, it is referred to the local U.S. Department of Justice (DOJ)/United States Attorney's Office (USAO) to initiate condemnation proceedings. USAO attempts to negotiate an OTS before instituting condemnation proceedings. If unsuccessful, the USAO files a Declaration of Taking (DT) in the U.S. District Court in which the property is located. Upon filing the DT and depositing what the government estimates is just compensation for the property it is acquiring, the government has title to the property. The Government can access the property once the Court grants it possession. While this process has many steps, both CBP and USACE have years of experience with successful acquisition of real estate in accordance with the law, but this process does take time.

In addition, the National Environmental Policy Act (NEPA) establishes procedural requirements, applying that national policy to proposals for major Federal actions significantly affecting the quality of the human environment by requiring Federal agencies to prepare a detailed statement on: (1) the environmental impact of the proposed action; (2) any adverse effects that cannot be avoided; (3) alternatives to the proposed action; (4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and (5) any irreversible and irretrievable commitments of resources that would be involved in the proposed action. NEPA ensures agencies consider the significant environmental consequences of their proposed actions and inform the public about their decision making, but this process takes time.

Finally, supply chain issues have lengthened the time it takes to deliver technology over the past

two years. Despite these challenges, the amount of technology CBP deployed in the last two years is unprecedented. In FY22 and by the end of FY23 CBP will deploy 138 AST (96 percent increase), 56 Counter Unmanned Aircraft Systems (0 at the end of FY 2021), over 10,000 Incident Driven Video Recording Systems (0 at the end of FY 2021), 30 Mobile Surveillance Capability Lite systems (0 at the end of FY 2021) to replace the aging MSC fleet, more than 360 Small Unmanned Aircraft Systems (250 percent increase), nearly 19,000 Team Awareness Kits (0 at the end of FY 2021), four miles of Cross Border Tunnel Threat Persistent Surveillance Detection system equipment (200 percent increase), and 148 miles of Linear Ground Detection Systems (161 percent increase).

Question 27: How do you envision border operations will be affected in FY24, as the Department's budget does not support the technology investments this Committee provided CBP?

Answer: CBP made strategic decisions to include any reductions across the budget. CBP has identified high priority areas and will prioritize resources to the most critical areas.

Question 28: How can we ensure that these technologies are procured and deployed as soon as possible?

Answer: CBP made strategic decisions to include any reductions across the budget. CBP has identified high priority areas and will prioritize resources to the most critical areas.

Autonomous Technology Between Ports of Entry

To: Acting Commissioner Troy Miller

Most "between the ports" border technology deployed over the last 20 years requires 24/7 manpower to operate. During my trips to the Southern Border, I met with agents and sector chiefs who have told me that leveraging autonomy through programs of record, such as the AST program, is a true force multiplier. Rather than manning legacy cameras in operations centers, autonomy enables agents to focus on safely and effectively performing their security and humanitarian missions.

Question 29: How has feedback from the border sectors (including feedback specifically from the agents and on-the-ground local law enforcement) about the value of autonomy shaped future procurements of between the ports technology, both with the resources Congress has provided as well as future technology procurements?

Answer: USBP envisions that future domain awareness technology will incorporate an autonomous backbone. Current surveillance systems will be enhanced to incorporate autonomy and all future deployments will require autonomy as a key functional requirement. Autonomous systems are capable of consistently executing redundant tasks such as persistent surveillance, enabling agent operators to return to the field. These autonomous features increase situational awareness and achieve greater consistency in meeting our key performance parameters across systems and operational domains. To achieve increasing levels of autonomy throughout all surveillance and intelligence systems, USBP will leverage current and future advances in artificial

intelligence (AI), machine learning, and commercial sensors designed for an ever-evolving, world that increasingly incorporates autonomous systems. USBP deployed 216 Autonomous Surveillance Towers (AST), as of the end of the second quarter FY23.

A total of 333 ASTs will be deployed with funding received to date. In addition, USBP is conducting a pilot for the USBP Common Operational Picture (COP) which will inform the development of functional requirements for the COP acquisition program. Funding received in FY23 will be used to develop and deploy COP to Douglas, Arizona, establishing Initial Operational Capability (IOC). This will include creating a common user interface using WebTAK, creating a unified targeting queue that integrates detections from Integrated Fixed Towers (IFT), Remote Video Surveillance Systems (RVSS), ASTs, imaging sensors, and Linear Ground Detection Systems (LGDS), as well as building out cloud infrastructure and applications, and continuing to work with USBP agents and human factors experts to design and build workflows.

Regarding feedback from the sectors about the value of autonomy shaping future procurements, USBP utilizes its Capability Gap Analysis Process (CGAP) to capture, develop and analyze operational gaps for current and future procurements. Examples of procurements based on such analysis are AST towers, USBP COP, and the Mobile Video Surveillance Systems – Radar (MVSS-R).

Additionally, all southern border sectors and stations completed technology laydown exercises to support their respective plans for achieving operational advantage of the border. The effort was facilitated by USBP Operational Requirements Management Division (ORMD) and included the participation of Sector and Station leadership, key planners and USBP Program Management Office Directorate (PMOD) technology Program Managers. This effort provides a mechanism for developing notional solution and laydowns informed by both operational and programmatic expertise.

Notional exercises inform resource allocation planning and provide a starting point for more comprehensive pre-deployment planning by PMOD. During an exercise, field commanders identify those capabilities required to gain operational advantage within their respective areas of responsibility. Key takeaways regarding the requirement for autonomous technology include the following:

- Field commanders identified autonomous surveillance solutions as a preference to traditional alternatives based on their improved force multiplying value.
- Autonomy allows agents to be more effective at maintaining awareness of border activity while conducting multiple mission essential tasks.
- Autonomous surveillance technology enables sectors that have limited command and control infrastructure the ability to effectively deploy and use persistent surveillance assets.
- Every USBP sector along the southern, northern, and coastal border environments identified ASTs as a solution to meeting persistent surveillance requirements.
- Collected solutions sets are notional in that they are not currently funded and remain subject to refinement by PMOD pre-deployment planning teams.
- Laydowns were built around current or currently expected operational conditions and are subject to change.

- Solution sets were created to reflect overall technology requirements and needs.
- Proposed solutions and laydowns emphasize the containment of illicit activity and compression of operations toward the immediate border to the extent possible.

Lastly, CBP and USBP Innovation Team efforts to identify, adapt, and deliver industry advances with autonomous functionality are a priority based on frontline personnel input upon utilizing these operational capabilities. Feedback on these early autonomous systems indicates enhanced situational awareness, accuracy of detections, and overall improvement in operational efficiencies and coverage.

Cross Border Tunnel Detection

To: Acting Commissioner Troy Miller

Cartels have been increasingly utilizing cross border subterranean tunnels for illicit purposes, such as smuggling drug paraphernalia and funneling drugs and weapons into the homeland at an unknown rate. CBP's Cross Border Tunnel Threat (CBTT) is intended to be a series of sensors to detect, classify, and locate subterranean activities. CBTT has been an established program of record since 2020. Now, three years later, despite at least one technological solution having passed systems acceptance testing as far back and two years ago, CBP has still yet to communicate any plans to deploy this technology to counter the threat.

Question 30: How much of the PC&I funding has CBP set aside for the CBTT program within the appropriated FY22 and FY23 funding allocation?

Answer: In FY22 PC&I funding, CBTT received a total of $6.731 million. Funding was used for software enhancement, MDTT seed funding, and adjudication support. In FY23 PC&I funding, CBTT received a total of $7 million. The funding is needed to complete the remaining three miles of Persistent Surveillance Detection (PSD) systems and adjudication support.

Question 31: What will the additional $5.2 million in Operations and Support funds appropriated in FY23 be used for?

Answer: The $5.2 million in enacted Operations and Support (O&S) funding supports PSD sustainment and three tunnel remediation projects.

Question 32: Why does the FY24 requested budget not provide support for the CBTT program of record?

Answer: The President's FY 2024 Budget maintains the baseline $2 million O&S funding.

Non-Intrusive Inspection Reprogramming

To: Acting Commissioner Troy Miller

Reprogramming unused funding within CBP for Non-Intrusive Inspection (NII) technologies would enhance screening technologies to combat the fentanyl and illicit drug trafficking crisis. Procuring and deploying CBP-tested passive scanning systems for secondary inspection at ports of entry should be a priority for countering smuggling. Deploying state-of-the-art cargo scanning systems that utilize muon tomography will support CBP in safely and efficiently conducting a secondary scan of containerized cargo that is naturally dense and/or densely packed. These types of containers are unable to be sufficiently scanned with the primary x-ray inspection technology deployed by CBP today.

Question 33: What is CBP doing to elevate the procurement and deployment of the new, passive scanning systems for non-intrusive inspection at our ports of entry?

Answer: CBP is continuously assessing scanning needs in multiple environments to identify capability gaps within the inspection process. CBP prioritizes needs and aligns those with evolving threats to ensure mission goals are met. Additional items of consideration include manufacture timelines, deployment coordination, funding requirements and test and evaluation results.

Mobile Surveillance Capability

To: Acting Commissioner Troy Miller

Mobile Surveillance Capabilities (MSCs) are critical to countering illegal border crossings and illicit activity between ports of entry. MSCs aid Border Patrol Agents in navigating the vastness of the US land borders and provide them with the support they need at the country's borders.

Question 34: What number of MSCs in the USBP inventory are at or near the end of useful life and require recapitalization to maintain the fleet.

Answer: The MSC program has a total inventory of 100 units (42 MSC-Lites and 58 MSCs). All 58 MSC units are at the end of their useful life. With available FY 2023 funding, the MSC program plans to replace 12 units, leaving 46 MSC systems that require recapitalization in the near term (FY 24-26) to replace with MSC-Lites or other existing truck-based surveillance capability with radar to maintain the same level of domain awareness. Long term (FY26 and beyond), future investment in the next generation of truck-based mobile surveillance system (i.e., Modular Mobile Surveillance System (M2S2)), are needed to leverage advancements in technology, autonomy, and multi-domain mission capability.

Question 35: Can the agency provide an update on the consideration of evaluation of kinetic and non-kinetic UAS payloads on the legacy MSCs or MSC-lites?

Answer: CBP will conduct a technology demonstration of two MSC-Lites that are integrated with a multi-domain (air, ground, and maritime) radar and counter-unmanned aerial systems (C-UAS) non-kinetic mitigation payloads. The purpose of the technology demonstration is to evaluate the effectiveness of an MSC-Lite performing a multi-domain mission and the agent operator's ability to detect, track, identify, classify, and mitigate drone targets with upgraded command and control

software. The technology demonstration will be completed in FY 2024.

Representative Case

Border Patrol Hiring Targets

To: Acting Director Troy Miller

Your Fiscal Year 2024 request would support the hiring of 350 additional border patrol agents. In Fiscal Year 2023, the Committee provided funding for 300 additional agents.

Question 36: Is Border Control on track to recruit 300 additional agents in Fiscal Year 2023? If not, what factors are negatively affecting recruitment and retention?

Answer: CBP has significantly bolstered efforts to increase the number and quality of applicants entering the pipeline by increasing its marketing and advertising spend plan to $1.5M per month to reach a wide-ranging audience. Key focus areas include providing a consistent value proposition to candidates spanning digital resources, applicant communications, and recruitment outreach. This targeted marketing and advertising (M&A) approach, including paid media buys, production of new creative materials such as social media imagery and videos, virtual recruitment events, and other innovative sourcing methods allowed CBP to take an agile, flexible approach to recruitment. In addition, in FY23, CBP increased the number of National Recruiter Courses to dramatically increase the number of recruiters available to bring applicants into the CBP hiring pipeline. Finally, in FY22, CBP began investing in data-driven recruiting and sourcing decisions to improve the quality of candidates and better understand the return on investment of sourcing activities. These investments have continued in FY23 with the goal of increasing the number of applicants while improving the quality of the applicant.

The U.S. Border Patrol is on track to recruit approximately 60,000 Border Patrol agent applications by the end of FY23. However, due to the increase in departures, both voluntary and mandatory, such as age-related retirements, USBP is likely to have more losses than gains by the end of FY23.

Counter Narcotics

To: Acting Director Troy Miller

Customs and Border Protection in Hawai'i screens international shipments for illegal drugs and other items. Given the large number of air and sea cargo shipments that must be screened, this can sometimes be like finding a needle in a haystack.

Question 37: How does your budget provide the resources and technology needed for cargo and air screening to keep pace with increasing volume?

Answer: We continue investing in our frontline officers and intelligence research specialists. The FY24 President's Budget requests 150 additional CBP officers. We will also pursue new and innovative technology to aid in layered enforcement and identification strategy efforts, to include safety measures for frontline personnel and procurement of advanced detection and identification tools to support our fight against this ever-evolving threat. The FY24 President's Budget requests a $305.4 million investment in Non-Intrusive Inspection (NII) technology for land border, express, and mail environments to provide additional NII tools to CBP officers helping them keep pace with increased narcotics risk, such as fentanyl, in those environments.

Question 38: What steps has Customs and Border Protection taken to work with the interagency and international partners to pursue bad actors shipping narcotics?

Answer: Please see separate attachment.

Representative Trone

To: Troy A. Miller, Acting Commissioner, U.S. Customs and Border Protection

Non-intrusive inspection (NII)

The challenges facing CBP are substantial and dynamic, requiring the soonest possible access to new, more effective technologies. Over the last few years, Congress has increased the funding for CBP to close the vehicle scanning capacity gap and increase the probability of interdiction. CBP's Innovation Team has been very successful in identifying and demonstrating promising new commercial technologies, but more work is required to capitalize on Congress' investment in innovation by more quickly transitioning successful technologies into CBP's base budget.

Question: 39. How many locations along the Southwest Border have pre-primary systems already been deployed?

Answer: Three Southwest Border Land Port of Entry locations are currently operating NII systems in pre-primary inspection. Brownsville, TX (Veterans International Bridge) has two Multi-Energy Portals (MEP) to scan commercially occupied vehicles and six Low-Energy Portals (LEP) to scan passenger occupied vehicles at Anzalduas, TX, and Donna, TX; both have three LEPs, respectively.

Question: 40. What is the FY23 scale-up plan for pre-primary systems?

Answer: Please see attachment titled, "LS NII Deployment Status May 1, 2023", which includes the status of CBP systems planned for deployment with prior year funds. CBP does not have activities or resources to procure additional systems beyond the unit quantities included in the attachment.

Question: 41. What is the most recent data on NII scans of passenger vehicles and fixed occupant commercial vehicles crossing the Southwest Border?

Answer: The following includes number of scans through April 2023 for El Paso, Laredo, San Diego, and Tucson Field Offices.

Table 2 – LS NII Exams between 10/1/2022 and 4/30/2023
(Selected Field Offices: El Paso, Laredo, San Diego, Tucson)

Conveyance Type	# of LS NII Exams
Passenger Occupied Vehicles	1,818,436
Commercial Occupied Vehicles	827,059
Bus	81,254
Railcar	1,099,779
Total	**3,826,528**

Source: Equipment Transactional Platform, accessed on May 4, 2023.

Below are pre-primary Non-Intrusive Inspection scan rates for passenger occupied vehicle (POV) and commercially occupied vehicle (COV) crossings for March and April 2023. At the two locations below, POVs are scanned using three Low-Energy Portals (LEPs) currently operational at Anzalduas, TX, and COVs are scanned using two Multi-Energy Portals (MEPs) currently operational at the Veterans International Bridge in Brownsville, TX.

	Anzalduas (POV/LEP)			Brownsville (COV/MEP)		
	March 2023	April 2023	March + April 2023	March 2023	April 2023	March + April 2023
Total Crossings	131,681	125,712	257,393	22,825	19,248	42,073
Total Pre-Primary Scans (LEP/MEP)	93,663	97,383	191,046	12,888	12,734	25,622
Total Pre-Primary Scan Rates	71%	77%	74%	56%	66%	61%

NII capabilities gap analysis

For large-scale NII systems (Multi-Energy and Low-Energy Portals, and any other advance, large-scale NII that CBP is considering procuring)

Question: 42. Where is CBP currently with regards to the number of systems you have committed to acquire versus the number actually deployed?

Answer: Please see the attachment titled, "LS NII Deployment Status May 1, 2023," which includes the status of CBP systems planned for deployment with prior year funds.

Question: 43. Of the total number of systems ordered, how many have been paid for fully or partially?

Answer: CBP obligated funding to procure all Drive Through NII systems placed on contract (35 Multi-Energy Portal and 88 Low-Energy Portal systems).

Question: 44. To date, CBP has failed to request adequate funding to address unfunded requirements for civil works, installation, and site prep for previously funded NII equipment to

be deployed in pre-primary lanes at LPOEs. Can you explain the FY24 plan to address the total amount of funding needed to successfully install the procured NII and additional NII planned to be procured?

Answer: Through the FY24 President's Budget, CBP requested $201 million (of $305.4 million) for civil works activities for drive-through NII deployments. If received, funds will be executed on civil work activities to deploy the drive-through NII systems at SWB LPOEs. The request supports funding required for infrastructure modifications, increases in costs for construction materials, circuit costs, traffic controls, and public information signage. An additional $79.7 million of the total FY24 request was included to support the procurement of the following NII systems:

- $65.3 million to procure and deploy 10 systems to enhance narcotic detection at nine locations in the Southwest.
    - $36.4 million to procure and deploy four Multi-Energy Portals to increase commercially occupied vehicle scanning at four Southwest Border Land Port of Entry (LPOE) locations.
    - $14.6 million to procure and deploy five additional Low-Energy Portals for passenger occupied vehicles (POV) at four Southwest Border LPOEs.
    - $14.3 million to procure and deploy one High-Energy Rail system at one ferry seaport with inbound cargo from Mexico.
- $14.4 million for 17 Advanced Inspection Technology and Algorithm Detection capabilities at approximately 10 Mail and Express Consignment Facilities.
    - $13.2 million to procure up to 17 advanced CT scanners for deployment at a minimum of 10 mail and express consignment courier facilities.
    - $1.25 million to support automation/machine learning to support de minimis targeting. Funding will be utilized to identify and leverage automated solutions to assist CBP in identifying threats.

Question: 45. To what extent currently do these advanced NII systems incorporate AI/machine learning capabilities?

Answer: Currently the systems do not incorporate any AI/machine learning capabilities.

Question: 46. Can CBP brief the Subcommittee on its current processes for considering investments in new operational technologies and technology services evaluated through the Innovation Team, along with any plans for improving those processes to more timely transition successful technologies to enduring operations?

Answer: Yes, the CBP Innovation Team would be pleased to brief the Subcommittee, and will reach out to arrange the briefing.

WITNESSES

	Page
Criswell, Hon. Deanne, Administrator, Federal Emergency Management Agency	63
Prepared statement	65
Answers to submitted questions	95
Fagan, Admiral Linda, Commandant, U.S. Coast Guard	111
Prepared statement	113
Answers to submitted questions	140
Johnson, Tae, Acting Director, Immigration and Customs Enforcement	4
Prepared statement	6
Answers to submitted questions	42
Miller, Troy, Acting Commissioner, U.S. Customs and Border Protection	151
Prepared statement	154
Answers to submitted questions	193

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR 2024

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

SUBCOMMITTEE ON HOMELAND SECURITY

DAVID P. JOYCE, Ohio, *Chairman*

JOHN H. RUTHERFORD, Florida
ANDY HARRIS, Maryland
DAN NEWHOUSE, Washington
ASHLEY HINSON, Iowa
MICHAEL CLOUD, Texas
MICHAEL GUEST, Mississippi
HENRY CUELLAR, Texas
LAUREN UNDERWOOD, Illinois
ED CASE, Hawaii
DAVID J. TRONE, Maryland

NOTE: Under committee rules, Ms. Granger, as chairwoman of the full committee, and Ms. DeLauro, as ranking minority member of the full committee, are authorized to sit as members of all subcommittees.

PAUL ANSTINE, LAURA CYLKE, ANNA LANIER FISCHER, FERN TOLLEY GIBBONS, EMILY TRAPANI and BROOKLYN TUCKER
Subcommittee Staff

PART 2

DEPARTMENT OF HOMELAND SECURITY

	Page
U.S. Immigration and Customs Agency Fiscal Year 2024 Budget Request	**1**
Federal Emergency Management Agency Fiscal Year 2024 Budget Request	**61**
U.S. Coast Guard Fiscal Year 2024 Budget Request	**109**
U.S. Customs and Border Patrol Fiscal Year 2024 Budget Request	**149**

Printed for the use of the Committee on Appropriations

U.S. GOVERNMENT PUBLISHING OFFICE

53–031 WASHINGTON : 2023

COMMITTEE ON APPROPRIATIONS

KAY GRANGER, Texas, *Chairwoman*

HAROLD ROGERS, Kentucky
ROBERT B. ADERHOLT, Alabama
MICHAEL K. SIMPSON, Idaho
JOHN R. CARTER, Texas
KEN CALVERT, California
TOM COLE, Oklahoma
MARIO DIAZ-BALART, Florida
STEVE WOMACK, Arkansas
CHARLES J. "CHUCK" FLEISCHMANN, Tennessee
DAVID P. JOYCE, Ohio
ANDY HARRIS, Maryland
MARK E. AMODEI, Nevada
CHRIS STEWART, Utah
DAVID G. VALADAO, California
DAN NEWHOUSE, Washington
JOHN R. MOOLENAAR, Michigan
JOHN H. RUTHERFORD, Florida
BEN CLINE, Virginia
GUY RESCHENTHALER, Pennsylvania
MIKE GARCIA, California
ASHLEY HINSON, Iowa
TONY GONZALES, Texas
JULIA LETLOW, Louisiana
MICHAEL CLOUD, Texas
MICHAEL GUEST, Mississippi
RYAN K. ZINKE, Montana
ANDREW S. CLYDE, Georgia
JAKE LATURNER, Kansas
JERRY L. CARL, Alabama
STEPHANIE I. BICE, Oklahoma
C. SCOTT FRANKLIN, Florida
JAKE ELLZEY, Texas
JUAN CISCOMANI, Arizona

ROSA L. DELAURO, Connecticut
STENY H. HOYER, Maryland
MARCY KAPTUR, Ohio
SANFORD D. BISHOP, JR., Georgia
BARBARA LEE, California
BETTY MCCOLLUM, Minnesota
C. A. DUTCH RUPPERSBERGER, Maryland
DEBBIE WASSERMAN SCHULTZ, Florida
HENRY CUELLAR, Texas
CHELLIE PINGREE, Maine
MIKE QUIGLEY, Illinois
DEREK KILMER, Washington
MATT CARTWRIGHT, Pennsylvania
GRACE MENG, New York
MARK POCAN, Wisconsin
PETE AGUILAR, California
LOIS FRANKEL, Florida
BONNIE WATSON COLEMAN, New Jersey
NORMA J. TORRES, California
ED CASE, Hawaii
ADRIANO ESPAILLAT, New York
JOSH HARDER, California
JENNIFER WEXTON, Virginia
DAVID J. TRONE, Maryland
LAUREN UNDERWOOD, Illinois
SUSIE LEE, Nevada
JOSEPH D. MORELLE, New York

ANNE MARIE CHOTVACS, *Clerk and Staff Director*

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR 2024

TUESDAY, APRIL 18, 2023.

FISCAL YEAR 2024 REQUEST FOR THE U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY

WITNESS

TAE JOHNSON, ACTING DIRECTOR, IMMIGRATION AND CUSTOMS ENFORCEMENT

Mr. JOYCE. The Subcommittee on Homeland Security will come to order.

Today we welcome Acting Director Tae Johnson to discuss the fiscal year 2024 budget request for U.S. Immigration and Customs Enforcement.

Thank you for being here today to discuss your funding needs and critical mission of enforcing our Nation's immigration laws and investigating transnational criminal activity.

Before we discuss your budget request for the upcoming fiscal year, I would like to take a moment to thank the law enforcement and civilian personnel who play an integral part in carrying out ICE's mission.

Enforcement removal officers, homeland security investigators, ICE attorneys, and mission support staff work tirelessly for the American people, despite being told that their agency should be abolished. And I want to express my sincere gratitude for their efforts in upholding the laws of the land and ensuring our national security. Thank you.

It should come as no surprise that I believe the President's budget request falls far short of addressing the immigration crisis facing this country. And while Secretary Mayorkas and the administration won't call it that, it is obvious to the American people that we have an absolute crisis on our hands.

This request willfully underfunds the tools your agency needs to carry out its authority and serve the American people. Decreasing detention capacity in the budget by more than $550 million and reducing the average daily detained population by 9,000 is, frankly, irresponsible and shortsighted.

This administration may argue that such a reduction is accounted for in the proposed $4.7 billion contingency slush fund, but we both know that once you take detention beds offline, it is incredibly difficult to regain those losses in a timely manner when they are needed most.

We are starting to see an uptick in migrant encounters as we approach the end of title 42 on May 11. And, unfortunately, given the

failed policies of this administration, we will likely need that capacity.

Earlier this year, ICE admitted that it has a shortfall of $485 million, nearly a half a billion dollars. The largest shortfall is in custody operations, which provides funding for detention capacity.

If you don't have enough money to manage the current detained docket, why would this administration request a 26 percent reduction in detention capacity?

On top of proposing to reduce detention for migrants who have been convicted of crimes or have removal orders, your request also proposes to reduce the Alternatives to Detention program by approximately 95,000 participants, nearly $100 million.

Such a reduction, coupled with limited funding for transporting migrants, sends a signal that we are not serious about effectively deterring and removing bad actors, including those who have criminal records and are a public safety risk.

On a more positive note, I am pleased to see resources requested for countering fentanyl, human smuggling, and child exploitation within Homeland Security Investigations, although I question whether such resources are enough to tackle those challenges.

As one of the largest Federal investigative agencies with broad transnational and cross-border authority, HSI proves critical time and time again in disrupting and dismantling criminal organizations and people who attempt to exploit our customs and immigration laws.

Acting Director Johnson, I look forward to working with you, your staff, and the department throughout the fiscal year 2024 process. ICE's mission is an important one, and I am hopeful that we can come together to find the innovative solutions to address the challenges that lie ahead.

Now, before I turn to our witness for his statement, I would like to recognize our ranking member, Mr. Cuellar, for his opening remarks.

Mr. CUELLAR. Thank you, Mr. Chairman. And I would like to join you in welcoming Mr. Tae Johnson, the Acting Director of ICE, who is no stranger to the subcommittee.

Welcome back, sir. And, again, we appreciate your many years of public service and your continued willingness to lead this multifaceted organization.

As the Federal agency charged with the enforcement of violations of customs and immigration laws, the breadth of the investigatory and operational work of ICE cast a wide net, including combating Transnational Criminal Organizations, illicit drug trafficking, human trafficking, smuggling networks, and violations of trade and intellectual property.

I look forward to today's discussion of the President's budget request and how this proposal will better enable ICE to fulfill its critical national security mission.

One thing I would like to note is that in your budget justification materials, you don't mention the word "cartel," as my colleagues have pointed out in the previous meeting with the Secretary, but you do reference Transnational Criminal Organizations, which obviously includes cartels.

In fact, your budget materials use the phrase "transnational criminal" over two dozen times. And the budget request includes investments in personnel and technology to crack down on cartels, including $305 million for the non-intrusive inspections systems in CBP, with a primary focus on fentanyl detection at the ports of entry, and an increase of $40 million in ICE for tools to assist in combating human smuggling and illicit drug operations.

We certainly want to hear from you about the work that Homeland Security Investigations, HSI, what they are doing to increase the government-wide efforts to combat the opioid epidemic. As you know, it is hitting all American communities, large and small.

As we see from the deaths of these opioids, especially fentanyl, we have had a 7,000-fold increase since 2015. And we will talk about the numbers because, whether it is President Trump, President Obama, President Biden right now, we have seen an increase. It is not anything that just rose in the last 2 years. So, again, it is something that we need to address all together as Americans.

Also, I would like to hear a little bit about the administration's attempt to balance its request with the detention capacity for high-risk populations to alternatives to detention for low-risk populations.

I am concerned with the administration's proposal for a border contingency fund that rests on the premise that the Federal Government can immediately contract and execute over a billion dollars to provide resources they need after—after—a predefined level of encounters have been realized at the border.

The reality is, under this new structure, the funding would not be available until well in the execution of the fiscal year. Specifically, for ICE, if enacted, it would reduce the detention bed space by 9,000 spaces and reduce the current number of ATD participants by 189,000.

And, again, reactive strategies that leave our workforce without resources that they need in real time only ensures that we continue to play defense on the one-yard line called the U.S. border itself.

I certainly want to thank, as the chairman said, the men and women of ICE. We certainly want to make sure that we provide them the resources to look at the work that they do.

At the same time, one of the things that we want to do is find that balance between law enforcement at the border, but at the same time respect the rights of the asylum seekers.

In particular, I am sure you are familiar with the L.A. Times reported last week that there are occasions where asylum seekers are wrongfully removed from the U.S. despite having an active appeal pending before an immigration judge or some other status that would make a deportation premature.

So, Director, I know you and I have talked about it, and I look forward to working with you and your interagency partners to ensure that this doesn't happen. Again, if they are supposed to be here, they are supposed to be here. If they are supposed to be removed, they should be removed. So we need to find that balance.

And, certainly, I want to make sure that at ICE we address issues from meaningful access to counsel, improving contracting at ICE, especially for custody operations, streamlining and automating processes, and certainly want to make sure that you all

work with the Executive Office of Immigration Review to make sure that we are working together to address that issue.

Those are some of the issues that we will be working at, and I look forward to your testimony. And, again, I appreciate your many years of work with us. Thank you.

I yield back.

Mr. JOYCE. Thank you, Mr. Cuellar.

Acting Director Johnson, without objection, your full written testimony will be entered into the record. With that in mind, we would ask you to please summarize your opening statement in 5 minutes. The floor is yours.

Mr. JOHNSON. Chairman Joyce, Ranking Member Cuellar, and distinguished members of the Subcommittee on Homeland Security, good morning, and thank you for the opportunity to speak with you today.

STATEMENT OF TAE JOHNSON

My name is Tae Johnson. I am the Deputy Director and Senior Official Performing the Duties of Director for Immigration and Customs Enforcement, also known as ICE.

The mission of ICE is to promote homeland security and public safety through the broad enforcement of over 400 Federal laws governing border, customs, trade, and immigration.

Before I go any further, I would like to thank you for funding recently provided in the fiscal year 2023 omnibus to support our people and our mission, particularly, additional resources at the southwest border for processing, monitoring, medical care, and transportation.

The fiscal year 2023 funding also supported our officers and special agents by enabling ICE to focus on key initiatives, such as executing our Counter Opioid Strategy to combat fentanyl, providing enhancements to our Innovation Lab to include Cross Cyber Technology, and continuing to build on partnerships and task forces related to combating cross-border financial crime.

Critical funding was also provided to expand our litigation teams and continue ICE's information technology data modernization, among others.

Our fiscal year 2024 budget embodies a consistent approach in prioritizing for ICE custody those who posed a significant risk, prioritizing low-risk noncitizens for Alternatives to Detention, and establishing a two-year emergency Southwest Border Contingency Fund to support border operations and provide greater operational flexibility.

The fiscal year 2024 budget requests new positions and funding for staffing enhancements to better manage the non-detained docket, which has grown from 3 million cases in fiscal year 2019 to just over 4.7 million cases at the end of fiscal year 2022, without a commensurate increase in staff.

The fiscal year 2024 budget also requests funding to provide technology investments for credible fear screenings and enhanced access to counsel. It also provides funding for facility costs necessary to accommodate the required staffing growth of our Office of the Principal Legal Advisor litigation teams.

In fiscal year 2022, Homeland Security Investigations, or HSI, made nearly 37,000 criminal arrests, including 5,000 transnational gang arrests, and seized nearly 21,000 pounds of fentanyl.

The fiscal year 2024 budget prioritizes additional resources and personnel to support the DHS-led Monroe Project, which focuses on illicit drug operations along the southwest border, including fentanyl, which killed over 77,000 Americans last year.

The requested funding would also continue development efforts to achieve full operational capability in fiscal year 2028 for the Repository for Analytics in a Virtual Environment, also known as RAVEN, enabling HSI to better identify and address criminal networks involved in transnational organized crime, terrorism, and other criminality, to include online child sexual exploitation and fentanyl distribution.

Finally, the fiscal year 2024 budget would increase HSI's cyber investigations support, continue to support the HSI-led Center for Countering Human Trafficking, and continue HSI's trend of increasing victim assistance for all victims of HSI investigations.

The ICE mission support workforce serves a critical role in ICE's ability to meet our national security, public safety, and border security missions.

Despite the challenges presented by significant workloads demands in supporting a 24/7 law enforcement agency, ICE's mission support workforce continues to operate efficiently and in many cases improve operations to meet the needs of the agency.

The 2024 budget seeks new positions and funding to address capability gaps in the areas of human resources, cybersecurity, asset procurement, and body-worn camera implementation, as well as management leadership and career development among other support programs.

Again, thank you for the opportunity to testify before you today. Thank you for your continued support for the dedicated and hard-working workforce of ICE. I am honored and humbled to represent the more than 20,000 dedicated ICE workforce and proud to serve beside them.

I look forward to your questions.

[The information follows:]

U.S. Immigration and Customs Enforcement

STATEMENT

OF

TAE D. JOHNSON

DEPUTY DIRECTOR AND SENIOR OFFICIAL
PERFORMING THE DUTIES OF THE DIRECTOR

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

"Fiscal Year 2024 Request for the U.S. Immigration and Customs Enforcement Agency"

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON HOMELAND SECURITY

Tuesday, April 18, 2023
2362-A Rayburn House Office Building
10:00 a.m.

Introduction

Chairman Joyce, Ranking Member Cuellar, and distinguished Members of the Subcommittee on Homeland Security.

Thank you for your continued support for the dedicated and hard-working workforce at U.S. Immigration and Customs Enforcement (ICE). Every day, over 20,000 proud professionals promote homeland security and public safety through the broad enforcement of over 400 federal laws governing our border, customs, trade, and immigration. I am proud to serve beside them and thankful for the opportunity to appear before you today.

We appreciate the funding recently enacted in the Fiscal Year (FY) 2023 Omnibus to support our people and mission, particularly additional resources at the Southwest Border (SWB) to provide noncitizen processing, monitoring, medical care, services, and transportation. The FY 2023 funding supported our officers and agents by enabling ICE to focus on key initiatives such as executing our Counter Opioid Strategy to combat fentanyl, providing enhancements to our Innovation Lab to include Cross Cyber Technology, and continuing to build partnerships and task forces related to combatting cross-border financial crimes while continuing our victim-centered approach to our investigations. Critical funding was also provided to expand our litigation teams and continue ICE's information technology data modernization, among others. Under this Administration, ICE has focused its resources on ensuring a safe, humane, and orderly immigration system, including focusing our enforcement resources on those who pose threats to national security, preserving national security and public safety, and promoting lawful immigration. ICE personnel work tirelessly to accomplish our broad mission whether providing a safe and secure environment for those in our custody, disrupting illicit drug and human trafficking activities, or representing the government in immigration court hearings.

I look forward to discussing the state of ICE operations, the continued impacts of working in the COVID-19 environment, and our efforts to remain nimble and forward-leaning amidst shifting dynamics, including the planned sunset of Title 42. I also look forward to highlighting our continued efforts to ensure we make the most efficient and effective use of the resources provided by Congress to carry out our vital homeland security mission. We continue to place an emphasis, and have shown measured improvement, on providing timely and accurate information and data to ensure Congress can exercise its oversight function.

Enforcement and Removal Operations (ERO)

ICE is committed to enforcing U.S. immigration laws humanely, effectively, and with professionalism. Our FY 2024 Budget Request reflects budgetary priorities consistent with the Administration's focus on ensuring a safe, humane, and orderly immigration system. The FY 2024 Budget represents a consistent approach by the Administration in prioritizing for ICE custody those noncitizens who pose significant risk, prioritizing low-risk noncitizens for Alternatives to Detention (ATD) monitoring programs, and establishing a two-year emergency Southwest Border Contingency Fund to support border operations and provide additional operational flexibilities.

The FY 2024 Budget Submission includes a $97 million reduction to reduce the ATD average daily participant level to 104,236. ATD is a humane, less costly, and effective means of providing supervision of participants while they go through the immigration court process. This budget also requests detention bed funding for an adult average daily population of 25,000 – mirroring our FY 2023 Budget request.

ICE's ATD program has been in place since 2004 and uses technology, case management, and other tools to manage participants' compliance with release conditions while they are on ICE's non-detained docket. ICE uses three types of technology to monitor noncitizens on the ATD program. The first is Voice ID telephonic reporting, which uses a participant's voice to create a biometric voiceprint during the enrollment process. ICE also uses GPS technology to monitor a participant's location and movement through an ankle bracelet and SmartLINK devices, which enable participant monitoring via smartphone or tablet using biometric comparison to establish identity. Later this month, ICE also plans to begin a limited technology demonstration of a wrist-worn GPS monitor, adding an additional option to our ATD technology suite. Contract-based case managers also assist ATD participants in meeting important immigration obligations by providing recurring court appointment reminders, assisting with obtaining travel documents, and if required, arranging for departure from the United States. This assistance may also include referrals for in-community services, such as, health services, transportation, treatment for substance use disorders, food, clothing, and shelter.

The FY 2024 Budget also requests 45 new positions and $10.8 million for staffing enhancements to better manage the non-detained docket. This will improve the officer-to-docket workload ratio, particularly given the non-detained docket has grown from 3 million cases in FY 2019 to over 4.7 million at the end of FY 2022 without a commensurate increase in personnel levels. These additional personnel will allow for more effective management of workload and resources.

The FY 2024 Budget also requests $5 million to provide technology investments for credible fear screenings, supplementing access to counsel, and enhancing visitation options for detained noncitizens. These enhancements are vital to enforcing immigration laws and ensuring due process. Improving video teleconferencing capabilities will allow U.S. Citizenship and Immigration Services asylum officers flexibility when conducting credible fear or reasonable fear interviews with detained noncitizens.

Homeland Security Investigations

Homeland Security Investigations (HSI) is the principal investigative component of the Department of Homeland Security (DHS) responsible for investigating, disrupting, and dismantling transnational criminal organizations (TCOs) and terrorist networks that threaten or exploit the financial, international trade, and travel systems. HSI's workforce comprises more than 10,000 employees, including special agents, criminal analysts, and mission support personnel assigned to 237 offices across the United States and more than 90 locations in 56 countries around the world. HSI's international presence represents DHS's largest investigative law enforcement presence abroad and one of the largest international footprints in U.S. law enforcement.

HSI has legal authority to conduct federal criminal investigations into the illegal cross-border movement of people, goods, money, technology, and other contraband into, out of, and throughout the United States. HSI uses these authorities to investigate a range of transnational crime and violations of customs and immigration laws, including money laundering; financial fraud and scams; cybercrime; export control and evasion; intellectual property theft and trade fraud; narcotics smuggling; transnational gang activity; online child sexual exploitation and abuse; human smuggling; human trafficking; illegal exports of controlled technology and weapons; identity and benefit fraud; human rights violations and war crimes; and terrorism.

In collaboration with its partners in the United States and abroad, HSI special agents gather evidence used to identify and build criminal cases against TCOs; terrorist networks and facilitators; and other criminal elements that threaten the homeland. HSI works with prosecutors to criminally indict and arrest violators; execute criminal search warrants; seize criminally derived money and assets; and take other actions designed to disrupt and dismantle criminal organizations operating around the world. These efforts protect U.S. national, border, and economic security, and ensure the safety of the public and our communities.

Many of HSI's approximately 7,100 special agents are assigned to 237 field offices across the nation and HSI effectively leverages more than 4,000 task force officers with federal, state, tribal, and local partners as a force multiplier to accomplish its mission. HSI's international program combats illegal and illicit activities closest to the source with a variety of partners, many of which operate at embassies, consulates, and Department of Defense combatant commands around the globe. For example, HSI deploys agents to diplomatic posts worldwide to conduct law enforcement visa security activities and provide training to Department of State Consular Affairs officers regarding threats, trends and other topics affecting visa adjudication.

HSI continues to prioritize the investigation, disruption, and dismantlement of TCOs that illicitly introduce fentanyl, heroin, and other dangerous opioids into the United States and gravely impact the health of our citizens and the safety of our communities. HSI's multi-pronged approach entails working with foreign partners to prevent opioids and other dangerous drugs from degrading our cities and towns; combating the illicit importation and distribution of opioids and opioid precursors through international mail facilities, express consignment centers, and maritime conveyances; exploiting cutting-edge technology to deter TCOs operating in the cyber realm; attacking the illicit use of financial systems and virtual currencies; and leveraging critical partnerships with state, local, tribal, and federal law enforcement. Contained within HSI's layered technology solutions for combating transnational criminal organizations responsible for trafficking chemicals utilized in the illicit manufacturing of fentanyl and synthetics drugs, is a maritime domain awareness tool. This tool has been utilized successfully intercepting over 247,000 kilograms of pre-cursor and pre-precursor chemicals used in manufacturing these deadly drugs. The DHS Joint Requirements Council has recognized HSI as the leading DHS component for the deployment of this tool and HSI is in the process of deploying this technology to other DHS components with maritime authorities. This tool contains access to unclassified satellite imagery that has been successfully deployed in seizing embargoed oil and assets of Russian oligarchs throughout the world. In FY 2022, HSI made nearly 36,700 criminal arrests including nearly 4,780 transnational gang criminal arrests, of which approximately 660 were members of MS-13; and seized 20,981 pounds of fentanyl.

The FY 2024 Budget prioritizes an additional 4 personnel (1 law enforcement officer (LEO) and 3 non-LEOs), and a total of $40 million to support Monroe Project operations along the SWB to combat illicit drug operations, to include fentanyl, of which $20.4 million is requested for Procurement, Construction, and Improvements (PC&I) funding. The Monroe Project is a recent DHS-wide effort aimed at targeting the criminal organizations responsible for distributing the illicit fentanyl that killed more than 77,000 Americans last year. A key component of the Monroe Project is the consolidation of information to enable better data driven decision making. The Repository for Analytics in a Virtualized Environment (RAVEN) is the DHS asset designated to consolidate this information and illuminate these criminal networks. This funding also supports capacity enhancement for HSI Mexico and their Transnational Criminal Investigative Unit, which is a critical component in the DHS strategy to disrupt and dismantle TCOs specializing in the production and distribution of fentanyl.

The FY 2024 Budget supports a $15 million increase in PC&I funding for RAVEN to continue development efforts and achieve Full Operation Capability on schedule for FY 2028. This funding will be focused on building the platform to facilitate and sustain constant evolution. The new capabilities will allow HSI to better identify and address criminal networks involved in transnational organized crime, terrorism, and other crimes to include online child sexual exploitation and fentanyl distribution. This investment will be the foundation on which all future investments will be built upon.

The FY 2024 Budget also prioritizes an additional 35 personnel (15 LEOs and 10 non-LEOs) to increase HSI's capability to investigate international and domestic child sexual exploitation and abuse. HSI Child Exploitation Investigations Unit (CEIU) will utilize these resources to develop additional specialized sections within CEIU to focus on new and emerging threats, as well as the development of an online undercover program to ensure that HSI is utilizing all tools available to combat child sexual exploitation and abuse around the globe. The mission of the CEIU is to investigate producers and distributors of child sexual abuse material, as well as individuals who travel abroad for the purpose of engaging in the sexual abuse of minors, also known as transnational child sexual offenders. CEIU employs the latest technology to collect evidence and track the activities of individuals and organized groups who sexually exploit children using the open internet, DarkNet, chat rooms, peer-to-peer trading, and other app-based platforms.

Cybercrime continues to be a growing threat to our economy and our homeland. The FY 2024 Budget continues to sustain 12 personnel (4 LEOs and 8 non-LEOs) to combat significant cyber threats as mandated on the agency. This funding augments HSI cyber investigations support, including the enhancement of covert computer networks, applications, and tools to assist in the detection, disruption, investigation, and prosecution of individuals and transnational criminal organizations that exploit the internet to facilitate their criminal activities.

In 2020, DHS established the HSI-led Center for Countering Human Trafficking (CCHT) as a whole-of-DHS approach to countering human trafficking and the importation of goods produced with forced labor. The mission of the CCHT is to advance counter human trafficking law enforcement operations, protect victims, and enhance prevention efforts by aligning DHS' capabilities and expertise. The CCHT is a DHS-wide effort comprised of 16 supporting offices and components coordinating with federal, state, and local partners and non-governmental organizations to effectively respond to human trafficking threats domestically and

internationally. Through the FY 2023 Budget, the CCHT received an enhancement of 38 additional positions (27 LEOs and 11 non-LEOs) and $15.5 million to establish a dedicated budget and further strengthen the program. The FY 2024 Budget continues to enhance the establishment of the CCHT adding 6 positions (2 LEOs and 4 non-LEOs) and $2 million that support the CCHT and transfers seven existing positions (non-LEOs) and $2.5M from DHS to establish a dedicated budget for the Blue Campaign within the CCHT. With the increased funding and additional personnel dedicated to the Center, we will advance our work to identify and support victims, conduct operations that hold the traffickers accountable, and strengthen our partnerships with non-governmental organizations. We are grateful to Congressional leadership and our partners for recognizing the value of the CCHT.

The FY 2024 Budget supports a decrease of 17 personnel (4 LEOs and 13 non-LEOs) for HSI Intellectual Property Rights Center efforts to combat wildlife trafficking and counterfeiting within the Department of Defense and U.S. Government supply chains. The budget also supports a decrease of Operations & Support funding for prior year enhancements for RAVEN and certified undercover operations. HSI will use available funding and year-of-execution flexibilities to meet the anticipated wildlife trafficking case demands.

The HSI Victim Assistance Program (VAP) was established within HSI for the purpose of assisting victims identified in HSI criminal investigations in accordance with the Victims' Rights and Restitution Act (VRRA), 34 U.S.C. § 20141, and the Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771. HSI investigates a wide range of federal crimes affecting victims, including but not limited to human trafficking, child sexual exploitation, financial scams, white collar crime, human rights violations, and financial crimes and female genital mutilation. The VAP is an integral resource to HSI investigations and is committed to informing victims of the rights and services accorded to them by law. Using a victim-centered, trauma-informed, and culturally sensitive approach, and treating victims with dignity and respect, VAP provides services to victims and conducts forensic interviews of victims in support of HSI criminal investigations. Fundamental to VAP's mission is providing victims with information and referrals for victim services, and restoring victims' well-being, all of which contribute to empowering them and facilitating their ability to become an effective witness and participate in the criminal justice process. VAP personnel work in close collaboration with HSI special agents to integrate victim assistance into HSI criminal investigations and to facilitate HSI's commitment of providing victims with the information and services to which they are accorded under law.

The FY 2024 Budget annualizes the cost of the 59 positions for the VAP provided in FY 2023. These resources are paramount to continue HSI's trend of increasing victim assistance to all identified victims of HSI investigations. Victim assistance increased by 46% in FY 2022 from FY 2020 and forensic interviews increased by 79% in FY 2022 from FY 2020.

Financial crimes crosscut every programmatic area that HSI investigates. HSI will continue to utilize cutting edge technology and investigative techniques to infiltrate, investigate and dismantle criminal organizations that exploit the United States and worldwide financial systems. HSI targets illicit proceeds of crime and the financial networks and third-party facilitators that conceal and launder illegal proceeds. To accomplish our goals in combatting financial crime, we will utilize multiple approaches. HSI maintains strong public and private partnerships and works through these partnerships to increase real time sharing of data, typologies, and indicators of criminal activity with financial institutions. HSI will continue to

focus on high impact financial investigations targeting priority money laundering threats, while disrupting and dismantling the criminal exploitation of traditional financial systems and decentralized financial systems that criminally exploit virtual assets on the blockchain.

Office of the Principal Legal Advisor

The Office of the Principal Legal Advisor (OPLA) is comprised of attorneys who represent DHS in bond and removal proceedings before the Department of Justice's Executive Office for Immigration Review (EOIR). Attorneys also provide legal advice to ICE personnel on a range of matters, including on criminal, administrative, and civil customs and immigration laws and authorities.

OPLA implemented updated prosecutorial discretion (PD) guidance to promote efficient docket management in partnership with EOIR. As part of this implementation, in FY 2022 OPLA attorneys reviewed and made a decision on more than 361,540 requests for PD in the form of dismissal or administrative closure of removal proceedings. OPLA exercised PD by agreeing to dismissal or administrative closure in approximately 91,938 cases by the end of FY 2022. OPLA attorneys represented DHS in more than 840,718 removal hearings and were able to support the completion of nearly 250,000 cases over FY 2022.

Despite these significant accomplishments, OPLA litigation teams have a growing non-detained docket of over 3.6 million cases. From FY 2018 through FY 2022, EOIR received an increase of 250 new Immigration Judge teams (six positions per team for 1,500 total positions) compared to OPLA's 389 total position increase. We are appreciative of the support shown by the Committee with the 341 new attorney and support positions appropriated in FY 2023. We have previously shared with you the staffing growth disparities of OPLA litigation teams as EOIR received new Immigration Judge positions. The FY 2023 enhancements accompanied by these additional personnel will ensure ICE is represented in the new courtrooms EOIR is adding. The FY 2024 Budget seeks $7.9 million for facility costs necessary to accommodate required staffing growth.

Mission Support

ICE's mission support workforce serves a critical role in ICE's ability to meet the national security and public safety missions. These dedicated professionals address ICE's myriad operational needs, including hiring, finance, information technology, acquisition and procurement, policy and strategic planning, and tactical, leadership and career development training.

This budget request includes an increase of 76 positions and $13.4 million to plan and implement ICE policies and provide management support across the enterprise. The requested positions will enable the ICE Enterprise Services (within the Management & Administration Directorate) and Executive Leadership to address staffing deficiencies in several key business lines to support the significant growth in ICE mission operations and staffing. While ICE law enforcement and attorney personnel have seen increased resources to accommodate mission requirements, Mission Support staffing has not kept pace.

The Office of Human Capital requires much needed staffing enhancements, and the request seeks to address this by adding 37 new positions for $5.1 million. The agency has seen

an increase in personnel resources to support legal operational requirements without any commensurate growth for human capital to support the hiring and maintenance of the workforce.

The Office of Asset and Facilities Management administers and maintains the ICE motor vehicle fleet program. The requested $2 million will allow ICE to procure and refresh approximately 40 law enforcement vehicles in most critical need.

Requested resources will also enable the ICE Office of Firearms and Tactical Programs (OFTP) to continue the phased implementation and management of body-worn cameras (BWC) across the agency. The budget realigns $12 million from the Office of the Chief Information Officer to OFTP and requests additional $3 million, which will support $4.4 million in payroll, $10.6 million in general expense funds, and help expand their warehouse by 1,600 square feet for storage space to house BWC equipment.

Executive Order 14028, Improving the Nation's Cybersecurity, outlined requirements in Section 8 for logging, log retention, and log management, with a focus on ensuring centralized access and visibility for the highest-level enterprise security operations center of each agency. The event security logging increase of $500,000 will allow ICE to fully implement security logging, accommodating the 45% increase in data log storage, transitioning to user and entity behavior analytics as well as providing for the needed hardware, software, and out-year support.

Conclusion

Thank you again for inviting me to testify today. I am honored and humbled to represent the more than 20,000 dedicated ICE employees. I look forward to your questions.

Mr. JOYCE. Thank you, sir.

We will now begin with the questions. I will recognize myself to start.

Mr. Johnson, as I mentioned in my opening statement, I am concerned with your fiscal 2024 request reduction of approximately $560 million in ICE's base budget to decrease detention bed capacity from an average daily population of 34,000 to 25,000. I firmly believe that an average daily population of 34,000 is already insufficient, and this request simply exacerbates the enforcement challenges that already exist.

Yes or no, Mr. Johnson, do you believe that detention is a deterrent to illegal immigration.

Mr. JOHNSON. I think it can be, yes.

Mr. JOYCE. Then why is the administration requesting fewer beds?

Mr. JOHNSON. So the 25,000, as I understand it, that is in our base budget, and the additional 9,000 beds would be immediately available as part of this contingency plan.

When I became aware that there was this possibility that we might have to take beds offline come October 1 and then there would be some expectation of like quickly bringing beds on, I was assured that as long as we are hitting a certain threshold on September 30, that that funding would be immediately made available to ICE.

So unless something has changed, it is my understanding that we will not have to take beds offline only to have to bring them back on.

Mr. JOYCE. How many beds are currently inaccessible due to COVID protocols, litigation, cohorting, et cetera? How much have we paid for beds since the beginning of fiscal year 2023 that we aren't able to use due to these aforementioned reasons?

Mr. JOHNSON. We are using about 73 percent of our capacity right now, and this is largely, as you described, due to COVID and some of the safeguards put in place by the CDC.

We are hopeful that on May 11, when the title 42 emergency declaration is over, that there will be new CDC guidance that gives us greater flexibility to use more of the beds that we are paying for at our facilities.

Mr. JOYCE. Will you commit then to no longer taking beds offline due to COVID reasons after the public health emergency ends on May 11?

Mr. JOHNSON. I will commit to following whatever the CDC guidance is as it relates to detaining individuals in congregate settings. If CDC completely lifts the requirement and there are no restrictions, like pre-COVID, then I will commit to getting back to up 34,000 beds. But it is really dependent on where CDC lands with their new guidance, if there is new guidance.

Mr. JOYCE. Secretary Mayorkas said he cannot comply with the Immigration and Nationality Act requirement to detain all eligible migrants.

As head of the agency responsible for that, what is required for this administration to comply with the law?

Mr. JOHNSON. More beds than probably exist in the public sector and funding that we don't have. I mean, on any given year, even

before COVID, we can only detain about 200,000 people a year. Maybe in some of the better years up to 250,000 in a given year.

So you do have to make tough choices on how to use your resources. And if you are going to dedicate some beds for the southwest border, you are going to have to pick and choose which folks in the interior you choose to focus on. So that is not an entirely new phenomenon for ICE.

Mr. JOYCE. Didn't you just say that you are only at 73 percent capacity.

Mr. JOHNSON. We are, and that is largely due to COVID today, correct.

Mr. JOYCE. What about Alternative to Detention?

Mr. JOHNSON. What about it? Is it what is our capacity?

Mr. JOYCE. Are you making full use of that.

Mr. JOHNSON. We are. I mean, we are trying to get the numbers down a little bit to get into compliance with our fiscal year 2023 funding. I think the goal was to try to get that down to about 170,000 participants by the end of the fiscal year. But given May 11, we expect that number will likely increase some.

Mr. JOYCE. Can you measure or explain to us how you measure the effectiveness of the Alternative to Detention system?

Mr. JOHNSON. Well, historically, it has been measured by whether or not an individual actually complies with their terms of release, whether they show up at all their ICE appointments and check-ins, whether they allow for the home visits and the like that are required by the ATD program or some participants in the ATD program. And, most importantly, whether they show up at court for their hearings as scheduled.

Mr. JOYCE. Isn't it true that you stop monitoring them within 30 days?

Mr. JOHNSON. Not within 30 days, but it is true that, just based on current funding levels and the extensive amount of time that it takes an individual to sort of have their case adjudicated before EOIR, it is impossible to hold someone or keep someone enrolled in the ATD program for the entire period of their removal proceeding.

So right now I think the average length of stay on ATD is somewhere around a year and a half, 18 months. And as you guys are fully aware, it takes about 3 to 5 years to have an individual's case conclude.

Mr. JOYCE. I have exceeded my time, but I would like to recognize Ranking Member Cuellar for any questions he may have.

Mr. CUELLAR. Thank you, Mr. Chairman.

As you know, the administration's plan is to end the title 42 expulsion authority. And, again, I am a big believer in title 8, instead of title 42, even though I support title 42. And there are three things that the administration is doing.

They did an agreement with Panama and Colombia, number one.

Number two, they got the asylum officers that are going to do some expedited work with Border Patrol facilities.

And number three, there is a rule that should come out before May 11 that basically says that if people don't come in—if they come in between ports of entry, they will be returned, and they have to come in through a port and do it—provide an incentive to

do it the legal way and not in between ports. And since I represent a lot of border area, that is important to me, that people are not crossing our lands, number one.

Now, I want to see what ICE is doing to do this because I am concerned about a couple things. Big picture. According to Secretary Fudge's statement that she provided just recently, she says that there are a shortage of almost 7 million affordable housing units. And for every 100 extremely low-income renter, there are only 33 rentals available. So I want to put that outline out there.

Now, looking at the top ten parole notice to report appointments for backlog locations as of April 7, 2023, and as you know there is the NTR, which is a notice to report to ICE.

And then, traditionally, we have used the NTA, notice to appear, before an immigration judge. So the notice to report is a step in between before they go to an immigration judge.

So if you can work with me on this time period. The top 10 backlog locations: New York, No. 1, mostly booked through March 2033. They have got about 32,000-plus there. San Antonio. I was surprised about San Antonio, but it is number two, booked up through March 2023. Miramar, Florida. Los Angeles. It goes then Jacksonville, Milwaukee, Chicago, Washington, Denver. And then Mount Laurel NJ rounds up the top. So it goes from 2033 to March of 2027.

So they go to ICE and report. Let's take New York. They will report up to March of 2033. Then they get a notice to appear, an NTA, notice to appear, and then that is another 2, 3 years before they can go up to a judge.

So if we take 2023—2033, should I say, 2033—add another 2, 3 years, we are talking about 2035 or 2036.

So keep in mind, the affordable housing units—I mean, they have got to live somewhere. And I am concerned about what is happening here.

So my question is, what is ICE doing to expedite some of the work? Are we looking at detention, as the chairman mentioned? Are we looking at more additional removal flights for the ones that should be removed? What are we looking at? Do you have enough resources to fund to execute the strategies?

Because, again, it is a little concerning that some of them have to wait to 2033 just to appear before you, and then they have to get another 2, 3 years before they even go to an immigration judge to get either a stay to—I mean, either they stay or they get final deportation orders. And I think we have over a million final deportation orders are still pending on that.

So start off with my concern is for folks that live here in the U.S., there is not enough housing, but then we are adding all of these extra folks coming in.

Mr. JOHNSON. Good question.

I think there is a number of efforts that are underway that is going to help us issue NTAs in places like New York much sooner. There are some technology solutions that are in the works that is going to allow us to issue NTAs virtually. There is a request to the Hill to give us the authority that we could actually serve it virtually and have people agree to accept their documents electroni-

cally. So that is certainly something that we will continue to work with the Congress to sort of get the authority for.

But we are working on the technological piece of it so that we can do these telephonic interviews or virtual interviews and have individuals not have to wait 10 years to have their charging documents issued.

There is also the online change of address form or technology solution that we are working on which will allow individuals to opt in to receiving mail-out NTAs, and we think that that too will certainly help eliminate the backlog.

CBP is also, given the large number of peoples that—individuals that we have released, they are also beefing up their staff to help ICE tackle this backlog.

So with them joining the fight, and if we get the additional resources in fiscal year 2024, that we are slated for 145 ERAs, additional 45 ICE officers that are going to be assigned to the non-detained docket, we believe this additional staffing will go a long way and help more quickly eliminating the NTA backlog.

Mr. CUELLAR. Thank you, Mr. Johnson.

Thank you, sir.

Mr. JOYCE. Thank you.

We will now recognize Sheriff Rutherford.

Mr. RUTHERFORD. Thank you, Mr. Chairman.

Thank you, Mr. Johnson, for being here today to answer some of these difficult questions about how we are dealing with these populations.

When I look at the non-detained docket, and I see the 2022 annual report said there was a 29 percent increase, that number has now grown from 2019 from 3 million to 5.3 million that we are holding on that program now.

And what really confuses me is we have got 1.2 million that Mr. Cuellar just referred to. They have had their adjudication, but they are still here. We are not deporting these folks in the numbers that we should be. In fact, in 2019 ERO was moving out 247,000. Last year, we did 67,000. I don't quite understand how these numbers can work.

And then, when I look at my Jacksonville area, several ICE check-in offices have significant backlogs. For instance, Jacksonville is booked through 2028—and this goes to the point that Mr. Cuellar was making—Jacksonville is booked through 2028. And that is just for them to get into the court. And from there, it can be several more years before their case is decided.

And I think this is just a symptom of just how broken this system is, and yet we don't seem to be responding to it. We are cutting resources. We are not utilizing beds. We are just letting people come across the border.

Because Mr. Cuellar brought up the same issue, I want to ask, do you have an average number of times? I know what it is in Jacksonville. It is 5 years just to get seen. What is the average around the country? Because, as you mentioned, these folks have got to have somewhere to stay, and technology is not going to put them in a bed.

What is the average number?

Mr. JOHNSON. So the average varies pretty widely by location. If I had to sort of guess, I would say it is probably 2 years throughout the country.

Mr. RUTHERFORD. That is the shortest?

Mr. JOHNSON. No, that is probably the average. Because most of the offices aren't nearly as inundated as——

Mr. RUTHERFORD. So Jacksonville is two and a half times the average.

Mr. JOHNSON. Florida. I mean, a lot of people are going to Florida. If you are looking at some of our smaller offices, in Baltimore, for instance, or St. Paul, Minnesota, the wait time is significantly less.

So it is the major metropolitan areas that are going to have the longest wait times. And we think with the additional staffing, CBP actually joining the game and helping process some of these folks that we released on the southern border, and, obviously, the technological solutions——

Mr. RUTHERFORD. OK. So let me stop you and ask this question. Because Secretary Mayorkas was here and told this committee that ICE was removing a higher percentage of criminal aliens in 2021 than in the previous years and got into statistical numbers and that sort of thing.

Now, you ran ERO. You know what those numbers used to be. Can you as an assistant or acting director right now, can you tell me how are those numbers down so significantly?

Mr. JOHNSON. I think it is a——

Mr. RUTHERFORD. I mean, from 247,000 to 67,000.

Mr. JOHNSON. I think that the number——

Mr. RUTHERFORD. How can that be?

Mr. JOHNSON. Well, I think we do have to factor in the expulsions, because a lot of ICE's and ERO's resources that would typically be used for title 8 removals are now being diverted to the southwest border to expel individuals. They are using our planes, our seats on the planes. So you do have to factor in the 70,000, 80,000 ICE removals——

Mr. RUTHERFORD. Let me stop you. Those expulsions were going on before, too. The Secretary, when he was here, answered Mr. Cline's question, I think it was, about deportations. And he tried to merge together the expulsions too. Because that is a big number. It was like 1.2 million, I think. But it is all expulsions. It is not deportations.

Why are the deportation numbers down so low?

Mr. JOHNSON. And, again, the expulsions only started when the CDC emergency declaration order kicked in. There were always quick removals, voluntary returns, and the like at the border, but not using ICE airframes.

I would submit that when you look at the number of folks that we have expelled on ICE Air, combined with our title 8 removals, you will see that those numbers—those two numbers combined sort of get really close to what our removal numbers were in fiscal year 2019.

I also think that there was fewer people that were being introduced in the criminal justice system during the pandemic, particu-

larly the beginning of the pandemic, and that too resulted in far fewer referrals to ERO then.

Mr. RUTHERFORD. Well, I see my time has expired.

Mr. Chairman, I yield back. Thank you.

Mr. JOYCE. Thank you, Sheriff.

I recognize Ms. Underwood.

Ms. UNDERWOOD. Thank you, Mr. Chairman.

Mr. Johnson, thanks for being with us today.

In recent months, the heartbreaking stories of migrant children illegally working long hours in dangerous jobs has captured the attention of Congress and the public. These children are some of the most vulnerable among us, and this situation is unacceptable.

We need an all-of-government approach to protect these children, stop and prevent their exploitation, and hold bad actors accountable. And Homeland Security Investigations has an important role to play through its duty to conduct criminal investigations into forced child labor.

Can you describe how HSI is working in coordination with other agencies, including the Department of Labor, Health and Human Services, to combat illegal child labor?

Mr. JOHNSON. Very, very good question. And it is absolutely heartbreaking to hear stories where kids are being exploited.

HSI, just because of their international and domestic footprint, are strategically situated to lead the effort on child exploitation, and they have done a good job.

But there is tons of work to do. It starts with investigating these crimes, bringing the perpetrators to justice, and rescuing the victims. And that is a priority for HSI.

A lot of it is getting out to the communities and educating folks on some of the signs to look for and how to sort of convey that information back to HSI through our tip line if they believe that there are individuals that are being subject to sort of labor exploitation.

We have been working really closely with the Department of Labor over the last year and a half to make sure that we are getting information from them as well as working closely with HHS, who are typically responsible for releasing these kids to sponsors, to let ICE know, and work with our special agents if they have any reason to believe that kids are being sent to individuals that are making them work in these labor camps.

Ms. UNDERWOOD. More organized criminal operations may be seeing opportunities here to exploit children as well, something that HSI also investigates. For example, NBC News reported earlier this year that DHS is investigating the potential trafficking of children for work cleaning slaughterhouses. And ICE's reports have indicated an increase in forced child labor investigations and enforcement in recent years.

Obviously understanding you can't comment on open forced child labor investigations, what are the trends that you are seeing here more broadly?

Mr. JOHNSON. So in fiscal year 2022, ICE rescued 1,900 victims from child exploitation. This is, in 2022, this is the first time that ICE has actually captured that data, so we don't have the ability to compare it to prior years.

But it is a priority for us, and it is the reason why we started tracking it this year and will continue to do so in the future.

We also——

Ms. UNDERWOOD. Excuse me, Mr. Johnson. Has that data been publicly released?

Mr. JOHNSON. I am not sure if it has been released. I think we have a congressional requirement to report it. But I will have to circle back and let you know whether it has been released.

Ms. UNDERWOOD. Well, given the attention that this issue has been in the news and obviously how it is so contrary to our American values, I think that level of transparency would be warranted. And certainly we would look forward to receiving that information and any details that you would be free to share with this committee.

Mr. JOHNSON. Absolutely.

Ms. UNDERWOOD. Thank you.

I want to turn now to ICE's reputational challenges, which you and I discussed during your testimony before the subcommittee last year. These challenges are so severe that at the end of 2021, The Washington Post reported that HSI agents proposed separating from ICE because of the degree which ICE's negative reputation impedes their ability to conduct investigations.

I asked then how you were working to address the behaviors and actions that led to those reputational challenges at ICE. It has been a year since we last discussed this. Since then, can you share what you have done to improve ICE's relationship with local communities? And what specific changes is ICE making to increase accountability and build trust?

Mr. JOHNSON. Very, very good question. And like I had mentioned last year, this has been an issue that we have been grappling with within ICE for many, many years.

One of the things we did this year was to give HSI the flexibility to use whatever branding they felt was necessary to increase cooperation in the communities. So in other words, if removing the ICE moniker completely and just using the HSI brand was going to result in greater cooperation, they had the flexibility to do so.

We have also removed or gave them the option of removing the ICE part of their email exchange address, so that it is just HSI.DHS.gov instead of the ICE piece of that. That too has been extremely helpful in certain areas of the country.

So while I am not a supporter of sort of splitting the agency into two, I am a huge supporter of providing all the flexibilities I can to HSI so that they may successfully complete their mission.

Ms. UNDERWOOD. Well, ICE has a responsibility to proactively and intentionally build trust in the communities that you serve. And so I think that this is an area where the agency definitely needs to do more. And I would encourage you to continue to focus on this in 2023.

Thanks so much, Mr. Chairman. I yield back.

Mr. JOYCE. Thank you, Ms. Underwood.

I now recognize Mrs. Hinson.

Mrs. HINSON. Thank you, Mr. Chairman.

Thank you, Acting Director Johnson, for coming before our committee again. It is great to see you. And thank you to the men and

women who serve in your agency. I know it is not easy work, and I appreciate your service and theirs.

One of my top concerns with the crisis we are seeing at our southern border is that we know that individuals on the terror watch list, sex offenders, some of these transnational gang members, drug traffickers, human traffickers, the list goes on and on of the bad people with violent criminal histories that we are seeing come into our country. They have exploited that weakness at our southern border. And even the Chinese Communist Party is taking advantage of it too.

So my question to you is, are there times of year when ICE experiences increases in the number of investigations or removals of these types of criminals specifically, or surges or times where you see more criminals, that then you are having to deploy agents into the homeland to focus on those removals?

Mr. JOHNSON. So at least from an HSI perspective, it is always critically important that they focus on these individuals that pose a national security threat. So we have a cadre of seasoned agents who do nothing but work those types of cases.

Oftentimes their focus is the criminal aspect of it. The removal and sort of administrative piece is sort of secondary. And once these individuals are finished their sentences, they would be offered to ERO or put in removal proceedings for removal.

With the flow along the southwest border we have been focusing on some of the unusual populations, folks that typically we don't typically see coming across, and just making sure that we have a good response to them and designating some number of detention beds for those individuals as well.

Mrs. HINSON. All right. And, obviously, we have seen that number significantly increase.

How are you communicating with our State and local, Tribal, territorial law enforcement on these issues, especially in maybe rural communities like mine? Because, obviously, you talked a lot about the flows into some of the more populated areas, but it is an impact in States like mine as well. And the last thing we want is to see criminals come into places like this because maybe they are thinking it will be less enforced.

So what are you doing to communicate with those levels of law enforcement?

Mr. JOHNSON. So in areas where we have great cooperation—I mean, obviously, Iowa is one of them—we have really, really great relationships with our State and local partners.

We do have challenges in other areas where folks aren't as cooperative, and we will just have to continue to work with them to find some middle ground.

But our relationships with our State and local partners are the bread and butter of our success. And whether they are participating in some of our task forces or on our BEST teams, those relationships are critical, especially in smaller areas where it is just a small law enforcement community. Generally, everybody needs to just band together.

So it is certainly important. We are always out sort of working with our State and locals and try to make sure we have each other's back.

Mrs. HINSON. Well, if there are jurisdictions that are creating challenges for you in executing your mission, please let me know. I would love to work with you on making sure that they are following through. Because, ultimately, this is a safety and security issue, not only for Iowans, but for all Americans. So I want to make sure that you have the cooperation necessary to do your job.

I want to move quickly to the contingency fund conversation. You got assurances, obviously, that even with the reduction of $560 million to your budget that those detention beds would be available from the contingency fund if you are at certain levels. What levels were those exactly?

Mr. JOHNSON. I can't remember the thresholds. I just know that they were really, really low and that we have been at that threshold for the better part of the last 5 years.

Mrs. HINSON. So you would meet those levels——

Mr. JOHNSON. So, I mean, my biggest concern is on October 1, I was going to need those funds.

Mrs. HINSON. Right.

Mr. JOHNSON. And when we looked at the thresholds, we weren't going to have to wait 90 days. The funds would be available. So I am confident that we would not be required to take beds offline before we brought them back on.

Mrs. HINSON. So let me pose this question to you. What happens, though, if that fund has been depleted? Does that mean that you would not have the necessary resources to expand the beds you need?

Mr. JOHNSON. It would. It would be hard to deplete the funds 2 weeks into the new fiscal year, as I understand it.

I mean, look, there is a lot of details that have to be worked out with this contingency fund, the first time we have ever done anything like this. I think it is a good concept because we do need a way to get access to additional money when the border is seeing unusually high levels.

In my personal view, I wish the 34,000 beds would have been in my base, and then I would have been able to gain access to 5,000 or 10,000 beds as part of the contingency fund. But it didn't shake out that way.

Mrs. HINSON. Well, I think that taking funding away from your baseline budget and putting it into a contingency slush fund that could be used for other services is reckless when you need those funds to actually execute on your mission. So I see this as a budget gimmick, and I think that we should be prioritizing getting you those funds directly.

Thank you. I yield back, Mr. Chairman.

Mr. JOYCE. Thank you.

The chair will now recognize Mr. Newhouse.

Mr. NEWHOUSE. Thank you, Chairman Joyce.

Director Johnson, thank you for being with us. And I too want to thank you and the men and women that are under you for the hard work that you do.

I am going to return to one of the subjects that was already brought up as reported last year. This administration removed 72,000 and some immigrants. And that does not include title 42 removals.

This past December, 250,000-plus people were encountered by the Border Patrol. So removing less than a third of the number of encounters in a single month took an entire year, and that is on top of a record-breaking year of 2.76 million encounters.

So being in charge of removal orders and removing immigrants, a couple of questions. How would you justify that this posture benefits border and national security? And is this a sustainable posture?

The administration repeatedly had said that those without lawful asylum claims will be swiftly removed. So can you tell me today that swift removals are happening?

And also, why aren't we doing more to at least remove the known criminals and the repeat offenders?

Mr. JOHNSON. Good question.

In terms of swift removals, I would argue that we are doing it for those that are detained in ICE custody. Folks that have been following this work for a long time, you know that that is typically where the bulk of our removal orders come from, and it is extremely difficult to remove individuals from the non-detained docket.

I do not think it is sustainable, but I also do not think that there is enough detention capacity in the private sector or that exists for us to detain our way out of this.

I think that there are a number of efforts that are underway. The discussions with the Colombians and the Panamanians should go a long way. We are certainly asking for additional planes and resources so that we can fly more removal flights more quickly, more often to some of the countries that we are getting hammered the most on.

So we think that too will certainly help us get some of these folks back to their home countries quickly.

And, in addition to Border Patrol creating some efficiencies and doing some of the credible fear screenings in their custody, ICE has also identified nine facilities where we are going to try to get people through the credible fear process much quicker than it is typically done in prior years. And, hopefully, that will just help us be able to sort of cycle through those beds much quicker at those nine facilities and result in more removals

Mr. NEWHOUSE. I appreciate those suggestions.

The other thing I wanted to talk to you about, ask you about, is fentanyl. My understanding is that a small number of vehicles, cars, trucks, are inspected, but we are confiscating a huge, huge amount of fentanyl.

And due to the severe damage we are seeing in our country, I would like to know—realizing that CBP is primarily responsible for those inspections and that you are called in, I guess, after the fact—the question remains, how are we as a country going to get a handle on this? Essentially, who is going to take ownership of this problem? I think the American people want to know what is it going to take.

So I am pleading with you. Tell me what we can do to stop this scourge of drugs at the southern—coming in the southern border.

Mr. JOHNSON. Well, as you mention, I mean, CBP is at the ports of entry. They are conducting the inspections. We have deployed a significant number of HSI agents to the border to assist.

You may be familiar with Operation Blue Lotus——

Mr. NEWHOUSE. Yeah.

Mr. JOHNSON [continuing]. Where we have sent a number of folks to two ports of entry there, where in just over 30 days we have seized 8,000 pounds of narcotics——

Mr. NEWHOUSE. Some success there, yeah.

Mr. JOHNSON [continuing]. 4,000 pounds of which was fentanyl. Which just goes to show you, if you throw more resources at this problem, you will get some big wins.

I think HSI is probably best situated to sort of tackle, to combat and dismantle the TCOs that are responsible for fentanyl, particularly our relationships and our vetting units and TCIUs in Mexico, which is that is ground zero from where China is sending the precursor chemicals.

In fiscal year 2022, HSI, in close coordination with our Mexican partners, seized 3.3 million pounds of precursor chemicals. We know those were all sort of headed to the U.S. We seized 22,000 or 21,000 pounds of fentanyl in fiscal year 2022. And this year, in fiscal year 2023, through February, we have already seized 27 pounds—27,000 pounds of fentanyl.

So there is a lot of work to be done. HSI is—I mean, it is a high priority for them. And we will continue to work with our foreign partners to sort of increase our apprehension.

Mr. NEWHOUSE. I know we are out of time, Mr. Chairman. I just want to say that I believe that all those big numbers—and that is great that we are confiscating that much. My feeling is that that is probably the tip of the iceberg. There is so much more that we have got to do.

So I look forward to working with you on this and getting a handle on this huge, huge issue.

Thank you.

Mr. JOYCE. I agree with you wholeheartedly. The chair now recognizes Mr. Cloud.

Mr. CLOUD. Thank you, Chairman. Thank you, Acting Director. And, yes, I echo the thoughts with everyone on this committee. We certainly appreciate the work of your agency and boots on the ground for doing hard work. I am from south Texas, so we know this all too well about what is going on in regards to the need to secure our border.

I wanted to ask you about a couple of numbers. I was looking at the numbers of you returning people to their home country after they have entered illegally. In fiscal year 2022, it was 67,055. Comparing that to 2019, preCOVID, it was 247,835. Even during 2020, during COVID, we had a dip of—we were able to return 173,849. And so all that to say we have a substantial decrease in what your agency is doing at a time we are having a tremendous surge of illegal crossings at our border. I am curious to have your thoughts on how and why that is happening?

Mr. JOHNSON. So again, as I mentioned, I think when you are looking at our removal numbers, you also have to look at the T–42 expulsions. The 185,000 figure that you are—179,000 figure that

you provided in fiscal year 2020 that was, you know, largely COVID free for the first 9 months, and maybe the last 3 months of 2020, there was some COVID removal impacts. But if you look at what we did in fiscal year 2020, and you compare it what our removals were in fiscal year 2022, including the COVID—I mean, the title 42 expulsions of 117,000, those fiscal year 2022 numbers are pretty closely aligned with the fiscal year 2020 total removals of 179, or 180,000 that you referenced.

I also think, as I mentioned, that a good number of our removal cases, at least in the interior, are from referrals from State and locals after they make arrests and charge people, and they go through the process.

Mr. CLOUD. And I understand that, but that part—that wouldn't be part of the change. That is a constant in this. And so, I mean, what we are seeing is that at an administration shift we had 70 percent drop roughly with no change roughly in funding and actually a slight bump-up in manpower. I mean, we are the Appropriations Committee. We are supposed to be making sure resources are used properly. And so I am trying to wonder, dollar per activity here doesn't really seem to match up as to what we would expect to see due to the effectiveness of the resources we are sending your way.

Mr. JOHNSON. I think title 42 was lifted, and we are no longer doing these T42 expulsions. And we just go back to our title 8 removals, which is what ICE and ERO has done for, you know, 30 years. I think you will see the removal numbers starting to go up to where they have been historically. You know, just transitionally from title 8 to title 42 is something that was new to the agency, and I am sure there was lost efficiencies as part of the——

Mr. CLOUD. All of this part, of course, in proper context that there is a right way to come to our country in an illegal way, and every illegal entry is dollars to a cartel. You know, that is also funneling drugs into stabilizing other countries. I am out of time. I had another line of questioning, but——

Mr. JOYCE. You have a little time.

Mr. CLOUD. OK. Well, OK. I have a little time. Have you heard of ICE Council.

Mr. JOHNSON. ICE Council?

Mr. CLOUD. Yes. Are you familiar with the ICE Council.

Mr. JOHNSON. The union.

Mr. CLOUD. Yes. Yes, sir. Recently, they had essentially filed a whistleblower grievance with the DOJ, alleging that AFGE had—and I mean—a number of news articles I can print out to some nefarious actions that had happened there, misusing funds that the union had used literally to go to strip clubs and those kind of things.

And so shortly after that, the AFGE filed a separation of interest, basically, to remove the ICE Council from the parents organization, which also because of some arcane rules in the union. Basically, they were able to seize $5 million of assets from ICE Council.

Are you concerned at all about this? Did you have reach out to ICE Council while this was happening last year?

Mr. JOHNSON. I was not aware of the sort of the background that you just provided. I was only aware that the AFGE requested that

the council 118 no longer be part of AFGE but wasn't tracking what led up to it. So, no.

Mr. CLOUD. Do you think it would be important to find out why? I mean, they were being kicked out of the union basically.

Mr. JOHNSON. Given what you have said, you know, I will certainly look into it.

Mr. CLOUD. I mean, just from the sniff test, it sure seems like a union, you know, after somebody files a grievance against them with the DOJ is suddenly kicked out and millions of dollars of assets. That is it. So I would certainly appreciate if you can look into that. Thank you.

Mr. JOYCE. OK. Mr. Cloud. The chair now recognizes Mr. Guest.

Mr. GUEST. Thank you, Mr. Chairman. Director Johnson, thank you for being here today. Does what occurs on the southwest border, does that impact your agency?

Mr. JOHNSON. Yes, it does.

Mr. GUEST. And recently the Chief of Border Patrol testified before Congress that five of the nine sectors along the Southwest Border are not secure. Would you agree with his assessment?

Mr. JOHNSON. I would defer to the Border Patrol.

Mr. GUEST. So if the Chief of the Border Patrol said that, then you would defer to him versus Secretary Mayorkas who continues to maintain that the border is secure from sea to shining sea. Is that correct?

Mr. JOHNSON. I would defer to them over me making any sort of an assessment as to whether the border is secure or not.

Mr. GUEST. In your budget, there is budget decrease for detention beds. Last year, on average, according to your report from December 30, 2022, in the ICE annual report, you stated that the average of the report—and I am not saying you, I am assuming that your agency stated that on average, there were 22,630 individuals in detention. Does that number sound correct?

Mr. JOHNSON. That sounds about right.

Mr. GUEST. And we know that looking at the report as far as the docket that your agency maintains that there are over 4.7 million individuals, noncitizens that are in the United States, in some shape, form, or fashion. Roughly, 1.2 million where there are final orders of removal. And then 3½ million according to this where there have been no final orders or removal. Does that 4,750,000 figure, does that sound accurate?

Mr. JOHNSON. It does.

Mr. GUEST. And we know last year your agency removed roughly 72,000 individuals from the country, correct?

Mr. JOHNSON. That is correct.

Mr. GUEST. And of those individuals that were removed, we know that some of those individuals were individuals which were individuals who had criminal histories?

Mr. JOHNSON. That is also correct.

Mr. GUEST. Your report says that of the 72,000, that 44,096 if those individuals had criminal histories. That of those 44,000 people, there were 183,251 charges associated with them for an average of 4.2 charges and convictions per person. That there were 17,336 who were charged with assault; 7,370 charged with sex offenses or sexual assault; 4,711 individuals charged with weapon of-

fenses; 1,315 charged with homicide-related offenses; 953 were charged with convicted of kidnapping; that your agency removed 2,667 known or suspected gang members; and to me, the most troubling of all is 56 known or suspected terrorists were removed from the country last year.

And so my question is, we have got this huge number, this huge population where your agency is responsible for trying—and I know that you don't have the manpower, and I am not blaming you personally, I am blaming the system—but we have a system where we have 4.7 million people who are loose in the country that we, in many cases, don't know where those people are. We only have bed space to detain 25,000. We are not using all that bed space. We have what we know to be some of those individuals are violent criminals because we deported them last year, including known or suspected terrorists, but we are asking for a decrease in the detention beds? And to me that is worse thing we should do.

Clearly, we need detention beds because some of the people we are allowing to come into the country, your report here, your annual report talks about how bad these individuals are. That they have killed people. They have assaulted people sexually. That they are known terrorists, known or suspected terrorists. And yet you are coming in and you are asking—your agency is—and I am assuming that you approved the budget—you are asking for a decrease in detention beds.

So I am asking you to please justify to me why we need to be spending less money on detention beds when we are seeing a huge rise in immigrant population. We know that some of that population are committing violent offenses because you document it in your report. And so, please, in the last 20 seconds that I have remaining on my time, please justify to me why we should be reducing detention beds and not adding detention beds?

Mr. JOHNSON. So very good question. I would say that we are not reducing our detention beds. That 25,000 of the beds are in our base budget, and the remaining 9,000 beds are in the contingency fund that, as I have already explained, I believe I will have access to——

Mr. GUEST. Why are they not in the primary budget? Why are they in the contingency beds? Detention beds are important. Which I believe that they were. And I believe many people on this committee, Republicans and Democrats would believe that detention beds are important. For them not to be in the primary to me is a colossal failure. And so——

Mr. JOHNSON. I know.

Mr. GUEST. If you could explain why they are in the contingency versus the primary, I would love to hear that. If you can't explain it, then I understand, and I will move on because I know my time has expired.

Mr. JOHNSON. I cannot explain exactly why it was structured that way. But, you know, what was most important for me as an operator was that I was going to have access to those 9,000 beds the first day of the fiscal year, and that was what I wasn't sure of.

Mr. GUEST. Are 34,000 beds enough?

Mr. JOHNSON. Enough for what? Is like a——

Mr. GUEST. Enough to perform the mission that you are tasked to do. I mean, when we have 4.7 million people that are in the country, and we are only detaining somewhere between 25,000 and 34,000, I mean, that is, what, less than one half of 1 percent?

Mr. JOHNSON. I mean, you have to draw the line somewhere. I mean, 70,000—in my view, 70,000 beds wouldn't put much more of a dent in this problem than——

Mr. GUEST. What is the number? As the Director of this agency, what is the proper number of detention beds?

Mr. JOHNSON. It would depend on what you—and what folks actually thought was an acceptable number of——

Mr. GUEST. Well, I am asking you what your opinion—because you clearly have been involved with this agency. You know, on one hand, we are saying that we last year utilized 22,000, we are budgeting 25,000, we think we might be up to 34,000.

Mr. JOHNSON. We have, historically, made due with 34,000.

Mr. GUEST. But we have seen the immigrant surge within the last 2 years. I mean we have had record immigrant surges the last 2 years. We are on pace to break that record again. We have 4.7 million in the country; 1.2 million which should be removed because of removal orders that were not removed from the country. And we know that there are some of those people who were released in the interior are violent individuals, or at least commit violent crimes once they are released into the interior because that is documented in your report.

Mr. JOHNSON. You know, I certainly agree that the folks who commit violent crimes have to be a priority for detention beds. In 2019, there was a similar surge, probably not nearly as much, but still fairly significant, and we brought on 20,000 additional beds, and we filled those beds up in no time as well.

So I personally don't think there is a number of beds that you could actually buy that is going to solve the problems that we are—this problem that we are seeing.

Mr. GUEST. Thank you, Mr. Chairman, I am over time. I yield back.

Mr. JOYCE. Thank you, Mr. Guest. We will now recognize Dr. Harris.

Dr. HARRIS. Thank you very much, Mr. Johnson. I see by your biography, you began your Federal career in the First Congressional District of Maryland in Salisbury.

Mr. JOHNSON. I did.

Dr. HARRIS. Let me follow up a little bit because we are turning the number 4.7 million out, but that is end of fiscal year 2022, which was 6 months ago. What is the latest figure?

Mr. JOHNSON. About just under 5.3 million.

Dr. HARRIS. OK. So we are now near 5.3 million. So we are—and I assume our removals have stayed roughly in the ballpark of 70,000 per year. I mean, roughly, that ballpark?

Mr. JOHNSON. No, I actually think removals are up a little bit, but I don't have that number right——

Dr. HARRIS. Not about 600,000, right? So we are kind of in a situation where we have an accelerated number. And I can see why you would want the alternative to a detention program. But let me ask you what percent of those people now in ATD have the tech-

nology of, you know, an ankle bracelet, wrist bracelet, or whatever? Is that what we are doing for most people now?

Mr. JOHNSON. It is a combination of ankle monitors, smartphones. I would say that at least 50 percent are on some kind of technology, and that could be an ankle monitor, it could be a smartphone, or it could be a watch.

Dr. HARRIS. So 50 percent don't have that? They are just released into the interior.

Mr. JOHNSON. No, 50 percent are on some sort of lower form of——

Dr. HARRIS. Oh, a lower form. OK.

Mr. JOHNSON. Yeah. Telephonic reporting or something along those lines.

Dr. HARRIS. And of that non-detained docket of now 5.3 million, what percent don't check in, or have cut off the ankle bracelet, or whatever, you know, they are just not complying?

Mr. JOHNSON. So let me clarify, the 4.7 million, or 5.2 million, or 3 million, only about 200,000 of those—and I think that number is around 200,000 are actually on ATD. So of the—you know, so just a very small subset of the total number of people on the non-detained docket are receiving enhanced monitoring that is allowed on the ADT program.

Dr. HARRIS. So I guess I don't understand. If we have 600,000 more people on the docket in the last 6 months, but only 200,000 total have this, like who doesn't get it? I mean, the large percent of people don't get it, right? So they just release it to the interior, promise to come back?

Mr. JOHNSON. Or they start off with it. They have ATD—if they are enrolled in ATD for some period of time, and then they take it off to make room for some of the new folks that are coming across the southwest border. But there is a good number of folks that do not get put on ATD. Obviously, the kids that are part of family units wouldn't get on ATD as well.

Dr. HARRIS. Sure.

Mr. JOHNSON. And a good chunk of the 4.2 million are representative of families.

Dr. HARRIS. That makes sense. So, you know, there are some people who say, well, you know, if you cross the border illegally, it is kind of a civil offense, not criminal offense. But if you have a final order of removal, the 1.2 million final orders, does that become a criminal offense not complying with that final order?

Mr. JOHNSON. It is not a criminal offense today.

Dr. HARRIS. So it is only a civil offense.

Mr. JOHNSON. Right.

Dr. HARRIS. And the punishment being negligible, I guess, because there are 1.2 million people doing it.

Mr. JOHNSON. Or removal. I mean, that is part of the issue is just you have to figure out a way to incentivize people to comply with their removal order until something like that is done. Now, look, we get a good number of people, albeit small, that do comply with their removal order on a non-detained docket, but it is extremely staff-intensive. It takes a lot of hand-holding, but we, you know—30, 40 a month, which is certainly not as high as many would like, but it is better than zero.

Dr. HARRIS. Sure. And you know, look, you have got to be frustrated because, you know, the title of your agency has the word "enforcement" in it. But you really don't have the resource to enforce the law, do you, with regards to removals? You clearly don't have the resources——

Mr. JOHNSON. No, we certainly are underresourced.

Dr. HARRIS [continuing]. With that. Just a ballpark, if you said—and I was going to ask you, like, what is the average cost of a removal? Like, I don't know if you know the figure. What does it cost your agency, on average, to remove someone? Because I can do the math and multiply by 1.2 to tell me what your budget would have to be. But what is the average cost?

Mr. JOHNSON. From memory, it is—again, since we do the bulk of our removals via charter airlines or ICE Air, which is our, you know, flying people, 135 folks at a time, if I remember correctly, that is $17,000 per hour. Each flight on average is probably 5 hours. So I don't know what that——

Dr. HARRIS. But you have to find them also. I mean, part of removal is you have to find them and remove them. So it is labor-intensive.

Mr. JOHNSON. Most of the removals are—most of the Title 8 removals historically have come from our detained environment.

Dr. HARRIS. OK. I understand. Well, thank you very much. I yield back.

Mr. JOYCE. Thank you, Dr. Harris. We will recognize Mr. Trone for 5 minutes.

Mr. TRONE. Thank you very much. I am sorry we were late. We have too many overlapping hearings. Thank you, Director Johnson for joining us, Chairman Joyce, Ranking Member Cuellar.

ICE has worked through Homeland Security Investigations on the front line of the TCOs and the cartels. You are right there on the front line. Your budget request in 2024 has asked for an increase in the tools to assist in stopping these networks in human smuggling, fentanyl killing 100,000 Americans every year. Those budget cuts that have been proposed to go back to fiscal year 2022. How is that going to affect your ability to stop the fentanyl from these cartels that is come into the U.S. through illegal ports of entry?

Mr. JOHNSON. So I am not tracking what cuts you are referring to. I know we certainly received some additional funding in fiscal year 2024. We are asking for funding to increase——

Mr. TRONE. Probably to go back to the 2022 budget, which has been proposed. So you went up in 2023. You have asked for more in 2024, which sounds like it is needed. But going back to 2022, what is that going to do to you?

Mr. JOHNSON. Well, it is certainly—I mean, I thought the cuts had to do with the number of individuals that we just weren't able to get through the hiring process in any given fiscal year, and that is the cut that was provided. So if it is something different than the——

Mr. TRONE. No, half the employees would be cut.

Mr. JOHNSON. Well, right. But, no, I certainly agree. But at least in terms of the fentanyl context, we were given 40 million, if my memory serves, to sort of increase sort of our fight against the

fentanyl crisis. There was also funding to allow our Mexican vetted units, our TCIUs to have access to RAVEN, which we think is going to go a long way in not only dealing with this fentanyl crisis, but also child sexual exploitation and some of the other heinous crimes.

Mr. TRONE. But we need certainly to protect the budget where it deals with fentanyl. We can't let it continue to come.

How about the—I have heard about the administration's considering restarting the detention of families. While some had posed a public safety risk, I get it. But certainly a family can navigate their immigration case best from their home, not behind bars or in detention.

So FEMA and ICE community-based alternative to detention policies, particularly those utilized case management and service by qualified nonprofits have shown to be cost-effective, and have a high compliance rate with immigration obligations. Can you talk about how the 2024 budget will expand these community-based alternatives and the noise that we are hearing about restarting family detention. Is that true or not?

Mr. JOHNSON. So there has certainly been some discussions about just, like, options for dealing with the families coming across the border. You know, family detention is something that we have done historically. It was raised as a potential option, and it was something that at least was not met with great exception amongst the leaders. So there is—at this time, there is certainly no plan to restart family detention in any way, shape, or form. The current plan is to continue to use our alternatives to detention where we would put the parents or the adults. The heads of household on some sort of form of ATD. And we are also looking at potentially developing a home curfew program, which would be similar to, like, house arrest, and piloting something like that. So that is also on the horizon, but there has been no decision to restart family detention.

Mr. TRONE. Right. Talk a little bit about the 2024 budget, how is that going to expand community-based alternatives?

Mr. JOHNSON. So the 2024 budget—well, the 2023 budget actually reduced our ATD program. I think our 2024 budget may keep it steady at 170, if my memory serves. So I am not sure that there is a lot of funding to significantly increase our ATD, but I think some of what you are describing is the FEMA-based grants, which I believe is funding that FEMA gets, not necessarily ICE funding.

Mr. TRONE. OK. Great. And, secondly, according to U.S.-Mexico joint statement April 13, DHS committed expanding service to disrupt gun smuggling to Mexico through ICE's operation without a trace. Desert lightning. However, there is a GAO recommendation for ICE to identify performance measures for these. How do we plan to measure these efforts of preventing firearms? What we like to see is some data and some measurements on how we stop getting these firearms to the cartels with these new efforts?

Mr. JOHNSON. Well, very good question and good point. I mean, that is definitely been a priority over the last year. More outbound inspections. It is certainly something that the Mexican Government has been pushing us to do more of, and we have certainly committed to do the same. So I think over the last month, in the up-

coming months, you will start to see more outbound inspections that include both ICE and CBP.

Mr. TRONE. Certainly, we have asked the Mexican Government to help us on fentanyl, they have not been helpful. They have asked us to help on the guns. So someone needs to take the first step. So thank you for that. I yield back.

Mr. JOYCE. Thank you, Mr. Trone. I recognize myself for a second round of questioning.

Mr. Johnson, it is no secret that at the end of title 42 will have a significant impact on our immigration system. ICE previously released tens of thousands of noncitizens in the interior to ensure detention capacity for the projected surge following the end of title 42. Is ICE planning to release detainees into the interior in order to make room for high-border crossing projections ahead of May 11, like you did previously? And if so, how many, and what are the metrics that you are basing that decision on?

Mr. JOHNSON. Very good question, sir. We were sitting at around 25, 26,000 individuals in custody today. We are certainly going to try to get that number down to close to 22,000 or 21,000 leading into May 11. We hope to do that, primarily, through increased removals, but it may—you know, we will continue to look at our detained docket. And if there are individuals that are sitting in custody and where removal is not likely foreseeable in the reasonable future, then we would probably look to arrest—I mean, to release some individuals just to free some space up. There will be some combination of releases, but mostly removals to get our population down.

Mr. JOYCE. Do you anticipate needing additional supplemental resources to address the coming surge after the end of title 42?

Mr. JOHNSON. I do anticipate the need for additional resources. As someone pointed out early on, we were already looking at a $485 million shortfall. We have asked for funding to cure that hole. And we are certainly anticipating some additional transportation and, you know, air frame requirements as a result of the end of title 42.

Mr. JOYCE. When you make this decision to release people of the interior, what is the vetting process that you are putting these individuals through before you let them run amuck in our country?

Mr. JOHNSON. Well, obviously, we are focusing on those that are either non-crims or very low-level criminals. mean, I don't know that we have gotten to the point where we would have had to consider releasing any low-level criminals. But if there are certain border cases, we will run them through our regular checks, which includes criminal history. But, you know, most of the folks that we are releasing from custody would not have a criminal history.

Mr. JOYCE. Well, they may in the country of origin, but you don't bother to look at those, correct?

Mr. JOHNSON. We don't have access to those—many we don't have access to many of those countries' records.

Mr. JOYCE. Thank you. I will yield to my distinguished Ranking Member, Mr. Cuellar, if he has any second-round questions.

Mr. CUELLAR. Thank you, Mr. Chairman. A couple of things, just follow-up. From some of the info that you all provided, you all have here that as of 4/16 of 2023, the total CBP prosecutorial discretion

releases add up to 802,000 people. As you know, by that is when they are overwhelmed, Border Patrol will put them on the notice to report with you all and not the notice to appear before an immigration judge. This 802,000-plus, is this fiscal year, or is it since when?

Mr. JOHNSON. This is since March 21, 2021. So since they actually started——

Mr. CUELLAR. Oh, OK.

Mr. JOHNSON [continuing]. Using the parole ATD or notice to report. So basically, what, 20-, 25-month period?

Mr. CUELLAR. OK. All right. The other thing on the top 10 parole—and you mentioned that some of their ICE offices don't have that type of workload. Have you, besides asking for more resources and technology and electronics and signatures, have you all moved around some of your staff or to try to—I mean, if somebody is handling a lot less than, let's say, New York City, can you move people around? Because I know we did that in some other areas. Can you look at that possibility? I mean, if you got 10 people working here that are only handling 10 cases, you got 10 people working here, but they are handling 50 cases, as an example, then, whatever you can do to move that around, that would be good.

Mr. JOHNSON. It is typically—the limiting factor is just the infrastructure. I mean, it is still the individual—even if we have somebody in Iowa, for instance, processing somebody in New York, they actually have to come and sit in the office so that we can actually talk to them and take their fingerprints and the like. So, I mean, we are—like I said, we are working on a technological solution to help with this, but it is just not a matter of processing them virtually because they still need to come to an ICE office to be fingerprinted.

Mr. CUELLAR. Yeah. Well, let's try to think outside the box as much as possible. Finally, my last question has to do with the coordination that you have with the Executive Office of Immigration Review, that is, the new judges. We have been adding judges for many years. I think we started to post 2014, I believe. And right now, as you know, if you look at the current immigration judges, they are authorized at 734, but on-boarded only 634. So there is still 76 currencies. They take a long time to hire judges. The same thing with almost any Federal agency, the streamlining process. But the Department's asking for 150 new immigration judge teams in its budget. But I notice that your Office of Principal Legal Advisor has requested no new judges. Should we be working the same with the immigration judges so we can have a backlog? Can you tell me what efforts you all are—why not ask for any money to add new attorneys?

Mr. JOHNSON. Over the last two fiscal years in 2023 and in 2022, we have been fortunate enough to get additional funding to increase our OPLA attorneys. We currently have 341 enhancement positions on the books. And we have only hired about 144. The thought is that it was probably going to take us the rest of this fiscal year to just get through, and maybe some of next to hire the balance of the 341 enhancement positions that we have gotten over the last 2 years. And the focus in fiscal year 2024 was going to be on just the facilities piece, making sure the OPLA attorneys that

we actually have hired over the last 2 years actually have adequate office space in close proximity to the judges that they are going to be working pretty close with. So that is the focus, at least in 2024, is the facilities piece and the like. And I am sure in 2025 we will probably continue our request to beef up our staff.

Mr. CUELLAR. And, finally, the work on fentanyl with Mexico. As you know, DEA is not in the best of standing with Mexico, and they emphasized that when we were there just a few weeks ago. So that means as they get the trust back in Mexico, your department has to play a big role in making sure that whether it is air cargos or containers coming into Mexico, that we intercept that so we can stop the fentanyl from coming into the United States and mainly through ports of entry. So I appreciate your help. Thank you, Mr. Chairman.

Mr. JOYCE. Thank you, Mr. Cuellar. I recognize Mrs. Hinson for 5 minutes.

Mrs. HINSON. Thank you, Mr. Chairman. And I am going to follow up on something that we have already had quite a bit of discussion about, and that is fentanyl. As a mom to two school-aged boys, I am particularly concerned about what the cartels are doing to continue to market and employ new tactics to reach children in this fight.

And obviously, we have talked about Blue Lotus, and we are closely following the effectiveness of those operations. But my questions are really about the cross-agency communication and making sure that that is still robust. It is essential for countering cartels. But I am just curious, are there areas where you believe that communication could be strengthened between ICE and other DHS agencies to make sure that we are really exercising that cross-agency cooperation to our best ability?

Mr. JOHNSON. I mean, I think we have done a really good job, particularly working with our partners at CBP. Certainly, the DHS components, I think, were lock-step with it in sort of fighting this particular issue. Obviously, you know, some of our DOJ partners we could probably improve some of the cooperation and the like. But, you know, it is a lot of territorial stuff going on, and you know we will work through it and continue to work with our Federal partners.

But I do think that you know CBP is—as long as we are both resourced appropriately—and Blue Lotus is a great example of us just having the ability to focus and send more agents down to just help with this problem, we will get the results. So we are going to continue to ask for additional funding to deploy to the border, to the southwest border, to our best teams that are focused, heavily focused on this fentanyl crisis.

Mrs. HINSON. Well, I think everybody understands, and we have seen plenty of turf battles in the work that we do here, but we want to make sure that we are fulfilling that mission and being able to stop this fentanyl coming into the hands of our children.

Let's talk a little bit about the Monroe Project, specifically, since that is in the request. It has been successful in targeting cartels and connecting traffickers back to cartels. Can you tell us a little bit more about the work in that space? Because obviously, with the $41 million budget request, I want to make sure that this tool is

funded to the level needed for counter trafficking from a comprehensive perspective. So if you can just elaborate a little bit on the successes that you have seen.

Mr. JOHNSON. It has been extremely successful. I mean, it is focused right there on the southwest border. It is largely successful because of the relationships we have with our Mexican partners. You know, we have a sort of TCIU. It is where—Mexico is where we have our largest his footprint, which certainly results in some really, really good cases that are coming out of there.

You know, again, the biggest thing that we have asked for in fiscal year 2024 that is really going to help those investigations, and not just fentanyl, but human trafficking and drug smuggling, writ large, is just giving those folks access to RAVEN just so that we can start dumping a lot of this big data and analyzing it and being able to identify additional TCOs and the like, so.

Mrs. HINSON. And I guess in my follow-up, there would be—when you talk about access to all of that data, how are we really working to loop in local law enforcement because we want them to be able to see. Obviously, if they have detained someone, we want to make sure that they have access to those his networks as well. What are you doing to make sure that that cooperation and that information is empowered to local law enforcement as well?

Mr. JOHNSON. So there is about 4,000 State and local folks that are part of our task forces all throughout the country. And so we are pretty plugged in to the State and locals. I mean, his is—I mean, there is a lot of folks that would prefer to work with his than some of the other Federal partners. So that benefits us tremendously. And we will continue to sort of reach out to your State and locals where those relationships don't exist to try to create those partnerships.

Mrs. HINSON. Absolutely. Well, I heard from a local sheriff recently who said, you know, the cartels are so embedded even in a community in Iowa, that it is like a Hydra, you cut off one head, and then two more pop up. And it is terrifying to think that is happening right along Interstate 35 in my district.

So real quick question. Obviously, you are talking about the need for additional full-time employees. My concerns are with morale within the agency because it is a very challenging space to work in. But are you concerned about being able to fulfill the hires to meet those needs?

Mr. JOHNSON. I think we will have no issues filling the positions. We get a number of our folks, at least 30 percent, last I checked, coming from CBP. The other 60 percent or so are from the outside. At least, we have not seen a reduction in applicant interest in our positions when we—especially, you know, his and ERO in particular, these—you usually get hundreds of applicants for every one job. So, you know, despite the abolished ICE sort of rhetoric in some of the targeted acquisitions, we have still been fortunate enough to be able to keep a steady stream of applicants.

Mrs. HINSON. Thank you. I yield back.

Mr. JOYCE. Thank you, Mrs. Hinson. I now will recognize Mr. Trone.

Mr. TRONE. Thank you, Chairman Joyce, as always, I appreciate it.

Just if you could follow up on the distinguished member from Iowa's questions on Blue Lotus, I mean, talk about its success a little bit, but then talk about what we need to make it more successful and get the top of the top of the kingpins, which we never seem to quite get, or they operate with impunity in a Mexican jail that they control and run. And that is not really getting them. And then talk about why we couldn't have done this type of an operation a year ago.

Mr. JOHNSON. No, it is really about resources. And, you know, there is a lot of priorities. We have been spending a lot of time on human trafficking and human smuggling, trying to, you know, figure out a way to disrupt the flows along this Southwest Border. So you have to just pick and choose where you want to divert the resources. So we certainly don't want to pull away from the good work that is being done on human trafficking and human smuggling. But you do have to find the resources to divert to fentanyl. And Operation Blue Lotus is just one example of, you know, everybody sort of putting their resources together to focus their law enforcement investigative, sort of, focus at these two ports of entry that we actually believe are a big part of how the fentanyl is coming into the country.

So, no, we are asking for additional funding in 2024. We are going to continue to make it a priority. We are going to continue to try to bring on additional TCIUs and vetted units, get them the training here in the U.S., and increase our partnerships with countries, you know, our foreign partners so that we can continue our great work here.

I think you were here when I mentioned that the successes that, you know, the 36,700 criminal arrests that we made, the 27,000 pounds of fentanyl seizures, and then just you mentioned Blue Lotus, nearly 8,000 pounds of narcotics seized in just over 30 days which is truly remarkable.

So, you know, we see firsthand that if we send the staff to the border to assist our CBP partners, there will be great results. And I think you are going to see more of that in coming months.

Mr. TRONE. And where are we in trying to attack the heads of the cartels? Which, you know, Obrador has been totally hands-off and just had a peace, a truce, to not have an open warfare.

Mr. JOHNSON. Look, that is the goal of every his investigation is to pull on every thread until you can get as high up in the organization as possible. It is not just as a result of our work in Mexico and our Mexican partners. But even when an individual overdoses here in the U.S. and our work with the State and locals, we are right there on the scene, we are looking at their phones, figuring out who they last made contact with, and following that all the way back as far as we can, as high up in the chain as we can to target the head of the snake.

Mr. TRONE. The head of the snake—I mean, we know who the head of the cartels are. Let's go into some of the cartel. We know roughly where they are. And why are you unable to get the Mexican Government to help us target them?

Mr. JOHNSON. It is a delicate situation. I mean, it is some things that Mexican Government is going to be willing to do and some things they aren't so willing to do.

Mr. TRONE. The government is willing to tolerate having the heads of the cartels run the cartel. We know where they are, we know who they are, and they are OK with that.

Mr. JOHNSON. We work with our foreign partners as best we can. And for the things that they are willing to help us with, we accept it, and we do try to push them in certain areas where we can. But at the end of the day, we have very little legal authority in Mexico to do anything ourselves.

Mr. TRONE. Well, we thank you for your working with them and doing that, but I don't call that partnership. That is a different word. It is hardly partners when they don't partner the whole way up to the top. And we just, you know, indicted the head of the Mexican Government's—all their efforts on drug trafficking for a decade. Their top guy, you know, we just indicted him. And he is the one we shared all of our secrets with for over a decade, and we trusted implicitly. And, of course, now we know he was on the cartel's payroll the entire time. So there hasn't been a partnership, so to speak. And I think a lot of Americans are fed up with it. We are fed up with 100,000 deaths. So I yield back.

Mr. JOYCE. I think you have unanimous agreement on that, Mr. Trone. Mr. Cloud? Mr. Guest. I am sorry.

Mr. GUEST. Thank you, Mr. Chairman. I want to talk about the detention docket again. Fiscal year 2021, roughly, 3.7 million total on the detention docket. Fiscal year 2022, it grew by a million to now, roughly, 4.7, slightly over 4.7, based on what I have read and what I have heard. Also, it appears that for the first, roughly, half of fiscal year 2023, that has grown by another 600. And by the end of the year, assuming that things continue, the total number of individuals on the non-detention docket will reach close to 6 million, which is a huge increase over the last 2 years.

And so, as we have seen a growing increase in the non-detention docket, of that we know that 1.2 million on that detention docket, at least at the end of fiscal year 2022 had final orders of removal. And correct me if I am wrong, but a final order of removal means that that case has been played out through the judicial system. An immigration judge has determined that that individual has no legal status to remain in the country. And that at that point, once that individual is encountered, that individual is to be removed from the country. So we know that at least of that somewhere where we sit right now, 5.3 million, 1.2 million have already completed their legal proceedings. They have been ordered to be removed.

And so as we see these numbers grow, whether it be on the non-detention docket, you know, we have seen that the number of removals, particularly, going back from 2019, has decreased dramatically. 2019 removals were, roughly, 247,000. We know that the last 2 years, that number has hovered, I think, last year was an increase from the year before. The year before, I think, was roughly 60,000. Last year, roughly 72,000.

And so my question is as we seem to be doing a worse job of removing people from the country at a time in which we have an increase in cases—and I want to ask is that because you don't have the resources, is that the policies that have been placed down? You know, I have been told that there were policies placed by this administration that unless an individual had been convicted of a

crime, that we weren't to actually go out and enforce orders of removal. And if we have been asked not to enforce orders of removal, which were orders by a judge to go do something, I find that very problematic. And is the reason those numbers have dropped is because you have had to put all of your personnel in the southern border to address the surge, which has not gotten better. And after 42 goes away, we will probably get worse. And so, where is the disconnect?

As we have more people on the non-detention docket, as we have more orders of removal, but the people that were we are removing seems to not really be increasing and has decreased dramatically from behind 2019, please explain to me, Director, why we were not doing a better job of interior enforcement, particularly of those individuals whose cases have played their way out through the justice system?

Mr. JOHNSON. Really good questions. I think that the reason for the drop in removals are three-fold. I think it does have something to do with our focus on the southwest border and us deploying a lot of staff to the southwest border to deal with the flow. We have certainly used our planes and assets and resources to expel a lot of those folks that were coming across. And that certainly impacted our ability to put title 8 removals on those planes and in those seats as we have historically done.

I also think that, as I have mentioned previously, that the bulk of our removals come from our detention setting. So, obviously, it is much easier to move someone when they are in your physical custody as well.

Mr. GUEST. Well, and that gets back to my whole argument of why are we reducing detention beds if it is easier to remove people in detention? And I know we talked about it, whether it is in the primary budget or contingency budget. But it shouldn't be in the contingency budget. If it is easier to remove people, once they are in detention—and you have agreed with that, and I agree with that, but yet, we have a budget which is actually shrinking detention beds, I find that counterproductive. And I am not trying to be argumentative. This is something I am extremely passionate about. I know that you are, and you are passionate about making sure that you are representing the men and women that you serve with.

But to see this budget request by this administration, and to see a decrease in detention beds at a time in which we see a spike in every other number, I find that hard to justify. And I am not—and I don't place this blame solely on you. I know that you didn't get to write this budget without input of others, but the detention beds are a key component of that. And at the rate that we are going when we are removing 72,000 out of 1.2 million, that is less than 5 percent a year. And so, it is going to take 20 years just to remove the people that we have orders on. And as these additional cases work their way through the system, we are going to see those numbers grow exponentially. And it just doesn't seem to me that we either don't have the resources or we don't have the policies in place to enforce the law. And that is all we are asking. We are just asking the law be enforced. If there is an order of removal, that that person be removed. And we are not enforcing the law. And, unfor-

tunately, your agency has been tasked with enforcing the law, and we are not doing that.

And so, I am very concerned about that. And I hope that you can explain to us what you need in the form of resources, what you need in the form of detention beds, what you need in the form of technology. What can we provide you so that you and your agents can do the job that you are tasked to do? Because clearly, you don't have the resources that you need. Clearly, you don't have the manpower. You don't have the detention space. You don't have the technology.

I mean, we just talked about the fact that we are allowing people in the country, and we have no access to their criminal record from their country of origin. That is disturbing to me. It should be disturbing to all Americans that we are allowing people into the country, and we have no idea what crimes they may have committed in their home country. And yet we are deciding whether those people are sent into detention—and we know there are very limited detention beds—and just released into the interior. And so what do you need from Congress, what do you need from us on the Appropriations side that is going to allow you to enforce the law and do the job that you were created to do, you and your agency?

Mr. JOHNSON. So as I mentioned, I think we definitely need additional officers and support staff to work the significant increase in the non-detained docket, which will probably double at the end of this year, to close to $6 million if we were spit balling. I certainly—I disagree. I don't think, as I have mentioned already, I think I do have access to those 9,000 beds. So in my mind, I think we are going to be you know right around the 32- to 34,000 funding that we have historically had going into next fiscal year. And again, I am hopeful that we will actually be able to use beds that we had before COVID where, when we started off in the beginning of the pandemic, we were only using 50 percent of our capacity because of social distancing requirement, all of the mounds of litigation, and, you know, some of the litigation and some of the social distancing requirements.

Today, we are at like 73 percent of our bed capacity, our bed use. Hopefully, on May 11, we can get to the norm, which is typically around 88 to 93 percent of our capacity. So again, I think if that happens, you will see more removals as a result of us just being able to use more of our detention capacity, and you won't see the title 8—the title 42 expulsions; there will be all title 8 removals. And I think we will really be able to do an apples-to-apples comparison of where we were in 2019 compared to where we are right now.

Mr. JOYCE. Thank you, Mr. Guest. I now recognize Sheriff Rutherford.

Mr. RUTHERFORD. Thank you, Mr. Chairman. And to follow up on Mr. Guest's line of questioning, you know, earlier when I brought this issue up, you talked about we are flying all these expulsions out, and we don't have room for the others who have been adjudicated. That 1.2 million that have orders to be deported, and we are not moving them. Yet, we seem to have the ability to move everybody at the border to the interior of the country. If we have got the means to move people to the interior of the country, why

can't we move them the other way and move them south where most of them are coming from? I don't quite understand that.

I want to ask you about an executive order that the President signed sometime back on law enforcement reform that is going to require agencies that partner with Federal agencies to meet a whole lot of guidelines that actually came out of the George Floyd Justice Act. This is under section 19 in the President's executive order. I know how much you rely on partnerships with State and local law enforcement. In fact, in your own written testimony, you mentioned the 4,000 task force officers that are helping you. I believe that this section 19 is going to create a problem, because many of these agencies are not going to be able to meet those section 19 standards in that executive order. And according to the order, if they don't meet it, they are not going to be able to work with you. Are you aware that this is coming down the line?

Mr. JOHNSON. I am sorry, Representative Rutherford, I am not tracking that, but I appreciate you bringing that to my attention.

Mr. RUTHERFORD. Please look at that, because I know how important these partnerships are. It is important to law enforcement that we partner with you all, not just on the, you know, the illegal immigrants, but all of the criminal efforts that we have with his, and all of that. So I just want to be sure you were aware of that.

The other thing is that ARROW, you ran that. You know that program inside and out. You know, as a sheriff—one of the things that I have really appreciated was the 287(g) program that allowed—particularly, now when we get into the police side of it, but the correction side of it, the jail-base program.

You know, those folks have already been arrested. They are clearly the folks that we want to get out of our country. And so, can you tell me how is that program working now? Are we encouraging agencies to become 287(g), at least on the correction side? Can you talk a little bit about that? Are those numbers going up or down because I heard that we were not renewing contracts. Is that true?

Mr. JOHNSON. So we have not increased the 287(g) agreement, but we——

Mr. RUTHERFORD. Why not?

Mr. JOHNSON. Have not eliminated any existing agreements either. So the program has sort of remained the status quo. When there was a commitment to take a look and do a review of the 287(g) program, and I think that is something that the Department may continue to want to do at some point.

Mr. RUTHERFORD. Director——

Mr. JOHNSON. From my perspective, I think a totally functioning and an appropriately running 287(g) program is the best thing since sliced bread. With our workforce, the size of our workforce, they serve as a force multiplier.

Mr. RUTHERFORD. Yeah.

Mr. JOHNSON. I would much rather our officers go into a secure setting at a facility, assume custody of an individual rather than have to do an at large arrest out in a community.

Mr. RUTHERFORD. Exactly. And so let me ask, can you give me the numbers on whether that program is going up or down over the last several years, particularly since the Biden administration? And

why aren't we growing that program? I know that there has got to be some agencies that want to participate in that, and from a public safety standpoint, I mean, you just said it. These are the folks who we have already taken off the streets. These are the easiest deportations you could possibly have. You don't have to go arrest them, they are already incarcerated.

Mr. JOHNSON. So I will say, again, that the numbers have an increase or a decrease over the last 3 years. We can get you the exact numbers. I think just as there might be a few jurisdictions out there that may want to enter into an agreement; there is probably other jurisdictions out there that would actually have absolutely nothing to do with us and nor would they want to enter into a 287(g) agreement.

So I think it cuts both ways. I think we have just been on pause with entering into any new agreements until we figure out where folks might be headed on this thing.

Mr. RUTHERFORD. And just very quickly, I know I am out of time, but you think it is a great partnership?

Mr. JOHNSON. I think any time we can arrest someone in a secure location without putting our officers in danger of having to go out and arrest them, you know out on the streets or in their homes or at work then it is obviously a benefit for us.

Mr. RUTHERFORD. Thank you. Thank you very much. I yield back, Mr. Chairman.

Mr. JOYCE. Thank you, Sheriff. And for any of those questions that some of the members may have had that you are going to get back to, if you wouldn't mind, I would like to try to have you get back to them within 15 business days from today. There may be additional questions that some of the members may have and will provide to you in writing. And I would ask you to respond to those actually in a timely manner.

Again, I would like to thank you for being here today and for the work that you do. And this subcommittee is adjourned.

[Answers to submitted questions follow:]

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Budget Hearing – U.S. Immigration and Customs Enforcement
Tuesday, April 18, 2023

Representative Joyce

Homeland Security Investigations (HSI) – Organized Retail Crime

To: ICE Acting Director Tae Johnson

According to ICE, Organized Theft Groups (OTGs) are sophisticated criminal organizations that profit from illegally obtaining goods that are later sold for economic gain. OTGs are known to profit from Organized Retail Crime (ORC), cargo theft, and other theft and fraud-related criminal activities. HSI defines ORC as "the association of two or more persons engaged in illegally obtaining items of value from retail establishments, through theft and/or fraud, as part of a criminal enterprise." ORC continues to plague the retail industry, costing billions of dollars in lost sales and threatening public safety.

1a. Question: Can you describe HSI's Operation Boiling Point program and how this initiative is combating these crimes?

RESPONSE: U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) initiated Operation Boiling Point in 2022 with the goal of building partnerships with state and local elected officials, Chambers of Commerce, law enforcement, private industry, and retail associations. Operation Boiling Point is composed of the below four pillars.

- **Establish Public/Private Sector Partnerships:** The ICE Office of Partnership Engagement (OPE), ICE Office of Public Affairs (OPA), and HSI Financial Crimes Unit (FCU) are working with banks, state and local elected officials, Chambers of Commerce, law enforcement, various retail associations, and conferences that can help advance the mission.
- **Develop actionable Investigative and Intelligence Leads:** The National Lead Development Center (NLDC) is taking in tip line/email leads from federal, state, local, and foreign law enforcement agencies. NLDC has also established an email address specifically for loss prevention professionals and law enforcement to obtain assistance with combatting Organized Theft Groups (OTG).
- **Disrupt and Dismantle Organized Retail Crime (ORC)/OTG Organizations:** The information received through these partnerships and tips is processed and packaged by the

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

NLDC and presented in a format that will aid HSI field offices in presenting cases for federal, state, and local prosecution.

- **Launch a Robust Public Awareness Campaign:** OPE, OPA, and HSI FCU created an Operation Boiling Point website and partnered with private organizations, such as the Association of Certified Anti-Money Laundering Specialists, to educate the public about OTGs and to create a detailed guide for detection and reporting of OTGs, organized retail crime/cargo theft, and other related theft.

1b. How is HSI working with other federal agencies, state and local officials, and private sector partners?

RESPONSE: HSI is accepting information and tips from other federal agencies, state and local officials, and private sector partners to the NLDC. The NLDC conducts open-source research, deconfliction, and financial/intelligence analysis to create investigative leads that are distributed amongst HSI's 253 domestic field offices employing approximately 6,000 special agents. The NLDC works with field offices and special agents to assist in the investigation and route new information or leads to other HSI field offices for collateral investigation.

In addition to OTG investigations, HSI is working with the Department of Justice's (DOJ) International Organized Crime Intelligence and Operations Center (IOC-2) to leverage the resources of the Organized Crime Drug Enforcement Task Forces Fusion Center and the Special Operations Division programs. This partnership seeks to deconflict and analyze information and intelligence related to transnational organized crime, coordinate multi-jurisdictional and multi-agency law enforcement operations, develop and disseminate intelligence and leads in support of law enforcement operations, investigations, prosecutions, and forfeiture proceedings, and provide operational funding in support of field investigative efforts.

IOC-2 member agencies currently include the Bureau of Alcohol, Tobacco, Firearms and Explosives; the Drug Enforcement Administration; the Department of Commerce; the Department of Labor; Office of the Inspector General; the Federal Bureau of Investigation; HSI; the Internal Revenue Service, Criminal Investigation Division; DOJ, Criminal Division; the National Crime Agency; the United States Postal Inspection Service; the United States Secret Service; the Department of State, Bureau of Diplomatic Security; and the U.S. Fish and Wildlife Service.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

In the 118th Congress, the Combating Organized Retail Crime Act of 2023 (H.R. 895 / S. 140) has been reintroduced in both chambers. This bill would establish the Organized Retail Crime Coordination Center at Homeland Security Investigations, combining expertise from federal, state, and local law enforcement agencies along with retail industry representatives to create a cohesive national strategy to curb organized retail crime.

2a. Question: How important would this kind of Center be for facilitating a coordinated approach to combat ORC?

RESPONSE: The creation of a federally led center would serve a vital role in coordinating federal, state, and local law enforcement and private industry partners to identify, disrupt, and dismantle OTGs who's activity has crossed jurisdictional lines and grown to a level beyond which individual police departments have the resources to investigate. An HSI-led center would include:

- Coordinate federal law enforcement activities related to OTG and ORC, including investigations of national and transnational criminal organizations engaged in ORC. The center would work to leverage HSI's Border Enforcement Security Task Forces, Transnational Criminal Investigative Units, and the National Initiative for Illicit Trade Enforcement in partnership with U.S. Customs and Border Protection.
- Coalescing goals of state and local law enforcement agencies and organizations, including Organized Retail Crime Associations (ORCA), and sharing information on ORC threats with these agencies and organizations, continuing HSI's Operation Boiling Point work with ORCA and HSI field offices.
- Establishing relationships with private sector companies within the retail sector by sharing information on threats, providing mechanisms for the receipt of investigative information on OTG/ORC threats, and expanding upon the current model of using the NLDC.
- Establishing relationships with e-commerce and social media companies by sharing information on bad actors, providing mechanisms for the two-way flow of information on OTG/ORC threats, and mirroring HSI's Cyber Crimes Center's work with social media companies.
- Establishing a secure system for sharing information on OTG/ORC threats by leveraging existing information systems at the Department of Homeland Security and DOJ utilizing HSI's Innovation Lab and Data Scientists.

2b. Does ICE support the establishment of this kind of Center under HSI?

RESPONSE: ICE supports the creation of an appropriately funded, seized and staffed center which focuses on organized retail crime with an international nexus consistent with

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

HSI's mission. HSI investigates, disrupts, and dismantles terrorist, transnational, and other criminal organizations that threaten or seek to exploit the customs and immigration laws of the U.S.

3. Question: What kind of resources would HSI need to establish and operate this kind of Center?

RESPONSE: HSI needs $8.3M and 26 positions (15 LEOs and 11 non-LEOs) to establish and operate this center. For primary operation, HSI needs to staff special agents, criminal analysts, data scientists, and administrative personnel. HSI also needs to procure office spaces large enough to house personnel from various private sector partners and federal law enforcement agencies who will partner with HSI. Moreover, HSI would require additional funding to provide case support to the field investigators, criminal analysts, and administrative support staff assigned to the center. Support to the field would include equipment, case related travel, and contractor services.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Budget Hearing – U.S. Immigration and Customs Enforcement
Tuesday, April 18, 2023

Representative Underwood

Solitary Confinement

To: Acting Director Johnson

An overwhelming body of medical evidence shows that solitary confinement causes extreme psychological damage to the individuals who endure it. But there are limited federal regulations for segregation or the use of solitary confinement in immigration detention facilities.

4. Question: Can you explain how and under what circumstances non-citizens are subject to solitary confinement in immigration detention?

   RESPONSE: U.S. Immigration and Customs Enforcement (ICE) does not utilize solitary confinement and does not agree with equating ICE's use of segregation to that of "solitary confinement." ICE's Special Management Unit (SMU) placements (segregation) are designed to promote the safety of all parties–detained noncitizens and facility staff. Facility personnel are required to offer noncitizens placed into an SMU with generally the same privileges as those noncitizens housed in general population, including recreation, visitation, access to the law library and telephones, clergy, and legal visits.

   Consistent with ICE detention standards[1] and ICE Directive No. 11065.1, *Review of the Use of Segregation for ICE Detainees* (Segregation Directive) (September 4, 2013), a detained noncitizen may be placed into an SMU with either an Administrative Segregation designation (for detained noncitizens segregated for non-punitive administrative reasons) or a Disciplinary Segregation designation (for detained noncitizens segregated for disciplinary reasons). Administrative segregation is a non-punitive form of separation from the general population and is authorized only as necessary to ensure, safety of detained noncitizens, facility staff; protection of property; or security and good order of the facility.

   Further, the Segregation Directive establishes requirements regarding agency reporting, review, and oversight of every facility decision to place a detained noncitizen in segregated housing for 14 days (or 14 days out of a 21-day period), 30 days, and at every 30-day

[1] ICE Performance-Based National Detention Standards (PBNDS) 2011 (revised 2016), Standard 2.12, Special Management Units, at 171; ICE PBNDS 2008, Standard 2.15, Special Management Units, at 1-2; and National Detention Standards 2019, Standard 2.9, Special Management Units, at 53-57.

interval thereafter as well as reporting and review of segregation placements within 72 hours of placement when heightened concerns exist based on a case-by-case assessment of a detained noncitizen's health or other individualized factors.

Administrative segregation placements are for the briefest term possible and under the least restrictive conditions practicable, consistent with the rationale for placement. Generally, detained noncitizens in administrative segregation receive the same privileges as detained noncitizens housed in the general population, consistent with safety and security concerns. Administrative segregation placements are made when detained noncitizens:

- Request or require protective custody from others who may harm them;
- Are awaiting an investigation or hearing for an alleged violation of facility rules;
- Are scheduled for release, removal, or transfer within 24 hours; or
- Present a clear threat to the security of the facility, to themselves, or to others.

Disciplinary segregation is authorized only pursuant to the order of a facility disciplinary panel, following a hearing in which a detained noncitizen is determined to have committed serious misconduct in violation of facility rules. Disciplinary segregation regulates the detained noncitizen's behavior and is imposed for a maximum sanction of 30 days per incident, except in extraordinary circumstances. Extraordinary cases receive periodic review to determine whether continued detention in disciplinary segregation is warranted. Facility disciplinary panel decisions must be consistent with the Disciplinary Severity Scale described in the applicable ICE detention standards, and only when alternative dispositions would inadequately regulate the detained noncitizen's behavior.

ICE is committed to reviewing existing policies and procedures to continually improve civil detention operations, including the management and oversight of segregated housing.

5a. Question: What is the average amount of time someone is held in solitary confinement for "medical or mental health" care?

RESPONSE: As mentioned in the response to Question 4, ICE does not equate use of segregation to that of "solitary confinement." ICE publicly reports segregation data on ice.gov (https://www.ice.gov/detain/detention-management). In Quarter 2 of Fiscal Year 2023, January 1, 2023 through March 31, 2023, there were 178 SMU placements of detained noncitizens with an identified medical or mental health illness. These detained noncitizens spent an average of 10.26 consecutive days in the SMU.

ICE is committed to noncitizen segregation only as a last resort when heightened concerns exist based on a detained noncitizen's health, availability of alternative housing, or other factors. Per existing policy, detained noncitizens are removed from segregation if the ICE Health Service Corps (IHSC) determines that the segregation placement resulted in

deterioration of the individual's medical or mental health, and an appropriate alternative is available.

5b. What policies are in place to restrict solitary confinement to no more than 15 days?

RESPONSE: ICE strives to limit use of segregation to a case-by-case basis. In many instances, the use of administrative segregation is out of ICE's control if a detained noncitizen requests protective custody or requires placement in segregation due to medical concerns (e.g., suicide risks, hunger strikes, medical observations, or COVID-19 quarantine). As noncitizen-requested protective custody must be honored, ICE cannot mandate a cap on the number of cumulative segregation placements or length of segregation stay. ICE can recommend detained noncitizens in protective custody return to general population, but it cannot force them to do so.

The Segregation Directive directly addresses extended segregation placements (Section 5.1), requiring the Field Office Director and ICE Headquarters Custody Management Division be notified whenever a detained noncitizen is held in segregation for 14 continuous days or 14 days out of any 21-day period. Both the Segregation Directive and ICE detention standards impose requirements for ICE to regularly review placements to ensure that detained noncitizens are not in segregation for longer than necessary, evaluate whether a detained noncitizen's mental or medical health has not deteriorated due to placement, and consider alternative housing placements. In addition to mandatory field office level reviews as detailed in the Segregation Directive, ICE utilizes weekly multi-disciplinary reviews of detained noncitizens in segregation. A multi-disciplinary committee of facility staff, including facility leadership, medical and mental health professionals, and security staff, meet weekly to review all detained noncitizens currently housed in the facility's SMU. During multi-disciplinary review the committee covers each case individually to ensure all staff are aware of the detained noncitizen's status, current behavior, physical and mental health, and to consider if a change in status is appropriate because SMU placements are not intended to be long-term housing.

In addition to facility-level reviews, Custody Management works with representatives from IHSC, Field Operations, and the Office of the Principal Legal Advisor to conduct a weekly ICE Headquarters review of cases in which detained noncitizens suffer from mental and medical illnesses and to evaluate whether their current housing placement is appropriate. ICE Headquarters personnel provide guidance to field office leadership and, in coordination with IHSC, may help facilitate the transfer of identified cases to other locations better suited to their individual needs, when applicable.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Budget Hearing – Immigration and Customs Enforcement
Tuesday, April 18, 2023

Representative Hinson

Alternatives to Detention Program Funding

To: Acting Director Tae Johnson

CBP and ICE career law enforcement officials have testified repeatedly that the failure to detain illegal border crossers serves as a "pull factor" to incentive individuals to come to the US illegally knowing they will be released. Less people being detained and less utilization of electronic monitoring of those individuals on the Non-Detained Docket is extremely concerning. Intensive Supervision Appearance Program (ISAP) has proven successful when used correctly. It is concerning to see ICE reduce use of ISAP and funnel Alternatives to Detention (ATD) program funding to NGO partnerships. ICE has continued to use funding allocated for ADT to fund inadequate programs. There are major concerns with ICE's use of ATD funding, including an OIG report that found that ICE did not adequately justify its use of sole-source contracting in selecting Endeavors.

6. Question: Why has ICE reduced the use of ISAP with electronic monitoring in the last few weeks?

   RESPONSE: Based on Fiscal Year (FY) 2023 budget, the Alternatives to Detention (ATD) Intensive Supervision Appearance Program (ISAP) is currently projected to have a deficit. U.S. Immigration and Customs Enforcement (ICE) continually evaluates the ATD-ISAP population through recurring case reviews and data analysis to ensure appropriate noncitizens are receiving correct levels of case management and technology assignment as they move through immigration proceedings. ICE Headquarters – ATD has also identified a decline in the number of cases referred for evaluation and participation in the program due to migration trends. It is anticipated that if encounters increase, so will the referrals for evaluation and assignment to ATD-ISAP.

7. Question: Why does the proposed budget for ICE not include additional funding for ISAP?

   RESPONSE: ICE's budget request for FY 2024 is $363,401,000 for ICE's ATD program for an average daily population of 104,756 participants. Additionally, the Southwest Border

Contingency Fund includes additional funding for ATD. The FY 2024 proposed Southwest Border Contingency Fund would make additional funding available should noncitizen participant levels on the ISAP monitoring activity increase beyond the FY 2024 appropriated budget parameters. The proposed Southwest Border Contingency Fund would set aside additional funding to be made available to ICE should U.S. Customs and Border Protection (CBP) noncitizen encounter levels exceed thresholds. Taken together, appropriations and the proposed Southwest Border Contingency Fund, the ISAP monitoring activity would have sufficient funds to meet noncitizen CBP encounters projections as forecasted by DHS.

8. Question: Who ultimately approved that the Endeavors contract would be a sole-source?

RESPONSE: In accordance with Federal Acquisition Regulation (FAR) 6.304, *Approval of the justification*; the Homeland Security Acquisition Manual (HSAM) 3006.303-1, *[Other Than Full and Open Competition] Requirements*; and the DHS Justification and Approval Guide, a justification valued at $86 million requires review by the Contracting Officer, Technical/Requirements representative, ICE Procuring Activity Advocate for Competition, the Head of the Contracting Activity, and ultimately approved by the DHS Chief Procurement Officer. The subject Endeavors Justification for Other than Full and Open Competition followed these procedures.

9. Question: Was anyone disciplined based on OIG findings of inadequate justification for sole-sourcing this contract?

RESPONSE: No disciplinary action was warranted. ICE non-concurs with OIG findings outlined in the report. This sole-source action complies with requirements of the Competition in Contracting Act as implemented by FAR in accordance with the requirements of FAR 6.303-1, *[Justifications] Requirements*; the Homeland Security Acquisition Regulations (HSAR) 3006.302-270, *Unusual and compelling urgency;* and HSAM.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Budget Hearing –ICE
Tuesday, April 18, 2023

Representative Case

Transnational Crime

To: Acting Director Tae Johnson

In your testimony you mention Homeland Security Investigations' (HSI) efforts to combat transnational cybercrime.

10. Question: What is HSI's strategy for pursuing cyber criminals abroad and how does this year's budget support that strategy?

    RESPONSE: With cybercriminals operating with ease across international borders, U.S. Immigration and Customs Enforcement Homeland Security Investigations (HSI) has increased cyber engagement with international law enforcement partners.

    HSI personnel around the world work tirelessly to protect children from predators who are involved in the production, distribution, and possession of child sexual abuse material, who livestream child sexual exploitation and abuse, and who travel internationally to sexually exploit and abuse children. HSI employs the latest technology to collect evidence and track the activities of individuals and organized groups who sexually exploit children using the dark web, chat rooms, peer-to-peer trading, and other internet-based platforms. This critical public safety mission is supported by the HSI Child Exploitation Investigations Unit (CEIU), which is housed within HSI's Cyber Crimes Center (C3). The CEIU aids HSI field offices, coordinates major investigations, conducts operations throughout the world to identify and rescue child victims and to identify and apprehend offenders. CEIU delivers training to HSI personnel, federal, state, local, and international law enforcement partners.

    In FY 2023, CEIU's budget allocated funding to increase the physical space of the CEIU Victim Identification Lab beginning in Quarter 1 of FY 2024 with an additional three employees, expanding the number of Victim Identification Lab from only five non-law

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

enforcement officer (LEO) employees to eight employees, five non-LEOs and three LEOs This increase in personnel supporting victim identification efforts will significantly aid HSI's efforts at identifying victims quicker, identifying their offenders, and the locations where abuse may be occurring. This expansion will further promote HSI's reputation and ability to participate in various international victim identification task force operations, meetings, as well as working groups focusing on enhancing technologies and capabilities for large data aggregation and analyses.

In addition, HSI recently created four International Cyber Liaison positions for strategic deployment to London, United Kingdom; The Hague, the Netherlands; Ottawa, Canada; and Sydney, Australia. These positions are managed by the corresponding HSI Attachés with collaboration from C3. In anticipation of the formal deployment of these positions, HSI placed special agents on a temporary duty basis to these locations. Beyond the initial four positions, HSI anticipates deploying four additional International Cyber Liaison positions and is currently considering placement locations for these positions. All eight positions are funded by enhancement funding received by HSI in Fiscal Year FY 2022 and FY 2023. These positions will significantly enhance HSI's ability to coordinate with its international partners to conduct transnational cybercrime investigations.

Finally, HSI recently joined Europol's Joint Cybercrime Action Taskforce (J-CAT). The HSI attaché office at The Hague (HSI The Hague) leads this effort in collaboration with C3. J-CAT helps DHS work with European partners on intelligence-led, coordinated action against key cybercrime threats and targets.

11. Question: How does HSI work with the Federal Bureau of Investigation and other agencies with jurisdiction on this issue?

RESPONSE: Pursuant to the February 7, 2023, deconfliction guidance memo from Deputy Attorney General Lisa Monaco to U.S. Attorney's Offices, HSI extended its normal practice of deconflicting cases through Deconfliction Information Coordinator Endeavor 2.0 system to include deconfliction via the National Cyber Investigative Joint Task Force. HSI's proactive cyber efforts are also coordinated with the DHS Cybersecurity and Infrastructure Security Agency (CISA) and state cyber security entities. When appropriate, HSI conducts joint investigations with the Federal Bureau of Investigation (FBI) and other partners to augment resources by utilizing HSI's unique investigative authorities. In Fiscal Year 2022, HSI and the FBI saw a significant increase in Cyber Tipline Reports reported by social media companies to the National Center for Missing and Exploited Children (NCMEC) identifying children who were being financially sextorted by individuals out of West Africa, primarily Cote d'Ivoire and Nigeria. As a result, HSI and the FBI have since worked collaboratively to deconflict investigations,

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

identify and safeguard child victims from further sextortion, identify and prosecute offenders located abroad, and raise awareness of this new online threat harming our children through press releases, social media campaigns, and updating outreach materials marketed towards children, teens, parents, and guardians.

In addition, HSI and the FBI work cooperatively to investigate and prosecute suspects who sexually prey on children. Every day around the world, agents from HSI and the FBI are sharing information, techniques, and training to better identify and bring perpetrators to justice.

12. Question: How does HSI identify cases to pursue, and has HSI developed procedures to make investigations responsive to reports of crime and scams against U.S. citizens?

HSI receives investigative leads from tip line reports received from the public, outreach engagements, confidential sources of information, and from information derived by analyzing information associated with previous criminal schemes. ICE's tip line reports are fielded by professionally trained staff and are documented and categorized by type of criminal activity and disseminated for action to the appropriate HSI field offices where they are further assessed for investigative viability. Additionally, HSI has an enterprise-wide system for disseminating investigative leads internally across all HSI field offices and Headquarters components.

In addition to these efforts, HSI engaged in proactive operations to address cybercrime. Operation Stolen Promise is a campaign to disrupt criminal activity seeking to exploit the COVID-19 pandemic for cyber financial fraud and profit. This operation has resulted in the analysis of over 92,000 domains, 66 websites removed or seized, and 182 cases initiated related to COVID-19 associated cybercrime.

Operation Cyber Centurion (OCC) is a HSI cyber threat intelligence initiative that proactively detects vulnerabilities in critical infrastructure and works with victims to remediate vulnerabilities before they are further exploited. OCC's objective is to significantly disrupt adversaries that exploit the internet to subvert U.S. laws and threaten the economic integrity, public safety, and national security of the United States. OCC focuses on the 16 critical sectors as defined by CISA. Since its inception in March 2021, OCC disseminated over 300 leads to HSI field offices resulting in successful mitigation of attacks against numerous critical infrastructure entities, including large municipal governments, law enforcement agencies, major healthcare providers, technology firms, and entities crucial to global supply chains.

Budget Hearing – U.S. Immigration and Customs Enforcement Agency (ICE)
Tuesday, April 25, 2023

Representative Trone

To: Mr. Tae Johnson, Deputy Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement

Title 21 statutory authority for counternarcotics investigations (DEA and HSI collaboration)

Question: To what extent are DEA and ICE HSI operating under the 2009 Interagency Agreement—involving the cross-designation of ICE agents to pursue counternarcotics investigations, information sharing, and deconfliction of counternarcotics investigations?

RESPONSE: Homeland Security Investigations (HSI) partners with the Drug Enforcement Administration (DEA) more than any other federal agency and works with the DEA daily on criminal investigations.

Additionally, HSI regularly partners with DEA on investigations under the Organized Crime and Drug Enforcement Task Force (OCDETF). During Fiscal Year (FY) 2021, HSI conducted 1,106 OCDETF investigations, 588 were conducted with DEA. DEA and HSI jointly sponsor 14 Regional Priority Organization Targets (RPOT) and 4 approved Consolidated Priority Organization Targets (CPOT).

HSI deconflicts all investigations and operations with DEA and other agencies. Between 2016 and 2021, HSI deconflicted nearly 2.9 million selectors with DEA. That is more than 1,100 deconflictions every single day. HSI also requires deconfliction of all enforcement events through appropriate local event deconfliction systems and for Title 21 violations, includes data fields on its enforcement operations plans outlining the date and time that specific points of contact in local DEA offices were notified for coordination.

14. Question: Since 2011, how has the Agreement been adjusted or amended to ensure its intended goal(s) are achieved.

RESPONSE: In 2020, HSI and DEA convened a working group to reinforce and refine the mechanisms for cooperation outlined in the Interagency Cooperation Agreement (ICA). The working group resulted in the creation of a Joint Letter on the DEA-ICE Interagency Cooperation Agreement and a set of Standard Operating Procedures (SOPs) for HSI and

DEA Title 21 Coordinators. The letter was signed in January 2021, by the DEA Chief of Operations and the HSI Executive Associate Director, emphasizing training, designation of Title 21 Coordinators, dispute resolution, and reaffirmation of the agencies' commitment to deconfliction, information sharing, and coordination. The group also produced an SOP outlining the role of Title 21 Coordinators and procedural mechanisms for coordinating administration of Title 21 between agencies.

15 Question: To what extent, if any, do DEA and ICE HSI have mechanisms in place to monitor the implementation of the 2009 Agreement and adjustments and assess the efficiency, effectiveness, and performance of their collaborative information sharing and counternarcotics investigation efforts?

RESPONSE: HSI and DEA meet and confer regularly as outlined in the ICA. This includes meetings by headquarters sections of both agencies to address new and on-going issues experienced by multiple field offices. Additionally, both agencies have Title 21 Coordinators who serve as the primary points of contact for coordination of Title 21 activities in their respective offices and regions. Lastly, in addition to Title 21 Coordinators, local HSI supervisors and management meet regularly to ensure cooperative engagement between agencies.

16a. Question: Are there any overarching or systemic issues of coordination or deconfliction requiring headquarters-level intervention?

RESPONSE: Headquarters-level intervention noted in the prior response.

16b. For example, how well are the local deconfliction protocols working?

RESPONSE: HSI recognizes deconfliction is an essential practice enabling law enforcement officers to identify potential conflicts with other law enforcement agencies. Deconfliction promotes officer safety and prevents "blue-on-blue" incidents and enables collaboration and information sharing. It is a procedure built into the core of HSI investigative processes and goes beyond HSI and DEA investigations. HSI's broad investigative authority requires recognition by all investigators that deconflict, regardless of the crime being investigated and is a vital component of an investigation.

For example, during money laundering investigations, HSI must deconflict with other law enforcement agencies, such as the Federal Bureau of Investigation, Internal Revenue Service, and United States Secret Service. These deconflictions serve to ensure opportunities to further cases through joint investigations are exploited, while also ensuring the safety of officers conducting an investigation. HSI also has a memorandum of understanding with the Bureau of Alcohol, Tobacco, Firearms and Explosives that recognizes both agencies have a role in firearms investigations and establishes deconfliction practices between the agencies while encouraging joint investigations when

both agencies identify investigative targets of mutual interest.

HSI's deconfliction and coordination processes are governed by agency and Department policies and are required regardless of conditions set forth in the ICA. Since 2016, DHS policy requires all DHS law enforcement components deconflict investigative data. HSI Special Agents and TFOs, in both foreign and domestic offices, submit significant investigative data identifiers to DEA's Deconfliction and Informational Coordination Endeavor (DICE) database for deconfliction and coordination. HSI deconflicts investigations through DICE and does not limit deconfliction to narcotics investigations. HSI policy further mandates that all field personnel deconflict communications of confidential informants and undercover agents via DICE.

HSI deconflicts and coordinates more with DEA than any other partner law enforcement agency. Between 2016 and 2021, HSI submitted more than 2.9 million identifiers to DICE for deconfliction and coordination purposes. HSI conducted 441,743 deconflictions in 2021 alone. Further, HSI conducted 1,832 deconfliction queries through the OCDETF Fusion Center.

17. Question: Given the emerging drug threats, what additional tools are needed for HSI to more effectively counter narcotics trafficking?

RESPONSE:

HSI could more effectively counter narcotics trafficking by deploying and utilizing a suite of new technologies including mobile handheld Xray machines, which would greatly aid in interdictions, and mobile mass spectrometers, which would aid in interdiction and immediate identification of dangerous narcotics. Additional tools which would assist in the effort include deploying robust unmanned aerial vehicles to improve surveillance of undercover operations and discrete monitoring of subjects of criminal investigations. HSI has deployed several crypto currency tracing tools which are needed to track the movements of narcotics derived proceeds. These tools are crucial and constantly changing as is the crypto currency landscape. HSI seeks to increase the number and size of its Transnational Criminal Investigative Units to improve HSI's ability to track narcotics to their foreign origin point and identify and dismantle Transnational Criminal Organizations. HSI also seeks additional tools to better enable its approximately 4,000 task force officers to participate in narcotics investigations. Traditional tools, such as T-III wire intercepts, have become limited in their application and in some cases obsolete. HSI would benefit greatly in its counter-narcotics trafficking mission from tools which could lawfully intercept encrypted communication applications.

Arms Trafficking- "Operation Without a Trace" and "Operation Desert Lightning"

According to the U.S.-Mexico joint statement on April 13, DHS is committed to expanding its

efforts to disrupt gun smuggling to Mexico through ICE's "Operation Without a Trace" and "Operation Desert Lightning."

18. Question: There is an open G-A-O recommendation for ICE to identify performance measures for these types of efforts. How does ICE plan to measure whether its efforts are having the intended effects of preventing U.S. firearms from ending up in the hands of Mexican drug cartels, and adjust its efforts as necessary?

    RESPONSE: In response to rising threats of cartel violence in Mexico using weapons sourced in the United States, U.S. Immigration and Customs Enforcement Homeland Security Investigations (HSI) and U.S. Customs and Border Protection (CBP) initiated Operation Without a Trace (WaT). To measure the program's success, HSI and CBP collect metrics and co-author intelligence reports focused on seizure increments, successful prosecutions in furtherance of disruption and dismantlement, and assess the ease of procuring weapons in Mexico. HSI continuously emphasizes collaboration with CBP, external stakeholders, and international law enforcement partners to investigate weapons trafficking outside the United States and continuously adjusts efforts to combat new and emerging threats. The willingness of the Government of Mexico (GOM) to share specific information related to firearms recovered in Mexico would allow investigators to quickly identify the origins of these firearms and improve efficiency of criminal investigations. With this data, HSI could better measure effects of their intended efforts and adjust investigative strategies.

19. Question: These operations supposedly target known trafficking corridors. How did ICE identify these corridors and to what extent has ICE incorporated ATF's tracing data—particularly data on firearms recovered in Mexico after being successfully smuggled from the United States—to identify these targeted corridors?

    RESPONSE: The southbound smuggling corridors are known to HSI through HSI's participation in operation WaT. WaT tracks HSI and CBP seizure and arrest enforcement data to identify these corridors. Intelligence analysts produce intelligence products on these enforcement data points and disseminate to CBP leadership for them to make informed decisions on when and where to surge resources. CBP Operation Desert Lightning surges resources utilized for outbound inspection operations at the ports of entry and departure. The Department of Homeland Security does not rely on the Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) tracing data collected from the GOM to identify corridors. Trace data quality depends on traces successfully submitted in the tracing system and traces only provide information of an initial firearm sale from Distributor to Federal Firearms Licensees limiting its value to accurately identify corridors. ATF can precisely answer questions on the quality of trace data.

Arms Trafficking- The Bipartisan Safer Communities Act

The Bipartisan Safer Communities Act established new gun trafficking authorities, including the

smuggling out of firearms and straw purchaser and ghost gun provisions.

20. Question: How do these new authorities affect ICE's efforts to prevent firearms from ending up in the hands of Mexican drug cartels?

    RESPONSE: The new authorities, combined with Homeland Security Investigations' (HSI) existing export control authorities, provide agents with additional statutory options for pursuing prosecution of individuals involved in international weapons trafficking.

21. Question: How do these new authorities affect ICE's cooperation with other law enforcement agencies, particularly ATF, in preventing U.S. firearms from ending up in the hands of Mexican drug cartels?

    RESPONSE: To effectively and efficiently comply with the law, HSI and the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) should enhance cooperation and information exchange related to international weapons trafficking cases. To best utilize and integrate new authorities, HSI and ATF must prioritize, update, and formalize interagency partnerships when it comes to international weapons trafficking cases. Increasing cooperation between ATF and HSI to more effectively counter international weapons smuggling networks requires a substantial commitment of resources and funding by both agencies. Additional resources and funding would create or enhance HSI participation on international weapons trafficking task forces, allow hiring of additional personnel to support interagency operations, enhance information exchange systems, and update policy and procedures regarding joint cases.

Detention programs under consideration

During your testimony, you mentioned that ICE is considering the possibility of a new home confinement program for families seeking asylum or other protection in the United States. This raises serious concerns regarding the ability of immigrants to integrate into their communities.

Question: Please provide detailed information regarding the program that is under consideration, including:

a. how ICE would select individuals to participate in this program;
b. any communication ICE has already had with potential contractors;
c. and a detailed description of why such a program would be necessary given the evidence showing that nearly 100% of families appear for immigration court when provided counsel.

RESPONSE: On May 10, 2023, U.S. Immigration and Customs Enforcement's (ICE) Enforcement and Removal Operations announced a process for family units apprehended at the Southwest Border who are processed for expedited removal and indicate an intention to apply for asylum or express a fear of persecution or torture. This process, referred to as Family Expedited Removal Management (FERM), will place certain heads of household for family units on Alternatives to Detention (ATD) technology—a GPS ankle monitor—for continuous monitoring and make them subject to a curfew.

For this process, ICE is not utilizing new outside contractors. FERM is designed to increase compliance for family units in the credible fear process, which includes participating in a timely credible fear interview with U.S. Citizenship and Immigration Services (USCIS) and any requested review by an immigration judge, without being detained. Families who receive a final negative credible fear determination are often removed from the United States within 30 days from processing into expedited removal and referral to USCIS. Heads of household are eligible for enrollment in FERM if they are processed for expedited removal, are nationals of countries to which ICE maintains regular removals via land or air and reside in a location under the jurisdiction of the ICE field office based in one of four FERM-destination cities. The heads of households not placed into FERM may be placed on ATD.

Development of biodetection capabilities

Securing our nation's border, transportation hubs, centers of economic activity (e.g., sporting arenas and entertainment venues) requires the ability to rapidly screen individuals for potential biothreats. No capability is currently available that provides this capability that is needed.

22. Question: DHS is developing digital MALDI technology that will provide a leap ahead capability to rapidly screen large volumes of individuals and that initial testing in airports and sports arenas has been very successful. Could you describe DHS plans to complete digital MALDI development and transition this capability to DHS users?

RESPONSE: The digitalMALDI prototype does not screen individuals but, screens aerosol particle data. No personally identifiable information (PII) or sensitive personally identifiable information (SPII) is involved in this activity or is captured or created by the digitalMALDI prototype sensor.

DHS is pursuing several technology development efforts to improve environmental biodetection capabilities designed to provide detection and early warning of an aerosolized bioterrorism attack, including those with applications for detecting a release to indoor environments such as airports or sports arenas. One such effort is the Matrix-Assisted Laser Desorption Ionization (MALDI) technology, initially developed by the DHS Science and Technology Directorate (S&T).

The technology Digital Matrix-Assisted Laser Desorption Ionization Time of Flight (MALDI TOF) (digitalMALDI) Mass Spectrometry (MS) for aerosol biodetection comprises a novel prototype sensor technology that could enable real-time detection of aerosolized bacteria, viruses, and toxins. The MALDI methodology uses a pulsed laser to trigger vaporization of an environmental sample and mass spectrometry to analyze the sample to determine the presence of a potential threat.

By combining multiple technologies, this novel sensor could offer continuous air

monitoring and quickly and efficaciously identify biological particles that indicate a bioterrorism event occurred within 10 – 60 minutes versus 12 – 36 hours. Additionally, limited human intervention is required for sample collection and analysis.

In 2022, DHS S&T conducted a technology readiness assessment (TRA) of the digitalMALDI prototype and determined the prototype to be at a technology readiness level 5, meaning the component has conducted some limited validation in a relevant environment. A full prototype has not yet been demonstrated in an operational environment. This information was shared with CWMD staff as a knowledge product to continue maturation in preparation for transition to CWMD in 2023. CWMD provided relevant data from Phase I and Phase II of its Multiplexed Biothreat Detection with Fieldable Mass Spectrometry project to assist with the TRA. The TRA report informs subsequent scope requirements to mature the technology in preparation for transition to CWMD for advanced development, fielding, and sustainment.

Future R&D to design and fabricate a refined prototype (digitalMALDI Gen-2) will address size, weight, and power constraints. The next generation prototype will have a reduced volume and footprint and will be the template for additional development, testing, and evaluation. Lastly, it will reduce the acquisition cost and the operation & maintenance (O&M) costs of deployed systems.

CWMD welcomes the opportunity to provide a brief on current and future CWMD environmental biodetection efforts, including MALDI and other technological approaches to this critical capability area.

TUESDAY, APRIL 18, 2023.

FEDERAL EMERGENCY MANAGEMENT AGENCY

WITNESS

HON. DEANNE CRISWELL, ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY

Mr. JOYCE. Today's hearing will come to order. This afternoon we welcome the Administrator of the Federal Emergency Management Agency, Deanne Criswell to testify on FEMA's fiscal year 2024 budget request.

Administrator Criswell, thank you for joining us today. Thank you for your decades of service to our country in the military, as a firefighter and first responder, and your years in emergency management.

FEMA has a simple, yet critical, mission of helping American people before, during, and after their disasters. The fiscal year 2024 budget request for FEMA is $25.5 billion. The majority of those funds, $20.1 billion, are requested for the Disaster Relief Fund to support response and recovery efforts for major disaster declarations, including the COVID–19 pandemic.

The requested funds are on top of the $170 billion that Congress has appropriated for the Disaster Relief Fund since 2020, and in addition to the supplemental request that we expect to receive in the coming days, to ensure that the Disaster Relief Fund continues solvency in the current fiscal year.

To date, FEMA has obligated approximately $112 billion in response to the COVID disaster, and that only represents the expenses for which the States have requested and received reimbursement so far. States will continue to incur costs through May 11, when both the disaster period and the public health emergency will officially end.

I would like to hear from you today on the biggest challenges FEMA faces to continue to manage the COVID disaster, including FEMA's projections for the total of COVID disaster spending and whether the continued focus on the COVID disaster detracts from FEMA's ability to respond to past, current, and future disasters.

Lastly, I am concerned to see a continued focus on FEMA's so-called "Road to Resilience," which represents a significant reorganization to FEMA programs and functions in the name of attaining an ill-defined nebulous goal. This initiative is, at best, merely a talking point in this Administration's ongoing resilience narrative. At worst, it has the potential to severely hamper FEMA's ability to support its core disciplines of preparedness, response, recovery, and mitigation.

Administrator Criswell, I want to thank you and everyone at FEMA for your hard work and dedication. I look forward to your

testimony today and working with you throughout the fiscal year 2024 appropriations process.

Now, before I turn to our witness for her statement, I would like to recognize our outstanding ranking member, Mr. Cuellar, for his opening remarks.

Mr. CUELLAR. Mr. Chairman, thank you so much.

First of all, good afternoon. It is a pleasure seeing you again, Administrator Criswell. Thank you, again, for the work that you do, and please thank all of your men and women that work for FEMA.

In Texas, we have seen a variety of natural disasters, including hurricanes, floods, wildlife, tornados, and droughts. The frequency and the severity of these disasters are not just in Texas, but they are all over the country, as you know. They are on the rise and increasing with severity.

FEMA's work helps communities affected by these disasters. The Disaster Relief Fund provides the funding necessary to respond to disasters like in Texas and assist with the recovery process, including providing critical resources and supplies. And, of course, one of the things that we are interested in is, how do we expedite, how do we become more efficient, how do we provide that help when—at the moment of need at that time. So, we appreciate the work that FEMA plays in helping in the greatest time of needs before, during, and after the disaster, but again looking at efficiency and effectiveness on that.

Today, you know, we certainly want to hear from you about the fiscal year 2024 funding requirements for the agency and on the challenges and the opportunities that lie ahead for FEMA. I am interested in learning about what steps FEMA is taking to ensure that it is adequately resourced as we head into wildlife and hurricane season. I am particularly concerned about the shortfall in the Disaster Relief Fund, and want to learn more about what FEMA is doing to prepare for any difficulties that may arise.

I, again, want to thank all your workforce that do a great job for y'all. And certainly, I also want to hear a little bit about the committee—I mean, about the work, the $90 million that we put for Operation Stonegarden that goes to Border Patrol and local law officials.

This program, I think we started it back in 2008, and it is critical to ensure that border communities have the resources to improve border security in their own backyard. So, I certainly want to talk about how this funding is distributed and if you are facing any challenges that we can help you with.

Finally, I do want to, you know, ask you later on if we can talk about your performance strategic plan, your key performance measures, and what we need to do. I have looked at some of them. With all due respect, I think we need to do a little bit of work on some of that.

And, with that, I say thank you, and I look forward to your testimony and your answers to these questions.

Mr. Chairman, thank you, and I yield back.

Mr. JOYCE. Thank you, Mr. Cuellar.

Administrator Criswell, without objection, your full written testimony will be entered into the record. With that in mind, we would ask you to please summarize your opening statement in 5 minutes.

Ms. CRISWELL. Thank you.

STATEMENT OF HON. DEANNE CRISWELL

Chairman Joyce, Ranking Member Cuellar, and other members of the subcommittee, thank you for the opportunity to testify before you today regarding FEMA's $30.2 billion budget request for fiscal year 2024.

Today, our Nation faces an unprecedented number of complex disasters that require emergency managers to be more adaptable and ready to act at any moment. Natural disasters are becoming more intense, more frequent, and much more destructive, and I believe this is a pattern that will continue into the foreseeable future.

In just the last few weeks before this hearing, FEMA is supporting five States with impacts from severe weather outbreaks that took many lives and displaced thousands of people. Our fiscal year 2024 funding request ensures that the agency can continue to meet these challenges and be prepared for the future as FEMA works to support our Nation before, during, and after disasters.

FEMA has aligned our budget request to support the goals outlined in our 2022–2026 strategic plan. These goals are instill equity as a foundation of emergency management, lead the whole of community in climate resilience, and promote and sustain a ready FEMA and a prepared Nation.

To begin today, I would like to highlight the work that we are doing to ensure that all disaster survivors receive the assistance for which they are eligible for. Disasters can impact anyone, but they can affect individuals and communities differently. So, our budget request has equity considerations woven into all of the work that we do.

We are also improving the customer experience to the development of more user-friendly digital tools that will reduce the time our customers spend accessing and submitting grant applications and forms for public assistance. These tools increase the capability of our customers while removing unnecessary barriers during their preparedness, recovery, and mitigation efforts.

FEMA is also requesting funding to continue building climate resilience in our Nation's disadvantaged communities by modernizing our suite of flood insurance products to make them more accessible.

The second pillar of our strategic plan is leading a whole of community in climate resilience. FEMA is not just a response and recovery agency. We are working with our partners to mitigate the impacts of future disasters. Thanks to strong bipartisan congressional support, we have made available historic levels of mitigation funding to communities over the past 2 years.

Our budget request includes $41.7 million to support strategies and products to address climate change through community partnerships. This includes further investments in Building Resilient Infrastructure and Communities, or our BRIC program, as well as our Hazard Mitigation Grant program, which will help fund projects to mitigate the impacts of future disasters. We are also implementing a building code strategy that increases hazard resilient building code adoption across our Nation.

In the fiscal year 2024 budget, we estimate setting aside $1 billion of the Disaster Relief Fund to be used exclusively for our BRIC

program. This set-aside will help communities build capacity by funding hazard mitigation projects, such as seismic retrofits, storm water management plans, and the construction of flood control and floodways.

The quicker we recognize and implement these proactive measures to reduce the loss of life and property, the safer and better off we are as a Nation.

Finally, as FEMA faces an increasing number of catastrophic disasters, we must increase our workforce along with capacity at the State and local level. Our budget request supports our work to promote and sustain a ready FEMA and a prepared Nation. The FEMA workforce is the agency's most valuable asset. Our budget request also includes $20.1 billion for the Disaster Relief Fund, which serves a vital function in addressing current and future disasters.

To reach this number, FEMA worked closely with disaster-impacted States and territories to better understand their recovery needs from ongoing catastrophic disasters. This was in addition to reviewing and evaluating the historical cost average for non-catastrophic disasters, the previously mentioned allocation for BRIC, and ensuring the reserve has available funds for initial response operations for any catastrophic event.

Just in this year alone, I have seen firsthand how tornados and severe storms have devastated communities in Mississippi, in Arkansas, and in California, and how our first responders at all levels of government came together to provide the critical resources to aid in these recovery efforts. It is imperative that we work together to ensure the DRF is sufficiently funded so that communities have the resources they need to quickly rebound from these traumatic events.

And I would be remiss to not briefly mention the work that we do through mitigation to prepare for other threats facing our country. Terrorist attacks can happen at any time or any moment, as we were reminded recently on the 10th anniversary of the Boston Marathon bombing. Our budget request includes a $55 million increase for the Nonprofit Security Grant Program. These vital grants will support our communities through physical security enhancements and other activities for nonprofit organizations that are at a high risk of terrorist attacks.

In closing, the fiscal year 2024 appropriations request will adequately position FEMA to face the critical challenges ahead in emergency management, and I look forward to your questions.

[The information follows:]

STATEMENT

OF

DEANNE CRISWELL
ADMINISTRATOR
FEDERAL EMERGENCY MANAGEMENT AGENCY
U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON HOMELAND SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES WASHINGTON, D.C.

"Fiscal Year 2024 Budget Request for the Federal Emergency Management Agency"

Submitted
By
Federal Emergency Management Agency
500 C Street SW
Washington, D.C. 20472

April 18, 2023

Opening

Chairman Joyce, Ranking Member Cuellar, and Members of the Subcommittee, thank you for the opportunity to testify before you today to discuss FEMA's Fiscal Year (FY) 2024 $30.2 billion total appropriations request.

As our nation continues to face an unprecedented number of complex and catastrophic disasters, the field of emergency management has never been more critical. We must be ready to act at any moment. Now, more than any previous time in history, emergency managers must be adaptable and ready to execute the fundamentals of emergency management as the disaster mission evolves. Concurrently, we must continue to assess our programs and resources to ensure they are meeting the needs of our citizens they serve.

FEMA is committed to providing the support our states, tribes, territories, and communities need as they recover from both natural and human-induced disasters, incidents, and events. Between 2016 and 2022, FEMA experienced a 124 percent increase in the number of staff who deployed to support disaster operations for more than 30 days. In 2022 alone, FEMA performed recovery work during 52 major disaster declarations, with employees spending an average of 95 days on deployment serving our communities and citizens firsthand. A recent example is FEMA partnering with the New Mexico state and local partners to establish the Hermit's Peak/Calf Canyon Claims Office. Congress directed FEMA to stand up an office that would disburse funding and ensure a simple and timely claims process for the citizens and businesses as they recovered from a devastating wildfire.

As you know, following a disaster, FEMA serves both individual survivors and communities through our individual and public assistance programs. In 2022, FEMA provided more than $3.2 billion directly to disaster survivors and more than $30 billion to support the rebuilding and repair of community infrastructure following disasters. The Agency also continues to provide operational support in collaboration with our federal partners at the southern border.

The FY 2024 President's Budget request will provide the resources the Agency needs to meet its mission of helping people before, during, and after disasters. FEMA's budget request is closely aligned to support three overarching goals outlined in the 2022-2026 FEMA Strategic Plan. These goals are to: 1) instill equity as a foundation of emergency management; 2) lead the whole of community in climate resilience; and 3) promote and sustain a ready FEMA and a prepared nation. Our budget request directly reflects our continued commitment to fulfill our mission, while also effectively managing our resources. Additionally, our request promotes our ability to coordinate mitigation, response, recovery, and preparedness missions while also equipping a highly skilled and competent workforce who are ready at any moment to provide on-the-ground support to our communities.

Instill Equity as a Foundation of Emergency Management

Disasters affect everyone differently and make existing challenges in communities and the lives of survivors more difficult.

One of my priorities to ensure we're putting people first is partnering with our state, local, tribal, and territorial (SLTT) communities to instill equity as a foundation of emergency

management. Some of the ways we accomplish this is through the Agency's enhanced Building Resilient Infrastructure and Communities (BRIC) direct technical assistance and by improving program access through all of our mitigation grant programs. These programs will provide our communities access to effective and efficient tools to assist in their recovery and resilience efforts. These capabilities will expand our outreach to states, local communities, Tribal Nations, and territories and address new climate risks, promote risk mitigation and avoidance, and improve accessibility for our socially vulnerable populations.

We also recognize that under-resourced communities experience differences in preparing for and recovering from disasters. Further, they tend to face greater obstacles in resuming a new normal way of life immediately following a disaster. Our budget request reflects these considerations throughout the agency's programs, and I'll highlight a few examples.

FEMA's request includes $6.6 million to continue building climate resilience in the nation's disadvantaged communities through making our flood insurance products more accessible to our customers; building climate resilience in disadvantaged communities through our grant outreach and technical assistance programs; and enhancing our flood mitigation assistance program. For example, $1.8 million will be used to enhance our customer experience through a more streamlined, user-friendly digital platform that will reduce the amount of time our customers require to complete and submit requests for grants and public assistance. This digitized platform will aid in the removal of barriers to, and usage of, these programs by underserved communities.

In our country, disaster-related floods on average lead to more deaths each year than tornadoes and hurricanes, and no community is immune from the risk of flooding. The FY 2024 budget request includes $3.7 million to modernize our suite of flood insurance products and realigns $6.9 million within our flood mitigation assistance program to support hiring additional personnel. We are increasing our outreach efforts to enhance the customer service we provide communities.

Finally, I recognize many communities do not have the resources to develop and design mitigation projects. That is why our budget request asks for $1.1 million to enable us to build on our mitigation grant outreach through a direct technical assistance model that will increase community resilience in highly vulnerable, under-resourced small communities nationwide.

Lead Whole of Community in Climate Resilience

As stated earlier, FEMA is responding to a greater number of, and more complex, disasters. We must put practices in place to stop the repeated cycle of response and recovery. One of the ways we will do this is through greater investment in climate resilience. Our budget request invests $41.7 million to support the Administration's priorities to mitigate the effects of climate change. While we must be vigilant and prepared to respond when disasters occur, we must equally work together at all levels of government to reduce the risk to individuals and properties from disasters before they occur. To this end, FEMA plans to lead this challenge and continue proactively partnering with our communities through identifying, understanding, and building resilience to the risks we face.

Specifically, FEMA's request includes an additional $37.3 million to further our inventory of decision support products that will highlight future flood conditions and support the Federal Flood Risk Management Standard, along with the associated climate-informed activities designed for future flood events. This funding will improve RiskMAP's ability to continue building community partnerships and supporting long-term hazard mitigation planning activities. These initiatives are designed to prepare communities for future flood conditions by developing risk assessment capabilities.

FEMA's FY 2024 budget request also includes $4.3 million that will enable communities to better prepare for disasters. Included in this request is $2.4 million that will be used for hiring additional staff to improve our ability to share data on future flood risks and that will support our development of risk assessment capabilities for flooding. The request also includes $1.1 million for implementing a Building Codes Strategy and $0.8 million for establishing a new Climate Adaptation Office. The funding for the Building Codes Strategy builds on our work in FY 2021-2023, which created the strategy office and aligned building code activity across the Agency. This investment will enable us to hire additional staff to establish a Building Codes Program Office at Headquarters to implement the work previously accomplished. This office's work aims to achieve a goal of over 50 percent of the nation's communities to adopt a current code in the next three years. This work will increase hazard-resistant building codes adoption that will directly contribute to superior building performance during disasters.

The budget also proposes funds to stand up a full-time, dedicated policy coordination Climate Adaptation Office, which will holistically integrate climate adaptation initiatives, climate science, data, and perspectives into FEMA operations, programs, and communications. The office will also support national policy and guidance development in close coordination with FEMA programs, partner agencies from the Department of Homeland Security and the White House.

FEMA's FY 2024 budget request includes $1.0 billion for the Building Resilient Infrastructure and Communities (BRIC) grant program that builds on the work we have done in small and large communities alike and reassures our commitment to leading recovery efforts by providing communities with assistance after a catastrophic event. The quicker we recognize the importance of working to reduce the loss of life and property by lessening the impact of disasters, the better off we will be as a nation.

We look forward to partnering with you to implement the President's Budget for FEMA in the disaster mitigation arena to better assist under-resourced and underserved communities, and to ensure they receive equitable access to mitigation assistance.

Promote and Sustain a Ready FEMA and a Prepared Nation

The FEMA workforce is the Agency's most valuable asset and represents some of the country's best equipped and knowledgeable emergency managers. They are prepared to respond at any moment to hurricanes, tornadoes, floods, health emergencies, and other human-induced events, such as train derailments and oil spills. Even as the number and complexity of disasters continue to raise the bar, our incredible team continues to meet and exceed the requirements – we will always be there when the nation calls. The Agency's

budget includes an increase of $15.2 million to establish three additional Logistics Staging Management Teams, strategically placed across the United States, to ensure rapid delivery of resources to SLTT partners by prepositioning lifesaving and life-sustaining commodities as close to potentially impacted communities as possible.

Equipping a ready workforce while also providing user-friendly, accessible technology platforms to our external stakeholders requires ensuring our information technology (IT) infrastructure and information security posture are updated and incorporate the latest requirements. In addition to providing food, water, and other critical commodities following a disaster, one of the first things FEMA does is get money into the hands of survivors and communities to help jump start their recovery. To do this, we must ensure our IT systems are upgraded and ready to meet the nation's needs in its darkest hours. As such, our budget request includes $138.1 million that will address cybersecurity vulnerabilities, gaps in our internal controls, and modernizing the Agency's antiquated IT systems.

The Disaster Relief Fund (DRF) plays a vital function to our nation's readiness posture by providing response and recovery efforts to communities impacted by domestic major disasters and emergencies. In FY 2024, our total request includes an additional $20.1 billion for the DRF to address immediate needs and recovery for major disasters.

Our FY 2024 budget request includes $14.1 million that will support enhancements to the Integrated Public Alert and Warning System (IPAWS). IPAWS is the system that provides emergency alert warnings from the President, the National Weather Service, emergency managers, and public safety officials to the public across the country. IPAWS provides life-saving information to the public through mobile phones using wireless emergency alerts, to radio and television through the Emergency Alert System and on the National Oceanic and Atmospheric Administration's Weather Radio. Additionally, this funding will support the Grants Management Modernization, Enterprise Data and Analytics Modernization Initiative, as well as enhancements of other critical IT systems. FEMA's Enterprise Cloud Services Support includes $20.7 million in FY 2024. This funding will ensure the FEMA Enterprise Cloud continues to enable and sustain mission essential functions, disaster response and recovery, agency operations, and other mission-related activities that rely on cloud services.

We must ensure that our workforce has a secure, and safe space to conduct mission essential operations. In FY 2024, we are planning for structural and technical improvements at several of our key facilities to be ready for our nation to respond to domestic events. To that end, our budget request includes $43.6M for facility improvements. This includes $6.1 million to support regional projects, such as upgrades to the utilities' infrastructure at the Region 6 Headquarters and the lease consolidation at Region 8. FEMA is also planning $35 million in enhancements to Mt. Weather Emergency Operations Center facilities, a national asset that provides resilient infrastructure, logistics, and medical support along with support personnel for a wide variety of vital government functions. Finally, we requested $2.5 million to fund the modernization and replacement of the IT infrastructure on the National Emergency Training Center campus, where our nation's emergency managers and firefighters receive world-class training.

Consistent with congressional direction, FEMA is also one of the federal agencies that provides assistance to the migrant population at the southern border, and throughout the country. As part of the Shelter and Services Program (SSP), the FY 2024 budget includes $83.5 million to provide grant funds to nonprofits and local entities who assist noncitizens released from DHS custody. The Department's FY 2024 budget request also includes $4.7 billion for a Border Contingency Fund that will provide DHS and its Components the flexibility to provide services when responding to migration surges along the southern border. Further, this designated funding will allow the DHS Components the flexibility to respond immediately to the critical needs of the migrant population through providing transportation, medical support, and other administrative needs.

Just as FEMA must be ready to respond to natural disasters through our preparedness efforts, we must equally be ready and equipped to respond when terrorist attacks occur. Last year, the Congregation Beth Israel synagogue in Colleyville, Texas, experienced a horrific incident of targeted violence, which reminds us that threats to the homeland no longer occur only in high population areas. During my visit to Colleyville, I met with the Rabbi and the Congregants and saw firsthand how this devasting event impacted not only the community but their individual lives as well. They also shared how the funding from the Nonprofit Security Grant Program greatly benefited their efforts to recover and to protect themselves from future attacks. In FY 2024, our budget request includes a $55.0 million increase in the Nonprofit Security Grant Program. This vital grant supports local communities through target hardening, physical security enhancements, and other activities for nonprofit organizations that are at high risk of terrorist and violent extremist attacks.

The FY 2024 budget request also includes $50.0 million for establishing a Critical Infrastructure Cybersecurity Grant Program. The number of cyberattacks on schools, hospitals, research institutions, and other organizations are on the rise. Without a secure IT infrastructure, organizations are vulnerable to a cyberattack. In partnership with the Cybersecurity and Infrastructure Security Agency (CISA), this new competitive grant program will provide private and public water, transportation, and energy providers with federal assistance to implement risk reduction strategies to protect critical infrastructure from cyberattacks. This grant will enable FEMA to support CISA as they collaborate with our SLTT partners to educate them on the advantages of risk reduction strategies to secure IT systems.

Closing

Emergency management is at a critical juncture as we witness tremendous change in the landscape of risk. While our core mission is unchanged, our operating environment continues to evolve and expand. FEMA's FY 2024 budget request is intended to enable the agency to respond to the nation's current needs while preparing for what additional challenges may lie ahead. I look forward to partnering with you as we work together to build a ready FEMA and a more resilient, prepared nation.

Thank you for the opportunity to testify, and I look forward to your questions.

Mr. JOYCE. Thank you very much. And we will begin questions, if you will, and I will begin.

We have spent $112 billion on eligible COVID expenses out of the Disaster Relief Fund since fiscal year 2020, and we will likely spend additional funds as reimbursement requests from States continue to emerge. Under the latest projections, FEMA anticipates a $11.7 billion deficit in the Disaster Relief Fund this fiscal year, with funds running out sometime this summer.

As we continue to see Disaster Relief Fund balances decrease by billions each month and as we move into hurricane season, do you have a plan to curtail spending on COVID to ensure FEMA has sufficient funds available to immediately respond to a catastrophic disaster?

Ms. CRISWELL. Chairman, I would, you know, first like to recognize that the COVID–19 incident period has been the longest one in our agency's history, and it is the first ever nationwide disaster for all 50 States, the District of Columbia, our territories, and three Tribes simultaneously. And I would like to personally thank all of our staff who have worked tirelessly over the last 3 years supporting the response efforts and helping these communities.

We have taken a lot of measures over the last 3 years that we have been responding to COVID–19 to make sure that we are understanding what the costs are that communities are experiencing and that we are taking the appropriate measures to look at where they are getting funding from, other sources, so we don't have a duplication of effort.

We have, to date, already recovered over $3 billion in costs that were obligated for COVID–19 for a variety of reasons, and we will continue to do this effort to make sure that only those costs that are eligible are reimbursed, just as we do with all of our disasters.

Mr. JOYCE. Will the funds requested in the forthcoming supplemental in the fiscal year 2024 budget fully address all COVID reimbursement requirements or do you anticipate that we will need additional fiscal resources in fiscal year 2024 and beyond to continue to address COVID expenses?

Ms. CRISWELL. The amount of the supplemental that you are going to see will address all of the requirements that we expect for the remainder of this fiscal year, and I do believe that our budget request going into fiscal year 2024 will incorporate the costs as we expect them right now from COVID–19. But, I would say that this has been one of those more unpredictable events, right? With a disaster, a natural disaster, we have good data. We have an understanding of the types of costs that communities are going to experience. We have been working every day through our Regional Administrators to better understand the costs that these communities have experienced, and I do believe that we have a good understanding going into fiscal year 2024. But, we have yet to receive all of their bills. And so, as we continue to do that, we will continue to work with them, looking at all of the available funding sources that they have to cover the expenses that they experienced responding to COVID–19.

Mr. JOYCE. You mentioned in your last answer about the oversight. What measures are in place to provide proper oversight for the $112 billion obligated to date for COVID expenses? And how

are you minimizing waste, fraud, and abuse for future funding requests?

Ms. CRISWELL. This has been one of our very focused areas, right? Again, this is a disaster that we have not experienced. We adapted our policies to meet the needs of communities, and we wanted to make sure that we had all of the measures in place to make sure that we were monitoring the funds—monitoring the obligations—to make sure that they were used appropriately. We have put measures in place to address things like in our Lost Wages program, as well as our Funeral Assistance program, to monitor for fraud and abuse. And I would be happy to have my team get together with you and go over some of the details of the actual items that we have put in place to monitor those.

Mr. JOYCE. Thank you. I now recognize the ranking member, Mr. Cuellar, for his questions.

Mr. CUELLAR. Thank you, Mr. Chairman.

The disaster assistance, as you know, it is very important for different communities. And certainly, as you know, every State is diverse and different. How—one of the issues that I want to focus on is reducing the complexity in the Public Assistance Program. As you know, this is implemented through the process known as the Project Worksheet process, and even though it has been an effective tool for providing disaster assistance, there can be challenges associated with it. And one of them is the complexity.

I assume, if you are in the middle of a disaster and you are stressed out, and whether you are a public official or homeowner, renter, especially for small communities, that can be tough, and especially communities or organizations that have limited resources. And this can, of course, lead to delays in the delivery of the assistance and can be a problem when you are trying to recover and you are trying to fill out the paperwork.

Like I have always said, I wish I had the little red button where I just press it and it turns it into a one-pager, get rid of all the legalese and understand it in plain English.

So, what steps are you all taking to reduce the complexity and streamline the process, just putting yourself in the shoes of somebody who is in the middle of a disaster?

Ms. CRISWELL. It is a really great point, because one thing that we are very focused on within our mission is to ensure that all communities have access to the programs that are available and that we are reducing any barriers that might make them ineligible or have them not pursue the things that they are eligible for in order to support their recovery efforts.

We have done a couple of things that I would like to highlight. And I think first, as it relates to the Public Assistance Program, with a recent rule change, we have changed the small project threshold to a million dollars. That means that the majority of the projects that many of these communities experience will fall within this small project threshold, which simplifies the process for them in order to seek reimbursement. I mean, so we have been working with our State and local partners to help them understand the benefits of this new program and how we can streamline that, so they don't have to go through all of the complicated processes.

We will still have that for our more complex projects and those that are the more expensive projects, but making this change, I think, is going to have a big difference in many of these smaller communities that the majority of their projects will fall within that threshold.

We also have FEMA integration team members and we also have liaison officers that we embed in these small communities to help them through the process, and we want to make sure that we continue to do that, again, recognizing that every community has their own unique circumstance—their own unique need.

And I started my career in emergency management with a staff of two and a half, and I know how difficult it is navigate the bureaucracy, and I have never forgotten that. And so I continue to bring that experience with me to make sure that we are working as a team to help support these communities, bringing our services to them as much as we can, instead of forcing them to figure out how to navigate our processes. And you have my commitment to continue doing that.

Mr. CUELLAR. Yeah. And I appreciate your perspective from doing local work. That makes a big difference.

Do you have somebody that constantly—or a group of folks that constantly look at processes, regulations that might need to be amended, deleted, modified, might be obsolete? Do you have somebody that looks on this on a systematic basis? Because I think that would help us—or help you do the streamlining process.

Ms. CRISWELL. Yes, we do. I mean, that is part of our Public Assistance team, part of our Recovery team. We are constantly looking at the way that we can maximize the eligibility in the items that we can provide within the authorities that we have, and they are continuously looking at the ways that we can improve. The result of that is the recent rule change that we had with the small project threshold. We are continuing to do that right now with some changes in our individual assistance program so we can improve it.

I would add one other piece too that we are adding here, that we just posted our first ever small State and rural advocate position. We want to bring somebody in that is their voice—is their advocate. And that position is open right now, and I am looking forward to having that person come on board and assist in that process of really looking at our policies and our procedures to see, you know, where they are creating unintended barriers.

Mr. CUELLAR. Okay. Well, my time is up. But I do want to thank you for bringing that perspective from somebody who has been on the other side and now doing this work. So, thank you so much.

Ms. CRISWELL. Thank you.

Mr. CUELLAR. Thank you.

Mr. JOYCE. Thank you very much, Ranking Member Cuellar.

Mr. Newhouse is recognized.

Mr. NEWHOUSE. Thank you, Chairman Joyce.

Administrator Criswell, thank for being with us. I appreciate your taking the time to visit with us today. Just a couple of questions about the—some of your efforts.

I come from the State of Washington, where we have seen more than our fair share, I think, of catastrophic wildfires. Multiple

agencies have a shared responsibility regarding wildfires and recovery efforts, including the awarding of contracts and overall management during wildfire seasons. But I believe FEMA is the principal agency and principal adviser regarding emergency management.

Given what we have been through as a country, I mean, with the pandemic and all different challenges we have had recently, in your estimation, are we prepared for the next disaster? Is the agency ready to respond, and do you have the resources necessary?

Ms. CRISWELL. Thank you for the question. We are facing a really unprecedented time, I believe, of the increase in the number of disasters that we are seeing. In 2022 alone, we saw multiple record-breaking events, weather/rain events over a 5–week period that broke rainfall records or records that were set over a hundred years ago. We have seen multiple events already this year breaking the record number of tornadoes in the first 3 months of this year already. And I fear that this is going to be the way of the future.

And so we have to continue to work through what is the right level of readiness, not just at the Federal level, but also supporting the capacity building at the State and local level, because that is where the disasters are going to stay. They start and end with that local community, and we want to continue to work with them to build that capacity, and we do that through our grant programs and through our preparedness programs.

But more importantly, we need to start to reduce the impacts of these threats. And so, to get ahead of the need for additional staff, we have to start to invest in reducing impacts through our mitigation programs, and that is where programs like our Building Resilient Infrastructure and Communities or our Hazard Mitigation Grant Program are going to make a big difference for the threats that we are going to face in the future.

Mr. NEWHOUSE. In regard to the Disaster Relief Fund—and maybe this was brought up already—but I believe it is expecting a shortfall. Do you have an idea—any kind of a measurement of what that could be?

Ms. CRISWELL. Yes. So, we are expecting a shortfall in the Disaster Relief Fund this year in the July timeframe. Current estimates right now are around $12 billion that we will have a shortfall for. And so we are putting planning measures in place to make sure that we can continue to respond to catastrophic events while we work with Congress and the administration on a potential supplemental to make sure that we have enough funding to support the ongoing recovery efforts that we are facing right now.

Mr. NEWHOUSE. Yeah, because there is a lot of calendar left after that period of time.

Ms. CRISWELL. There is what? I am sorry.

Mr. NEWHOUSE. A lot of calendar left after that period of time.

Ms. CRISWELL. There is. There absolutely is, right? And that is taking us—we want to make sure that we have enough funding to respond to a catastrophic event as that is the beginning of hurricane season and the peak of hurricane season, which really starts in August and September.

Mr. NEWHOUSE. I am assuming the answer is yes, but have you communicated with State agencies so that they submit their reim-

bursements timely, so that the agency has a good accounting of what funds will be available?

Ms. CRISWELL. We work through our Regional Administrators consistently to make sure that we have an understanding of what their anticipated requests for reimbursement are going to be. We have a really good idea of what the expected costs are going to be for disaster obligations, for natural disaster obligations.

Our area of a little bit more uncertainly has been through the COVID–19 reimbursements, but we are working with them on a day-by-day basis to get a better understanding of what they are going to reimburse and where we can continue to recoup funding.

We are doing our part to make sure that, as we approach this potential shortfall in our Disaster Relief Fund, that we continue to recoup funding. And we have already recouped several billion dollars over the last several months in obligations and projects that were considered a hundred percent but hadn't spent all the money to put it back into our Disaster Relief Fund. And so we are making sure that we are doing our part along the way as well.

Mr. NEWHOUSE. Good. Good. I appreciate that. Thanks for your response.

I may have more questions, but at this point, I will yield back. Thank you very much.

Mr. JOYCE. Thank you very much, Mr. Newhouse.

I now recognize Mr. Case for 5 minutes.

Mr. CASE. Thank you, Mr. Chair. I thought that was assumed, Chair. Thank you.

I just wanted to continue the line of questioning by my colleague just now. Just so that I am clear, when—because you referenced the reserve in your introductory comments—you said that we wanted to make sure the reserve had available funds.

That is the same thing as the Disaster Relief Fund, right? Or is it? Are we talking about the same thing? We are talking about money stored up to fund disaster relief when it happens?

Ms. CRISWELL. Yes. Let me clarify. We don't have a separate reserve. I want to have enough reserved in the Disaster Relief Fund to support any potential events that might happen before the end of the fiscal year.

Mr. CASE. And I guess my real question is: Do you have sufficient reserve in the fund right now, given the demands on it from recent disasters, and to include COVID? I mean, how comfortable are you of your projections?

Disasters themselves are hard to predict. But are there any outstanding obligations that are uncertain at this point? I mean, how certain are you of whether you have enough money right now?

And you talked about a supplemental, by the way. So I assume that you are already working on a set of assumptions that contemplates that the reserve is not going to be sufficient unless we do a supplemental in the middle of this year. So what is your thinking on that?

Ms. CRISWELL. Yeah. Congressman, we project a shortfall in July. So our current projections are we will not have enough money in the Disaster Relief Fund past July to support the ongoing obligations for current recovery efforts. And so what we will do is we will put mechanisms in place to delay reimbursements for some of the

recovery operations, to ensure I have enough funding to support immediate response actions for life-saving, life-sustaining efforts if there is another catastrophic event.

Mr. CASE. Okay. And is that assumption based on no further disasters between now and July or are you factoring a disaster or two into that projection?

Ms. CRISWELL. We are factoring in the typical size of disasters that we experience between now and the end of the year, but it would not factor in some multiple catastrophic events that might happen.

Mr. CASE. Okay. All right. And so, the supplemental would be really a stopgap, I suppose, right, of—to get the Fund back up to some kind of solvency. But, there has to be a larger fix, doesn't there, to the Fund that is more than just, you know, putting another supplemental amount in there? Wouldn't it require some kind of more systematic adjustment in the funding mechanism for the Disaster Relief Fund?

Ms. CRISWELL. Yeah. The supplemental will make sure that we can cover all of our bills to the end of this fiscal year. The amount of funding that we have put forward in the fiscal year 2024 budget, based on our analysis of the types of events that we have, would be sufficient to cover that. Again, pending multiple major catastrophic events that might cause an increase in the demand on it is not figured in, but it is based on an average year of the type of disasters that we experience.

I think going into this year, our big unknown was COVID–19, but we have better fidelity as we have been working over the last 2 years with our States to understand what their reimbursement requests are going to be. And I think we have much better fidelity going into fiscal year 2024 and what those requests will be.

Mr. CASE. Okay. Great. Going back to the comments on small States. So, I come from a small State, and I come from a rural State also. So, I really welcomed that comment on the advocate. And I want to put this in the context of one particular area where this makes a difference, and that is your required rollover and building code updates over time that I think you roll them over something like every 3 years or something like that, roughly. I think I have this right.

It takes us a long time, given the capacity in Hawaii, to update building codes. In fact, it takes us probably 4 years every time there is a required—not required, but it is a condition of our funding, right? So of course it is designed to incentivize updated building codes along the way. But we find, you know, there is a problem in the capacity to keep up with the schedule that FEMA proposes. And therefore, obviously, we are left at a disadvantage as to grant applications along these lines.

So the money you are requesting to build capacity, I suppose that is what that is about, right, to help States without capacity to get the capacity to update their building codes to kind of stay current, right?

Ms. CRISWELL. So, FEMA does not have any authority to enforce or mandate communities, States, small jurisdictions, any jurisdiction, to adopt building codes. Our Building Code Strategy is about

encouraging and educating the value of building codes, and in some of our grant programs we have put incentives for States.

Mr. CASE. Yeah, exactly. You don't have the authority——

Ms. CRISWELL. But, we don't have a mandate.

Mr. CASE. That is correct, but as a practical matter, a State that does not update their building codes is disadvantaged from competitive FEMA grants, correct?

Ms. CRISWELL. It is. And one for our grant programs, which is our BRIC program, which is our flagship program for reducing the impacts of disasters, building codes is a piece to that.

We have recognized—this is going into our fourth year of the program—the impact of having that building code requirement in our Notice of Funding Opportunity has had. And so, as we work through this year, learning the lessons over the past 3 years of this program, we are working through solutions and options that will help build capacity for State and local communities to actually adopt building codes. And so, that is one of our areas of focus.

Going into the next round, we don't know exactly what that is going to look like yet, but we recognize that it takes a while, right, to adopt building codes. And we can't expect it to happen overnight, and we need to help incentivize and support the ability for State and local jurisdictions to do that as well.

Mr. CASE. Okay. Thank you very much.

Apologies, Chair, that probably was a good caution at the beginning on the 5 minutes.

Mr. JOYCE. Well, this morning we had a good time keeping to our 5 minutes, so I wanted to make sure you understood that, Mr. Case. Mrs. Hinson is now recognized.

Mrs. HINSON. Thank you, Mr. Chair.

I want to follow up a little bit on what my colleague from Hawaii was just asking about with the BRIC program because, obviously, within the guidance, there is points awarded for building codes in States that are mandatory. And Iowa code does not have statewide building codes. So, that automatically puts us, you know, at a disadvantage, I think, when it comes to competitive applications. And to date, there has been no BRIC application approved from the State of Iowa, only one of them approved in our FEMA region.

So, would you agree that our State is automatically at a disadvantage and underserved because we don't have statewide building codes?

Ms. CRISWELL. Congresswoman, I would say that after 3 years of the program, we have seen some of the unintentional impacts of the incentives that we thought we were putting into our program have had. And as we move forward into this next round of our BRIC applications, we are going to be making some changes that will take away a lot of the disadvantages that have happened and help actually build and support the capacity at State and/or local jurisdictions' level to either adopt building codes or have a way to be more competitive in the program.

Mrs. HINSON. Because, I mean, I heard in your opening statement that you are looking at equity considerations, and that automatically disadvantages a State like mine. So, would you be able to commit to me that you will work with our office to make sure that we are trying to prioritize going forward in a way that makes

these applications more competitive no matter if you have those building codes in place?

Ms. CRISWELL. Absolutely. We want to incentivize, not penalize communities for this. So, yes, you have my commitment.

Mrs. HINSON. Okay, great. Awesome. Thank you. And then I think I want to go back to something we talked about last year. But, I think you know Iowa is no stranger to flooding, which is the biggest issue to my district, ensuring that flood maps are accurate to protect families, homes, businesses, you name it. We just celebrated a major milestone in flood mitigation and protection in Cedar Rapids last week. But, relying on the flood insurance rate maps and making sure those are up to date is critical so that people can make informed decisions.

So, I would just ask you: What are some of the concerns that you might have with some of those outdated firms that exist?

Ms. CRISWELL. Yeah. One of the things that our FIRMs do, right, is they are a regulatory map, and they really identify those special flood hazard areas, and they look historically at the risk that is out there. But we do recognize that our landscape is changing, and the type of flooding that a FIRM really reflects is not comprehensive to other types of flooding. And so, we are working on the future of flood risk data and how we can better inform communities on the types of flood risk that are out there.

You know, I want to make sure that we also look at the difference, right—that we want to have a flood mapping program that helps communities understand the total impact of the types of flooding events that they can experience in a different sense than just our pure regulatory map, which is our FIRMs that really identify that special flood hazard area.

Our goal is to eventually get those two to come together, but right now a big focus on using our Risk MAP and our future of flood risk data to help communities understand future risk to flooding, instead of just being in a different zone, and so making sure that we help communities understand the difference between those two efforts that we have underway.

Mrs. HINSON. Well, I certainly understand there is a delta there. In my district, six counties have FIRMs that have not been updated in over 5 years. So, I think that is one thing that we have to try to jive those two things, given the amount of not only potential flooding, but flooding that has already happened and the thousands of taxpayer dollars that have flowed in to help Iowans recover.

Do you think the request, the $37 million requested, will be enough to ensure that the maps are updated and that process can efficiently move forward?

Ms. CRISWELL. I think the amount of funding that we have requested is realistic for what we can accomplish in the fiscal year to begin the process of updating those maps.

Mrs. HINSON. Would you agree that making sure that the maps reflect the best available science and data on future conditions is really crucial to making sure they can be effective?

Ms. CRISWELL. Absolutely. I have spoken many times on we can't base everything on historical risk because our landscape is changing every day. And we have to be able to use modeling and future

risk data to help inform communities, so they can take the right steps to protect themselves.

Mrs. HINSON. Okay. My biggest concern is, in Iowa, during an independent report, about 300,000 properties were identified as substantial risk for flooding, but FEMA is only identifying about 150,000 properties. So, when you look at that gap there, that is half, right?

Ms. CRISWELL. Yes.

Mrs. HINSON. And those people may not be calculating their risks correctly. So, I think—I would just ask you to make sure that you are incorporating that best data into reconciling these two things, because clearly that is a lot of people that may find themselves in a really bad situation.

Ms. CRISWELL. Yeah. Absolutely, ma'am.

Mrs. HINSON. All right. Thank you, Administrator. I appreciate it.

I yield back, Mr. Chair.

Mr. JOYCE. Thank you very much, Mrs. Hinson.

I recognize Mr. Trone.

Mr. TRONE. Thank you, Chairman Joyce and Ranking Member Cuellar, Administrator, for being here today. Appreciate it.

You guys are best known and we want to commend you and thank you for all the great work you have done on the floods we have had in California, the tornados in the Midwest, and the horrible train accidents in Ohio. So thank you for that.

I mean, the cost of these natural disasters, $171 billion. That is what NOAA estimated in 2022. It is pretty mind-boggling. And we look at it getting worse and worse with climate change. So let's talk about budgeting a second and prioritizing.

You came back in 2023, this year, and you are going to ask for a supplemental of how much, $12 billion?

Ms. CRISWELL. $12 billion. Yes.

Mr. TRONE. $12 billion. Great. And we are really three-quarters of the way through in July. So, that meant 75 percent of your year and we are $12 billion short.

And in 2022, what was the supplemental that was asked for?

Ms. CRISWELL. I don't believe we asked for—maybe we did. I would have to get back to you on the exact numbers.

Mr. TRONE. We thought there was one in 2022.

And in 2021, was there a supplemental in 2021?

Ms. CRISWELL. I don't know. I would have to get back to you.

Mr. TRONE. Yeah. I think my point was simple. You know, I run a business, and we have a budget. You know, ask for what you think you need. You know, don't be shy. And, you know, you need it. These people are really in a world of hurt. You are there to help them and, you know, we want to make sure you have the funds that you need to be successful. And that is a whole—everyone feels the same way. So, you know, feel free to try and ask originally versus having to come back and come back, and death by a thousand cuts.

I noticed on Procurement Construction Improvements, that number got almost cut by—you know, almost in half. Explain that one to me. I just missed it. Wasn't aware why that was.

Ms. CRISWELL. I don't have the specifics on why that was cut in half. I would be happy to have my team get back with you and go through that specific request, but I don't have the specifics here in front of me.

Mr. TRONE. Yeah, if you could do that. I mean, it seems like we got to think long-term, and, you know, working on your infrastructure, that is what sounds like construction improvements is part of. And to cut that from 207 down to 119 is a pretty drastic percentage cut.

Other question would be: Your folks are on the road and looking at tremendous emergencies and human devastation, and that has got to take a severe penalty on the mental health of your team at FEMA. And I want to talk about, if you could, how you prioritize, you know, the mental health of your team, your staff at FEMA, and what resources you are putting forward to that, and anything we can do to help you there be successful, because your team is the key for everything.

Ms. CRISWELL. Congressman, that is such an incredibly important question and topic, and I really appreciate you raising it. One of the things that I have been very focused on is making sure that we are prioritizing the mental health—not just the physical health, but the mental health—and the well-being of our workforce, especially as we continue to respond to an increase in the number of disasters. It is not just the amount of disasters, but also they are talking to people at their worst time, and that takes a toll on people.

We have done a number of things, from pushing out our Headspace app, a Headspace app out to everybody that they can have a resource to go to for individual help, to we have a mental health nurse on standby that is there for people to go to and talk to, and she is always available.

We have brought on our first chief medical officer, that we haven't had in the past, that helps to develop a program for us to prioritize the physical and the mental well-being of our employees.

And we do stand-down days. Our Regions do stand-down days. Our program offices within headquarters do stand-down days to help make sure that our employees have the resources and the tools they need to support themselves, but also their families—make sure that they know their families will be taken care of if they have to work long hours in response to a disaster.

And so, it has been a priority for me and all of my senior leadership across the agency at all of my Regions to make sure that that is a key in everything that we are doing.

Mr. TRONE. That is great. We have a saying at my company that says, put your people work first. If you take care of your people, all the other stuff is going to work much better. So please continue to focus on that.

And I yield back, Mr. Chairman.

Mr. JOYCE. Thank you, Mr. Trone.

The chair now recognizes Dr. Harris.

Dr. HARRIS. Thank you very much.

And thank you for your job helping, you know, protect the Nation from its emergencies and recover from its emergencies.

I just have a question for you. A news article that I saw just puzzled me a little bit, but you are going to explain it, is how the—New York City on March 29 filed a $650 million request to FEMA to reimburse the city for costs incurred from sheltering and providing services for tens of thousands of migrants between last July and February 28, came 4 days before the April 2 deadline to apply for the funds, which are coming from FEMA's Emergency Food and Shelter Humanitarian Program.

Now, I thought we kind of—the whole purpose of FEMA is kind of to respond to, like, emergencies that aren't caused by people.

Now, when we say migrants, exactly what do they mean in that news story when they say migrants? Do they mean people who cross into this country illegally perhaps, ended up in New York, and somehow New York is now going to the Federal Government and saying, wait a minute, this is not our fault, you didn't enforce the law, they are here, so now this is an emergency?

Ms. CRISWELL. Congressman, we have one program at FEMA that supports mostly nonprofit and nongovernmental organizations, but also some jurisdictions with their efforts to respond to the support that they are giving to migrants, and that is our Emergency Food and Shelter Program-Humanitarian. This is a program that Congress put forth a few years ago to provide that additional funding to support these nonprofits. It is managed through a board, a National Board, that is led by the United Way, and they make all of the decisions on where the funding is going to go. We do sit on the Board. FEMA is a member of that Board, but it is purely a reimbursement mechanism for costs that are reviewed by the Board to determine eligibility on what is going to be reimbursed.

Dr. HARRIS. But this is all Federal dollars. I mean, these are FEMA dollars, right?

Ms. CRISWELL. These are dollars that were appropriated to FEMA and given to a Board to distribute.

Dr. HARRIS. Okay. So there—so what is the total budget for this in a year, fiscal year?

Ms. CRISWELL. The budget for this has gone up over the years. The budget request in fiscal year 2022 was $150 million, and in fiscal year 2023, that has gone up to $800 million.

Dr. HARRIS. And New York City is requesting $650 million of that $800 million?

Ms. CRISWELL. They are requesting that, but that does not mean that they are going to get all of that. This is going to many different jurisdictions across the country, border communities, as well as some of the interior cities that are also incurring costs.

Dr. HARRIS. So, there is going to be—so did you say $800 million, $900 million? What was it?

Ms. CRISWELL. $800 million.

Dr. HARRIS. $800 million. So, I am going to have to explain to my people, who just paid their taxes a couple days ago—well, actually, it is today—writing a check to the government today when we are told that, you know, the people who cross the border illegally, don't worry, they don't qualify for Federal programs, the whole thing, don't worry, you are not supporting them. We are actually supporting them to the tune of $800 million out of FEMA?

I mean, again, look, I live in a district that is on the ocean. I get it. We get flooding, we get hurricanes, the whole thing. I think most people don't view FEMA as that as one of the functions—I mean, I get it, Congress did it. You know, we do a lot of crazy things up here that have led to a, you know, $31.5 trillion Federal debt, over a trillion Federal deficit, which the President's budget never, ever, ever balances.

I got to tell you, I got heartburn when FEMA is spending $800 million and New York City has the nerve to ask for $600 million to reimburse the city for costs incurred from sheltering and providing services for tens of thousands of migrants. I just don't think that is fair to ask my taxpayers to pay for that.

This is a manmade emergency. It is made by the man sitting up at the other end of Pennsylvania Avenue, who decided he was not going to enforce the law. I think that wanders way far off the FEMA reservation. I think it wanders way off what people expect FEMA to do. And, again, I would hope that we would remove all the funding from that program in this year's budget.

And, of course, cries will go up that somehow we are, you know—I don't know, we are pushing granny off a cliff or something. But I don't foresee FEMA as being there to mitigate manmade emergencies.

And, with that, I yield back.

Mr. JOYCE. Thank you, Dr. Harris.

I now recognize Ms. Underwood for 5 minutes.

Ms. UNDERWOOD. Thank you, Mr. Chairman.

Administrator Criswell, thank you for being with us. It is nice to see you again.

Last year when you testified before our committee, you and I discussed how FEMA's guidance materials lacked information on financial assistance for breastfeeding equipment. Without this guidance, nursing families were asked to figure out eligibility for supplies to keep their babies alive, all in the middle of a disaster. That is why I introduced my DEMAND Act, to ensure breast pumps and other lactation supplies are eligible for FEMA's financial assistance.

And I asked you during last year's hearing to update FEMA's website with user-friendly information on breastfeeding and explicitly include those supports in FEMA's Individual Assistance Program and Policy Guide, or IAPPG, update in 2023.

It is clear that we share goals in this area, and I want to thank you for the strong commitments you made in that hearing which, when completed, will make the changes included in my DEMAND Act.

FEMA's website is now updated to include information on breastfeeding supplies and support eligibility, so today I want to follow up on the second part of the DEMAND Act.

Can you please share a progress update on the inclusion of breastfeeding supplies and support as an eligible entity for critical needs assistance in the IAPPG update in 2023?

Ms. CRISWELL. Yes. Congresswoman, I appreciate the conversation that we had last year, and we have made changes. We have updated our website, and it has always been an eligible expense under our Critical Needs Assistance, but our ability to commu-

nicate that needed to also improve. And so, we have done a couple of things there as well.

We have updated our correspondence to survivors to make sure that, when we give out information, they can see that. We are updating our website where individuals register for assistance, and that will be clearly articulated in there as one of the items that they can be eligible for. We provided training to our staff so they can communicate this and ask the right questions, right, that somebody might not think to ask, so we can ask them whether or not they need this assistance.

And so, we are continuing to work on the way we interact with survivors as well. And then, as we update our IAPPG this year, it will be included in there. And I will be happy to send you a copy once it is released.

Ms. UNDERWOOD. Well, thank you so much for that. When the IAPPG is released, the DEMAND Act will be fully enacted. That is fantastic news.

Now, FEMA still has more work to do to make sure that families can reliably access this support in the wake of a disaster. So, I would like to hear about the progress FEMA has made on your remaining commitments from last year's hearing.

First, has FEMA put together additional fact sheets to give State and local governments awareness that breastfeeding supplies and services are eligible?

Ms. CRISWELL. Yes, ma'am. That is one of the pieces of correspondence that we have put together to help make sure that people do understand that this is an eligible expense.

Ms. UNDERWOOD. Excellent. And is information on breastfeeding support eligibility available in the Disaster Recovery Centers where survivors can see and access it?

Ms. CRISWELL. And that is part of the training to even our own staff, to make sure that they understand that as they are interacting one-on-one with survivors when they come in and ask for assistance.

Ms. UNDERWOOD. And when you mention your staff, does that include the disaster survivor assistance teams?

Ms. CRISWELL. Yes. So disaster survivor assistance teams that go door to door, I will go back and make sure it is part of their training curriculum when we leave here, but also our applicant services that staff the DRC and help individuals register there as well.

Ms. UNDERWOOD. Excellent. Well, thank you, Administrator. You and your team have been great partners on this issue, and I am certainly looking forward to continuing to work together. These changes will make a big difference for families with young children going through some of their hardest days.

I yield back.

Mr. JOYCE. Thank you, Ms. Underwood.

Second round? Sure. I will take the opportunity to kick it off.

FEMA has proposed a significant reorganization dubbed the "Road to Resilience," intended to help the agency better address, quote, all hazards resilience.

Administrator Criswell, how do you define "resilience"?

Ms. CRISWELL. You know, that is a very interesting question on resilience. And I think, you know, it really differs depending on the

lens that a person is approaching resilience from, right? It can mean economic resilience. It can mean financial resilience.

For me and where I am sitting, I define "resilience" as the ability to make sure that communities have the ability to rebound after a disaster, that they have the ability to reduce the impacts that they are potentially going to experience from a disaster through our mitigation programs, and also that we have the ability to educate individuals across the country as to what their risks are, so they can be prepared to protect their families if an event does happen to hit them where they live.

Mr. JOYCE. What metrics is FEMA using to gauge success for this potential reorganization?

Ms. CRISWELL. We are still in the very early stages of this reorganization. And the Resilience organization was put together over the last 4 years, and it combined two different parts of our organization. And what I wanted to be able to do is try to streamline the efforts that they were putting forth to help communities build their resilience.

Again, coming from my experience as a local emergency manager, from both small and large cities, I found that I had several different touch points within the Resilience part of the organization in order to get different things to help me help my communities better. And what the goal is for this realignment is to make sure that the customer, the State and local emergency manager, have a single point of entry to help them build the resilience—whether that is a grant program, whether that is technical assistance, whether that is mitigation support—that they only have one place that they need to go to enter into the system, and we make it easier on them to start to build their own programs to increase resiliency for their communities.

Mr. JOYCE. Well, how are you ensuring that FEMA maintains its focus on its primary mission and does not get distracted by buzzwords like "resilience"?

Ms. CRISWELL. You know, the fundamentals of emergency management are response and recovery, which everybody knows. But the other part of our mission is preparedness and mitigation. And the preparedness and mitigation efforts were very siloed within our agency, and by combining them under an organization under Resilience, it helps to streamline those two parts, those two fundamental efforts, pillars of the emergency management spectrum, into an area that we can build that resilience so we don't have to respond and recover as much.

Mr. JOYCE. Local fire and EMS departments provide critical lifesaving services to the communities in which they operate. When I talk with firefighters and emergency responders across northeast Ohio, I often hear about staffing and other resource challenges facing their department. The Assistance to Firefighter Grants and SAFER grants program provide resources to recruit, train, and equip our first responders.

What is FEMA doing to ensure rural communities that are traditionally supported by volunteer fire departments are able to successfully compete for this grant funding?

Ms. CRISWELL. The AFG, the Assistance to Firefighters Grant, and our SAFER grant programs are two of our most remarkable

programs to help our firefighters and our emergency medical technicians, our EMS, and our first responders really build the capability that they have.

And I am really proud when I get to go out into communities, especially our more rural communities, even some of our Tribal nations, and they tell me how impactful that program has been to help them build their ability to respond to the people within their communities.

Through our U.S. Fire Administrator, Dr. Lori Moore-Merrell, she is very focused on making sure that we are reaching all communities, and that we, again, reduce the barriers and the hassle that it takes to apply for these types of programs, by trying to simplify some of the smaller requests to help these types of jurisdictions have that capability to respond to the people in their community and help save their lives.

Mr. JOYCE. Thank you.

I now recognize Ranking Member Cuellar.

Mr. CUELLAR. Thank you, Mr. Chairman.

I want to just give a little bit of context to one of the questions or statements that one of my colleagues made on the humanitarian relief. Actually, we started that in 2014. That model didn't work very well. And then in 2018–2019, the model got changed, where it now goes with FEMA, but it was to address the issues of what we face at the border communities. It was a border—southwest border community, because you had cities and counties that were overwhelmed.

The current system that we have actually got put under statute by the appropriations—even though we don't legislate—July 1, 2019, under President Trump, he was the President, and we originally started with $30 million. And then the $30 million, as even I have said, even I feel that that has grown too much, in my opinion.

The first tranche of moneys that you all put out, 88 percent of that money went to the southwestern border, which I am glad that it still—the focus is still on the southwest border. And then the other 12 percent includes D.C., Illinois, Maine. Maine gets—it is interesting there. And then New York, they get the other 12 percent.

Originally, like I said, we had started this to focus on the southwest border because this is in, and I guess Members see pot of moneys, and they start including in it, which leads me to the next one that started off also, John Culberson and myself, I think we started this in 2008, which is the Stonegarden. That Operation Stonegarden was to help border sheriffs, law enforcement at the southwest border.

We added money. I think we started out with $55, and I think now it is about $90 million. And then once we added the money there, then the northern—which I am okay—the northern sheriffs said, hey, we want a piece of the pie. And I think most of the money is still going to the southwest border.

Then when we raised it from $55 to $90, the prior Administration said, oh, we got to help those sheriffs in Florida for reasons. And now it is distributed, when originally both of these programs started off with the southwest program, because I have been involved with both of these programs from the very beginning.

So, I guess my question for Operation Stonegarden, which is a big one. And I know I have been talking to Congressman Tony Gonzales. We are hoping we can increase it because it really helps. My question is: How is this money distributed? Do you think there is enough flexibility where the sheriffs can work with Border Patrol to make sure that they stop the bad things coming in, especially fentanyl?

Ms. CRISWELL. Congressman Cuellar, I appreciate the question, and I appreciate the conversation we had about this recently when we met.

Operation Stonegarden, I mean, it is an incredibly important program that really helps enhance the coordination and the cooperation amongst all of the different agencies at the State, local, and Federal level to support the efforts that are going on at the border.

We work very closely with CBP, right? We are administering this program on their behalf, and they use a formula to help determine what the sector-level risk is going to be to help determine what those allocations are going to be and where the greatest need is. And we will continue to work and support CBP in those efforts to make sure that we are providing the funding to the areas that have the greatest need.

Mr. CUELLAR. The only thing I ask is that you all—you know, it is a good program. We are hoping we can put a little bit more money, but I notice here in Congress, when somebody sees a pot of money and then people start going after it—and I am okay with the northern border, Florida too, to an extent, but still the focus on the southern border itself.

What I would ask you is to make sure that we have this coordination with Border Patrol. Because sometimes there are governors that take part of that money, and I want to make sure it doesn't stay with the governor and they send it off other places, but it stays with the border sheriffs, whether it is in the northern border or the southern border. But it is a good program that works, and it certainly supplements Border Patrol as they do their work down there. So, thank you so much.

Mr. Chairman, I yield back.

Mr. JOYCE. Thank you, Mr. Cuellar.

And now, Sheriff Rutherford, are you ready, do you want 5 minutes?

Are you ready?

Mr. RUTHERFORD. Sure, I am ready.

Mr. JOYCE. Sheriff Rutherford.

Mr. RUTHERFORD. Thank you, Mr. Chairman.

And I am sorry, you know, we have hearings stacked on top of each other, so bear with me.

During——

Mr. JOYCE. You were here first, before you left——

Mr. RUTHERFORD. Well—last year, Florida was hit with not one but two massive hurricanes, Ian and Nicole. And they did significant damage across the entire State. And I appreciate the men and women of FEMA. They are always some of the first on the ground. You guys, you know, as a former sheriff, I know the job that you all do.

However, after the new cycles has moved, debris has been cleaned up, and power is turned back on, these communities are saddled with a slow and cumbersome reimbursement process, many of which they have to pay the interest on. And just last month, an entity in my district was notified that FEMA was reimbursing costs from Hurricane Matthew, which hit in 2016. The long reimbursement process can leave communities, as I mentioned just a moment ago, fronting millions of dollars in paid interest on that.

Are there some things that we can do to speed up that reimbursement process or can FEMA begin to help pay some of those costs?

Ms. CRISWELL. Congressman, Hurricane Ian followed by Hurricane Nicole, just devastating events that impacted Florida. In fact, Hurricane Ian right now is the third costliest cyclone in U.S. history.

Mr. RUTHERFORD. Yeah, it is amazing.

Ms. CRISWELL. I mean, so there is—I understand that there is definitely a large amount of reimbursement needs, but there are a number of things that we can do there. You know, in the first months after a disaster, we really focus on expediting the reimbursements for their overtime and the emergency protective measures in getting that cash flow going back, especially into some of these small communities that don't have a large cushion in their budget to do that. And so, we will work with them to reimburse part of those projects as they continue to gather all of the data.

I think as we get into some of the larger permanent repair projects and those repair projects that can take years to finish, that is where we need to really understand all of the different impacts that a community is having. And we can find ways to work with them throughout the process, if it is purely a financial issue that is slowing them down from even starting a project, right? And so those are things that we have learned throughout the years, unfortunately, from so many of these different catastrophic events.

I would be happy, if there is a community specifically that you know is having a hard time, I will make sure my team works with them specifically and follows up with them to see where their struggles are and what we can do to help them.

Mr. RUTHERFORD. Is there any idea how it could take 7 years?

Ms. CRISWELL. I think a lot of the 7 years from Hurricane Matthew are, again, some of these more complicated projects. They need to go through environmental reviews, right? And going through all of those different reviews are, a lot of the time, the things that slow this reimbursement process down.

Mr. RUTHERFORD. Okay. Thank you. And I might reach out to you on some of that. Thank you.

Ms. CRISWELL. Absolutely.

Mr. RUTHERFORD. Last year when you were in front of this committee, we discussed the supply chain concerns that the power companies were facing when it comes to equipment. And I am going to bring it up again, these transformers, because I am telling you, this is a vital piece of equipment. It used to take months to get them delivered. Now we are looking at years. And as you know, power companies usually stockpile, you know, what they can to respond to these disasters, but these transformers are just not there.

Can you tell me what actions did FEMA take last year to help bolster these supply chains for this type of equipment, particularly those transformers?

Ms. CRISWELL. Yeah, I remember the conversation we had last year. And we talked about the fact—what we do, right—is we provide temporary support through generators. We don't stockpile transformers.

But following our hearing last year, I asked my team to get with our consultant that does supply chain analysis, and we did a supply chain analysis going into hurricane season last year, with one of the areas of focus being on transformers and what the impact would be. As we went through hurricane season last year, the impacts to the current stock of transformers didn't have a huge impact. But, we are now going through another supply chain analysis going into this hurricane season, so we can see if there has been any change based on the events that have happened across the country, so we can work with our private sector partners to better understand how we can utilize mutual aid amongst them or is there some other mechanism that we need to do today to make sure that we are prepared to support the initial restoration of these critical energy infrastructure pieces.

Mr. RUTHERFORD. Thank you very much, Ms. Criswell, because I tell you, that has the potential to be a really horrific situation. I lived through Hurricane Dora in 1964, when we had, you know, no power for over 3 weeks. So that is very important to our State and to our country actually, not just Florida. We have a lot of problems everywhere.

I see my time is up. With that, I yield back. Thank you.

Mr. JOYCE. Thank you, Sheriff.

Ms. Underwood.

Ms. UNDERWOOD. Administrator, I would like to talk about equity at FEMA. Bold and deliberate policies are the only way that we will be able to combat the systemic inequality that we know is built into our Federal disaster preparation, response, and recovery efforts. So, I am glad to see that, under your leadership, equity is being instilled as a foundation of emergency management. It is literally the first goal in FEMA's 2022 to 2026 strategic plan.

One way that FEMA has unfortunately contributed to wealth inequality is through its hazard mitigation grants, which help communities prepare for disasters in advance. FEMA requires applicants for these grants to use a cost-effectiveness ratio to show the value of hazard mitigation activities, but because lower income communities have less wealth to lose, it was challenging to show the real value of their projects compared to communities with high-dollar properties and infrastructure. Researchers have found this disproportionately benefits wealthy communities seeking the grants while leaving the rest behind.

To address these challenges, in October, FEMA rolled out an alternative cost-effectiveness methodology for the BRIC and Flood Mitigation Assistance programs. By modifying the thresholds for projects to be considered cost effective, FEMA is giving communities who have been locked out from these Federal grants a more equitable shot at funds that will keep them safe in the face of a disaster. This is a powerful step forward.

After the fiscal year 2022 funding cycle, will FEMA analyze how this change impacted equity for the grants both in the applicant pool and the selected grant recipients? And how will FEMA determine if this alternative equation will be used for future funding cycles?

Ms. CRISWELL. Thank you so much for that question, because it is one of those efforts that we have put forward to try to make sure that we are removing the barriers that communities have to accessing the programs that can help them.

Every community has a different experience, every community has a different need. And unfortunately, sometimes the policies that we put in place have inadvertently eliminated those who probably need our help the most. And so, I am really excited about the changes that we were able to make as it relates to benefit-cost analysis. And we are going to definitely look at what impact that has had, as well as is there anything else that we can do.

I would also say to your comment about being able to do the BCA was limiting their ability to apply for these programs. One of the other changes that we have is under-resourced communities can now also apply for BRIC without competing or completing the BCA ahead of time. And if their project has merit, then we will work with them to complete that BCA afterwards. So, they are not eliminated up front just because of the hassle and the work that it takes in order to complete that BCA to submit a project application.

Ms. UNDERWOOD. So, it will be used in future funding cycles, do you anticipate?

Ms. CRISWELL. Yes.

Ms. UNDERWOOD. Okay. What proactive steps is FEMA taking to ensure communities who haven't been eligible before are aware of a new cost-benefit method?

Ms. CRISWELL. Our community engagement strategy that we are working with our Regional Administrators on is to make sure that we are getting out to communities so they have an understanding of these changes is really going to go a long way, right? Our Regional Administrators work with our States every day, and they know which communities need to apply for these programs. And they are helping us communicate that message down to the State, but more importantly the local communities.

We are also offering technical assistance—direct technical assistance—to go into some of our more under-resourced communities to help them think about the types of programs, the types of projects that are within the realm of possibility, and help them understand and bring the right technical experts in to help them develop and scope out the types of mitigation projects that are going to have a big communitywide impact for them.

Ms. UNDERWOOD. Right. In working on these issues, I was surprised to learn that FEMA hasn't collected voluntary demographic data on who applies for and received Federal assistance. Data like this is incredibly important for evaluating existing policies, identifying gaps, and looking towards the future.

I was glad to hear from your team last August that FEMA has finally begun asking voluntary demographic questions for survivors when applying for individual assistance. Can you share any trends or insights you have noticed since beginning to collect this informa-

tion, and how can it inform our work to make FEMA more equitable?

Ms. CRISWELL. I think by having a voluntary collection of this information, it really helps us better understand the communities that are receiving our assistance and where we might still have gaps, right, where those islands are and where those deserts are.

I don't have the data right in front of me, but I would be happy to have my team follow up with you——

Ms. UNDERWOOD. Thank you.

Ms. CRISWELL [continuing]. Specifically on what we are seeing, what trends we are seeing, and then more importantly what steps we are going to take as a result of that information.

Ms. UNDERWOOD. Thank you.

Republicans in Congress have proposed reverting to a fiscal year 2022 spending level, meaning DHS would see a $3.4 billion cut. Secretary Mayorkas has reported that this would mean that FEMA's grants to help State and local governments implement preparedness strategies would be cut in half. As appropriators our job is to make hard choices about funding and committing to put people over politics when we are making those difficult decisions.

Administrator Criswell, thank you so much for all the work that you and your team does or do to center equity in disaster recovery, and I look forward to continuing to work with you.

I yield back.

Mr. JOYCE. Thank you very much.

Mrs. Hinson is recognized.

Mrs. HINSON. All right. Thank you for round two, Mr. Chair. And thank you, Administrator, for sticking around.

One of my top concerns when it comes to severe weather is ensuring that our emergency communications networks are resilient, secure, reliable in the event of that severe weather. And we talked about tornados. We obviously had several outbreaks of severe weather in Iowa. And we, last year, had a major issue when disaster struck; the communications did not work and the warning system failed. Public broadcasting in comms infrastructure also needs to be resilient to protect from issues and delays in the future as well.

So, your budget includes a $14 million request for the public warning system. Can you elaborate a little bit on the request for me, and anything else that the agency is doing to ensure that our emergency communications are secure and ready to go?

Ms. CRISWELL. Yeah. Our public alert and warning system is one of the critical tools that we have that really help communities get those messages out there. Many of you have seen the alerts that come over your cell phone, whether it is an amber alert or a National Weather Service alert, and State and local jurisdictions have the ability to use that system as well to put out alerts for their specific communities.

And so the funding in this request, I can have my team get back with you on the specifics on what it is going to cover, but it will just continue to expand that ability to use the system to get that type of alert and warning out there in a very timely manner when seconds really do make a difference.

But, I think to follow up on some of the other types of communications systems and perhaps early warning systems, sirens that communities have, those are things that we can work with communities as part of our mitigation programs. Those types of projects are things that we would love to be able—safe rooms too, right, to be able to help protect communities through our other funding sources, our other preparedness grants, to help communities make sure that they can communicate in a timely manner.

Mrs. HINSON. And I am talking with our emergency managers on the ground, obviously, before and sometimes immediately after these disasters, and so I think that is good news to hear. And I will make sure I communicate that to them as well that you are ready to partner with them there.

I am concerned a little bit. There is a cut in funding for the Next Generation Warning System as well in the request. And I see those, again, as being critical for our public media stations to ensure that they can get out those enhanced alerts and warning capabilities. So, I am just curious why that area specifically with the NextGen Warning System saw a reduction in funding in this request.

Ms. CRISWELL. Yeah, I don't have those specifics in front of me. I am sure at this point it is for sustaining capability instead of building new capability, but I would be happy again to have my team get back to you on the specifics on those cuts and what the impact would be.

Mrs. HINSON. I will just look for the context there, why that decision was made.

And then I wanted to highlight again something one of my colleagues a little bit earlier brought up, but the request for the Shelter and Services Program, $83.5 million, and that also assumes at least $800 million in total funding for the Southwest Border Contingency Fund proposal. I see that as a slush fund. $800 million is meant to be available for—in this case, it is specifically a migrant surge in 2024, correct? Is that what that is designed for?

Ms. CRISWELL. I would have to defer you to the Secretary on the Border Contingency Fund.

Mrs. HINSON. Okay. Well, my understanding, when we are looking at $800 million as part of a larger Contingency Fund, I think it is a misdirection of priorities to send that much future taxpayer funding, again, to what we consider a manmade crisis at the southern border. There are tornados wreaking havoc in my district, taking lives in Iowa; along the region, disastrous flooding, hurricanes. So many natural disasters and severe weather, and I think the focus should be on resilience and mitigation to protect lives of Americans versus $800 million to go to a border slush fund. So I see that request, combining those two, really as not aligned with anyone's priorities, so I would push back on that and say those dollars would be better used in disaster mitigation or disaster relief, programs like BRIC and the NextGen Warning System as well, to ensure that we have resilient infrastructure for Iowans.

So, with that, Mr. Chair, I am done asking questions, and I will yield back. Thank you.

Thank you, Administrator.

Mr. JOYCE. Thank you very much. I appreciate it.

Mr. Cloud.

Mr. CLOUD. Thank you, Administrator. Appreciate you being here. And let me just first off say Harvey went through my district, went over my city, twice actually. Came in and went up, and so we spent the last few years, and FEMA has been very helpful by and large. There have been obviously some learning lessons along the way. And so it has been good to work with FEMA.

But just wanted to first of all say thanks to you and your agency and the people on the ground, specifically in Region 6 for all the help in helping our community recover. It has been much appreciated. And so, thank you.

One issue I did want to bring up on that, and we were learning, I always would tell people, we are working this on two tracks; we are working to get your particular case through and then we are working to learn what we can about FEMA to kind of look at the overall processes and what could change.

And one of the issues that was concerning—because most of my district is rural. And many of the larger cities, you know, they have complete staffs. All they do is grant write all day and they look into this sort of thing. And then you have some of these communities and—Taft, for example, 4,000 people and part-time mayor, you know. And it is just they don't have the staff to kind of look into these sort of things. Yet they have to go through the same administrative burden sometimes for a much smaller project as they would a multimillion dollar project, you know, and then you would have FEMA staff change out during the process and they would have to start the whole—anyway, it could be quite a burden on rural communities.

And I was wondering your thoughts on that. And what, if anything, has been done to kind of make that easier on rural communities.

Ms. CRISWELL. It definitely is an issue, right? It is one of those things where some of our policies and programs take this one size fits all you approach. I am not, recognizing that every community has unique needs, and we know that there are some communities that have part-time emergency managers and they wear four different hats, especially in our rural communities.

And so, something that I am very cognizant of and want to make sure that we are doing everything we can to reduce the barriers that these communities have into accessing our programs just because it is too hard, even though that they are eligible. And what we find is that oftentimes those again that need our help the most have the hardest time getting that help.

So, a couple of the things that we have done is, one, through a rural change have changed the small project threshold. So to your point of they have to go through the same level of bureaucracy for a small project as they do these multi-million dollar ones, we have raised that to a million dollars, which the mass majority, the majority of the projects that communities experience will fall within that small project threshold, which means that it will reduce the burden that they have into submitting the documentation in order to seek reimbursement for those projects. That was a rule that was just passed recently late last year, and so we will continue to work

with our communities so they understand how to implement that role.

One of the other things that we have done to make sure that our rural communities have a voice is we have just posted and we are hiring our first ever small State and rural advocate, and so that person can be a voice for these communities, help look at our policies, and help us understand other barriers that are in there, not intentionally, but had these unintentional impacts on communities to receiving the assistance or accessing the type of services that we have.

And so, I am really looking forward to having that advocate come onboard to be able to really start to look at our policies from the rural lens. Because when we look at it from Washington, DC, we only see one thing, and I need somebody that is looking at it from that lens.

Mr. CLOUD. I appreciate that.

Maybe one little tidbit to consider is, I know when, you know, the community leaves to evacuate, they come back, it is destroyed. And then what they would find often is FEMA and the recovery effort was taking up all the hotel rooms, and then they would try to get in line for a trailer and then it would be many months and weeks. And just for consideration, maybe have—rethinking about deploying the staff with the trailers so that there is room for people to come back and get close to their home and property. It might be one of the many things you can consider along that.

I wanted to touch on one more thing. I am from south Texas and so, of course, the border is there. Most I think Americans and Texans for sure would be surprised to find that FEMA actually has a border mission. I was wondering if you could speak to that. My understanding is it lies outside of the Stafford Act, and so I am curious about the extra Stafford Act roles that FEMA has taken on.

And then, you know, I am obviously concerned too about FEMA's spending money to house migrants who come here illegally versus in that taking the shift off of helping Americans recover who, of course, are helping fund FEMA, and us looking at that from a budgetary standpoint is all. If you could speak to that.

Ms. CRISWELL. Yeah, absolutely. FEMA is not a border security agency. The role that we have is strictly through our Emergency Food and Shelter Program-Humanitarian assistance, which is a program that was administered by Congress to FEMA to manage a few years ago. And it provides funding that we give to a National Board that helps support and reimburse costs that nonprofit, nongovernmental organizations, and local jurisdictions are experiencing, and it is a reimbursement program. And so our——

Mr. CLOUD. Could we get a list of the grants that you have given out in the last 2 years? It is really hard to find out grant information, as far as which NGOs are receiving this with communities and cities and counties.

Ms. CRISWELL. We will work with your staff on the data that we have and try to answer all the questions that we can based on the data that we get back from the National Board. But, absolutely, we will work with you on that.

And so that is our main effort that we have to support any of the border activities. I think there is no Stafford Act impact be-

cause our Stafford Act is not supporting any of the activities at the border. And the only other effort that we have done is provide our collaboration and our coordination capabilities that we bring to a variety of different types of events to make sure that we are bringing all of the appropriate stakeholders together and support them to set up a unified coordination group—a logistics operation planning cells and so forth. And we have provided a few individuals that helped stand up the southwest border coordination cell, but we have currently nobody that is supporting that effort.

Mr. JOYCE. We managed to get through two rounds, and if you had another question or so, we have time.

Mr. CLOUD. Let me see. I could submit some for the record. I will do that.

Mr. JOYCE. Great. And so additional questions may come from members, and for those things that the members have asked you, I ask that you respond to them in 15 business days, if you would, starting today.

Ms. CRISWELL. Okay. We talked about that earlier, yes.

Mr. JOYCE. I would like to thank the witness for being here, for all the hard work she does.

And, with that, this meeting is adjourned.

[Answers to submitted questions follow:]

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Representative Joyce

1. National Flood Insurance Program (NFIP) Continuous Coverage Clarification

To: FEMA Administrator Deanne Criswell

The Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters) contained reforms to the National Flood Insurance Program (NFIP), including provisions to incentivize growth in the private flood insurance market. Specifically, this included requiring lenders to accept private flood insurance policies that meet certain conditions to satisfy the mandatory purchase requirement.

Question: If a consumer leaves the NFIP, but maintains flood insurance coverage through a private insurer, can that consumer return to the NFIP at the rate that they would have been entitled to had they never left the NFIP, as long as they maintained continuous flood coverage?

Response:
No, the National Flood Insurance Act of 1968 (Act) prohibits FEMA from offering discounted Pre-Flood Insurance Rate Map (FIRM) rates if an NFIP policy lapses for any reason, unless the policyholder decided to allow the policy to lapse because they were no longer required to carry flood insurance (See 42 U.S.C. 4014(g)).

Question: Does FEMA have the authority to clarify this policy? If so, can you explain why FEMA has chosen not to clarify this issue?

Response:
Regarding whether the Federal Emergency Management Agency (FEMA) has the authority to permit policy holders who leave the National Flood Insurance Program (NFIP), but maintain private flood coverage, to return to their NFIP Pre-FIRM premium rate, the answer is no.

The National Flood Insurance Act (NFIA) mandates that FEMA charge full-risk rates for all new NFIP policies, unless the property is eligible for a statutory discount, such as newly mapped (See 42 U.S.C. 4014(a)(1); 42 U.S.C. 4015(c); 42 U.S.C. 4014(g)). Otherwise, FEMA is prohibited from charging a less than full risk rate for property owners who leave the NFIP and come back.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Representative Hinson

1. National Flood Insurance Program – Continuous Coverage

To: Administrator Deanne Criswell

The National Flood Insurance Program (NFIP) has been reformed over the past few years to update the NFIP rate setting structure. These reforms include provisions to incentivize growth in the private flood insurance market; it does so by specifically requiring lenders to accept private flood insurance policies that meet certain conditions to satisfy the mandatory purchase requirement. Under Section 100205 of the Biggert-Waters Flood Insurance Reform Act of 2012 (the "continuous coverage" requirement) prohibits FEMA from providing subsidies to NFIP policyholders for a lapse in coverage. FEMA has chosen not to clarify the statutory prohibition on subsidies to policyholders has harmed policyholders who choose to exercise their right to find the coverage that is most suitable for their individualized needs.

Question: Why has FEMA chosen not to clarify if the Agency has the authority to decide if a consumer leaves the NFIP, but maintains flood insurance coverage through a private insurer, then the consumer can return to the NFIP at the rate they would have been entitled to with continuous flood coverage under NFIP?

Response:
The National Flood Insurance Act of 1968 (Act) prohibits FEMA from offering discounted Pre-FIRM rates if an NFIP policy lapses for any reason, unless the policyholder decided to allow the policy to lapse because they were no longer required to carry flood insurance (See 42 U.S.C. 4014(g)).

FEMA has addressed the statutory mandate in the NFIP Flood Insurance Manual at 3.1.b. "Lapse in Coverage" (pg.3 • 44). (See the October 2022 NFIP Flood Insurance Manual - RR 2.0: Equity in Action(fema.gov)).

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

2. **COVID-19 Funeral Assistance Funding**

To: Administrator Deanne Criswell

In response to the COVID-19 pandemic, FEMA began a program to reimburse or help alleviate costs of funerals for individuals who died of COVID-19.

Question: What is the Agency doing to ensure that this program is protected from fraud and that taxpayer dollars are going toward its intended use?

Response:
The Federal Emergency Management Agency (FEMA) has multiple measures in place to protect programs, such as the Funeral Assistance program, from fraud, waste, and abuse.

- FEMA accepts Coronavirus Disease 2019 (COVID-19) Funeral Assistance applications by phone in order to provide the broadest access to applicants across the nation and to ensure callers receive personalized, compassionate, and empathetic assistance from FEMA representatives. This approach reduces opportunities for fraudulent applications for example by screening out robocallers. During the call, the FEMA representative will also request information from the applicant to include:
  - The applicant's Social Security number and date of birth
  - The Social Security number and date of birth of the person who died
  - The applicant's current mailing address and telephone number
  - The address where the individual died
  - If the person who died had burial or funeral insurance policies
  - If the applicant received other funeral assistance (such as donations, CARES Act grants, state/territory assistance, or assistance from voluntary organizations)
  - If the applicants want eligible funds delivered by direct deposit; if yes, the routing and account number of your checking or savings account will be requested.

- The National Emergency Management Information System – Individual Assistance (NEMIS-IA) is used to process COVID-19 Funeral Assistance, as well as all other disaster assistance. Cases are automatically flagged in the system as potential duplicates based on the applicant or co-applicant name and social security number, and the deceased individual's name and social security number to ensure they are not claimed on multiple applications across multiple disasters.

- When FEMA implemented COVID-19 Funeral Assistance, FEMA established processing guidance for staff to verify additional assistance was not paid beyond the $9,000 maximum. The funeral assistance process requires applicants to submit verifiable documentation for reimbursement of incurred costs. Documentation may include funeral

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

home contracts, receipts, and/or invoices, and other similar documents to verify funeral expenses. Additionally, FEMA staff reviews death certificate documentation, and any documentation of assistance received from other sources, to verify eligibility for funeral assistance prior to awarding assistance.

- To ensure all applications are being processed in accordance with guidance and to mitigate improper payments, FEMA has also implemented a daily system generated report to identify data anomalies, to include: (1) funeral assistance applications containing three or more decedents; (2) applications without decedent information; (3) applications transferred to another disaster; and (4) applications canceled as exact duplicates. FEMA's Recovery Analytics Division (RAD) provides these reports to Individuals and Households Program (IHP) staff daily as part of FEMA Recovery Directorate's internal quality control measures for additional review.

- Additionally, Recovery established a new section in RAD in October 2022 solely dedicated to payment integrity, including case reviews, application of fraud prevention tools and controls, and coordination of guidance and procedure changes with the Individual Assistance and Public Assistance program offices. RAD's Program Integrity Section is specifically tasked with review and analysis of cases identified as potentially fraudulent in the COVID-19 funeral assistance program as one of the payment integrity activities.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Representative Underwood

1. Social Vulnerability Metrics

To: Administrator Criswell

In October, FEMA rolled out an Alternative Cost-Effectiveness Methodology for BRIC and Flood Mitigation Assistance programs, with the goal of making hazard mitigation grants more equitable. FEMA is using CDC's Social Vulnerability Index, along with other metrics, to determine if communities are eligible to use the alternative equation.

Question: Does FEMA have plans to continue using this as a metric when evaluating grant applications in the future?

Response:
The draft Fiscal Year (FY) 2023 Notices of Funding Opportunity (NOFO) for the Building Resilient Infrastructure and Communities (BRIC) and Flood Mitigation Assistance (FMA) grant programs are still in development. The Federal Emergency Management Agency (FEMA) will continue to assess its use of metrics for these FY 2023 NOFOs and future application cycles.

FEMA allowed the use of a lower discount rate for the FY 2022 BRIC and the FMA programs when subapplicants could demonstrate that they met one of several conditions. One of these conditions included if the community was identified as an Economically Disadvantaged Rural Community (EDRC), was within a tribal jurisdiction or insular area, or if their Centers for Disease Control and Prevention (CDC) Social Vulnerability Index (SVI) was 0.6 or greater.

Pursuant to the Infrastructure and Investment Jobs Act (IIJA) (P.L. 117-58), also commonly referred to as the Bipartisan Infrastructure Law (BIL), the FMA program will continue to assess grants using the CDC SVI to determine eligibility for enhanced cost share (90%) for sub-applications in socially vulnerable communities. For every other program, e.g., BRIC, FEMA has been directed by the White House Council for Environmental Quality (CEQ) to use the Climate and Economic Justice Screening Tool (CEJST) in the spirit of the Justice40 initiative and as directed by Executive Order 14008: *Tackling the Climate Crisis at Home and Abroad.*

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Question: Has FEMA considered creating its own metric to measure social vulnerability to evaluate grant applications?

Response:
The Federal Emergency Management Agency (FEMA) is using existing metrics.

FEMA first issued its "Interim Guidance for Establishing an Equity Data Standard for Resilience Grants" in May 2022 to create consistency and transparency in applying the terms "underserved" and "disadvantaged" across Resilience's grant programs.

At the time, Resilience grant programs were using a variety of social vulnerability tools and indices to identify underserved and/or disadvantaged communities. The interim standard defines an underserved and/or disadvantaged community using the Centers for Disease Control and Prevention (CDC)/Agency for Toxic Substances and Disease Registry (ATSDR) Social Vulnerability Index (SVI). This interim standard applied to the Fiscal Year (FY) 2022 Resilience grants, incorporating an equity data standard.

However, since the interim standard was released, the Council on Environmental Quality (CEQ) released the Justice40 Initiative's Climate and Economic Justice Screening Tool (CEJST) version 1.0 and issued a memorandum on January 27, 2023 requiring the use of CEJST to "identify geographically defined disadvantaged communities for any covered program under the Justice40 initiative and for programs where a statute directs resources to disadvantaged communities, to the maximum extent possible and permitted by law.[1]" In response to this new White House requirement, FEMA is aligning with the new CEJST requirement for FY 2023 Resilience grants.

[1] M-23-09 (whitehouse.gov)

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

2. **Applicant Correspondence**

To: Administrator Criswell

Researchers have found that racial disparities exist at every stage of FEMA's Individual Assistance application process. Complicated applications, documentation requirements, and home inspections all put the burden on the survivors who are already dealing with the fallout of a disaster.

Correspondence coming from FEMA can compound this issue. Status update letters can be read as denial letters. Applicants can dispute denials, but the denial letter does not explain how to do so. FEMA can help shift the burden off the survivor by more clearly communicating about an applicant's status.

Question: Does FEMA have plans to improve the application correspondence language it uses in denial and status update letters?

Response:
The Federal Emergency Management Agency (FEMA) completed a multi-year comprehensive review of our correspondence for the Individuals and Households Program (IHP) last year to strengthen and enhance communication to survivors with compassion, fairness, integrity, and respect. After conducting focus groups to obtain direct feedback from disaster survivors, changes were made to the letters to increase use of plain language, provide survivors with more information about why they may not be receiving assistance, and clearly identify the next steps they can take to get the help they need. The updated letters also explain the relationship between FEMA assistance and Small Business Administration (SBA) loan assistance more clearly. The improved letters were first implemented on November 21, 2022, for the Hurricane Ian disaster declaration in South Carolina.

FEMA is taking additional steps to improve our letters before the 2023 Hurricane Season. This includes changing the headers to be clearer about what next step actions are necessary. For example, the current "Not Approved" header will be changed to "Not Currently Approved – You May Appeal." It will also include making additional changes to the decision summary lines so that they more clearly explain what next step a survivor may need to take. For example, "Same Address" will be changed to "FEMA Already Provided Assistance for this Address."

FEMA's next comprehensive review of IHP letters will begin in 2024, with the goal of replacing most initial denial decisions that require an appeal with requests for additional information by the end of 2025.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

3. Strategic Plan Performance Measures

To: Administrator Criswell

In the 2022-2026 Strategic Plan, FEMA includes performance measures to analyze how it's hitting their targets.

To measure if FEMA is building a diverse workforce, one metric is: "percent of FEMA's workforce that reflects the diversity of the nation."

Question: Can you share the demographics of FEMA's workforce, especially for Full-Time Employee roles?

Response:
FEMA's workforce of 22,828 individuals is represented by the following demographic breakdown:

Demographic	All Employees	Full-Time Employees
Gender	**22,828**	**14,745**
Male	11,012	7,186
Female	11,816	7,559
Veteran Status	**22,828**	**14,745**
Veteran	3,579	2,698
Non-Veteran	19,249	12,047
Disability	**22,828**	**14,745**
No Disability	17,916	11,424
Non-Targeted Disability	2,731	1,824
Not Identified	1,616	1,092
Targeted Disability	565	405
Race	**22,828**	**14,745**
American Indian or Alaska Native	227	139
Asian	698	526
Black or African American	5,957	3,399
Hispanic or Latino	3,745	2,049
Native Hawaiian or Other Pacific Islander	113	61
Two or More	189	118
White	11,899	8,453

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Question: What internal processes and external partnerships is FEMA forging to increase workforce diversity?

Response:
For external audiences, the Federal Emergency Management Agency (FEMA):

- Coordinates outreach and recruitment strategies to maximize its ability to recruit from a diverse, broad spectrum of potential applicants, including a variety of geographic regions, academic sources, and professional disciplines.
- Designs outreach and recruitment strategies to draw from all segments of society, including those who are underrepresented, when using staffing flexibilities and alternative hiring authorities.
- Involves managers and supervisors in recruitment activities and takes appropriate action to ensure that outreach efforts are effective in addressing barriers.
- Includes multiple tasks in FEMA's Strategic Recruitment Implementation Plan geared toward increasing diversity, including updating resources and guidance documents (for example, the Hiring Guide for Managers and the Interview Guide) to include unconscious bias information and other diversity, equity, inclusion, and accessibility principles. This Strategic Recruitment Implementation Plan will guide FEMA's efforts to operationalize the Strategic Recruitment Plan the Agency published last year. The Agency views the Strategic Recruitment Implementation Plan as a working document that will evolve and adjust as it moves forward with these activities.
- Develops strategic partnerships with a diverse range of colleges and universities, trade schools, apprentice programs, and affinity organizations from across the country.

FEMA also utilizes online job boards, such as Professional Diversity Network and Institution for Diversity and Inclusion in Emergency Management, to target diverse candidates and advertise job announcements. FEMA continues to maintain strong partnerships with Historically Black College and Universities, Hispanic-Serving Institutions, Minority Serving Institutions, and diverse associations and organizations such as the American Indian Higher Education and Federally Employed Women's Organization.

Internally, FEMA has increased workforce diversity through publishing an Agency Directive on Employee Resource Groups (ERGs). This Directive established the following operational and process guidance standards:

- How to maintain a strong posture for FEMA's existing ERGs;
- How to develop new ERGs;
- The value that ERGs bring to FEMA; and
- Internal places where employees can engage, create, and innovate in the Agency.

Please see below for a current listing of FEMA's ERGs:

- African American ERG
- Hispanic-Latino Heritage ERG

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

- PRIDE ERG
- Asian American Native Hawaiian Pacific Islander ERG
- Disabilities ERG
- National Service Alumni ERG
- Seasoned Employee ERG
- Women's Forum ERG
- Tribal Affairs ERG
- Veterans Advisory Council ERG

To measure the achievable outcomes for people FEMA serves, the metric included in the Strategic Plan is "percent of FEMA programs that evaluate and report on outcomes."

Question: Can you elaborate on the specific evaluations FEMA has put in place to measure the disparities in outcomes in its programs and policies?

Response:
The Federal Emergency Management Agency (FEMA) has made progress in understanding how programs leverage data to achieve equitable outcomes and in conducting discrete analyses of equitable program delivery. To help ensure support to underserved communities, FEMA built dynamic dashboards using equity datasets and indicators and leveraged geospatial reporting in the field. Overlaying socioeconomic factors indicating high vulnerability with FEMA operational data enables better informed decisions throughout the disaster life cycle, especially during response and long-term recovery.

As an example of our work to enhance equitable program delivery, in 2022, FEMA updated multiple policies and practices that resulted in immediate improvements in access to aid by expanding the reach and benefit of disaster assistance programs, including in disadvantaged communities. FEMA was able to measure the results of this work, which included:

- More than 100,000 disaster survivors received assistance who may have been deemed ineligible previously through the updating of Individual Assistance policies.
- By opening Direct Housing eligibility to disaster survivors with smaller homes, more than 6,700 disaster survivors were considered for direct housing who previously would not have received assistance, including more than 4,000 lower-income applicants.
- By expanding Ownership Verification, more than 57,000 additional disaster survivors received FEMA assistance, totaling $444 million.

FEMA also conducted assessments across six program offices as part of a broader agency-wide approach to ensure greater equity. These offices analyzed their current data to identify opportunities to remedy data gaps and advance equity.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Consistent with the Stafford Act's statutory directive to ensure equitable treatment of disaster survivors, FEMA collects demographic data from disaster survivors. The data is collected on a strictly voluntary basis.

Aligning with the Administration's Justice40 Initiative, FEMA also has a measurable target for Justice40 covered programs. Socially vulnerable communities are more likely to be impacted by extreme weather events. By implementing the Justice40 Initiative across critical resilience programs, FEMA will be able to build on existing efforts to better serve these communities by making them more resilient when disaster strikes. Programs in FEMA covered by the Justice40 Initiative include the Building Resilient Infrastructure and Communities (BRIC) and Flood Mitigation Assistance (FMA) competitive annual grant programs, which both provide Hazard Mitigation Assistance (HMA) to state, local, tribal, and territorial governments to make communities more resilient to the effects of natural hazards. Also included in this Justice40 Initiative are FEMA Risk Mapping, Assessment and Planning (Risk MAP) and the Regional Catastrophic Preparedness Grant Program (RCPGP), which help to ensure that communities are prepared for disasters.

Although each of these activities advances the goal of ensuring equity in our program delivery, FEMA recognizes that significant opportunities exist to more comprehensively advance equity across the emergency management community.

FEMA has committed to continuing evaluation of existing equity data, decision-making tools, resources, and guidance for emergency managers to support shared equitable outcomes in the delivery of disaster assistance programs. FEMA is in the process of finalizing our first four-year Learning Agenda, which is a systematic plan for strategic investment of resources in evidence building in support of the 2022-2026 FEMA Strategic Plan. Specifically, FEMA has identified evidence and evaluation gaps needed to achieve the agency's strategic goals of Equity, Climate Resilience, and Readiness, and is working to address those gaps through research questions and evaluations detailed in the learning agenda. Over 50% of the research questions in FEMA's Learning Agenda will result in the analysis of disparities in program and policy outcomes. These research questions range from considering the existence of discernable biases toward one demographic group or another in terms of eligible applicants and assistance provided, to measuring the extent COVID-19 Public Assistance obligations were aligned to areas of social vulnerability, to how household income and other demographic characteristics influence the decision to purchase flood insurance. These evidence and evaluation resources will enable more equitable and consistent delivery of FEMA programs across the nation and provide transparency to FEMA partners and customers on the decision-making process within our programs.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

Representative Case

1. Climate Adaptation Office

To: Director Criswell

Your budget requests $41.7 million to support the Biden administration's priorities to mitigate the effects of climate change. You also have proposed the establishment of a Climate Adaptation Office.

Question: Could you provide more details on how this Climate Adaptation Office would support communities and decrease some of the costs of natural disasters?

Response:
The changing climate is a force multiplier – increasing the number of storms, floods, fires, and extreme temperatures that threaten the well-being of people across our nation. These changes pose significant risks to communities, both presently and in the future. While the Federal Emergency Management Agency's (FEMA's) investments have enhanced resilience to our nation, not all investments are adaptative and applicable to our changing climate. This gap in adaptability promotes maladaptation and can lead to losses, and in some cases, repetitive losses.

FEMA is establishing a new capability to address this issue – the Climate Adaptation Office. This Office is tasked with integrating adaptation strategies, data, and understanding of future conditions into FEMA's plans, programs, projects, and collaborations with the whole of community. The goal is to facilitate behavioral changes in communities, among emergency management decision makers, and practitioners. Weather and climate disasters have more than quadrupled in both total costs and frequency since the 1980s. Without a concerted effort to create a new programmatic area to focus on future conditions disaster efforts, it is unlikely such growth in disasters and associated costs will be abated.

Operating through a service-based delivery model, the Office supports FEMA programs and interagency initiatives by incorporating climate adaptive strategies into policymaking, guide development, and communication resources for every phase of the disaster cycle. It also provides climate services across FEMA, interagency initiatives, and communities. This would enhance knowledge and understanding of the impacts of climate change on potential decisions and actions. Also, the Climate Adaptation Office serves as a bridge between communities, other federal agencies, and the private sector to facilitate access to additional resources and foster partnership opportunities.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

As we continue to actively promote and advance climate actions, FEMA's approach prioritizes planning for future-based risk and avoiding maladaptation. This focus should be rapidly adopted nationwide to avert the worst impacts of climate-enhanced disasters and reduce losses in communities. The services provided by the Climate Adaptation Office ensure FEMA supports effective response and recovery from disaster impacts, as well as fostering a more resilient nation.

This process requires complete integration, extending beyond preparedness and hazard mitigation. It also necessitates integration into the response and recovery mission areas. To achieve this comprehensive integration across FEMA, the Office needs dedicated, permanent positions with the necessary experience and expertise in resilience, adaptation, climate mitigation, economics, planning and analytics.

Questions for the Record
Subcommittee Homeland Security
U.S. House Committee on Appropriations

Budget Hearing – Federal Emergency Management Agency
Tuesday, April 18, 2023

2. Urban Area Security Initiative

To: Director Criswell

The Urban Area Security Initiative recently revised its risk methodology, and the Federal Emergency Management Agency announced another update to the methodology planned for next year.

Question: Can you describe how the new risk methodology accounts for geographic isolation?

Response:
In the Fiscal Year (FY) 2023 Risk Methodology, the Isolation data element was unchanged from FY 2022 and was weighted at six percent within the Vulnerability component. The Isolation data element reflects the fact that some states, territories, and metropolitan statistical areas are geographically isolated and beyond the reach of immediate mutual aid or outside assistance in the event of a catastrophic event. Jurisdictions outside the continental United States receive the highest possible value. Entities in the continental United States receive an isolation value based on Census Population within 100 miles of the entity. An inverse population proportion is used to assign areas with low surrounding populations a higher isolation value.

Question: Is there a plan to consider the effects of isolation for both the vulnerability and the impact of disasters?

Response:
During the Federal Emergency Management Agency's (FEMA's) recent risk model review, the agency considered including Isolation as part of the Consequence component but concluded that, at this time, it is more suitable to keep it in Vulnerability due to the available national level data being imprecise and of lower granularity. However, we are continuing to research and analyze additional ways to measure Isolation for states, territories, and metropolitan statistical areas and its possible impacts.

WEDNESDAY, APRIL 19, 2023.

U.S. COAST GUARD

WITNESS

ADMIRAL LINDA FAGAN, COMMANDANT, U.S. COAST GUARD

Mr. JOYCE. The Subcommittee on Homeland Security will come to order.

I would like to welcome everybody to the hearing on the U.S. Coast Guard's fiscal year 2024 budget request from U.S. Coast Guard Commandant Admiral Linda Fagan.

Welcome, Admiral Fagan. It is a pleasure to see you again, and I look forward—those mikes.

I thank you for your testimony today as we discuss the Coast Guard's fiscal year 2024 budget request.

Whether it is enabling the flow of commerce through our maritime transportation system, interdicting migrants on the open ocean, or combating illicit narcotic trafficking, our Nation relies on the men and women of the Coast Guard.

Demands on the Coast Guard have never been greater. The Arctic, Indo-Pacific, and maritime border have all presented challenges to the agency over the last year.

I look forward to hearing about your plan to confront the growing economic and foreign military activity in the Arctic, particularly as the polar security cutter construction falls further behind schedule.

Foreign interests, primarily China, are increasingly using illegal, unreported, and unregulated fishing activities to steal resources and undermine a maritime rules-based order. Admiral Fagan, you have characterized IUU fishing as a top maritime security threat.

With a mix of both law enforcement and military authorities, the Coast Guard is uniquely poised to address IUU fishing and prevent these illegal incursions into our Exclusive Economic Zone and those of our allies. This is proven by the increase request by the Defense Department for Coast Guard expeditionary support. The Coast Guard's presence in the Indo-Pacific allows the United States to project power far from our shores and is a vital tool of national security and diplomacy.

Moving closer to home, President Biden's failed policies have created a crisis at our borders. All the DHS components have been stretched thin, and the Coast Guard is no exception. The Coast Guard is interdicting near record numbers of migrants in the Caribbean transit zone and, over the past years, its vessels have been at capacity. Just in the past few weeks, Coast Guard Cutter *Campbell* apprehended and repatriated nearly 500 migrants who were traveling in overcrowded and unseaworthy vessels.

This mission is difficult and dangerous for our Coast Guard men and women, and I thank them for their service, especially when

you consider the Coast Guard Cutter *Campbell* was launched back in 1986.

Admiral Fagan, I want to hear how this budget supports addressing the crisis at our border and how you look to grow capacity to ensure that our maritime border is secure.

Unfortunately the Coast Guard continues to struggle with major acquisition programs. As I mentioned already, the polar security cutter, which has been originally set to be delivered in 2025, hasn't even begun construction. The 11th national security cutter is significantly behind schedule, and the newly awarded Waterways Commerce Cutter Program is marred in legal challenges.

We need to work together to ensure that the Coast Guard appropriately manages acquisition programs and delivers the assets required to protect our shores.

Admiral, I look forward to working with you as we develop this year's appropriations bill. Before I turn to you for your statement, I would like to recognize our distinguished ranking member, Mr. Cuellar, for his opening remarks.

Mr. CUELLAR. Mr. Chairman, thank you so much.

And, members, it is always a pleasure being here with you.

Again, Chairman, thank you so much for your leadership.

And good morning, Admiral Fagan. It is nice to see you again.

The Coast Guard plays a very critical role in many facets of our lives, from saving those that are in peril to securing our borders and ensuring our national security. The Coast Guard fiscal year 2024 budget request of $12.1 billion makes key investments in personnel, vessels, aircraft, and other programs that will assist in its search-and-rescue missions along with its critical activities in our maritime borders, including the interdiction of drugs and addressing the increasingly flow of migrants.

To add to its growing set of responsibilities, the Coast Guard now is playing a critical role in the Indo-Pacific and the Arctic region. We know what China is doing in both of those areas. As you know, China now continues to call itself a near Arctic nation, even procuring at least two icebreakers, despite being thousands of miles away from the Arctic itself.

China also works with Russia, a country that has at least 40 icebreakers—and some of them are armed—to increase its presence in the Arctic. We certainly are interested about the work that you all are doing in the Indo-Pacific, part of the strategic plan over there, and of course what you are doing to counter the threats of—posed by China and making sure that we have the resources to address that.

I also certainly—being from the border, I am certainly very interested in the work that you all do with the flow of drugs and how that is coming into our maritime borders, and certainly, of course, the recruiting challenges that you are looking at.

According to a recent GAO study, many cite a lack of access to childcare, education as a reason to avoid services, and, additionally, the mission demands on outpaced staffing levels. So we certainly want to work with you. As you know, later on today, we have Commissioner Troy Miller. And I know the committee has talked about what we have done for CBP. And I would ask you to spend time

with them and the Department of Defense as to some of the ideas so we don't re-invent the wheel together.

Finally, interested in your strategic plan performance measures to make sure that we measure Federal dollars, how they are being used. And, in particular, want to talk to you about how we can jam those two ports—and I mean this in a nice way—the Mexican ports, where the legal precursors—and that is what makes it hard—that information sharing is important—are coming into those two ports from China and of course ending up up here.

So we look forward working with you.

And, again, with that, Mr. Chairman, I yield back.

Mr. JOYCE. Well, thank you, the distinguished Mr. Cuellar.

Mr. CUELLAR. Thank you, sir.

Mr. JOYCE. Admiral Fagan, without objection, your full written testimony will be entered into the record. With that in mind, we ask that you please summarize your opening statement in 5 minutes.

TESTIMONY OF ADMIRAL LINDA L. FAGAN

Admiral FAGAN. Thank you. Thank you.

Good morning, Chairman Joyce, Ranking Member Cuellar, distinguished members of the subcommittee. Thank you for the opportunity to testify today, and thank you for entering my written testimony into the record.

On behalf of the entire service, thank you for your continued support of the Nation's Coast Guard.

With the funding provided in the 2023 appropriation, we are continuing our largest fleet recapitalization in decades, building vital shore infrastructure and supporting our workforce and their families. The world is changing, and that pace of change is accelerating. Our commitments to protect, defend, and save grow every day, and demand for the service around the globe has never been higher.

In these challenges, there is opportunity, and we must invest in 2024 and beyond to generate sustained readiness, resilience, and capability to build the Coast Guard of the future.

The Coast Guard workforce is my highest priority. But, like other branches of the Armed Forces, the Coast Guard is experiencing a workforce shortage. We are struggling to recruit the people we need to hire into our ranks every year. Our recruiting shortfall threatens our readiness and ability to serve the American people. We must invest, not just in workforce recruiting capacity, but in support initiatives to meet mission, healthcare, childcare, and housing are important.

We are a global Coast Guard. And, as we continue to invest in the homeland, we counter strategic competition around the world.

And the Coast Guard operates the Nation's surface presence in the Arctic and Antarctica. Our fleet of only two polar icebreakers does not deliver the high-latitude presence we require as an Arctic Nation.

The fiscal year 2024 budget request funding to grow the Coast Guard's icebreaker capacity to enable the shift from episodic presence to year-round presence in the high latitudes.

Every Coast Guard mission begins and ends at a shore facility. To generate readiness, retain our workforce, and support our fami-

lies, we must maintain and modernize our buildings, piers, housing, and other infrastructure.

The Coast Guard requires stable, predictable shore infrastructure funding to ensure facilities are ready when new assets arrive and personnel have the space they need to support the recapitalized fleet.

Consistent funding is vital to us to recapitalize our many antiquated stations, sectors, training centers, air stations, and housing, some of which were built in the late 1800s. The fiscal year 2024 budget includes funding to build out Base Charleston and to complete construction of future cutter home ports in Washington and Alaska.

My vision of the $20 billion Coast Guard of 2033 includes $400 million to $500 million a year to accomplish this infrastructure work. I am certain you will not find a better return on investment for the American people than the United States Coast Guard.

I thank you for your continued support to ensure that the Nation's Coast Guard, like every U.S. armed force, has the resources necessary to safeguard the Nation.

Thank you for the opportunity to testify. Thank you for your enduring support. I look forward to your questions.

[The information follows:]

U. S. Department of Homeland Security

United States Coast Guard

Commandant
United States Coast Guard

2703 Martin Luther King Jr Ave SE
Washington, DC 20593-7000
Staff Symbol: CCG
Phone: (202) 372-4411
FAX: (202) 372-8302

TESTIMONY OF
ADMIRAL LINDA L. FAGAN
COMMANDANT, U.S. COAST GUARD

ON
"THE COAST GUARD'S FISCAL YEAR 2024 BUDGET REQUEST"

BEFORE THE
HOUSE APPROPRIATIONS
SUBCOMMITTEE ON HOMELAND SECURITY

APRIL 19, 2023

Introduction

Chairman Joyce, Ranking Member Cuellar, and distinguished Members of the Subcommittee, thank you for inviting me to testify and I am grateful for your continuing support of the United States Coast Guard. Today, I look forward to discussing how the Administration's FY 2024 Budget request positions the Service to generate sustained readiness, resilience, and capability while building the Coast Guard of the future.

As the world's premier, multi-mission, maritime service responsible for the safety, security and stewardship of the Nation's waters, the Coast Guard offers a unique and enduring value to the American public. At all times a military service and branch of the U.S. Armed Forces, a federal law enforcement agency, a first responder, a regulatory body, and a member of the U.S. Intelligence Community, the Coast Guard serves on the front lines for a Nation whose economic prosperity and national security are inextricably linked to the sea.

Last year, your Coast Guard navigated unique challenges presented by our increasingly connected and rapidly changing world. Throughout the course of FY 2022, the Service saved or assisted over 24,000 people, removed over 335,000 pounds of cocaine and 60,000 pounds of marijuana with an approximate wholesale value of $4.2 billion, provided humanitarian assistance to over 12,500 non-citizens intercepted at sea, inspected over 15,000 shipping containers for structural and hazardous material compliance, maintained nearly 45,000 buoys and beacons across the Marine Transportation System, conducted over 10,000 waterborne patrols to protect critical infrastructure and key resources, and provided nearly 21,000 hours of support to U.S. Central Command to advance security cooperation, maritime security, and counter-piracy objectives in the Arabian Gulf.

In the aftermath of Hurricanes Ian, Fiona, and Nicole, Coast Guard personnel from across the country surged to Puerto Rico, Florida, Georgia, South Carolina, North Carolina, and Virginia where we saved or assisted nearly 1,000 persons in distress, responded to pollution incidents, and reopened vital ports and waterways to help communities recover.

In the Antarctic, Coast Guard Cutter (CGC) *Polar Star*, the Nation's only heavy polar icebreaker, created a navigable path through thick ice to enable the annual replenishment of America's McMurdo Station. In the Great Lakes, CGC *Mackinaw* – the Coast Guard's only heavy domestic icebreaker – opened passages to facilitate commercial shipping across the region.

In the Indo-Pacific, 418-foot National Security Cutters and 154-foot Fast Response Cutters conducted combined operations and exercises with allied and partner nations to counter Illegal, Unreported, and Unregulated fishing and facilitate interoperability with like-minded nations throughout the region. In the Caribbean, the Coast Guard surged assets from across the Atlantic seaboard to respond, in coordination with other federal agencies, to historic irregular maritime migration on our southern maritime border.

While I remain incredibly proud of our Coast Guard Active Duty, Reserve, Civilian, and Auxiliary workforce, we must adapt to ensure the accelerating pace of change does not overtake our ability to protect, defend, and save the American public we serve. Geopolitical competition, economic volatility, climate change impacts, shifting workforce expectations, evolving technologies, and new enterprises at sea are converging and driving changes we must make for our Service.

The FY 2024 President's Budget is the first step in advancing our efforts to transform our total workforce, sharpen our competitive edge, and advance our mission excellence as we build the Coast Guard of the future. These investments are vital to ensuring the Service has the assets, systems, infrastructure, and support needed to further the Nation's maritime safety, security, and prosperity.

Generate Sustained Readiness, Resilience, and Capability

Transform our Total Workforce

A shrinking American workforce combined with changing expectations by both employees and employers is driving significant challenges in recruiting and hiring. American workers seek flexibility, innovation, purpose, and desire employers who foster a workplace where all people are respected and empowered.

My highest priority is to modernize our talent management system, which has not significantly changed in 75 years, to best recruit and retain our workforce in the 21st century. I am committed to deploying innovative recruiting practices; revolutionizing talent management policies; developing individually tailored, on-demand, and modernized learning; and delivering point of need healthcare and family services.

The FY 2024 budget requests $273 million in military and civilian pay and benefits; $21 million to increase retention, bolster medical services, improve the Service's training systems, and better support the workforce; as well as $12 million to enhance the Coast Guard's recruiting capability by funding additional recruiting personnel and nine new recruiting offices.

Sharpen our Competitive Edge

New and rapid advancements are making access to technology ubiquitous. These technological advancements expose global systems and people to modern threats, including growing cybersecurity concerns, supply chain disruptions, and navigation vulnerabilities. However, emerging technologies also present novel opportunities to maintain a competitive edge over malign actors.

To accomplish the broad spectrum of Coast Guard missions, we will leverage new technology to enable rapid information sharing and provide decision advantage to our operational commanders. Smart application of advanced data analysis capabilities will enable us to make the best decisions as we inspect new commercial vessels, search for overdue recreational boaters, bolster our talent management system, and seek to disrupt the flow of illicit drugs across our maritime border.

The FY 2024 budget requests $49 million to sustain enterprise collaboration tools, search and rescue IT systems, and C5I capabilities on board operational assets. Additionally, the budget includes $15 million for data analytic technology development, improving how data is collected, analyzed, and leveraged to empower operations and support the workforce. Requested funding also supports the rapid development of mobile applications and bolsters telework capabilities.

Advance our Mission Excellence

The Coast Guard operates in dynamic conditions, and changes in the strategic environment impact our missions every day. Given evolving national security threats, we must prepare now for the challenges of tomorrow.

We will employ our assets and resources to the highest priority missions that we are uniquely capable to perform, build on our ability to lead in crisis, strengthen existing and forge new partnerships to improve global maritime governance, and safeguard a rapidly changing Marine Transportation System.

The FY 2024 budget requests $77 million for the operations, maintenance, crew, and mission support elements for four Fast Response Cutters; operations and maintenance for the second Offshore Patrol Cutter; crew, operations, and maintenance for a commercially available polar icebreaker; crew for the first Waterways Commerce Cutter; and crew, operations, and maintenance for four MH-60T helicopters, one HC-130J aircraft, and one HC-27J aircraft. Additionally, the budget includes $18 million for the operations and maintenance of newly acquired or recapitalized shore facilities.

Build the Coast Guard of the Future

The Service continues our largest recapitalization effort since World War II - vital to providing the capable, modern assets necessary to meet the unprecedented demand for Coast Guard services. Additionally, the Coast Guard continues to prioritize investments in our shore infrastructure because our facilities, piers, runways, and the buildings where our people eat and sleep while standing duty are as critical for operations as our ships and aircraft.

Surface

With the continued strong support of both the Administration and Congress, we are acquiring the Nation's first new heavy polar icebreakers in almost half a century. The FY 2024 request of $170 million sustains the program and procures an additional portion of long-lead time materials for the third Polar Security Cutter (PSC). When fully operational, PSCs will provide the global reach and icebreaking capability necessary to advance our national interests in the Arctic and Antarctic regions, projecting U.S. sovereignty and influence while conducting Coast Guard statutory missions in the high latitudes.

The FY 2024 request also funds the acquisition of a commercially available polar icebreaker, including the modifications and integrated logistics support required to reach initial operating capability for Coast Guard missions. The purchase and modification of a commercially available polar icebreaker represents an effective strategy to increase near-term presence in the Arctic until the PSC fleet is operational and to add regional capacity in the long-term.

The Offshore Patrol Cutter (OPC) is one of the Service's highest acquisition priorities and is absolutely vital to recapitalizing the capability provided by our legacy fleet of 210-foot and 270-foot Medium Endurance Cutters (MEC). The FY 2024 request provides $579 million for construction of the sixth OPC and long lead time materials for the seventh of a program of record for 25 hulls. The legacy assets the OPC's will replace have been workhorses for decades and continue to serve the Nation with distinction. With 13 of these cutters exceeding 50 years of Service, the MEC fleet is becoming more difficult and expensive to maintain, and we continue to see degradation in its operational availability.

Some of our inland tenders have been in service since the 1940s, maintaining both fixed and floating aids to navigation for the U.S. Marine Transportation System – the 25,000 miles of rivers and navigable channels that support $5.4 trillion in annual commerce and 31 million jobs. The FY 2024 request for $98 million supports program management, long lead time material for future hulls, and construction of the first article of the Waterways Commerce Cutter fleet. These cutters – which will replace our legacy inland tender fleet – will feature modern designs for propulsion and crew habitability to enable men and women to serve in the heartland.

Aviation Assets

The FY 2024 request includes $115M to recapitalize and sustain fixed and rotary-wing aircraft, including: sustainment of the current MH-60T helicopter fleet; modernization and sustainment of the Coast Guard's MH-65 helicopter fleet to improve reliability into the 2030s, align recapitalization efforts with DoD's Future Vertical Lift program and transition to an all MH-60 fleet; and continued missionization of HC-27J medium-range surveillance aircraft.

Shore Infrastructure

Shore facility maintenance and recapitalization is critical to mission success. As the Service deploys new, more capable assets, infrastructure projects like pier construction and workforce facilities are equally vital. The FY 2024 request includes targeted investments to continue the buildout of Base Charleston, South Carolina, funds the construction of a Fast Response Cutter homeport in Seward, Alaska, and funds construction of a Waterways Commerce Cutter homeport.

Given the Coast Guard's broad infrastructure needs, these investments and a modern approach to project planning, prioritizing, and execution are necessary to ensure the Service has the adequately maintained and resilient infrastructure required to meet the operational demands of today and tomorrow.

Conclusion

The Coast Guard is the only military Service outside the Department of Defense and the only Armed Force that is primarily funded via non-defense appropriations. Not funding the Coast Guard at the levels requested in this budget could jeopardize the long-term readiness of the Service, putting American lives, national security, and the U.S. Marine Transportation System at risk. I ask for your support to ensure the Coast Guard – like every U.S. Armed Force – has the resources necessary to safeguard the Nation.

Now is the time to move the U.S. Coast Guard forward. Our commitments at home to protect, defend, and save - grow every day, while demand for the Service around the globe has never been higher. To meet the rising challenges, we must invest to secure the homeland and counter strategic competitors.

With the support of the Administration and Congress, your Coast Guard will continue to live up to our motto – Semper Paratus – Always Ready. Thank you for your enduring support.

Mr. JOYCE. Thank you very much.

Recognized for questions, I will start with myself.

President Biden's failed immigration policies have created a crisis on our border. The maritime border is no exception. Over the last year, near record numbers of migrants have attempted to cross the Caribbean transit zone. At times, Coast Guard assets were at capacity for holding migrants.

Admiral, how does the budget support the increased number of migrants interdicted against the—along maritime routes?

Admiral FAGAN. Thank you, Mr. Chairman.

The Coast Guard is integral to the lifesaving work that is encountering migrants at sea. We have been actively involved in the current maritime migration routes.

The budget support for new assets, the offshore patrol cutter, are critical to the Coast Guard's ability to meet that challenge of maritime migration. Assets that we are using right now, some of them are—you mentioned the Campbell, built in 1986. So it is those unit types, age, unplanned maintenance, our ability to be on vector reliably is sometimes challenging. So fielding the new—the new cutters—offshore patrol cutter that will replace those medium-endurance cutters is critical.

I appreciate the budget support that we do have for offshore patrol cutter.

Mr. JOYCE. When you were developing this budget, did the Coast Guard assume there were a particular number of migrants that you were going to be dealing with in fiscal year 2024?

Admiral FAGAN. You know, the fiscal year 2024 budget and all of our budgets reflect realities around our work at sea, whether it is countering maritime migration, our work in the counternarcotics realm, particularly in both eastern Pacific and the Caribbean.

I have recently signed out a fleet mix analysis that looks at what is the fleet the Coast Guard needs to actively counter maritime threats and that those—that fleet mix is informed and supported by the 2024 budget.

Mr. JOYCE. It is my understanding Coast Guard assets has been at capacity for interdicting and holding migrants. What is the agency's plan for the number of migrants continue to increase? And, put another way, what missions suffer when faced with this increased maritime program?

Admiral FAGAN. We have moved assets into the Florida straits because of increases in migration numbers that started last fall. It peaked into the new year, and then we have experienced a decrease in numbers over the recent weeks and months.

To ensure that we have got adequate holding capacity, that means a Coast Guard cutter with a flight deck on vector, and we have moved to ensure that we have that.

The Homeland Security Task Force Southeast, which is led by a Coast Guard officer, then brings an integrated approach. Should the Coast Guard assets and other assets on scene be overwhelmed by numbers, we move to activate a—you know, plans to ensure that people are able to be safely held, that we don't then have a significant loss of life. And then, for us, key is the ability to repatriate once we have encountered a migrant at sea.

Mr. JOYCE. Thank you.

I now recognize Mr. Cuellar.

Mr. CUELLAR. Mr. Chairman, thank you again so much.

I want to talk about drug smuggling routes and threats.

As you know, from one of your reports, if you look at cocaine, marijuana, and other things that come into the United States, they are coming in from Central America, so you have got the routes.

I would appreciate if you all—and I know this is a little difficult, because the opiates or the precursors coming in from China into those two Pacific Coast, Mexican coast, as you know. I believe, when you look at your drug seizures, you have zero—for the last couple of years, you have zero for fentanyl, which means that they are probably, either by—coming in by plane, according to CBP, and then you have got the precursors that are coming in through those two ports in Mexico, and then probably mail.

So we can see that there is no fentanyl, which means that there is certain routes that we are looking at. So, therefore, focusing on the Pacific side, especially those two ports in Mexico, they come in, and it makes it hard because they are legal, you know, as you know, but there has got to be information sharing with the Mexicans.

I hope that—I think you are hopefully meeting with them. You met with them over here. That is going to be key, because, if we are looking for fentanyl in areas coming in from South America, you are going to find cocaine and other things.

So appreciate if you can talk about what can we do—and I keep using the word "jamming" because, if they are coming in to a particular area in Mexico, we have got to work there because, once they go into the border, they have got ports of entry. They can—passengers, cars, trucks, trains, and it makes it a lot harder.

Admiral FAGAN. Thank you.

We obviously are actively engaged in interdicting narcotics at sea. The most effective way is to interdict at sea while narcotics are still in bulk form. And we have not encountered fentanyl. It is still primarily cocaine, some marijuana, and occasionally some methamphetamines.

I did meet with the Mexicans last week along with a number of other senior officials, CBP and DHS, to talk about the fentanyl problems and what might—what additional actions might help with the problem as you have identified.

Encountering, you know, before those substances leave the port, where they are still in bulk form, is the most effective strategy. And we have talked about information sharing, also talked with my Mexican counterpart, the head of the Mexican Navy, around how they are implementing their captain of the port authorities, very similar to the captain of the port authorities that the United States Coast Guard executes in the U.S.

And I am traveling to Mexico next week to continue that conversation, will meet with my counterpart in the Port of Manzanillo, and this—just as a network is moving these illicit narcotics, fentanyl, it will take a network of will to counter those activities, and we are engaged in those conversations.

Thank you.

Mr. CUELLAR. Yeah. Well, we—you know, members, this makes it hard, because, I mean, it is legal precursors coming in, and so

that information sharing is going to be important, because, you know, we don't find the same type of routes like you have here. It is just very, very different.

But, anyway, appreciate it.

I yield back the balance of my time to—oh, where is Mr. Case? I yield back the balance of my time.

Mr. JOYCE. Thank you very much, Mr. Cuellar.

The chair now recognizes Mr. Newhouse for his questions.

Mr. NEWHOUSE. Thank you, Chairman Joyce.

My assistant is getting the microphone. There we go. Does that work?

Mr. RUTHERFORD. Use this one.

Mr. NEWHOUSE. Well, good thing we have a small room here.

Admiral Fagan, a pleasure to have you here. Appreciate all the work that you and the men and women under you are doing for our country.

And I also appreciate our Washington State connection, so——

Admiral FAGAN. Thank you.

Mr. NEWHOUSE. So, as you pointed out in your testimony in the written part, some of the software and IT solutions that you have are vital tools for your mission for the military. And certainly the Coast Guard, I believe, is wise to look for ways to invest in tech modernization, particularly to support the maritime domain awareness activities and respond to national security threats, to cover everything that you have been talking about so far—the illegal fishing, the human terrorism—the human and drug trafficking, particularly the Caribbean, but also in the Pacific Northwest, which we are seeing quite a bit of it there as well.

So I just wanted to ask you a little bit about that effort. What are the goals of the new maritime domain awareness system? I know you have successfully utilized data integration before to combine data from various sources across the service to create a common operating picture.

Does the Coast Guard have a strategy to identify and procure cost-effective commercial solutions that could be used just as effectively for maritime awareness?

Admiral FAGAN. Thank you.

We have embarked on a number of initiatives, one with regard to data. And we have stood up an Office of Data Governance and Analytics. Data is a competitive advantage, and so ensuring we have got the right framework around the data we already have and continue to create so that we can analyze it for decision space, use it for predictive analytics across mission sets, whether it is counternarcotics, IUU fishing, and we are embarked on that.

With regard to unmanned systems and technology, we have recently published the Coast Guard's Unmanned Systems Strategy so that we can continue to field unmanned technology into the suite of capabilities that we operate.

The—you know, we are working with CBP to jointly operate an MQ–9 and with the Joint Program Office; ScanEagle, as I am sure the committee is familiar with ScanEagle and its role with our National Security Cutters, key enabler to increase effectiveness in our mission operations; contracts with Saildrone to improve maritime domain awareness. And so we are engaged and embarked on incor-

porating unmanned technology into the suite of capabilities that we are fielding. As I said, we have got some now, and we will continue to look for that opportunity in the future.

Mr. NEWHOUSE. I appreciate that.

Could you—you have mentioned some of the challenges you are facing with attracting the number of individuals to come to the Coast Guard. Certainly not the quality. I am not questioning the quality of the individuals, but just the number that you need.

Could you talk a little bit about some of the creative things maybe you are looking at to try to crack that nut?

Admiral FAGAN. Yeah. So the recruiting challenge is here and now for the Coast Guard. It is not unique to the Coast Guard. We are competing for talent, as are the other services and industry. There has been a shrinking pool of individuals who have a propensity to serve and, frankly, who are qualified to serve.

I appreciate the support to allow us to increase investments in recruiting capacity. We are opening recruiting offices. We have stood up JROTC programs. But we are also—as we gain support with advertising dollars, recruiting dollars, we are going to where the young people are. So this means things like Twitch. It is an online gaming site. And we are actively seeking young people, going to where they are instead of a big, national, you know, billboard or ad campaign.

And so it is an all-hands-on-deck effort for us, and we are using multiple avenues to create awareness and highlight what the opportunity is that service in the U.S. Coast Guard presents.

Mr. NEWHOUSE. Very good. Thank you very much. Again, thanks for being here.

Admiral FAGAN. Thank you.

Mr. NEWHOUSE. And, Mr. Chairman, I yield back.

Mr. JOYCE. Thank you, Mr. Newhouse.

The chair now recognizes Ms. Underwood.

Ms. UNDERWOOD. Well, thank you, Mr. Chairman.

And Admiral Fagan, congratulations on your appointment as Commandant, and thanks for being with us today.

I want to turn right to the spending cuts that Republicans in Congress are discussing and what they would mean for the work of the U.S. Coast Guard. Slashing Federal spending this severely back to fiscal year 2022 enacted levels would have unspeakably harmful consequences for each of our communities and for national readiness. For DHS, this would mean a cut of $3.4 billion.

DHS reports this means the Coast Guard would, quote, immediately cease the advancement of acquisitions, procurement, and construction, resulting in a reduction to operational readiness along the maritime borders. Further, these cuts would—and I am quoting here—reduce the ability to detect, deter, prevent, and disrupt terrorist attacks and other criminal acts in the U.S. maritime domain, as well as our national defense strategy. There is no other way to say it. Republicans' proposed cuts would endanger our national security.

Admiral Fagan, can you share more about the effects that these drastic cuts would have on our defense readiness and the Coast Guard's ability to protect against terrorist attacks?

Admiral FAGAN. If the Coast Guard were held to the fiscal year 2022 enacted level, that would create an immediate $500 million shortfall in the budget. That is compounded by inflation, increased fuel costs——

Ms. UNDERWOOD. Uh-huh.

Admiral FAGAN [continuing]. increased costs of spare parts and what it makes to operate the organization.

As we build our budgets, the priority goes to operating and maintaining the organization, ensuring that our workforce is paid and has the support they need, that we have got fuel and ability to create frontline operations.

Being held to a 2022 budget level would have an immediate impact on readiness and capacity and would be particularly impactful to our acquisitions projects. It is—you can't scale on an acquisition. You have—there are step functions there that would create immediate impacts.

We would prioritize providing services to the American public, but it would come at the expense, again, major acquisitions, infrastructure investments, and otherwise.

Ms. UNDERWOOD. In the Great Lakes region, we have more than a hundred ports that fuel the economic engine for our region and the country. Since the Coast Guard is responsible for maintaining the safety and vitality of our ports, can you share how such cuts would impact global competitiveness, shipping, and overall safety at our ports?

Admiral FAGAN. So we have the role. In our captain of the port role, we have a role in ensuring the maritime security and economic prosperity of the Nation. $5.4 trillion of economic benefit flow through our ports and through our inland rivers.

Again, cuts impact capacity. We will work to preserve frontline capacity to the greatest extent possible. But, at some point, if we don't have funding support for fuel—and particularly where it becomes impactful is in maintenance, spare parts, the maintenance account to ensure that we can reliably field those aspects—any and all assets, whether they are small boats in the ports; it would impact the waterway commerce cutter acquisition, which is critical to ensuring the resiliency of our inland waterways and systems, and it would touch all aspects of Coast Guard operations.

Ms. UNDERWOOD. And which would have an economic impact?

Admiral FAGAN. It would have an economic impact.

Ms. UNDERWOOD. Okay. Now, another one of the Coast Guard's missions is environmental compliance and restoration. This includes identifying and cleaning up contamination from hazardous substances and pollutants, as well as correcting environmental damage that poses an imminent danger to public health.

In the Great Lakes, we know this work is critical. Thirty million people rely on the Great Lakes as their primary water source, so ensuring that the water is clean and safe couldn't be more important for public health.

Can you provide an update on the environmental compliance and restoration activities that the Coast Guard is focusing on, specifically in the Great Lakes, and how would your fiscal year 2024 budget request help advance Great Lakes' priorities?

Admiral FAGAN. So I don't have specifics on Great Lakes, but I affirm that we are committed to our role in environmental—protecting the environment and environmental response, our role as a pollution response organization.

Ms. UNDERWOOD. Uh-huh.

Admiral FAGAN. We continue to make investments in the resources and the people and the expertise that are needed to ensure that, you know, if—prevent pollution from occurring in the first place. Our role with regulated facilities, with the maritime industry and shipping, to inspect and ensure that both the facilities and ships are operating in compliance with State, Federal, international regulations in some cases, to prevent impacts to the environment. And we continue to make those investments to fulfill our role as an environmental protection and maritime response organization.

Ms. UNDERWOOD. Well, if you can get back to us about how your fiscal year 2024 proposal would support the Great Lakes in this area, and then how the proposed cuts would have an impact, that would be really helpful.

Admiral FAGAN. We will.

Ms. UNDERWOOD. I yield back. Thank you.

Mr. JOYCE. The chair appreciates the gentlelady's captivity with the Great Lakes. Very fond of it myself.

Ms. UNDERWOOD. I represent. I represent. Thank you.

Mr. JOYCE. Mrs. Hinson

Mrs. HINSON. Thank you, Mr. Chair.

Good morning, Admiral. Thank you so much for coming before our committee today. And I look forward to this opportunity to speak with you.

And I want to talk about an area that is very important for my district. We sit right along the Upper Mississippi River. The city of Dubuque obviously hosts the Coast Guard Cutter *Wyaconda*, a priority for me to ensure that the Mississippi River is protected and maintained also. So I think it is a stability issue for our regional economy and really for your global supply chain as well, which is why it is a priority for me. So I want to say thank you for the work that you do to make sure that the Coast Guard is supported there.

And can you just describe to me how the requested funding would aid in making sure that that installation is still supported and that we can continue to prioritize critical infrastructure along the Upper Mississippi and the Lower Mississippi River?

Admiral FAGAN. Yep. So thank you. And I appreciate the support of the committee for our waterway commerce cutter acquisition, the WCC. The 2024 budget includes $98 million to begin constructing the first two of the waterway commerce cutters and also includes money for long lead time material for an additional two.

We are excited about the design for—there is two variants for those ships. They will be replacing cutters. If you have visited, these are very, very old cutters in need of updated, new—new hulls, and we are excited to be on budget for that.

The fiscal year 2024 UPL includes $48 million to build out home ports in Sault Saint Marie and Memphis, and we are working through prioritizing the investments that are needed to ensure that

we meet and are able to ensure reliable, safe commerce flows on our inland rivers, Mississippi and others.

Mrs. HINSON. Right. Well, and especially as we have conversations about other parts of the world that are facing those challenges, it is absolutely a priority to make sure we can protect this region at home. So I am glad to hear that you share that priority and look forward to working with you to make sure we can execute on that mission.

Speaking of areas around the world, obviously the Coast Guard's mission in INDOPACOM is critical, especially with what is happening with the Chinese Communist Party's aggression, making sure we are focused on securing our allies in the region and protecting maritime security.

Can you describe a little bit the efforts that the Coast Guard maintains to stabilize INDOPACOM region, but also what the current relationships are with our strategic partners in the region?

Admiral FAGAN. Yeah. We have—we are committed to the Indo-Pacific region. The capabilities, the expertise, the professionalism that the U.S. Coast Guard brings to difficult particularly maritime problem set is valued around the world and is eagerly sought around the world. And our allies and partners around the Pacific are actively seeking engagement with the United States Coast Guard.

The 2023 budget had $41 million to provide increased presence and engagement in the Indo-Pacific. We are fielding an Indo-Pacific support cutter. We have identified it as the Harriet Lane. And that cutter will arrive into Honolulu before the end of the year and will work out of there for a couple years as we work through where the final home port will be.

On the UPL, we have signaled $400 million, which would buy an additional four fast response cutters. That would increase our ability to create a presence in the Pacific. The fast response cutters have been incredibly capable assets for us. We have them fielded in Guam, in Honolulu now, and they are doing great work engaging the kinds of partnership and engagement that our allies value.

And then mobile training teams, just bringing our expertise to nations where they are, whether it is how to do an illegal fisheries boarding, small engine repair, small boat maintenance and operations. And we will continue to lean into that as well.

Mrs. HINSON. And if you could follow up with our office with some of the countries that you have been doing that work with, that would be helpful.

Admiral FAGAN. We will.

Mrs. HINSON. Because we are working obviously—I had the opportunity to meet with the President of Taiwan just a few weeks ago, and I think continuing to show force of strength in that region is going to be critical to countering China's influence in the region. Obviously we know they are continuing to spread propaganda, misinformation throughout that region.

Are you actively countering those efforts as well? Obviously you are talking about some of the on-the-ground training and tools that you are using. Are you doing anything to counter the misinformation and the propaganda?

Admiral FAGAN. Yeah. I mean, we—our value proposition is in that competitive space, short of conflict. And so where we have got expertise, skill, are a partner of choice, we are bringing that to the region and welcome the opportunity to highlight, you know, the—it is many double—you know, it is a double-digit number of countries that we have engaged in.

You know, I have spent time in Fiji meeting with 20 of our partners throughout the Pacific to talk about maritime security, maritime governance, and look forward to getting back to you with that.

Mrs. HINSON. Wonderful. Do you think that this budget request allows you the bandwidth necessary to complete those critical missions?

Admiral FAGAN. So the budget request is supportive of that. As I have indicated, our UPL signals opportunity for additional investment, particularly in fast response cutters, to allow us to become sort of less episodic and more persistent with regard to some of the threats in the region.

Mrs. HINSON. All right. Thank you, Admiral.

And I will yield back. Thank you, Chairman.

Mr. JOYCE. Thank you very much, Mrs. Hinson.

And the chair now recognizes Sheriff Rutherford for his questions.

Mr. RUTHERFORD. Thank you, Mr. Chairman.

Commandant, great to see you again. And, you know, I am really appreciative of all that the Coast Guard does, particularly around the State of Florida, all those interdictions.

You know, in knowing how important the water operations are, but the aviation side, I want to talk about that for a moment, because I am hearing that the U.S. Coast Guard has stated that they plan to transition to all MH–60 helicopters in the fleet by acquiring used helicopters from the Navy. And I know there has been quite a bit of funding, I think, set aside for that transition.

But here is—here is what I wonder, if we are being a little penny wise and pound foolish, I will say. For the airframes that you are going to acquire from the Navy, do we have an idea what the average time is on these airframes?

Admiral FAGAN. I don't have a number with regard to time. Obviously we are committed to moving towards a single fleet of 60s, tail fold, blade folds, that they will also be flight—flight deck accessible.

As we go on budget—and the 2024 UPL asks for $113 million to outfit and assemble four of—four 60s, and that will enable us to transition another air station in 2026. I don't have the time phasing on that, but we will be happy to get back to you on it.

Mr. RUTHERFORD. OK. So are we also going to have to make hangar changes for these MH–60s, particularly on the cutters, because—

Admiral FAGAN. To the criticality—so the National Security Cutters and the offshore patrol cutters, with a tail fold/blade fold capability, the 60s will be able to be accessible to those two cutter classes.

Mr. RUTHERFORD. OK. So there won't be any need to modify the hangars on those cutters?

Admiral FAGAN. Not that I am aware of. The shore infrastructure pieces around aviation, for example, as we fielded the C–130Js,

there were modifications to shoreside hangars that were needed to make that asset—

Mr. RUTHERFORD. Well, that—yeah, that is another issue, too.

Admiral FAGAN [continuing]. larger, but I will confirm with the staff. I am not aware that we have got modifications, certainly with the new cutter classes.

The 60 is larger than some of the older. Legacy fleet would be able to accommodate the, you know, two 270s and otherwise.

Mr. RUTHERFORD. Right. And that is why I wanted to ask about, you know, the hangaring capability, both shore and fleet, the maintainers. What are we looking at as far—you know, I understand that the MH–60 has got—requires many more maintainers than some other options that might be out there.

So my question is: Can we get some information on those—just those issues? I would appreciate that.

Admiral FAGAN. OK.

Mr. RUTHERFORD. And the unmanned program. You talked about that a little bit earlier, and you mentioned the Saildrone for the water. But what about airborne unmanned?

Admiral FAGAN. Yep. So be happy to provide you more details around what the phasing of a—moving to a single fleet of 60s is as it pertains to infrastructure, people, maintainers, and happy—to provide that.

Mr. RUTHERFORD. OK.

Admiral FAGAN. The unmanned system strategy that we just published acknowledges that unmanned—you know, unmanned technology is here now. We as an organization need to look for where the opportunity is to continue to field that.

Mr. RUTHERFORD. Right.

Admiral FAGAN. ScanEagle is the program of record. The system that we have got fielded on the National Security Cutters are contractor owned, contractor operated, shipboard launched and retrieved, fixed-wing UAS. And we continue—we are getting great benefit from that, and we continue to explore other opportunities for unmanned systems in our Coast Guard operations.

Mr. RUTHERFORD. We look forward to helping you with that.

This is from right field, or left field. Last year, NOAA proposed a rule that will require all boats longer than 35 feet to go 10 knots all up and down the coast—the Atlantic Coast. And, Commandant, I have to tell you, the economic impact of that is going to be huge, particularly on our commercial fisheries and sport fishing if they could only go 10 knots.

Now, because there is a safety issue there, the Coast Guard's—and this is in response to the right whale issue, which I have got legislation to save the right whale, and—but my concern is—and I am hearing this from the bar pilots and others that, you know, this ten knots is really going to put ship safety in question. And you all are going to have to pick up the enforcement of that.

Can you talk a little bit about that? Was the Coast Guard even included in this decisionmaking process, or did NOAA just do this on their own?

Admiral FAGAN. So I am aware of the NOAA legislation. We obviously have a role in advising on maritime safety. What level of

advisement went on prior, I don't know. We can get back to you on that.

The primary enforcement method for a 10-knot limitation is AIS, and we continue to work with NOAA. Not all—there is a disparity between AIS carriage requirements and then the speed restrictions. So we continue to be engaged in that conversation.

Mr. RUTHERFORD. OK. But—so you think they did confer with the Coast Guard before they made this decision?

Admiral FAGAN. I will get back to you with certainty who and when or if not. I don't have that information.

Mr. RUTHERFORD. OK. Thank you. Thank you, Commandant.

With that, I yield back, Mr. Chairman.

Mr. JOYCE. That is a negative amount of time, Sheriff.

Mr. RUTHERFORD. Sorry.

Mrs. HINSON. Demerits.

Mr. JOYCE. Mr. Cloud?

Mr. CLOUD. Thank you, Chairman.

And thank you, Admiral, for being here. I certainly want to thank you and all the people who work with you and what you do. I am on the Texas coast, so we certainly appreciate the Coast Guard and have visited the bases in our district a number of times. And it is always good to get with them to see the work that they are doing firsthand. It is really great.

Because of that, I could also speak to the—certainly the need to make sure that they are well acquisitioned as well and that they have the parts they need. Last time I visited, I think there were some choppers that were down, and they couldn't deploy, but they would working on it. So we want to make sure that they are well supplied.

I wanted to ask you on a couple of things that are particularly sensitive to the Texas coast, and one of them is the migrant population that the Coast Guard is encountering now. I think a March 23 article highlighted the Coast Guard sector San Diego witnessed a 700-percent increase in the number of migrant maritime crossings since 2017.

Do you have the assets you need to deal with this situation? I know I have been a fan of the area's stats that were being used and deployed and would certainly advocate for those to continue to have their use along our southern border.

Anyway, if you could speak to having what you need to deal with the situation and what kind of tax that is putting on your ability to do your other missions in the area.

Admiral FAGAN. Yeah. As you have identified, maritime migration flows are up across all of the vectors, including the vector into San Diego. The fast response cutters have been a key, significant capability for us. And so, as we look at budget and support for the Coast Guard continuing to field, the new assets and capabilities that we are stepping into now will be critical to ensuring that we have got the capability that we need to counter those migration flows.

You know, the ReCoM and the other interagency effort down there, there is a great team of professionals. It is not just the Coast Guard. We are primary on-the-water presence, but we continue to, engage with our other law enforcement partners in that realm and

look to—for opportunities for, you know, unmanned systems to increase maritime domain awareness so that, you know, when a migrant attempt is made, we are able to put an asset on vector and ensure that we, one, prevent the loss of life, and then, two, have a positive interdiction.

Mr. CLOUD. And of course that is drug trafficking as well that is coming in, and we have, you know, had drugs wash up on our shore, you know, in our district a number of times, but—and kind of connected and unconnected at the same time, the illegal fishing that goes on along the coast, a lot of it coming out of Mexico, some of it seemingly to be a cover for cartel operations even at times.

Could you speak to what you need to be even more effective at what you are doing there?

Admiral FAGAN. Yeah. IUU fishing—illegal, unregulated, unreported fishing—is a global issue, and——

Mr. CLOUD. Right.

Admiral FAGAN [continuing]. We experience it in the United States, certainly in the Gulf of Mexico. We have published an IUU strategy a few years ago to help bring alignment and leadership to the problem set.

In the—specific to the Gulf Coast of the United States, again, the fast response cutters and our small boats are our primary capability that we work to counter that activity. And so, again, as we continue to field those new acquisitions, it just increases our effectiveness in those vectors as it as it pertains to IUU fishing, migration, counternarcotics, and so, you know, sort of staying—staying the course with the major acquisitions and the programs that we are on record for will be critical to ensuring that we are able to meet those missions.

Mr. CLOUD. I noticed there wasn't a budget increase request for that, so I am guessing you believe you have what you need to handle that mission?

Admiral FAGAN. Yes. All of the assets are multimission so we don't, you know, say this cutter just for this mission, so——

Mr. CLOUD. For fishing versus—yeah. Right.

Admiral FAGAN. Right. But, as—when you look at the fleet mix, we are working to field new state-of-the-art capacity. It will allow us to meet mission across those number of portfolios.

Mr. CLOUD. Yeah. One other line I wanted to ask you on, Russia and China recently conducted routine patrols in the Arctic. And obviously we—that is going to be a threat we have to continue to stay aware of.

I know that there is a request for $125 million for a commercially available icebreaker. That was taken out of—the Senate basically took it out of the last cycle, I guess because there was some concerns about retrofitting it once it was purchased, or is that figure—the 125 million, does that cover the whole getting it where you need it to be, or is there a cost beyond that after you purchase it? What is that figure detail?

Admiral FAGAN. So, if appropriated, the $125 million would allow the purchase of a commercially available icebreaker. There is an additional 25 million to help bring that to IOC. We are working——

Mr. CLOUD. So you really need $150 million—to put it to use?

Admiral FAGAN. In the 2024 President's budget, the number is reflective of what it will need to acquire and get to an initial operating capacity, that particular vessel.

We are working to monetize what the outyear—so we—what the lifecycle cost is, is still something we are working working to definitize.

Mr. CLOUD. Oh, I see what you are saying. And I also wanted to speak to the—get your take on the polar security cutters that are yet to be delivered in the time—I am out of time.

Mr. JOYCE. There is a second round.

Mr. CLOUD. I will ask again. I will ask you more later.

Mr. JOYCE. Thank you, Mr. Cloud.

Mr. Trone.

Mr. TRONE. Thank you, Mr. Chairman. I appreciate it.

Welcome, Commandant.

The Coast Guard has been underfunded for years. You said your priority is promoting, diversifying, providing for your workforce what it needs to meet demands of the modern Coast Guard. But, without increased funding, it is clear you won't come close to achieving that goal.

Can you highlight the aspects in the fiscal year 2024 budget that talk about recruiting, sustained readiness, and of course retention of your best people?

Admiral FAGAN. Thank you.

We have got a number of line items in the 2024 budget that will help across that fold. The funding support in recruiting is allowing us to field additional recruiters, open new recruiting offices, allows us to increase just advertising and engagement. We are fielding additional JROTC programs, all designed to address the recruiting challenge.

The budget also supports investments in, you know, pay; housing allowances to ensure that our personnel are able to find housing as they transfer around the country; investments in our medical capacity and medical personnel to increase, you know, access to mental health and behavioral health and other medical needs; and subsidies as well as investments in child—you know, so improving access to childcare, whether it be subsidies or access to a Coast Guard-operated child development center, the 2024 budget provides great support.

And, while we recruit an individual, we retain their families, and so ensuring we have got that support appropriate to and—for our Coast Guard members is critical.

Mr. TRONE. That is really important, the whole wraparound. If you don't take care of the family, the member—the guard is not going to be successful, no question about it. It is about everybody.

Drug interdiction, international drug interdiction, you have done quite a bit of that, I read. You know, that requires flexibility in your budget to move resources where you need to move them.

What needs to be done—how can we help you be better off and be stronger on interdiction work, especially the fentanyl precursors shipped in from China to Mexican ports?

Admiral FAGAN. So, with regard to the maritime interdictions, continuing to support the portfolio of acquisitions that the Coast Guard has embarked on are critical to ensuring we are able to

meet that mission. It is a force package of ships, helicopters, pursuit boats that allow us to interdict illegal narcotics at sea.

The fentanyl challenges, we are not encountering fentanyl to a large extent at sea, and so that becomes a partner in capacity conversations that I am engaged with my Mexican counterparts within the law enforcement agencies within DHS are working to identify ways to better counter the fentanyl threat, particularly it is the chemicals moved through ports other than the United States.

Mr. TRONE. Talk a little bit how you are using—exploring the use of long-endurance, autonomous, uncrewed surface vehicles to augment your crewed platforms and interdiction efforts.

Admiral FAGAN. So the unmanned system strategy that we have just published is designed to help us move forward strategically around what unmanned systems can provide key enabling information and capacity to us as an organization and whether it is increased maritime domain awareness or, you know, just opportunities so that, when we put a person on a ship, in an aircraft, that you know exactly where you are going and you are going to be on time, on target. And unmanned technology has a role there, and we are working to increase how we internalize that into our operating capacity.

Mr. TRONE. OK. I thank you very much.

I yield back.

Thank you, Commandant.

Mr. JOYCE. Recognizing myself for a second round of questions.

I want to follow up on something my colleague, Ms. Underwood, brought up; that is your budget request including 55 million for a Great Lakes icebreaker, the Mackinaw and your fleet of multipurpose 140-foot icebreaking tugs are essential for keeping commerce moving. These vessels are approximately 40 years old. Modern vessels could be made more capable and have improved crew accommodations.

If Congress funds the $55 million request for a Great Lakes icebreaker, would the service be available to spend the funds in fiscal year 2024?

Admiral FAGAN. Thank you.

We are excited about the opportunity for a Great Lakes icebreaker. We have completed pre-acquisition work, and the $55 million would support an ability to go out with a request for proposals for a—an icebreaker that is as capable as the Mackinaw.

I am excited about what that opportunity is for the organization. We are working through design requirements and technical requirements, but we have made progress on the Great Lakes icebreaker in the last year.

Mr. JOYCE. Are you going to be able to spend the money in fiscal year 2024?

Admiral FAGAN. We will be able to spend the money in fiscal year 2024, and we will work toward requests for proposals.

Mr. JOYCE. I understand 140-foot tugs, two which are homeported in Ohio, recently completed a service life extension. But how long did that extend their service life, and what is the ultimate replacement plan?

Admiral FAGAN. I don't have the exact number. Typically a service life extension will be 10 to 15-plus years. The waterways com-

merce cutter then becomes, you know, key new assets as we field them along our internal waterways to ensure that we are able to reliably provide for the safety, security of the inland river system.

Mr. JOYCE. If Congress provides funds for a Great Lakes icebreaker, how would the vessel complement the icebreaking assets that already exist in the Great Lakes?

Admiral FAGAN. So we operate a system of icebreakers in the Great Lakes, the *Mackinaw* being the largest of that system, and there are other smaller inland fleet of vessels. The Great Lakes icebreaker will then become an additional capacity that will help ensure year-round, you know, access on the Great Lakes.

How it then contributes to the fleet mix and what the smaller icebreaking capacity is and needs are is part of the work that is ongoing in the organization.

Mr. JOYCE. Could it replace some of the work done by the 140s?

Admiral FAGAN. We are working through all analysis. I am happy to come back to you with more detail on how *Mackinaw*, Great Lakes icebreaker, 140s, and kind of what the way ahead looks like with regard to those investments.

Mr. JOYCE. Look forward to that.

I recognize Mr. Cuellar for a second round.

Mr. CUELLAR. Mr. Chairman, thank you so much.

I want to go back to your visit with the Mexicans and ask you to continue, focus on a couple things. I want to bring up a couple things.

One, the Mexicans, for the first time, are spending almost $900 million on technology for their land ports and for their seaports. And they are pretty much using the same American companies that CBP uses on the U.S. side.

The Mexican Navy awarded about—about $330 million, and the Mexican Army, another 613. So I say this because a lot of the ports are now going to have the same type of technology—the same type of technology that we have.

So I would ask you to work with them. And I know that, when it comes to fentanyl—we have been talking about fentanyl—it is a little harder. You know, the pill pressers and the—what is legal. And the Mexicans are—actually are looking at certain chemical watchlists. They are going from 14 to 72. So make sure you focus on that.

But I would ask you to look at those ports and push them to try to get that technology and make sure that technology can be shared with us. I mean, the information.

Second thing is—let me go back to fentanyl again. You all have had, for the last few years, zero interdiction on fentanyl. And, again, we already talked about it, but, again, I would ask you to look at those two ports and put an emphasis on those two ports, because they come in, they are manipulated, and then they go up through—not in between ports, but at the ports of entry.

And, again, it is hard, because the—even the technology that we have now to try to find something this size compared to marijuana, it is very different. So I would ask you to work with them on that information sharing, especially when you look at the flows and where they are going in.

Third thing, I would ask you to think ahead. Mexico is doing their Isthmus corridor, and they are moving fast. It is incredible what they are doing. And I would ask you to look at this, because the Chinese already on the Gulf of Mexico, they are looking at investments there and on the Pacific side.

So I would ask you to look at that, because, you know, that is—members, that is a coast—you know, they are going from one to the other one. It is not a Panama Canal, but it is rail, and it is also highways. And they are moving very fast on it. I call it the new Mexican-Panama—not canal, but route also.

And, again, interesting, the Chinese are at the very beginning and at the very end, depending what side you are looking at. So I would ask you to look at that also.

Finally, talking about the Chinese, when you look at where the Chinese are at—I know we look at the Indo-Pacific. We look at other places. They are on—they are in our backyard, members, and I would be happy to share with you, but they are doing a lot of things.

And, if you look at those two ports of entry where—I mean, seaports, Chinese have investments. In fact, their cranes and all that, Chinese. So you can understand why the legal precursors are coming in easily itself. But I would ask you to look at it. I know the land ports are a little different from what—but I would ask you and ask them questions about the Chinese presence there, because they are—can't talk about it here, but I would say they are very, very close to a lot of things that we are doing here in the U.S. side.

So I would ask you to look at the Isthmus, number one. The new technology that they are buying, it is American companies that Myvina (ph) is using, and the Chinese involvement there because they are—name it, and they are there. There is industrial parks. They are there. And seaports are definitely—those two Pacific.

So, again, it is more of not a—not of a question, more of a statement, but I would ask you, when you meet with the Mexicans, focus on that if you don't mind, and then get back to us—I would appreciate it—to the committee.

Admiral FAGAN. I will. And, as I said, I will be in the Port of Manzanilla on Tuesday meeting with my Mexican counterparts, and look forward to sharing those conversations when I return.

Mr. CUELLAR. Thank you. Thank you, Admiral.

Mr. JOYCE. Thank you on behalf of all of us for doing that.

Mrs. Hinson.

Mrs. HINSON. Thank you.

Just a couple of questions. And I would actually like to follow up on something Mr. Cuellar pointed out about kind of the Chinese strategy around the world. And obviously INDOPACOM is the most visible, I think, area where we have seen recent aggression.

But can you just comment briefly about have you seen any other places in the world where they are showing that aggression directly, places that we might need to be aware of? And—yeah, if you could just elaborate on that to start, that would be great if.

Admiral FAGAN. So certainly to—you know, the Chinese are very, very active around the Indo-Pacific, but they are active in South and Central America, Africa, looking for opportunities to invest and gain access.

With regard to, you know, maritime—maritime operations, obviously as we send ships into the Western Pacific, we do that in conjunction with the U.S. Navy and continue to ensure that our ships are—you know, have the correct readiness level should—you know, should we encounter unfriendly behavior on the part of the Chinese Coast Guard.

Mrs. HINSON. What keeps you up at night about that challenge?

Admiral FAGAN. The world continues to change at a quickening pace, and as we operate in maritime areas that are competitive and, you know, challenging, ensuring that my workforce has the readiness level that they need to meet whatever the challenge is they might find in the mission that we have asked them to do.

Mrs. HINSON. Right. And you mentioned that obviously in your opening statements that you were having challenges with readiness because of recruitment. Can you elaborate a little bit on what those challenges have been and if there are any barriers or those things that this committee can be helpful with or other ways we might look at assistance there?

Admiral FAGAN. Yeah. So I appreciate the support—the funding support that we have got to build, increase recruiting capacity. You know, recruiting is a highly individualized effort. It takes—it is, you know, one on one, human being to human being. It takes a fair amount of interaction. Also appreciate the supports of the personnel—the technology systems that help make it easier once we have found the person who is coming. It is easier to onboard them, and, you know, I am committed to making sure that we have got the right resourcing in place to recruit people.

And then just telling our story. There are so many Americans that have no idea what the U.S. Coast Guard is, what we do. And then the opportunity and the value proposition that we offer as an employer.

And so I would appreciate the support, and we will continue to get out there and tell our story.

Mrs. HINSON. Did you lose any of your workforce due to the COVID vaccine challenges? I know that obviously that was something we heard a lot about, that some people may have chosen to leave as a result of that or retire.

Is anyone offering to come back? I guess I would just be curious what that did to your——

Admiral FAGAN. So we did—we had a number of individuals who we did remove from service for failure to be vaccinated. We have contacted 100 percent of those individuals, both Active Duty members and cadets, and some are choosing to come back. In fact, we had our first one come back onto the Active Duty rolls just this past Friday.

Mrs. HINSON. Okay. Can you get me some numbers on what that looks like in terms of how many actually you had to ask to leave, and then how many have been contacted, what that looks like, and just provide it to us.

Admiral FAGAN. Yeah. So it was 275 that were asked to leave. We have contacted 100 percent of them, and the first one has come back on.

We are using the same process to re-onboard people, you know, for who have left for other reasons. And I don't know what the

total—we don't—it is too early to tell how many will actually come back, but 100 percent have been contacted.

Mrs. HINSON. Okay. Thank you, Admiral.

Mr. JOYCE. Thank you, Mrs. Hinson.

Mr. Trone is recognized.

Mr. TRONE. Thank you, Mr. Chairman.

Just one quick question. Your unfunded priority list includes a need for a facility in Baltimore. Can you discuss the importance of this facility and your plans on any funding for future appropriations?

This would be a ship-handling facility capable of working on maintenance, extending service life of vehicles in the Port of Baltimore?

Admiral FAGAN. So we operate the Coast Guard Yard in Baltimore. This investment would be directed at our organic yard capacity. That capacity is critical to us maintaining our major cutter fleet.

The UPL asks for $60 million. It will include shore preparations, dredging, facility upgrades that would enable us to integrate a larger floating dry dock so that, as—it would be large enough to allow us to service the offshore patrol cutters when they come online.

So this is a future investment to ensure that we are able to maintain the fleet that we are acquiring now.

Mr. TRONE. Good. I appreciate that. I would be happy to support that as you move forward and you put that to the top of your list. Thank you.

Admiral FAGAN. Thank you.

Mr. TRONE. I yield back.

Mr. JOYCE. Thank you, Mr. Trone.

Mr. Cloud.

Mr. CLOUD. Thank you.

So my questions that I had have been answered, but I did want to continue kind of the dialogue about China, because one of my major concerns is just our shipbuilding capacity here in the United States and our ability to keep pace, and obviously that would affect a lot of the Coast Guard's acquisition. But also, just maybe speaking to that aspect of it, but also anything else that you were concerned with in our ability to keep pace with what you see China doing.

Admiral FAGAN. Yeah. So continuing to move forward with the portfolio of major asset investments and infrastructure investments are critical to fielding a capable, ready Coast Guard. So, you know, this includes polar security cutter, the waterway commerce cutter, the offshore patrol cutter, potential additional investments in fast response cutters—this is—the UPL signals $400 million for an additional four.

And that would create additional presence, particularly in the Indo-Pacific, to allow us to partner engage with ally and partner nations with, you know, our value proposition and the expertise in governance that the United States Coast Guard brings to maritime governance challenges.

And that also extends to the infrastructure investment so that we can have a safe place to tie those ships up and our people have buildings and offices to—that they can operate from safely.

Mr. CLOUD. How about, how would you say we compare in regards to requiring the speed of—speed and ease—how quickly we can——

Admiral FAGAN. Yeah. So we—you know, we acquire—major assets consistent with Federal acquisition law.

It is not a fast process. We are committed to, you know, following the process and way forward. Working through understanding requirements so that you can get the design and then begin to build takes time, but using that process is important so that you actually get the ship capability that you need, not something that does not meet your requirements.

Mr. CLOUD. Part of that obviously is the ability to staff our acquisitions, and so, to the point of recruiting, I was curious about that as well. And for those coming back, what incentive are there for them to come back? Is their rank restored, their pay restored. How does that—how does that work?

Admiral FAGAN. So we have had a process in place to bring people back who have left the service for whatever reason. We are using that same process. And, you know, there was a—I can certainly get you all the specifics on length of time, how we step back through it. But they come back into position—not necessarily a position, but pay grade and skill set that they left, and then we work to assign them and get them employed—employed by the organization.

Mr. CLOUD. And what efforts are being made—because most who leave and come back, I don't think were asked to leave in the first place, and so what is there in place to make sure that they understand that there is no reprisal or any sort of action to be taken against them for haven't being asked to leave in the first place?

Admiral FAGAN. Yeah. As I said, we contacted 100 percent of them and said we would welcome you back.

There is no—we have already gone through—as required by law, there is no evidence in anyone's records with regard to vaccination, nonvaccinated.

And so we truly are welcoming back people who are interested in coming back.

Mr. CLOUD. Thank you. And I do appreciate you reaching out to each of them. Thank you.

Mr. JOYCE. Mr. Rutherford. Sheriff Rutherford.

Technically you are next.

Mr. RUTHERFORD. Thank you, Mr. Chairman.

I want to follow up on the China involvement and threat as well. The IRI, the International Republican Institute, did a great report on malign Chinese influence in the corrosion of democracy. And one of the countries that they looked at was Ecuador and the Galapagos Islands specifically.

Can you talk a little bit about what the Coast Guard is doing down there to stop the IUU fishing that, you know, Ecuador is suffering right now?

Admiral FAGAN. So we have a global leadership role in IUU fishing. It truly is a worldwide problem. Recently, 18 months ago, Ec-

uador was experiencing a Chinese squid fleet incursion into their exclusive economic zone off of the Galapagos, and Ecuador asked for assistance.

What the U.S. Coast Guard was able to do was take one of the large cutters that was, you know, conducting counternarcotics work and shift their attention towards the Chinese squid fleet.

Mr. RUTHERFORD. Uh-huh.

Admiral FAGAN. We moved the cutter over. The squid fleet moved off 200 miles away from where they were. And so it certainly speaks to the criticality of presence.

Mr. RUTHERFORD. Right.

Admiral FAGAN. Being visible there with a ship changed the pattern of behavior of the Chinese fishing fleet in that case. And it just speaks to the network and coalition that helped counter some of these difficult maritime challenges.

Mr. RUTHERFORD. Yeah.

Admiral FAGAN. We also, in the IUU fishing realm, engage in a lot of bilateral agreements and ship rider agreements that bring a nation's expertise and authority in fisheries enforcement and onto one of our vessels and allows us to conduct joint boardings in a way that is helpful in the mission set.

Mr. RUTHERFORD. Great. Good. Yeah. That was—that was some great work down there.

Let me ask on the—we were talking earlier about the number of migrants who, you know, how that number is up, the interdictions, particularly around Florida. I am hearing that there is some countries that are resistant to repatriation, some outright blocking it, others just making it difficult, as difficult as they can.

I would ask, do we have some information on countries that are specifically rejecting repatriation?

Admiral FAGAN. When we interdict a migrant at sea, we process them, you know, provide, you know, food and shelter. And then we repatriate them to the country of origin. The primary migrant flows are Haiti and Cuba and we are able to directly repatriate to both those countries.

Mr. RUTHERFORD. Okay. They are not giving us a hard time getting those folks back?

Admiral FAGAN. There are a number of pieces—again, I will have the staff give you all of the pieces that it takes to process and then repatriate, but we are continuing to repatriate to both of those countries.

Mr. RUTHERFORD. Okay. So are you aware of any countries that are refusing repatriation?

Admiral FAGAN. I am not, but I will have the staff affirm whether——

Mr. RUTHERFORD. Okay.

Admiral FAGAN. Whether that is true or not.

Mr. RUTHERFORD. If you can let me know about that. Thank you. I do appreciate that.

And, Mr. Chairman, I will yield back and make up for the first round.

Mr. JOYCE. You are just about caught up.

Dr. Harris.

Dr. HARRIS. Thank you very much.

And thank you very much, Admiral, for being here today.

I represent the First Congressional District of Maryland, bounded by the ocean on one side and the bay on the other side in the most part. And I have been very concerned about the industrialization of the offshore Mid-Atlantic—and that is basically what these wind farms are going to be. They are just industrialization of a place that has never been industrialized before—and a place over which the Coast Guard has some jurisdiction and some interest.

Of interest to me, Monday, the Bloomberg published a story: "Pentagon Sounds Alarm Over Biden Plan for Offshore Wind Sites." But the line that I am going to refer to is on page 2 of the article: The Defense Department's concerns, which come on top of other conflicts identified by the U.S. Coast Guard.

So does Bloomberg have it right? Are there other conflicts with regards to offshore wind in the Mid-Atlantic that have been identified by the U.S. Coast Guard?

Admiral FAGAN. Our role in the wind farm conversation is around ensuring safety of navigation and, you know, advising the process to ensure that fishing vessels, other waterway users, are not negatively impacted by wind farm installations. The Atlantic Coast Route Study is part of that. We have had an active role.

I will have the team look at what that might be referring to.

Dr. HARRIS. Okay.

Admiral FAGAN. There is obviously, you know, ensuring the safety of movement of maritime traffic, and advising on that is the role of the Coast Guard plays.

Dr. HARRIS. So, in April 2013, the Coast Guard sent a letter to BOEM advising that their then-current proposed wind energy area location posed, quote, an unacceptable—posed unacceptable increases in risk to navigation safety. And BOEM went ahead anyway.

So—and that is in the first phase. Now they are—now the administration wants a second phase further offshore. The Defense Department has concerns. I don't know if the Coast Guard still has concerns.

But I am going to ask you a question: Has the Coast Guard analyzed the effect on search-and-rescue missions that these windmills might pose if they—off the coast, because I have a lot—you know, I have a lot of both private and commercial vessels who traffic in that area. God forbid something happens. You know, conditions aren't great.

Has the Coast Guard studied the effect on search and rescue of these windmills?

Admiral FAGAN. Impact on search and rescue is part of the consideration that we have looked at. I would be happy to have the team come over and sort of walk you through where exactly we are at this point in time with regard to the advise—you know, advice we have been providing to BOEM across—you know, again, ensuring safety of navigation, safety of life as the wind farms proceed.

Dr. HARRIS. Sure. And I would imagine, since—since some of the interferences with radar, I would imagine, the—you know, the newest proposed Vestas 15-megawatt windmill, 919 feet tall, much taller than ones that have been looked at in the past, I would imagine they could have deferential effects on radar. I am sure they haven't

been studied because this is a relatively new windmill and it is what is going to happen in the future.

I do have concern that you only advise BOEM on this because you all are the experts in maritime navigational safety, not BOEM. BOEM, it appears, has an agenda here, and I worry about it because their agenda, I think, conflicts with maritime safety. And I think that was in a letter—again, the April 2013 letter advising BOEM.

BOEM completely disregarded it, and here we are. You know, we are back—we are back again, because now that BOEM wants to re-expand, wants to lease new areas, I am afraid they are going to take the same attitude with that.

Anyway, if you would get back to me on that, I would appreciate it.

The second thing I have is an issue of navigational buoys. Again, these are mostly in the bay. So what has happened is that we have a couple of Federal channels—Slaughter Creek, Tar Bay Gap—where the navigational buoys were removed by the Coast Guard because, you know, the channel silted in, Coast Guard says: This is not a—you know, there is no channel here anymore. It is too shallow a depth. We are taking the markers out.

So I have two questions. One is, when that happens, do you communicate the importance of that to the Army Corps so that they take that into account when they do their dredge plans?

And the second one is, could you allow and expedite private aids to navigation being placed in those channels because, without markers, as you can imagine, you are left on local knowledge, which sometimes isn't that much? And other entities have wanted to place markers and run up to the—into the Coast Guard, I will say bureaucracy, or maybe policy, of not being allowed to put a private aid to navigation there.

So is this something that we can work with together to make sure that, look, something is in that channel? And I get it. If it is not deep enough to be a, you know, a Coast Guard marked channel, but our watermen and our private boaters do need some markers.

Admiral FAGAN. I will look forward to working with you on that and will take back that specific issue to the team and see where we are with regard to private aids to navigation.

Dr. HARRIS. Thank you very much, Admiral.

Thank you. I yield back.

Mr. JOYCE. Since we have had a second round of questions, if you had any more, you feel free to take this opportunity.

Dr. HARRIS. You know, Mr. Chairman, I appreciate that, but I think, again, we will work with the admiral on the offshore wind issues, safety issues. It is just very concerning to me as my watermen, my commercial fishermen, my private fleet, charter boat captains, et cetera, are—express a lot of concern about shortcuts being taken over at BOEM that don't take into consideration the input of interested parties and experts—not only just interested parties—and, again, I can't emphasize this. There is nobody at BOEM who knows navigational safety as well as the Coast Guard does.

Mr. JOYCE. Certainly.

Dr. HARRIS. And for them to disregard that letter back in 2013, I think, is highly problematic—highly problematic.

But no. I appreciate the offer. I yield back.

Mr. JOYCE. Thank you, Dr. Harris.

There may be additional questions from members, and I would ask that you get back to them in a timely fashion. For those that are asked today, if you could get back to us within 15 business days from today, it would be most appreciative so we can work on fashioning your budget for going into the Department's budget going into next year.

Again like to thank you for being here today.

And, with that, unless there is anything further from any members, this committee is now adjourned.

Thank you.

Admiral FAGAN. Thank you.

[Answers to submitted questions follow:]

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Wednesday, April 19, 2023

Hearing:

"U.S. Coast Guard FY 2024 Budget Request"

Witness: Admiral Linda Fagan, Commandant, U.S. Coast Guard

Representative Case

QFR #5: COAST GUARD RECRUITMENT

BACKGROUND: From Congressman Case - The Coast Guard has missed its recruitment target for the last four years, falling short by an average of 20% each year. Your budget sets aside $35 million to help the Coast Guard address the nationwide military recruiting shortage and open nine new recruiting offices.

QUESTION PART-1: What are the main factors making it difficult to recruit?

ANSWER PART-1: A recent Pentagon study found that 70 percent of the country's youth were ineligible for military service without a waiver—typically fitness or a medical condition and some are considered ineligible for culturally acceptable, but still prohibited issues like tattoos (location or content), body modifications (like gauge earrings), drug use, criminal charges, or civil indiscretions. Other limiting factors include age, number of dependents, and single parenthood requirements. In addition, two thirds of high school graduates will attend at least one semester of college; shrinking the historic post high school recruiting surge. Diminishing 'propensity to serve', defined as an individual's interest and likeliness to join a military or armed service, seen as a contributing factor for lower accession. The impacts of COVID-19, which limited in-person recruiting in high schools, also atrophied historical partnerships. The Coast Guard is now competing in a post-pandemic job market which has employers fighting for workers. Even entry level non-government service jobs have benefits similar to military packages including signing bonuses, referral bonuses, and medical.

QUESTION PART-2: What new methods can be utilized to address these recruiting challenges?

ANSWER PART-2: There are two main ways the Coast Guard is addressing these challenges. The first is by increasing the number of recruiters in the field. The second is increasing the efficiency of recruiters and the recruiting process. The Coast Guard has established an Incident Management Team to explore new and innovative ways to recruit. Innovation and policy adjustments have helped Coast Guard Recruiting Command improve recruiting trends in recent months.

QFR #6: COAST GUARD LOGISTICS

BACKGROUND: From Congressman Case - The Coast Guard plays a critical role in the Indo-Pacific, from conducting illegal, unreported, and unregulated fishing patrols; to training international partners; to conducting humanitarian operations. However, the distances that must be traversed and logistics that must be overcome to fulfill these missions in the Indo-Pacific are immense. For example, the Coast Guard's 14th District must source parts for cutters, etc. from Baltimore, which can lead to lengthy delays.

QUESTION PART-1: To manage some of these challenges, what steps has the Coast Guard taken to create or bolster logistics support efforts in forward operating bases in the Indo-Pacific in areas such as Guam?

ANSWER PART-1: In Fiscal Year (FY) 2023, the Coast Guard established the Director of Operational Logistics, Office of Expeditionary Logistics (DOL-X) to oversee the integration, coordination, and execution of mission support services to Coast Guard forces conducting expeditionary operations, including the support of deployments throughout the Indo-Pacific. DOL-X improves the delivery of mission support in this region by forward deploying logistics support personnel and implementing integrated support processes, which reduce the logistics burden on field operators and improve coordination and execution of mission support services.
The Coast Guard will also establish Base Guam this fiscal year to serve as a mission support integrator for the region. Additionally, the FY 2023 appropriation funds the first Deployable Support Team, which positions Coast Guard personnel both at Base Guam and Base Honolulu, HI to provide rapid maintenance/logistics support and operational augmentation for deployed assets across the Indo-Pacific.

QUESTION PART-2: I have been told the Coast Guard has no West Coast base storage for logistics support. Are there plans to establish base storage on the West Coast, or otherwise address the difficulties with needed logistics support, such as shipping parts to Coast Guard stations in the Indo-Pacific?

ANSWER PART-2: The Coast Guard's primary inventory control point for surface maintenance is located at the Surface Forces Logistics Center (SFLC) in Baltimore, MD. While the SFLC serves as the hub for surface fleet logistics, it centrally manages 66 remote stock locations at strategic locations across the world, 14 which are positioned for direct support of Pacific Area operations. Additionally, the SFLC maintains an Interservice Support Agreement with the Defense Logistics Agency (DLA), Distribution Depot Guam to store additional Coast Guard-owned material, with available capacity to accommodate additional Coast Guard surface assets as necessary.

QFR #7: COAST GUARD PACIFIC AREA – STRATEGIC INTENT REPORT

BACKGROUND: From Congressman Case - The Fiscal Year 2023 Homeland Appropriations Committee report directed the Coast Guard to update its Pacific Area (PACAREA) Strategic Intent document, which was last updated in 2016, over six years ago.

QUESTION: Can the Coast Guard please provide a timeline for completing the Service's update to the PACAREA Strategic Intent Report?

ANSWER: The "Coast Guard Pacific Area Strategic Action Plan" for 2022-2023 was completed and signed by Vice Admiral Mike McAllister, Commander, Coast Guard Pacific Area, in 2022.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Wednesday, April 19, 2023

Hearing:

"U.S. Coast Guard FY 2024 Budget Request"

Witness: Admiral Linda Fagan, Commandant, U.S. Coast Guard

Representative Michael Guest

QFR #3: COAST GUARD CYBER PROTECTION TEAMS (CPTS) & CYBERSECURITY INFRASTRUCTURE

BACKGROUND: From Congressman Guest – During Admiral Fagan's (Commandant) recent State of the Coast Guard Address, she briefly discussed the need for the Coast Guard to invest in the Coast Guard's Cyber Protection Teams (CPTs) to deter and respond to cyber-attacks in the Marine Transportation System and other IT infrastructure. As she stated in her address, the Coast Guard will soon be standing up its third Cyber Protection Team on the West Coast to help protect our nation's ports from cyber threats. Cyber is one of the many threats that the Coast Guard manages at our nation's ports. My understanding is that port authorities can request CPTs to conduct cybersecurity assessments, consisting of penetration testing and configuration review, to include malware vulnerability. Recently, many of my colleagues in the House have raised the issue of cybersecurity threats at our nation's ports, specifically related the wide use of Chinese technology and equipment, or Chinese cranes to be exact.

QUESTION PART-1: First, can the Coast Guard walk us through the Coast Guard's cybersecurity-related funding request for personnel working on cybersecurity to protect our nation's ports and the Marine Transportation System? Is this cyber-related funding request adequate to address the evolving threat environment at our ports?

ANSWER PART-1: The Coast Guard is not requesting additional funding in Fiscal Year 2024 for personnel to protect the Marine Transportation System (MTS). We continuously evaluate the cyber security risks to our MTS and continue to assess future requirements.

QUESTION PART-2: Second, can the Coast Guard confirm whether the Coast Guard's CPTs conduct post-delivery systems checks or any other cyber assessments on foreign manufactured cranes at our ports, specifically those from adversarial countries, such as China?

ANSWER PART-2: Coast Guard CPTs do not conduct post-delivery systems checks or cyber assessments on foreign manufactured cranes within US Ports. CPTs conduct assessments of operational technology, including cranes, once an agreement is established between the requesting port partner and the Coast Guard. The Coast Guard actively engages with port stakeholders, through the Coast Guard's Captain of the Port, to increase the number of these agreements.

QFR #4: MH-60 HELICOPTER TRANSITION: ECONOMICS-OPERATIONS-SAFETY

BACKGROUND: From Congressman Guest - The Coast Guard has stated its plan to transition to an all MH- 60 helicopter fleet, acquiring used helicopters from the Navy. For this transition, the FY24

budget requests $30 million, and the Coast Guard received over $200 million in FY22 and over $166 million in FY23. This plan would mean that the Coast Guard has only one type of larger helicopter.

QUESTION PART-1: What will be the difference in annual operating costs of the current mixed fleet vs. an all MH- 60 helicopter fleet?

ANSWER PART-1: The current mixed fleet of 98 MH-65's and 48 MH-60T's costs $1.32 billion to operate. An all MH-60T fleet of at least 127 aircraft is expected to cost $1.455 billion to operate (in 2022 dollars).

QUESTION PART-2: Are the MH-60 aircraft acquired by the Coast Guard used Navy helicopters? If so, what are the average hours on these airframes and what is the cost? Are these aircraft ready for operations upon delivery, or are there additional refurbishment costs?

ANSWER PART-2: The Coast Guard MH-60T transition plan includes aircraft acquired from the Navy. These aircraft have on average 8,430 flight hours. The aircraft are not ready for operations upon receipt and require hull configuration changes as well as dynamic component and wire harness recapitalization, all at an approximate cost of $25 million per aircraft.

QUESTION PART-3: Will the Coast Guard need more and/or larger hangars to house the MH-60s, and will the Coast Guard be requesting those funds in the future?

ANSWER PART-3: The Coast Guard's transition from the MH-65E to the larger more capable MH-60T will require minor hangar modifications at most legacy MH-65 air stations. The Coast Guard is evaluating alternatives for space-constrained hangars at five legacy MH-65 air stations.

QUESTION PART-4: Are there plans to close any air stations or Air Sub-Facilities with a transition to an all MH-60 fleet?

ANSWER PART-4: The Coast Guard is completing a study on its entire aviation force laydown, consistent with the requirements of the FY 2023 NDAA. We look forward to sharing the results of this analysis.

QUESTION PART-5: The MH-60s require more personnel to operate than other Coast Guard helicopters. What is the additional staffing cost of an all MH-60 fleet?

ANSWER PART-5: While an MH-60T helicopter requires approximately six more personnel than required to support an MH-65E, anticipated outyear personnel growth and costs are based on the aircraft delivery year and location which the Coast Guard is working to finalize. The FY 2024 President's Budget requests 92 personnel and $21.1 million to transition Air Station Ventura, CA to the MH-60T and increased capacity at its Aviation Training Center in Mobile, AL.

QUESTION PART-6: Will the Coast Guard have enough personnel to operate an all MH-60 fleet?

ANSWER PART-6: The Coast Guard is working to finalize outyear personnel analysis to support an all MH-60 fleet.

QUESTION PART-7: Can the MH-60 operate on all of the Coast Guard's ships? Does it fit in all of the Coast Guard's land and ship hangars? If not, what are the Coast Guard's plans for those ships and air station hangers that cannot accommodate the MH-60 helicopter?

ANSWER PART-7: The Coast Guard can operate the MH-60T from seven of its 13 Famous Class Medium Endurance Cutters (270 feet long) and from all its National Security Cutters (NSC). Additionally, the Coast Guard designed its newest medium endurance and polar ice-breaking cutters, the Offshore Patrol Cutter (OPC), and the Polar Security Cutter (PSC), to enable MH-60T operations. The Coast Guard will configure its entire MH-60T fleet to be blade-fold, tail-fold capable to ensure that deployed MH-60Ts will fit into hangars on both the NSC and the OPC. Though the Coast Guard will replace the Medium Endurance Cutters with OPCs, the Service will continue to support cutter-based missions on legacy major cutters primarily via the Helicopter Interdiction Tactical Squadron (HITRON) which will continue to operate MH-65E aircraft until the final phase of the rotary-wing fleet transition in the mid-2030's.
The Coast Guard is evaluating alternatives for space-constrained hangars at five legacy MH-65 air stations.

QUESTION PART-8: Do both the MH-60 and the Coast Guard's Unmanned Aircraft System (UAS), ScanEagle, fit on board Coast Guard ships together? Has the National Security Cutter deployed and operated with a MH-60 helicopter and ScanEagle UAS? If not, what equipment will be left onshore and what would be the impact to a cutter that is not fully mission capable?

ANSWER PART-8: It is possible for a NSC to deploy with both an MH-60T and a ScanEagle UAS without sacrificing capability. To date, the Coast Guard has not deployed a National Security Cutter with both an MH-60 helicopter and ScanEagle UAS.

QUESTION PART-9: Occasionally aviation fleets are grounded due to safety or maintenance concerns. Does the Coast Guard have a plan to cover all statutory missions Coast Guard helicopters are used to support if the single helicopter fleet is grounded?

ANSWER PART-9: Over 4,000 H-60 variants are operated by all branches of the U.S. Military and by the armed forces in over 30 countries worldwide. The global proliferation of the H-60, its durable domestic supply chain, and extensive operational and sustainment record make the aircraft very resilient to maintenance or safety concerns that may ground smaller fleets. Additionally, Coast Guard operational commanders will leverage the Coast Guard's nationwide search and rescue (SAR) system, consisting of an overlapping network of surface, aviation, and shore-based assets, to withstand stressors and maintain SAR response posture at units throughout the Country.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Wednesday, April 19, 2023

Hearing:

"U.S. Coast Guard FY 2024 Budget Request"

Witness: Admiral Linda Fagan, Commandant, U.S. Coast Guard

Representative Rutherford

QFR #1: MH-60 HELICOPTER TRANSITION

BACKGROUND: From Congressman Rutherford - The Coast Guard has stated its plan to transition to an all MH-60 helicopter fleet, acquiring used helicopters from the Navy. For this transition, the FY24 budget requests $30 million, and the Coast Guard received over $200 million in FY22 and over $166 million in FY23. This plan would mean that the Coast Guard has only one type of larger helicopter.

QUESTION PART-1: What is the difference in annual operating costs of the current mixed fleet vs. an all MH- 60 helicopter fleet?

ANSWER PART-1: The current mixed fleet of 98 MH-65's and 48 MH-60T's costs $1.32 billion to operate. An all MH-60T fleet of at least 127 aircraft is expected to cost $1.455 billion to operate (in 2022 dollars).

QUESTION PART-2: For H-60 aircraft acquired from the Navy, what is the average hours on the airframes and what do they cost? Are these aircraft ready for operations upon delivery or are there additional refurbishment costs?

ANSWER PART-2: The Coast Guard MH-60T transition plan includes hulls acquired from the Navy. These hulls have on average 8,430 flight hours. The aircraft are not ready for operations upon receipt and require hull configuration changes as well as dynamic component and wire harness recapitalization, all at an approximate cost of $25 million per aircraft.

QUESTION PART-3: The MH-60s require more personnel to operate than other Coast Guard helicopters. Do you have enough personnel and what is the additional staffing cost of an all MH-60 fleet?

ANSWER PART-3: While an MH-60T helicopter requires approximately six more personnel than required to support an MH-65E, anticipated outyear personnel growth and costs are based on the aircraft delivery year and location which the Coast Guard is working to finalize. The FY 2024 President's Budget requests 92 personnel and $21.1 million to transition Air Station Ventura, CA to the MH-60T and increased capacity at its Aviation Training Center in Mobile, AL.

QUESTION PART-4: Can the MH-60 operate on all of the Coast Guard's ships? If not, what are the Coast Guard's plans for those ships that cannot accommodate the MH-60 helicopter?
ANSWER PART-4: The Coast Guard can operate the MH-60T from seven of its 13 Famous Class Medium Endurance Cutters (270 feet long) and from all its National Security Cutters (NSC). Additionally, the Coast Guard designed its newest medium endurance and ice-breaking cutters, the Offshore Patrol Cutter (OPC), and the Polar Security Cutter (PSC), to enable MH-60T operations. Though the Coast Guard will replace the Medium Endurance Cutters with OPCs, the Service will continue to support cutter-based missions on legacy major cutters primarily via the Helicopter Interdiction Tactical Squadron (HITRON) which will continue to operate MH-65E aircraft until the final phase of the rotary-wing fleet transition in the mid-2030's.

QUESTION PART-5: Do both the MH-60 and the Coast Guard's Unmanned Aircraft System (UAS), ScanEagle, fit on board Coast Guard ships together? Has the National Security Cutter deployed and operated with a MH-60 helicopter and ScanEagle UAS?

ANSWER PART-5: It is possible for a NSC to deploy with both an MH-60T and a ScanEagle UAS without sacrificing capability. To date, the Coast Guard has not deployed a National Security Cutter with both an MH- 60 helicopter and ScanEagle UAS.

QUESTION PART-6: Will the Coast Guard need more and/or larger land-based hangars to house the MH- 60s?

ANSWER PART-6: The Coast Guard's transition from the MH-65E to the larger more capable MH-60T will require minor hangar modifications at most legacy MH-65 air stations. The Coast Guard is evaluating alternatives for space-constrained hangars at five legacy MH-65 air stations.

QUESTION PART-7: Which air stations do not currently have facilities that could currently house a fleet of H-60s?

ANSWER PART-7: The Coast Guard is evaluating alternatives for space-constrained hangars at five legacy MH-65 air stations, specifically Air Stations Detroit, Houston, Humboldt Bay, North Bend, and Port Angeles.

QFR #2 PROPOSED:
NOAA – NORTH ATLANTIC RIGHT WHALE (NARW) – VESSEL SPEED RULE
BACKGROUND: From Congressman Rutherford - Last year NOAA proposed a rule that would require all boats longer than 35 feet to go 10 knots for up to half of the year, up and down the Atlantic Coast. While the economic implications of this rule would be huge, I also have some safety concerns with this rule. Since the Coast Guard is tasked with maritime safety, I wanted to get the Coast Guard's perspective on this rule.

QUESTION PART-1: Could a 10-knot speed requirement cause safety concerns for people on boats over 35 feet?

ANSWER PART-1:
NOAA's proposed rule, Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule, would retain the current safety deviation provisions within the existing regulations with a few proposed changes, including: (1) expansion of the safety deviation provision to include emergency situations that present a threat to the health, safety, or life of a person; and (2) inclusion of a new

provision for vessels less than 65 feet in length to operate at speeds greater than 10 knots when transiting in areas where a National Weather Service Gale Warning (34 knots/39 miles per hour) or other National Service Warning (e.g., Storm Warning, Hurricane Warning) for wind speeds exceeding the threshold for a Gale Warning.

QUESTION PART-2: Could the enforcement of this rule take away from other important missions the Coast Guard has?

ANSWER PART-2:

Enforcement of this rule is unlikely to take away from other Coast Guard missions; however, the Coast Guard is currently reviewing and internally discussing the potential operational impacts of the proposed rule. NOAA is the agency responsible for enforcement of the rule. The Coast Guard currently assists, and would continue to assist, NOAA in the enforcement of their regulation.

QUESTION PART-3: Seems like the Coast Guard will be tasked with enforcement of this rule, was the Coast Guard consulted in the writing of this rule?

ANSWER PART-3:

Yes. Prior to NOAA's publication of the proposed rule, NOAA requested certain information from Coast Guard to inform the content of the proposed rule. Input provided by the Coast Guard included: information on the regulatory limits of AIS carriage requirements; small craft advisories; and vessel master's authority versus that of a pilot when the vessel is in pilotage waters.

WEDNESDAY, APRIL 19, 2023.

U.S. CUSTOMS AND BORDER PROTECTION

WITNESS

TROY MILLER, ACTING COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION

Mr. RUTHERFORD [presiding]. The Subcommittee on Homeland Security will come to order.

We welcome Acting Commissioner Miller. Thank you for joining us today as we discuss the Customs and Border Protection fiscal year 2024 budget submission. I will give an opening statement here very quickly.

The work agents and officers of U.S. Customs and Border Protection do every day has immense importance to both our national and economic security. But simply, their collective job is to keep bad things and bad people from entering the country illegally. However, our agents and officers jobs are made harder by the President's fundamentally unserious budget request for CBP.

Unfortunately, the fiscal year 2024 request is full of inexplicable gimmicks, and I will explain those later, but, for example, the President proposes $174 million for additional surveillance towers, but fails to adequately provide adequate funding to maintain the ones we already have in the field.

The budget request calls for an additional 350 Border Patrol agents, and at the same time cuts funding for Border Patrol pay by $63 million. We talked about this yesterday. There is not a single dollar in the CBP request to counter the small drones that the cartels are flying across the border to conduct surveillance on our agents and deliver drug loads. In fact, the holes that Congress would have to fill just to maintain the level of capability we have today totals nearly $400 million due to these gimmicks. If we funded CBP at the requested level, the border would be less secure. And I know you don't want to that, and neither do we.

The fiscal year 2024 request for CBP is disappointing, because the men and women in the field need more funding to do the very difficult job that we have given them. They need more agents, more officers, and more processing coordinators. We have fewer than 19,000 agents in the field, the lowest level in years, and we continue to lose seasoned agents at an unsustainable rate.

They need more advanced technology to detect illicit activity and prevent fentanyl from devastating the lives of our fellow Americans throughout the country, and they need more physical infrastructure. But instead, this budget asks that we spend existing barrier money on environmental remediation instead of a new fencing barrier. The President's budget request is a mere $4.2 million above

last year's level, despite the record number of crossings we have had over the last 2 years.

If you factor in the high inflation we have seen over the last few months, the administration is essentially cutting the CBP budget at a time of border crisis. Budgets communicate priorities, and it is clear by this request that the President's priority is not securing our border, not providing the men and women in the field the means to hold the line.

With title 42 about to end, the situation on the border could easily go from bad to much, much worse. Make no mistake, our adversaries, the transnational criminal organizations who control every inch of the Mexican side of the border, want to do everything in their power to continue to traffic narcotics and people, fueling violence and human suffering.

I look forward to working with my colleagues on both sides of the aisle to properly fund CBP and our border security efforts.

I will now turn to my colleague, Mr. Cuellar, for any opening remarks he may have.

Mr. CUELLAR. All right. Thank you, Mr. Chairman.

And again, it is a pleasure seeing you again, Acting Commissioner, Mr. Miller.

Again, you are the head of one of the most dynamic agencies in the Federal Government. And each day, you and your workforce are called upon to address new and increasingly complex issues. I think all the folks need to look at is the day in the CBP life, and it is incredible the number of trucks and cars and passengers, and arrests that you all make, and it is so many laws that you have to enforce. So I appreciate that.

I also appreciate that you started your career back in 1993, with the U.S. Customs Service as a customs inspector, to now heading the agency. And you bring years of experience, trust, and integrity to this role. And I would say, despite all the pressures that you face every day, you have demonstrated exceptional professionalism and leadership, and we appreciate the work that you do.

And again, I note—I say that you are a career official, not in a political capacity. And I think for some jobs, with all due respect to Democrats and Republicans, we should have more career folks like yourself. So we appreciate what you do.

And as you know, homeland is certainly a priority to me as the rest of the members. As I always say, I don't just visit the border, I live there. My family is there. I breathe the air, I drink the water, and it is a place I call home.

And I appreciate the work that y'all do because, in fact, my hometown, Laredo, if you look at the crime statistics, they are about three, four times safer than Washington, D.C., is. So I appreciate all the work that law enforcement does there.

Again, the border is important. Security is important. But at the same time, we have got to make sure that we also rely a lot on trade and tourism. In fact, with Mexico, there is over $863 million of trade every—billion dollars every year. That is $1.8 billion every single day. So trying to find that balance between security and trade and tourism is important.

Laredo, as you know, we are the largest inland port. I think in February we surpassed L.A., which means we are the largest port

in the whole country. So we appreciate all the good work Albert Flores and everybody that does the work down there in the area.

Also, I do want to talk about a couple things. Operational control—and I will be asking a question about that—was defined by the Secure Fence Act in 2006. No administration has been able to achieve it, not President Bush, it passed under him; not President Obama; not President Trump; and certainly not President Biden also. So I certainly want to talk to you about the work that—what we need to do, not political, but how do we work in a practical way, Democrats and Republicans, to get this work done. So I certainly want to work with my colleagues to address this.

Also, the same thing, talking about budgets. I do want to emphasize that the last 2 fiscal years we actually have added over $2.4 billion to the CBP budget authority. That is an over 15 percent increase, more than the prior administration. So I want to emphasize that we have added over $2.4 billion from the prior administration.

With that, we have been able to leverage funding, more Border Patrol agents, more CBP officers, intel specialists, trade enforcement staff, and other personnel, along with the technology in ports of entry and, of course, making sure that we have technology between ports of entry also. I know sometimes, you know, some folks believe in the 14th century solution called the wall, but I think we got to look at the 21st century technology.

And again, it is important to understand that in south Texas, the border, we believe in private property rights. Private property rights. So if you have been a landowner for generations, you don't want the big bad government to come over and take your property that certainly takes away the water access to cattle and wildlife and other things that we have. So I appreciate that.

And let me just say in conclusion, Commissioner Miller, I know there is a lot of work. There are some funding gaps that we have to look at. And certainly, I am hoping that we can work together to address some of the funding gaps that y'all have and address those issues.

So, with that, I say welcome. And, Mr. Chairman, thank you so much for your time.

Mr. RUTHERFORD. Thank you, Mr. Cuellar. And I would be remiss if I didn't mention that I am not Chairman Joyce.

Mr. CUELLAR. Well, you got the gavel, so you are a chairman.

Mr. RUTHERFORD. He is delayed at another hearing, but he will be here as soon as he can, Commissioner.

And, with that, Commissioner Miller, without objection, your full written testimony will be entered into the record. And with that in mind, we would ask for you to please summarize your opening statement in 5 minutes. Thank you.

TESTIMONY OF TROY A. MILLER

Mr. MILLER. Chairman Rutherford, Ranking Member Cuellar, and members of the subcommittee, I am honored to testify today on behalf of the nearly 65,000 dedicated employees of U.S. Customs and Border Protection who protect our Nation day and night from every evolving criminal and terrorist threats, while also enforcing trade compliance and facilitating the safe and efficient flow of lawful travelers and commercial goods across our borders.

This year marks the 20th anniversary of the Department of Homeland Security and the creation of CBP. We will not forget how the events of 9/11 changed our Nation and led to the creation of the world's first comprehensive border security agency. This year also represents a personal anniversary. I began my Federal career nearly 30 years ago with the U.S. Customs Service.

Over the course of my career, I have overseen many of CBP's complex responsibilities related to trade, travel, and national security. I know firsthand that CBP has an immensely difficult job, and I am constantly amazed at the perseverance of the men and women of CBP and the commitment to our mission.

I am grateful for this subcommittee's recognition of the physical and mental pressures that affect CBP employees and their families. Tragically, CBP lost 11 employees to suicide in 2021 and another 15 in 2022. These distressing figures are further compounded by a record number of line of duty deaths. The well-being of all CBP employees remains my top priority, and I am thankful for the critical resources Congress has provided towards our shared commitment to the welfare of the CBP workforce.

As you know, CBP considers considerable operational challenges on the southwest border, and the men and women of CBP continue to be up to the task. Specifically, CBP continues to counter the dynamic of threat of sophisticated transnational criminal organizations engaged in human and drug smuggling, including the production and trafficking of illicit fentanyl, an extremely lethal synthetic opioid.

We also continue to respond to the historic flow of migration in the Western Hemisphere. The United Nations recently estimated that there are approximately 660,000 migrants currently in Mexico, including over 200,000 Haitian and Venezuelan nationals, in addition to 287,000 internally displaced Mexican nationals. Many of these individuals could attempt to enter the United States in the near term.

Taking actions to address another near-term challenge, CBP continues to prepare for the transition from title 42 to full Title 8 immigration processing, in coordination with the Department of Homeland Security and other Federal partners. Our preparations align with CBP's overall strategy to prioritize national security, strengthen our border operations, protect the American people, provide for the safe and humane processing of migrants, and administer consequences for unlawful entry, including removal and prosecution.

And this approach continues to produce results. In fiscal year 2022, Border Patrol agents intercepted more than 12,000 individuals with prior criminal convictions, and CBP officers arrested more than 15,000 individuals wanted for criminal activities at our ports of entry. And nationwide, CBP seized nearly 656,000 pounds of illicit drugs, including 15,000 pounds of fentanyl.

Every seizure matters. And I cannot give enough credit to the valuable efforts of our frontline personnel. Just 2 days ago, CBP officers in Otay Mesa seized 776 pounds of fentanyl in one single event.

Our partnerships are also invaluable to our enforcement efforts. For example, through Operation Blue Lotus, CBP and our Home-

land Security Investigations partners are surging our intelligence analysis and enforcement capabilities to not only target and seize illicit fentanyl, but also pursue investigations and take down criminal networks.

Since the operation's implementation just 1 month ago, we have made 80 arrests and more than 66 seizures of fentanyl, totaling nearly 3,700 pounds. Through a concurrent operation between the ports of entry, the Border Patrol has seized an additional 825 pounds of fentanyl.

We have also enhanced our enforcement operations in the trade environment, including those to combat global forced labor by applying new authorities Congress provided through the Uyghur Forced Labor Prevention Act. Since its implementation 9 months ago, CBP has intercepted more than 3,500 shipments for forced labor concerns.

The President's fiscal year 2024 budget for CBP builds on these accomplishments by supporting continued investments in border security technology and personnel, ensuring we continue to expand our situational and domain awareness, respond to emerging threats, detect and intercept dangerous drugs and contraband, and provide efficient processing and safe humane conditions for migrants while in CBP custody.

Additionally, the budget supports our commitment to workforce care, such as expanding onsite clinician availability and enhancing suicide prevention, chaplain, and peer support programs.

In closing, I want to thank the members of this subcommittee who have traveled to the border to observe CBP's critical operations and dedicated frontline workforce.

Thank you for the opportunity to testify today. I look forward to your questions.

[The information follows:]

TESTIMONY OF

Troy A. Miller
Acting Commissioner
U.S. Customs and Border Protection

BEFORE

U.S. House of Representatives
Committee on Appropriations
Subcommittee on Homeland Security

ON

"Fiscal Year 2024 Request for the U.S. Customs and Border Protection Agency"

April 19, 2023
Washington, D.C.

Introduction

Chairman Joyce, Ranking Member Cuellar, and Members of the Subcommittee, I'm honored to appear before you today to discuss the critical mission of U.S. Customs and Border Protection (CBP) and how the Fiscal Year (FY) 2024 President's Budget — hereafter also referred to as the "Budget" — supports our operational priorities.

It is a privilege to be here today on behalf of the nearly 65,000 dedicated and talented men and women of CBP who protect our Nation from ever-evolving threats by land, sea, and air, while also promoting economic prosperity and the flow of commercial goods. CBP operates around the clock to prevent the entry of inadmissible persons and contraband into the United States at and between our nation's ports of entry (POEs), ensuring the safe and efficient flow of commerce into the United States and enforcing nearly 500 U.S. trade and travel laws and regulations on behalf of 49 Federal agencies. These are complex and difficult responsibilities that CBP personnel take seriously and perform proudly with honor.

Last month, we marked 20 years since the creation of the Department of Homeland Security (DHS) and CBP. The anniversary was a reminder of how the events of September 11, 2001, fundamentally changed our way of life and solidified our mission. The anniversary was also an opportunity to reflect on how the threats facing our borders have evolved and become more diverse and complex. CBP faces many intensely challenging and unique problem sets across our operational environments, and throughout our mission spaces, including irregular migration, the threat of transnational criminal organizations (TCOs) engaged in human and drug smuggling, emerging agricultural risks, and the evasion of and noncompliance with trade laws. We continue to address these complex and dynamic challenges with unwavering commitment and resolve.

Despite immense challenges, CBP's dedicated agents, officers, and specialists continue to protect our borders: prevent terrorist and criminal elements, drugs, and dangerous goods from harming our communities; maintain the flow of legitimate travel and commerce; and respond to increased volumes of migrants with dignity and humanity.

I would like to acknowledge and extend my sincere thanks to the Members and staff of this Subcommittee for your consistent support of, and commitment to, CBP's mission, our operations, and our workforce, as well as for the resources you have provided to us in the FY 2023 Consolidated Appropriations Act to ensure we continue to do our part to protect this country. Today I will discuss how CBP is making use of those critical resources and detail how the FY 2024 President's Budget supports CBP's enduring mission priorities: countering terrorism, combatting transnational crime, securing the border, streamlining lawful trade, protecting revenue, and facilitating lawful travel.

I could not be prouder of the dedication, innovation, and perseverance of the CBP workforce during the past year. The men and women of CBP have worked tirelessly and made countless advancements in our efforts to secure our borders and identify those who wish to do us harm, facilitate travel and trade, stop the flow of illicit drugs and other contraband, combat forced labor in supply chains, and rescue and assist those in distress. Leaning into technology, we have reduced processing times for trucks from minutes down to seconds, integrated a touchless facial biometric entry process at all U.S. airports, and expanded the use of mobile passport and customs inspections. We have introduced these and other technological improvements to serve as a force

multiplier for our workforce, allowing us to be more efficient and effective in meeting our broad array of complex security and facilitation responsibilities.

FY 2022 and FY 2023 Investments and Accomplishments

The enduring support of this Subcommittee has enabled CBP to build a strong operational foundation. Investments and assistance provided by Congress in FY 2022 and FY 2023 have allowed CBP to adjust to rapidly changing needs in a diverse set of environments, while continuing to make significant progress and advancements in CBP's various missions.

Workforce Care

I am grateful for this Subcommittee's recognition of the physical, mental, and emotional stress that affects CBP employees and their families. Tragically, CBP lost 11 employees to suicide in 2021, and another 15 employees in 2022. These figures are distressing alone but are further compounded by CBP's concurrent record number of line-of-duty deaths. The wellbeing of all CBP employees and their families remains my top priority and I am thankful for the critical funding Congress provided in the FY 2023 Consolidated Appropriations Act in support of CBP's ongoing commitment to enhancing our resilience and support programs.

CBP implemented multiple employee initiatives in FY 2022, including the establishment of a Workforce Care Directorate, providing leadership, oversight, resourcing, and operational perspective to support, develop and maintain a resilient workforce. To support the growth and development of CBP's workforce care programs, senior leaders collaborated closely with the Administration and Congress to support funding for our workforce care programs, resulting in a $23 million investment in the FY 2022 Enacted Appropriations. The FY 2023 Enacted Appropriations recurred that amount and added additional funding for program personnel, providing a total of $30 million.

With these funds, we've continued to invest in programs that benefit all our employees and enhance training across the Agency. To date, we funded the Childcare Subsidy Program, Backup Care Program, Employee Assistance Program (EAP) Core services, and the EAP Onsite Clinician Program that currently provides 32 onsite clinicians in 26 CBP operational locations. We developed and distributed a new suicide prevention train-the-trainer initiative attended by 206 CBP chaplains, peer support members, veteran support members, and professional staff. This new cadre of instructors are required to provide in-person suicide prevention training to all CBP employees by the end of Calendar Year 2023. We funded chaplain and peer support classes, delivered Resilience Skills and Training, deployed Traumatic Incidents and Events Response (TIER) teams in response to critical incidents, improved guidance, education, and information on other support services for CBP employees and their families, and delivered mental and medical health care services to CBP's frontline veteran workforce stationed along the Southwest Border in partnership with the U.S. Department of Veterans Affairs, Veterans Health Administration. Additionally, we hired specialized personnel, including field-based operational psychologists, who bring operationally relevant experience and expertise to augment field management to support the mental and physical wellbeing of our employees.

Border Security and Management

Thanks to this Subcommittee's support, the Nation's long-term investment in border security has produced significant and positive results. Because there is no single tool or capability that can detect all suspected threats in all situations and environments, CBP uses a multifaceted approach

that includes highly skilled frontline personnel; advanced detection and inspection technology; domestic and foreign partnerships; and intelligence and information sharing. Using this approach, CBP continues to combat the growing reach and influence of TCOs by disrupting these networks, imposing consequences on those engaged in these criminal activities, and enhancing technology and efforts to interdict illicit drugs and contraband.

At our Ports of Entry

At the POEs, CBP performs a full range of critical inspection, intelligence analysis, examination, and law enforcement activities relating to the arrival and departure of persons, conveyances, and merchandise. With funding provided by Congress in the FY 2022 and FY 2023 Enacted Appropriations, CBP continued to make significant investments and improvements in our POE border security operations, and particularly in our drug detection capabilities and interdiction technology.

CBP has deployed more than 350 large-scale and 4,500 small-scale non-intrusive inspection (NII) X-ray and gamma-ray imaging systems to detect the presence of illicit substances, including synthetic drugs such as fentanyl. This technology enables detection of these illicit substances hidden within passenger belongings, cargo containers, commercial trucks, rail cars, privately owned vehicles, as well as Express Consignment Carrier (ECC) and international mail parcels. In FY 2022, CBP officers used large-scale NII systems to scan more than 7.6 million conveyances, which resulted in the interdiction of more than 100,000 pounds of narcotics and approximately $2 million of undeclared U.S. currency.

CBP continues to focus on further closing the vehicle scanning capacity gap and increasing the probability of interdiction. With funding provided by Congress, CBP has made progress toward implementing new drive-through NII systems, located in pre-primary inspection versus secondary, that would transmit the image to an officer remotely located in a command center. This work builds upon prior automation and transformation initiatives, leveraging advancements made to scanning and imagery analysis capabilities. At locations where additional pre-primary systems are being deployed, CBP expects an increase in FY 2023 to NII scans of passenger vehicles and fixed occupant commercial vehicles crossing the Southwest Border to as much as 40 percent and 70 percent respectively. Overall, this approach will strengthen CBP's detection and inspection capabilities and increase both the effectiveness and efficiency of our enforcement and facilitation operations.

In FY 2022, CBP seized nearly 656,000 pounds of illicit drugs, including nearly 2,000 pounds of heroin, 175,000 pounds of methamphetamine, and more than 70,000 pounds of cocaine. We also made nearly 1,500 seizures of illicit fentanyl, totaling 15,000 pounds of the dangerous synthetic opioid. We are on track to seize just as much, if not more this year. Additionally, CBP seized 2374 weapons, and $57.93 million in U.S. currency. Every single seizure is critical. Seizures remove dangerous drugs and weapons from illicit supply chains, deny TCOs valuable profits, and keep them out of our communities. Seizures also give us valuable information through post-seizure analysis to identify networks moving loads and to support partner agencies' investigations and prosecutions.

Along with our Homeland Security Investigation (HSI) partners, CBP leads Operation Blue Lotus, a new coordinated surge operation targeting the smuggling of fentanyl. The Operation includes an increase in targeted inspections by CBP officers and HSI agents, canine units, and

advanced technology at locations along the border. Operation Blue Lotus leverages the advanced analytics and intelligence capabilities and joint enforcement efforts of CBP and HSI to facilitate effective inspections and swift initiation of investigations. Furthermore, CBP's Forward Operating Labs at POEs conduct real-time analysis of suspected substances, providing vital scientific information in support of intelligence gathering and investigations. Since its implementation on March 13, 2023, Operation Blue Lotus has led to 74 arrests and the seizure of approximately 2,500 pounds of fentanyl, 3,600 pounds of methamphetamine, 919 pounds of cocaine, and 42 pounds of heroin.

CBP is responsible for keeping dangerous people from entering the United States while facilitating lawful travel. CBP processes nearly a million travelers at POEs every day. In FY 2022, utilizing both primary and secondary inspections and a multi-layered vetting process, CBP arrested 15,010 individuals wanted for criminal activities and denied entry to 502,473 inadmissible persons, including potential national security and public safety threats.

Between Ports of Entry

Between the POEs, CBP continued to prioritize national security and deploy resources that strengthen our border security operations and protect the American people from acts of terrorism and criminality. In FY 2022 The U.S. Border Patrol (USBP) intercepted 12,028 individuals with prior criminal convictions, prevented 751 gang members from entering the United States, and seized 112,000 pounds of drugs, including 2,200 pounds of fentanyl, 18,300 pounds of methamphetamine, and 12,500 pounds of cocaine.

CBP made substantial investments in autonomous technologies that improve Border Patrol agent efficacy and safety. Examples of these investments include deploying additional Autonomous Surveillance Towers and next generation communications solutions, while continuing to equip the workforce with body worn cameras. CBP also closed 55 gates and gaps in the border barrier to date, and we are working to close an additional 74 gates and gaps along with life, safety, environmental and other remediation activities at incomplete border barrier projects.

In addition, CBP's Innovation Team transitioned counter-unmanned aerial system (C-UAS) technologies to USBP for the detection of illicit cross-border activity of small unmanned aerial systems (UAS), commonly referred to as "drones," to complement the rest of their border security capabilities. CBP continues to experience high numbers of incidents involving illicit use of drones to facilitate unlawful movement of people and narcotics across the Southwest Border. Nationwide, C-UAS trained operators detected more than 8,300 confirmed, counter-surveillance cross-border incursions by UAS in FY 2022. CBP's C-UAS authorities enable CBP to take responsible action against systems that pose a credible threat to covered facilities or assets along the Southwest border. In FY 2022, trained C-UAS operators used this specialized technology to mitigate 25 drones contributing to the seizure of more than 1,950 pounds of narcotics and the arrest of 3,200 individuals.

CBP also strengthened our engagement with the Government of Mexico (GOM) to dismantle TCOs that profit from smuggling activities involving people, illicit goods, and narcotics. Both CBP and the GOM commit resources and personnel to conduct regular, coordinated patrols, air and marine surveillance, counter-network operations, and joint enforcement actions along our shared borders. Through CBP's Joint Security Program (JSP), CBP officers and agents coordinate with the GOM on admissibility/immigration and criminal non-citizen referrals; drugs,

money, and organized crime; and migrant smuggling, special interest aliens, and terrorism-related targets.

Human smuggling is an inhumane and grievous criminal activity. Launched in 2016 as a joint effort between USBP and the GOM, "Se Busca Información," which translates to "Information Wanted," identifies individuals associated with TCOs wanted for crimes associated with human and drug smuggling on both sides of the border. The 'Se Busca Información' initiative promotes binational unity and encourages the public to anonymously report information about known smugglers. CBP has also taken the lead on Operation Sentinel, a major U.S. interagency effort supported by the GOM that aims to cut off access to TCO profits from human smuggling by denying these criminals the ability to engage in travel, trade, and finance in the United States.

CBP engages in information and intelligence sharing with GOM related to smuggling routes, weapons/cash/drug caches, TCO operational trends, and operational successes. CBP leads anti-TCO and border security focused capacity building and training under the auspices of CBP's Office of International Affairs' Anti-TCO and Border Violence Prevention Inter-Agency Agreement with the Department of State's Bureau of International Narcotics and Law Enforcement Affairs.

CBP's ongoing partnerships leverage the capabilities of our partners to stop cruel and profit-driven human smugglers and save lives at the border and beyond.

As the data clearly shows, CBP has experienced elevated levels of irregular migration since 2019. In FY 2022, along the Southwest Border, USBP encountered 2,206,436 migrants, including 482,962 individuals in a family unit and 149,093 unaccompanied children. Thanks to this Subcommittee's support, CBP has accelerated ongoing efforts to improve processing operations by deploying additional non-uniformed support personnel; expanding capacity and improving conditions at processing facilities; investing in virtual and mobile processing technologies; and strengthening coordination with partner agencies and organizations.

Thanks to the FY 2023 Consolidated Appropriations Act enacted by Congress, as well as robust support Congress has provided over the past several years, CBP has hired more than 1000 Border Patrol Processing Coordinators (BPPCs) with more finalizing training and deployment. We have also expanded the use of contract personnel along the Southwest Border to include nearly 430 contract security personnel for the Centralized Processing Centers (CPCs) and 565 contracted processors to handle data entry and management tasks, with more coming onboard.

To accommodate the intermittent increase of individuals in CBP custody, we renovated and reopened the Rio Grande Valley CPC in McAllen, Texas, in March 2022 and opened two new soft-sided facilities in El Paso and San Diego sectors in January 2023, as well as additional soft sided facilities opened previously in priority locations. These facilities include wrap around service contracts that provide sanitation, food, and medical services necessary to improve CBP's ability to process migrants efficiently, and to ensure appropriate conditions for migrants and frontline personnel. Deployed in conjunction with other processing capabilities, such as virtual and mobile processing technology, these facilities provide operational flexibility, streamline operations to ensure the safe and humane processing of migrants, and relieve agents of non-enforcement duties.

Getting agents back on the front line is unquestionably important for security, but it is also invaluable to saving lives. Smuggling organizations are abandoning migrants in remote and dangerous areas, leading to a dramatic rise in the number of rescues CBP performs. In FY 2022, CBP conducted nearly 22,500 rescues nationwide, which is 69 percent higher than the total number of rescues in all of 2021. In response, CBP launched a new heat mitigation effort to develop and deploy heat stress kits and go-bags containing helpful items to mitigate potential heat stress injuries and illnesses for agents and migrants alike. The new kits were deployed to 500 agents operating in the Tucson Sector as temperatures rose during the hottest part of the summer. CBP looks forward to expanding this effort to other areas across the Southwest Border.

Trade Enforcement and Facilitation

CBP's commitment to protecting human lives extends into the trade environment. CBP is a global leader in the prevention of forced labor and is one of the few government agencies in the world granted legal authority to take enforcement action against imported goods sourced from entities using forced labor to produce them. Thanks to the support of Congress, in 2022, CBP gained a new tool in its arsenal to combat forced labor with the passage of the Uyghur Forced Labor Prevention Act (UFLPA). The UFLPA establishes a rebuttable presumption, which became effective June 21, 2022, that any goods mined, produced, or manufactured, either wholly or in part, in the Xinjiang Uyghur Autonomous Region (XUAR) in the People's Republic of China or by an entity identified on the Forced Labor Enforcement Task Force UFLPA Entity List, are prohibited from importation and not entitled entry to the United States. The UFPLA was passed to address the well documented and systemic use of forced labor by the Chinese Government against Uyghurs and other ethnic minorities, particularly in the XUAR. In FY 2022, CBP stopped 3,605 shipments valued at $816.5 million for forced labor concerns, including 1,592 entries valued at nearly $500 million stopped under the UFLPA.

In addition to enforcing hundreds of trade laws and regulations, CBP also facilitates compliant trade, collects revenue, and protects the U.S. economy, industries, and consumers from harmful imports and unfair trade practices. For example, in FY 2022, we conducted more than 20,812 seizures of goods – valued at more than $2.9 billion – that violated intellectual property rights. CBP agriculture specialists, with their extensive training and expertise in biological sciences and agriculture inspection, conducted about 930,000 inspections of prohibited plant materials, meat, and/or animal byproducts at U.S. POEs, intercepting more than 91,000 instances of agricultural pests. CBP also launched its Green Trade Strategy in 2022. The strategy is a framework to incentivize green trade, strengthen CBP's environmental enforcement posture, accelerate green innovation, and improve climate resilience and resource efficiency.

The scope and importance of CBP's role in protecting the economic security of the United States cannot be overstated. Collecting $111.9 billion in duties, taxes, and fees in FY 2022, CBP remains the second largest collector of revenue in the Federal Government. Additionally, CBP processed more than 33.4 million cargo containers, which equates to more than 39.1 million international trade transactions worth $2.4 trillion in imports and another $1.4 trillion in U.S. exports.

Keeping legitimate trade moving is critical to the U.S. economy. With the support of this Subcommittee, CBP continues to invest in innovative tools and partnerships to enhance our trade enforcement capabilities, while simultaneously facilitating the movement of legitimate cargo, a responsibility that is critical to our nation's economic prosperity. For example, in FY 2022, CBP

fully implemented the Truck Manifest Modernization capability in the Automated Commercial Environment. This new capability allows for seamless integration between CBP systems for NII, passenger processing, targeting, examination findings, and commercial processing. Today, more than 99 percent of the 45,000-50,000 trucks CBP encounters daily clear primary processing in less than 30 seconds.

Collaboration with federal and international partners is an inherent part of CBP's trade operations. In FY 2022, CBP partnered with 13 federal agencies to implement a Global Business Identifier pilot program to test the concept of a single business identifier solution to improve the U.S. government's ability to efficiently identify high-risk shipments and facilitate legitimate trade. CBP also entered into several bilateral understandings with foreign customs administrations, including those of Uruguay, Guatemala, and Brazil. These agreements establish platforms for the exchange of information and recognition of respective administration's supply chain security programs and confirm the parties' joint commitment to combating customs and trade offenses.

Traveler Processing and Travel Security

In FY 2022, CBP officers processed nearly 317 million travelers at air, land, and sea POEs, including nearly 96 million travelers at airports. While international traveler arrivals are still less than FY 2019, the numbers are continuing to rebound as the travel industry recovers from the effects of the pandemic. With the support of Congress, CBP has taken action to do our part to welcome travelers and improve the post-pandemic traveler experience.

To facilitate enrollment in CBP Trusted Traveler Programs, CBP reopened enrollment centers in the United States and continued to respond to the high demand for Global Entry membership through opportunities such as Enrollment on Arrival. CBP's Trusted Traveler Programs topped 10 million members in March 2022 and received 3.7 million applications in FY 2022, the most CBP has ever received in a single year. Growth in these programs with the deployment of technological and biometric innovations facilitate the processing of known, low-risk, vetted travelers arriving to the United States, permitting CBP officers additional time to focus on travelers who pose unknown or higher risk.

As part of our travel process enhancement efforts, CBP expanded its Mobile Passport Control program to include the Montreal, Toronto, and Vancouver Preclearance locations and its Simplified Arrival process, which uses biometric facial comparison technology, to automate the manual document checks that are already required for admission into the United States. This process provides travelers with a safe, secure, and more streamlined travel experience while fulfilling a longstanding Congressional mandate to biometrically record the entry and exit of non-U.S. citizens. Furthermore, in FY 2022, the National Vetting Center (NVC) successfully deployed vetting support to several key U.S. Government travel and immigration programs. By utilizing the NVC's unique technology and processes, several supported programs saw a decrease in processing times while increasing national security. The NVC's importance will continue to increase as demand travel or immigration benefits continue to grow.

While conditions are improving, the residual effects of the pandemic continue to impact international air travel, causing a decline in user fee collections for CBP's largest accounts (customs and immigration inspection fees). We are thankful for this Subcommittee's provision of emergency funds in the FY 2023 appropriations to mitigate the declines. To continue to meet

mission needs during this time of fiscal constraint, CBP has leveraged user fee carryover, additional Congressionally enacted funds, and has reduced costs to the greatest extent possible while still meeting our vital mission.

FY 2024 President's Budget and Strategic Funding Priorities

Building on these accomplishments and efforts, the President's FY 2024 President's Budget includes more than $16.5 billion in net discretionary funding for CBP, including more than $1 billion for investments in effective and modern port and border security, including the modernization of facilities; enhancements in border security technology and assets; improvements in mission capabilities; care and support of our workforce; and efforts to ensure the safe and humane treatment of migrants in CBP custody.

CBP is focused on establishing a long-term operational strategy and structure that prioritizes the support and resilience of our dedicated and vital workforce. Building on investments to workforce care programs in FY 2022 and FY 2023, the Budget requests $34 million to sustain and expand existing programs, while simultaneously supporting the efforts necessary to institutionalize workforce care at CBP. These efforts include expanding EAP Core Services, the EAP Onsite Clinician Program, Childcare Subsidy Program, and Backup Care Program; enhancing training and development for suicide prevention, chaplain, peer support, TIER, and resilience skills; and improving educational opportunities and other support services for CBP employees and their families. CBP's dedicated workforce is the reason for every agency accomplishment, and, with this Subcommittee's support, we intend to integrate workforce care considerations into every aspect of our planning and operations, as well as in the development of our investments and resource priorities.

Serving as workforce multipliers, strong investments in border security technology are especially critical to CBP's efforts to maintain domain awareness and take swift action to respond to dangerous threats, such as the threat of fentanyl. While most of our fentanyl seizures still occur at POEs, as CBP becomes more efficient and effective at detecting and intercepting illicit drugs, TCOs and other bad actors may alter their concealment tactics. CBP is constantly adapting to these changes, and thanks to strong investments in border security technology and domain awareness, CBP is well equipped to counter evolving threats.

Strengthening Border Security Capabilities and Management

CBP's resource priorities in the FY 2024 President's Budget to enhance border security operations include increasing staffing and technology; strengthening domain awareness; and increasing CBP's ability to detect and prohibit illegal goods and drugs, particularly fentanyl, from entering the country. These investments will enhance and expand CBP's operational capabilities by increasing our ability to quickly detect and interdict illegal activity along U.S. borders, at POEs, and in the air and maritime domains.

Modernizing Port of Entry Technology

CBP, with the support of Congress, continues to prioritize investments to disrupt TCO drug smuggling activities by enhancing and expanding our drug detection capabilities and technology used at POEs. Our highly trained officers use a variety of technologies to detect the presence of illicit drugs, including illicit opioids, in all operating environments.

CBP's NII systems continue to demonstrate their value as part of CBP's layered enforcement strategy to screen for illicit goods and substances, including illicit drugs, entering through land POEs. To enhance enforcement, while facilitating secure and compliant trade, CBP must continue to close its scanning capability gaps. The FY 2024 President's Budget includes $305.4 million to identify, procure, and deploy enhanced inspection capabilities to interdict emerging threats in the land and mail environments. Funding for NII will provide the resources needed to execute required civil work activities to deploy the drive-through NII systems at remaining Southwest Border land POEs. The Budget also funds the procurement and deployment of 10 systems to enhance narcotic detection at nine locations in the Southwest Border region.

CBP recognizes increased scanning will result in a substantial increase of images that require analysis and adjudication. To address this area, the FY 2024 President's Budget supports CBP's ongoing work with industry partners to develop artificial intelligence and machine learning capabilities to reduce the need for a trained CBP officer to analyze each image. Without such capabilities, the expansion of pre-primary NII operations beyond current rates would require a significant increase in staffing to review images without adverse impacts to the free movement of legitimate commercial vehicles. The Budget supports continued development of narcotic detection algorithms to increase the efficiency and effectiveness when adjudicating anomalies, while establishing a library to adapt to emerging threat and enhance interdiction of precursor chemical substances, with primary focus on fentanyl detection.

Enhancing Border Security Technology, Efficiencies, and Assets

For CBP, the use of technology in the border environment is an invaluable force multiplier that provides our frontline personnel increased situational awareness and improves our ability to meet the daily challenges of a dynamic border threat environment.

With the support of Congress, CBP deploys the necessary technology, infrastructure, and personnel needed to maintain situational awareness and address current and emerging operational challenges.

The FY 2024 President's Budget supports CBP's plan to expand and enhance domain awareness capabilities through continued investments in USBP's Common Operating Picture (COP). The USBP COP ensures all accessible sensor data are transmitted, monitored, and recorded at a Command-and-Control Center at a USBP station providing a more efficient method to view the activity at the nation's borders. COP improves USBP information management, situational awareness, and decision-making capabilities. Furthermore, CBP has been working for the past few years to expand and integrate COP into fragmented Command-and-Control Centers that will integrate surveillance feeds into a smaller number of centers and utilize artificial intelligence, requiring fewer personnel to monitor feeds. The FY 2024 President's Budget includes $66.4 million for testing, training, and transitioning to Initial Operational Capability (IOC) status for COP installation at the Douglas, Arizona, USBP facility and three additional USBP locations.

Supporting an ongoing modernization effort will provide a more consistent and efficient enforcement workflow for USBP field agents and leadership, a critical need given 21st century border threats. The FY 2024 President's Budget supports $27.2 million for the continued modernization of the Border Enforcement Coordination Network (BECN), the follow-on system to the legacy Border Patrol Enforcement Systems (BPES). BECN consists of systems, services, and equipment that help USBP detect, deter, identify, classify, and resolve illegal border activity

and to manage its resources effectively. BECN contributes to situational awareness and enhances operational decision-making by enabling real-time information sharing, data analysis, and visualization. Funding will support the IT systems, equipment, and services needed to sustain system development, including hardware and software, shared services and cloud hosting costs, business intelligence and architecture support, and program management.

Aerial surveillance capabilities are a vital component of CBP's domain awareness, especially in the land environment along the Southwest Border. To ensure we continue to meet operational needs for aerial surveillance, the Budget includes $13 million for the replacement of eight obsolete, out-of-production, and expensive to support aircraft sensor integrated mission systems and $30 million to fund the acquisition and missionization of one Land Interdiction Multi-Role Enforcement Aircraft (MEA). The MEA is the optimal manned aircraft, equipped with advanced sensors for surveillance operations in regions such as the Northern and Southern Borders as well as maritime environments where water, terrain, weather, and distance pose significant obstacles to border security operations between POEs and in the littorals. In addition to detection and surveillance, the MEA serves as a force multiplier for law enforcement and emergency response personnel because the MEA provides rapid-response deployment of equipment, canines, and personnel. Funding the Land Interdiction variation of the MEA will greatly increase the security posture of the United States against drug and human trafficking and unauthorized entries along the Northern and Southern land borders.

While advanced technology multiplies workforce capabilities, it cannot replace it. To support CBP's ongoing and rigorous human resource efforts, the FY 2024 President's Budget supports the hiring of 350 new Border Patrol Agents, 150 new CBP Officers, 310 Border Patrol Processing Coordinators; and additional Mission Support Staff for Border Patrol and the Office of Field Operations to supplement those staffing additions. These additional field positions will bolster situational awareness, respond to increased levels of migration along the Southwest Border, improve agent safety, and ensure the efficient processing, safety, and care of migrants while in our custody.

Reinforcing Mission Capability and Mission Support

The President's FY 2024 President's Budget recognizes the importance of ensuring CBP personnel work in secure, safe, and functional facilities and operate modern mission-critical vehicles that facilitate their complex and critical daily activities. The Budget includes funding for design, construction, and renovation projects to ensure operational effectiveness is not hampered by a lack of adequate facilities.

For example, the FY 2024 President's Budget provides funding for a new USBP Station in Houlton, Maine, that will reduce the distance from the facility to the patrol area, accommodate existing staff plus allow enforcement flexibility for up to 50 agents, reduce overcrowding, and provide adequate equipment storage facilities, vehicle parking spaces and a safe working environment for station personnel, detainees, and visitors. The Budget also addresses administrative and storage space deficiencies at the current location of the Air and Marine Operations (AMO) Tucson Air Branch caused by a substantial increase in aircraft and personnel since the site was originally designed. Tucson Air Branch has the highest number of flight hours in the Southwest Border region and the largest volume of narcotics and currency seizures. The FY 2024 President's Budget also includes funding for facility construction and improvement

costs associated with the additional Office of Professional Responsibility agents that were funded in the FY 2022 Consolidated Appropriations Act.

Ensuring the security of our Nation's borders is USBP's highest priority and the effectiveness at which this is accomplished, is attributed in large part to USBP having the requisite number of reliable vehicles in its fleet available for agents to deploy when needed. USBP has a significant number of vehicles in its fleet operating beyond their lifecycle and eligible for replacement. The FY 2024 President's Budget also funds the replacement of approximately 470 additional mission-critical vehicles for USBP.

Conclusion

In the conduct of all our operations, CBP remains committed to maintaining the highest level of transparency and trust by Congress and the American people.

As prudent stewards of taxpayer money, we intend to ensure that taxpayer-funded investments are made in a smart and cost-effective way, while still meeting border security requirements and complying with appropriations statutes. We will continue to maximize the investments already made as part of our comprehensive strategy to secure and protect our borders.

Day after day the men and women of CBP persistently safeguard the economic interests and public health of the American people by ensuring travelers and goods move safely and efficiently across U.S. borders, that migrants and visitors are properly processed, and that trade laws, regulations, and related international agreements are enforced.

We are absolutely committed to balancing the need to maintain border security, properly care for those in our custody, and keep the American people and our workforce safe.

Thank you for the opportunity to testify today. I look forward to your questions.

Mr. RUTHERFORD. Thank you, Commissioner.

And I will now recognize myself, for Mr. Joyce, and ask my questions.

As I mentioned in the opening statement, the President's budget significantly underfunds, I believe, the current level of border security capabilities that we have in the field today. So my first question: How do the cuts to border security technology programs like the ASTS, the surveillance towers, how does that impact the agency? And if Congress decided to accept the President's budget as is, what kind of consequences would there be for border security operations?

Mr. MILLER. So, Mr. Chairman, thank you for your question. Certainly, I recognize the structural deficiencies in the 2024 budget due to timing and some other administrative concerns. That being said, I would look forward to working with Congress to ensure that those structural deficiencies are corrected.

Mr. RUTHERFORD. Absolutely. And we look forward to working with you on that as well.

And kind of following up along that same vein of questioning, among the cuts, this budget proposes a $63 million dollar reduction to Border Patrol pay, even while we are trying to bring new officers on.

How harmful would that be if Congress doesn't fix the hole that is created by this request?

Mr. MILLER. Yeah. So for the pay, as you know, we continue to work—and I can talk more about this at length—but we continue to work on our hiring to actually bring our staffing up to the appropriated levels that Congress is funding us for, as you know. We haven't be able to hire Border Patrol agents, additional Border Patrol agents, above the 19,555 since 2011. We were appropriated an additional 300 agents last year, an additional 350 agents this year.

So we are making strides and really looking at our hiring pipeline to ensure that we are increasing recruiting, that we are fixing our academy and our attrition rates, and a number of other issues. So, you know, we are confident that we have the funds right now going into next year to hire the additional agents.

Mr. RUTHERFORD. Do you have a percentage of authorized positions that were filled that—you know, with your throughput at the academy?

Mr. MILLER. So right now, we are sitting at about 19,000 agents. And again, we are authorized 19,855.

Mr. RUTHERFORD. But how many agents are you putting through the academy in a year when those positions are authorized, like the 350?

Mr. MILLER. So we are continuing—I don't have the exact number. I can get back to you on that. But we are continuing to—so if I could, I will take just a second.

Mr. RUTHERFORD. Sure.

Mr. MILLER. Number 1, we looked at our academy, and our attrition rate at the academy was over 30 percent. So we worked with the chief of the academy to look at why the attrition rate was what it was. And without changing the requirements of the academy, we resequenced some of the testing, got additional mentors for the chief counsel, the legal training. In addition, we took the physical

fitness aspect, and we used the entire 117 days to get from A to Z, instead of right about the 6–month or the halfway mark.

So that has allowed us to get the attrition rate down to 9 percent.

Now, on the front end, we have ramped up our hiring. So we need to really get to about 6,000 applications a month, and we were around 4,000. So for the last 2 months, our applications have really driven and we are getting close to that level. So that is at the front end. That is on the back end.

In between, we are looking at our HRM process, through our expertise, we have learned with the Office of Field Operations when we had a similar hiring surge. So we are confident. And we thank Congress, for the flexibility you gave us in the 2023 budget, which allowed us to hire Border Patrol processing coordinators while we fix our hiring pipeline.

So that is not a direct answer, but we are working on it.

Mr. RUTHERFORD. No. Listen, as a training center director myself for a very large law enforcement agency, what you did was great management. So thank you for that.

Last question I think for this round: Commissioner, is CBP ready for a migrant surge? You know, we talk about the numbers of people currently waiting in Mexico. When title 42 goes away, can you talk about the impact that that is going to have going from 6,000 encounters a day to up to 18,000 maybe? Can you—and can you also tell me, in the—well, let's just leave it there because I don't think you will have time to answer the second part of that.

Mr. MILLER. So, if I may, to start with, what we are doing to surge resources to the southwest border, obviously, May 11, title 42 is going away. We do know that there is a large amount of folks on the north of Mexico. So, really, in the last 12 months or so, we have brought on 1,100 Border Patrol processing coordinators. We have let the contract to bring in contract processing coordinators. So we have brought on 590 processing coordinators. We have doubled our transportation contract.

We have the first ever air transport contract in the history of Customs and Border Protection. On top of that, we have increased our capacity across the southwest border to over 6,000 for holding capacity, and we will have an additional 2,500 added to that in the near future. I just took a trip down to Panama and Colombia last week to work with the Panamanians and the Colombians on an agreement to slow down the flow through the Darien. I have a Border Patrol team onsite working with the Panamanians this week.

So we are doing a whole host of things to prepare for the ending of title 42. Obviously, we are working with our other government partners through the volunteer force, through law enforcement personnel, to get those folks to the southwest border. I can tell you our efforts over the last year have allowed us to get a significant amount of badges back to the border, Border Patrol agents in between the ports of entry, and we have actually seen the results of that through the results of our operations against fentanyl.

Mr. RUTHERFORD. Thank you, Commissioner. And thanks for the efforts to stop them from getting to our border to begin with. That is where the real answer is at, not processing them faster when they get there.

With that, I will yield to the ranking member, Mr. Cuellar.

Mr. CUELLAR. Thank you, Mr. Chairman.

Commissioner, again, I want to talk a little bit about operational control measures. As you know, that trend was defined in the Secure Fence Act of 2006 as, quote, the prevention of all—and the key is "all"—unlawful entries into the United States, including entries by terrorists and other unlawful aliens, and instruments of terrorism, narcotics, and other contraband.

Keep in mind, as I said during my opening statement, that the last 2 fiscal years, more than the prior administration, we have added over $2.4 billion to the CBP budget authority. That is over a 15 percent increase.

Now, can you tell me how many of the 1,954 miles that we have with Mexico are under, quote, operational control? And I want you to go by the Bush administration, the Obama administration, the Trump administration, and the current administration.

Mr. MILLER. Well, thank you, Ranking Member. You know, I don't believe that we have ever had operational control by that definition.

Mr. CUELLAR. Under Bush?

Mr. MILLER. Under any, since the definition was published in 2006.

Mr. CUELLAR. Yeah. Bush, Obama, Trump, or even all that. And again, you know, I know that metric can be hard to achieve, but I think we all want to work with you to try to reach that goal. I think it is a goal that we need to reach, and whatever way we can help you with the right resources, please let us know.

Now, I want to follow up on what the chairman said right now. I believe that we—you know, using football as an example. I hate playing defense on the 1 yard line called the U.S-Mexico border. A lot of times, people want to emphasize everything on the 1 yard line, but I rather play defense on their 20 yard line.

So I think there is three things, in my opinion, if you all implement it correctly, if you implement it correctly, I think it should work to address what is going to happen on May 11.

One, the agreement with Colombia, Panama, and the U.S., if you all work on that, you should be able to stop a lot of folks from coming in there. It is a 60-day, but hopefully you all can keep it longer than 60-day. I assume it is a pilot program. Number one.

The asylum officers that will be now—is the right word "embedded" in CBP Border Patrol facilities, where they can do the expedited decisions. And as you know, that is important, because if you have a hundred people asking for asylum, 88 to 90 percent are going to be rejected. So I don't think we ought to be letting a hundred percent in. So those asylum officers, if we do it correctly, should work.

And then finally, the new rule, which I am hoping will come out before May 11. And I know that there are some folks—more progressive folks might not like it, but I like two parts of it.

One, if somebody is asking for asylum, they should not come in between ports of entry, because I have got a lot of landowners that don't like that one bit at all. And they should go through the port of entry without disrupting trade and tourism, which are so important to us. And then, the other thing is the third party, third coun-

try, it is something that I have been advocating for many years, even before the Trump administration; tried to add that in the appropriations, but I wasn't successful. But that basically means that if somebody has a fear and they pass through another country where they could have asked asylum, then that fear is gone. The U.S., we welcome people, but the U.S. is not the only place where you take the fear away.

So the rule hopefully will be coming out, but if you can talk about those three things. And again, I believe in law and order at the border, but at the same time respect the rights of the legitimate asylum—folks that are asking for asylum, should I say.

Mr. MILLER. Thank you, Ranking Member. So a couple things. Couldn't agree more on the collaboration with our foreign partners, whether, you know, the regional strategy, whether it is visa policies that are the same throughout the region, whether it is working with our Panamanians and Colombian partners, to ensure that they are stopping the transnational criminal organizations from trafficking these vulnerable people through the Darien. So we continue to work with a number of foreign countries, including Panama, Colombia, Mexico, and South America.

As you pointed out, we have made some modifications to our facilities so that we can do enhanced removal—and this is important—enhanced expedited removal from CBP facilities of single adults from easy-to-remove countries. As you know, we are not a long-term detention facility for families and the like. We have deployed 600-plus interview booths with video/audio capability to our facilities, and we are working with CIS and EOIR on the video and audio capabilities. We have been testing out this process in RGV last week and across the southwest border last week—last week in RGV and across the southwest border this week. So we continue to work out the kinks.

And lastly and most importantly, you know, I truly believe in what you said is that we need both a pathway and a consequence.

Mr. CUELLAR. Without consequences, as you know, Mr. Chairman, they will see—folks will see the border as a speed bump, and we need to have consequences.

Thank you, Mr. Miller.

Mr. RUTHERFORD. Absolutely. Good point, Mr. Cuellar.

And now we will turn to my good friend, Mr. Newhouse.

Mr. NEWHOUSE. Thank you, Acting Chair Rutherford.

And, Acting Commissioner Miller, thank for being here. Very much appreciate it. And just let me say, if you could convey the committee's thanks to all the men and women that you work with to secure our border. Difficult job, and we stand as a partner with you to help accomplish that.

As has been mentioned, over the last couple of years, this committee has provided, and I might say with strong bipartisan support, significant resources for force multiplying border technology that is used between the ports of entry. We heard—we have heard directly from Border Patrol sector chiefs as well as agents about the value of an autonomous surveillance tower, innovative technology that leverages autonomy to serve as that force multiplier for those agents that are stretched so thinly.

In fact, we even had, just recently, the Secretary, Mr. Mayorkas, testify, and I think I can almost quote him saying, harnessing these innovations including exploring how we can use AI to be a force multiplier for our brave, heroic personnel.

So just, first of all, a question. Could you share with us how the increased deployments of autonomous technology has actually supported agents in the field? Are we getting—what are we getting for our investment there?

Mr. MILLER. Well, first of all, I will relay your thank you to the men and women of CBP, and we do appreciate it.

And second of all, the technology that we have deployed along the southwest border has been extremely valuable to the men and women of CBP, when you are talking about autonomous surveillance towers, when you are talking about ISTs, the remote towers, the mobile towers; the UGS, the underground sensors; the cameras with autonomous technology on them that will identify events. And when you are talking about the autonomous, that means we don't have to have a person evaluating every single image, obviously every single radar signature and the like. And what we have been able to do through the funding is take that autonomous capability and bring it in—and again, thank you for the funding—to a COP, a common operating picture, with less people.

So in the past, we used to have nine screens looking at nine different feeds from nine different towers, and a person trying to figure out which each one of these—which each one of these events were. Now, with the autonomous technology, it brings it all together, very few people, one screen, and it gets it to people, agents, out in the field on their handheld, and tells them where they have to go. And it directs them to where they are, so we don't have to have—so, number one, our command and control center isn't filled with people and screens. And number two, we are getting that information to our agents real time so they can respond to that threat.

So the technology that has been provided to the men and women of CBP has been extremely valuable in allowing us to get out there and look at those events that we need to.

Mr. NEWHOUSE. Awesome. Good. Thank you.

So similar to my colleague, Mr. Cuellar, I live on the northern border. And CBP's figures tell us that in 2021, just over 27,000 aliens were encountered. By 2022 that figure had gone up to, I believe, 109,000. And just through the end of January of this year, the encounters have been at 56,000 on the Canadian line. So I would guess, following that trend, we are going to be over 200,000 by end of the fiscal year, at a double of where we were last fiscal year.

So my understanding in Blaine in the State of Washington, there is only one mobile surveillance capability, which is basically a truck-mounted surveillance system. I know you can't easily move fixed assets, but given the increase that we have seen and that which we are anticipating, wouldn't it make sense to reallocate and acquire more assets to focus on the over 5,000-mile long border that we have with Canada? So I didn't see any request for resources to do that in this document. So could you talk about that?

Mr. MILLER. Yeah. I mean, most certainly along the northern border, technology is a force multiplier across the northern border, and we need to continue to look at what assets we have up there and get the appropriate assets. I will have to get back to you on exactly what our plan is to get the right technology on the northern border. But a hundred percent with you, we have to get that technology up there as a force multiplier for the men and women.

Mr. NEWHOUSE. Yeah. I agree. We are not nearly the numbers that we are seeing in the southern border, but certainly the trend is not good, and we need to get ahead of it. So thank you very much.

Mr. Chairman, I yield back.

Mr. RUTHERFORD. Thank you, Mr. Newhouse.

And we will now turn to the gentlelady, Ms. Underwood.

Ms. UNDERWOOD. Thank you, Mr. Chairman.

Mr. Miller, as a nurse, one of my focuses on this subcommittee has been healthcare and safety of CBP agents and migrants in your care. Over the last 4 years, I have been able to visit CBP facilities at the U.S.-Mexico border, and I have seen the health operations, from intake assessments to the medical supplies and teams onsite.

I was proud to secure funding for CBP to switch to electronic medical records, and I am very glad to see that your most recent budget overview reports that this has, quote, markedly improved medical documentation, resulting in significant enhancements to patient care and safety as well as operational efficiency.

It is critical that no matter what the migration levels are or whether our immigration system is operating under title 42 or title 8, health and safety remains a top priority at CBP.

So, Mr. Miller, with the anticipated end of title 42, what actions has CBP taken, and what plans do you have in place to ensure the health and medical needs of both migrants and CBP personnel are fully met?

Mr. MILLER. Well, thank you. Number one, I appreciate your continued support for the medical support of the men and women and the migrants alike. I will start with the current situation where we are at with medical support and what we are doing to ensure that we have appropriate medical support.

So as you know, we have approximately 1,400 medical professionals along the southwest border today. So we are at the numbers that we were looking to be at. We are looking at adding additional child caregivers in order to do that. We are looking at a contract modification so that we can up the pay that we are paying the child caregivers, as we found a little bit of a tough time recruiting, but we still have 109 per shift across the southwest border which, as you know, is a significant improvement.

We continue to work with the chief medical officer from the Department of Homeland Security to have those RFAs available, should we need additional support, whether it is from HHS, continuing to work with our U.S. Coast Guard partners as well.

So, you know, I think we are well suited, number one, with the people we have at the border and, number two, with the partnerships we have developed over the last 2 years to ensure that we

have the appropriate medical support for the migrants in our custody.

On the CBP front, the money that has been allocated to the Customs and Border Protection over the last really 3 years—2 years, and with the request for $34 million in fiscal year 2024, you know, we have really made huge strides in what we are doing to take care of our workforce. We have got behavioral clinicians, 30-some onsite. We will have 50 onsite by the end of this year.

Ms. UNDERWOOD. Great.

Mr. MILLER. The psychologist. We have 13 psychologists on board across the southwest border this year. We have increased our training for all of our supervisors, called live works, I believe, which ensures that they know what the science looks like. As my colleague, the deputy commissioner, always states, we want to get to the left of it, we want to be able to identify those indicators before they get to that point.

Ms. UNDERWOOD. Yup.

Mr. MILLER. So we are working also with Veterans Affairs, who has been really a force multiplier along the southwest border. We are working with an NGO that is providing a specific service in El Paso right now. I think that is going to be hugely beneficial as well.

And then really, going forward, we continue to have a trust deficit with our employees. We want our employees to use the services that we are putting out there. And what do I mean by that? As we are looking at the voluntary alcohol treatment program, we want individuals to know that they can sign up for that, and they can come back and they have a job after they are finished. While the same——

Ms. UNDERWOOD. Great.

Mr. MILLER [continuing]. If there is a mental health issue.

So we are working with the union to update our policies and our procedures to ensure that the men and women are using the services that this committee has been so kind to put forth to us the last 2 years and now 3.

Ms. UNDERWOOD. Thank you. Well, as we know, in the news, there is a series of budget cuts that have been proposed by Republican leadership, and the plan would revert spending levels to fiscal 2022, which means DHS would see a $3.4 billion cut.

Can you explain how the funding cuts—the proposed funding cuts to DHS would impact the health and safety of CBP personnel, migrants in U.S. custody, and our entire border management system?

Mr. MILLER. Thank you for the question. Certainly, at Customs and Border Protection, we could not sustain that cut for operations or for the health, safety, welfare of the migrants. I think from the American public standpoint, we would not be able to surge resources to the southwest border to attack the fentanyl problem. We would most likely have to cut back on our medical contract. We would probably have to take down some of the soft-side facilities where we are providing the wraparound care.

Certainly, our Border Patrol processing coordinators—contract processing coordinators, we would no longer be able to employ, which means we would have less agents in between the ports of entry doing their border security work. On the trade side, you

know, the trade and travel at our ports of entry would be decimated. We would have long lines and cargo containers would be sitting in ports of entry for a longer amount of time. Our Uyghur Forced Labor Act, we would probably not be able to enforce it the way we are enforcing it today. So there is a whole host of issues that would happen if we would go backwards with the budget.

Ms. UNDERWOOD. I yield back.

Mr. RUTHERFORD. Thank you, Ms. Underwood.

And now we call on Mrs. Hinson.

Mrs. HINSON. Thank you, Mr. Chair.

Thank you, Acting Commissioner, for coming before us today. I appreciate, again, the hard work of the men and women at the CBP.

I just want to follow up on something really quick. When did the soft-sided facilities pop up? When did we start enacting those at the border to handle the surge?

Mr. MILLER. It would—I believe fiscal year 2021. I can't remember the exact day we put the first one up.

Mrs. HINSON. Right. So I visited the border in late spring, early summer at Eagle Pass and had a chance to see that. How much is that costing every quarter?

Mr. MILLER. So the soft-side facilities right now are about $991 million year.

Mrs. HINSON. A year. So nearly a billion dollars a year going to these soft-sided facilities that could be eliminated if we would control the southern surge at our border.

And I know CBP is stretched thin. I would rather see those resources go toward stopping forced labor materials from coming into our country, interdicting those drugs. And this could all be eliminated with a different posture toward immigration at our southern border.

I think that is a goal of mine at this committee is we want you to be able to strengthen CBP's efforts at our southern border. You have been stretched thin. The challenges you are facing surge at a historic level we haven't seen that has been under this administration since 2021. Exponentially worse than we have ever seen.

And I am extremely concerned about the number of known terrorists and criminals who have come across our southern border as a result of the weakness, not as a weakness at CBP, but as a weakness of policy at our southern border.

And nearly a year ago, I actually wrote to you and ICE Acting Director Johnson, asking for answers about how a suspected member of the terror watch list was able to not only get into our country but be released by CBP into the homeland, and ICE as well. So I never got an answer from either agency. Very disappointed in that. And I would ask you to respond to how this disastrous situation could have occurred in the first place, and what are we doing with the funding that we are giving you to make sure that this does not happen again?

Mr. MILLER. So, ma'am, thank you for the question. I am not aware of the particular instance, but I can tell you, you know, how the process does work.

Mrs. HINSON. This was a person who was apprehended in Arizona, released into the interior, and then apprehended again in

Florida. But this is a person who was on our terror watch list. So we can't let this happen, right? I mean, this is a vulnerability for the safety and security of our country, is it not?

Mr. MILLER. Well, so I concur that we cannot allow it to happen, but I can tell you how the process works.

Mrs. HINSON. Please explain.

Mr. MILLER. Yeah. So when an individual—well, number one, we have developed a number of—so I am not aware of this individual's citizenship, but we have established a number of partnerships throughout the Western Hemisphere, whether it is biometric-sharing partnerships or sharing of information of folks entering the hemisphere. So we are continually monitoring that information and working with our foreign partners. But when the person crosses the southwest border and is apprehended, we will take the biometrics and we will run the biometrics in——

Mrs. HINSON. And I have seen that in person, the intake.

How are you communicating, then, with these other agencies under Department of Homeland Security?

Mr. MILLER. So I used to run the National Targeting Center, which does all the coordination for CBP. So what will happen is the Border Patrol agent will apprehend the individual. And if the person is on the terrorist watch list, they are mandated to call the National Targeting Center, and they will coordinate with the Terrorist Screening Center, the Threat Screening Center to determine if that person is a possible match or not a match.

Mrs. HINSON. So where did this weakness come, then, where this person was not caught in that——

Mr. MILLER. So again, I am not aware of the particular instance. I am more than willing to walk through that particular case. But I can tell you, if the person is a match, then we would turn that person to ICE ERO, and they would put them into removal proceedings. It could have been an instance where that person was determined not to be a match and later on additional information came into the system where it was identified to be a match. And we are continually vetting those individuals. So we would have identified that and coordinated with ICE ERO to apprehend that person, pick them up, and put them into removal proceedings at that point.

So we do have a layered approach. If somebody is released, we will identify them and we will go apprehend them. And I am more than happy to look at this particular case and determine exactly what happened. But like you——

Mrs. HINSON. Yeah. I think that is my goal is to make sure this does not happen again. And obviously, this IC is just a massive hole in our security, and anything we can do to make sure that we are not releasing these kinds of people into our country, I mean, it makes us all less safe, and that is what keeps me up at night. I have got 10- and 12-year-old boys. The last thing I want in my community is to be less safe and secure, and we know that people are literally going all over the country. So a huge concern.

And I am almost out of time, but real quick wanted to ask a question about the CCP, because we have seen an increased influx in Chinese nationals obviously coming across our southern border as well. Can you touch on what the CBP is doing to counter kind

of that initiative from the CCP in exploiting the weaknesses or vulnerabilities, whatever they are doing, to obviously take advantage of that to get more people into our country?

Mr. MILLER. Yes, ma'am. So we work very closely with the Joint Terrorism Task Force and the Counterintelligence Task Force led by the FBI, number one. Number two, with the Chinese migrants specifically coming across the southwest border, it is the third largest migrant population in the United States. And historically, we have seen a number of, you know, surges up and down with Chinese nationals, both at our ports of entry, in between our ports of entry. And I can tell you with—as you pointed out, the oppressive regime, the religious persecution, and the fact that these folks couldn't travel for the last 3 years because of the COVID lockdown, it is not a—we expected that we would see more Chinese migrants coming into this hemisphere.

So what I can tell you is we will identify how they enter the hemisphere. We will work with Department of Justice Joint Task Force Alpha and HSI to identify the networks that are smuggling these individuals into the hemisphere. We will work with the Colombians and the Panamanians, because we know that they are coming through the Darien. And we will try to disrupt these transnational criminal organizations.

When they do get to our southwest border, we will ensure that we are running them with our partners, LE and IC partners, against the databases, and then we will do the—we will take appropriate action based on those results.

Mrs. HINSON. Thank you. And I am out of time. I will yield back. Thank you, Mr. Chair.

Mr. RUTHERFORD. Thank you, Mrs. Hinson.

Next up is Mr. Guest.

Mr. GUEST. Mr. Miller, thank you for being here today. I know we had the opportunity to speak by phone a week or so ago.

Just earlier this week, we saw DHS released encounter numbers for the month of March, national encounters, 257,000. That marks the 12th straight month of 200-plus encounters along the border. The 24th straight month of 185,000-plus encounters. We know that fiscal year 2021, we set a record with 1.9 million. That record was broken in fiscal year 2022 with 2.7. And we are on pace in fiscal year 2023 to break that record once again.

I think clearly that we are seeing a humanitarian crisis along the southwest border. That is one not caused by CBP. You and your agents are doing the best job that you can to manage a very difficult situation. And I applaud you for your budget request asking for additional agents. I think those agents and more are much needed. And I think the agents that work along the southwest border are underpaid and that we need to recognize the incredible work that they do each and every day under a very difficult situation.

But as we see the border at historic levels—matter of fact, Chief Ortiz in March testified before the Homeland Security Authorizing Committee that five of the nine sectors along the southwest border, in his opinion, were not secure. And we see the budget that has been presented. And if I am reading the figures correctly, it appears to me that Customs and Border Patrol, that we are—that the

President's budget is asking for a 7.5 percent decrease from the funds that were received last Congress.

And so as we talk about all of the issues that we are facing, how—should this not be one of the agencies that Congress should invest and invest robustly in because we know, and you mentioned it very briefly, title 42 goes away in less than a month, that we expect a surge along the southwest border—I think you told me, and correct me if I am wrong, that there are individuals that you have intelligence on or groups of individuals who are in Mexico waiting for title 42 to expire before they attempt to enter the country.

Is that correct, or did I misconstrue something that you said?

Mr. MILLER. No, sir. That is correct.

Mr. GUEST. And you also spoke about the Darien Gap and the number of individuals that come across the Darien Gap. CNN did a recent article on that—I don't know if you saw it. I think it came out maybe earlier this week—about individuals that were making that trek through the Darien Gap.

They said last year—and again, these are CNN numbers, so they are not CBP numbers—but said that roughly 250,000—so a quarter million people—came through the Darien Gap last year, that that was twice the number the year before, that that was 10 times the average of 2010 through 2020, and that so far year-to-date, based on their figures, we were six times higher in the first few months of the year, first quarter of the year, I guess, than what we saw last year.

And so it seems to me that the numbers of encounters along the southwest border are—they don't seem to be going down. If anything, based on the information I received—and correct me if I am wrong—we are expecting that 250,000, which was what we saw last month with title 42 going away—do you expect that number to increase at least through the next several months?

Mr. MILLER. The number of encounters between the ports of entry last month on the southwest border was about 163,000. Still, you know, historic numbers.

Mr. GUEST. And you are right. I think it was 191 last year on the southern—or last month, in March, for the southern border, and the total for the northern and southern was 257. So, yeah, just looking at the southern border, this month, 191,000, which was up from 153,000 the month before, but down from the all-time high of a quarter of a million in December.

So the numbers along the southwest border, particularly as we get into the warmer months—because we know traditionally that January and February, the number of encounters along the southern border are generally, just because of the temperature, that those numbers are generally down, and they begin increasing in March continuing through the end of the year.

With title 42 going away, do you see that trend continuing again?

Mr. MILLER. Yes, I do. I do expect the numbers will go up after May 11.

Mr. GUEST. And you talked a little bit, and you said something about you recognized some sort of structural deficiencies in the budget request. Explain to me what you were meaning when you talk about structural deficiencies within the budget request.

Mr. MILLER. Sir, thank you for the question. And really mostly the deficiencies I am seeing is the O&S, the operation—the O&S funds to continue operating some of the technology that we have requested and received the last 2 years. So some of the very same towers I think it was alluded to, some of the very same towers we are talking about.

So, obviously, our goal is to work with this committee to ensure that we sustain what we have already been given before we purchase new.

Mr. GUEST. And last question—I don't have a clock, Mr. Chairman, so I apologize if I am over.

Mr. RUTHERFORD. You are way over.

Mr. GUEST. Okay. With that time, I will yield back and wait for the second round.

Mr. RUTHERFORD. Okay. Thank you, Mr. Guest.

And Mr. Trone has joined us. We will go to you next, sir.

Mr. TRONE. Sorry I am late. Got too many things going on. You are always over, though. He is consistently over.

Hey, thanks for joining us, Commissioner Miller. Appreciate it.

The challenges facing CBP are substantial, complex, requiring more effective technologies to maximize your resources. Your innovation team has been successful in identifying and demonstrating some new promising technologies, but we need to increase our return on the investment by transitioning successful stress-tested technologies into the base budget as soon as possible.

So for your experience at the National Targeting Center, you understand the long-term value of leveraging precision targeting capabilities over casting a wider net. So this let's us use our resources much more effectively, both on this northbound, but also on the southbound flow of guns and cash.

So expanding these preprimary scanning would close the scanning capacity gap and could be a game changer on contraband interdiction. So as of now, those scanned images at the port of entry are sent to an officer in a common center, and CBP is not adequately deploying the AI and machine learning to maximize interdiction capabilities of the NII systems.

Can you discuss your role on the rollout and how you are going to use artifical intelligence and ML technology more effectively?

Mr. MILLER. Thank you, Congressman, for the question. And, again, thanks to the committee for the funds that we have received on the southwest border, in particular to the nonintrusive technology, as we deployed across the southwest border so we can screen more vehicles, both passenger vehicles and commercial vehicles, at our ports of entry.

So, sir, directly to your point, in January, we—and thank you for your support of our INVNT team, by the way. So in January, our Office of Information Technology and our Innovation Team had a conference with 68 companies to discuss just that, our requirements for artifical intelligence, machine learning, so that we can process these images before primary and get that information to our officers and agents to make an informed decision.

We discussed our requirements, our challenges, what we were looking for with those companies. We put out an RFP. That RFP is due back to us at the end of this month. And through some of

the procurement vehicles we have, when we get that written response at the end of April, we will be able to act on some of that new emerging technology that is out there. And we will continue to work with this committee for funds to fund additional technology as it becomes available. But thank you for your question.

Mr. TRONE. Now, when you look at the total number of multi-energy and low-energy portals ordered, how many of them have been paid for fully or partially?

Mr. MILLER. 138 have been paid for fully.

Mr. TRONE. Would you describe the agency as being on track with respect to deployments of these systems?

Mr. MILLER. So as you know, sir, there have been some delays, a number of different things. As you know—you have been to the southwest border—each port is not equal. It is not the same. Some, we have challenges with the distance. So remember, we are fundamentally changing the way we do business on the southwest border in that we are trying to do the scans prior to primary. Some of these locations don't have the space before primary. Some of these locations have other technology that interferes with the NII and it doesn't make it useful.

So we have done a study across the southwest border. We have procured the equipment. We are working with GSA and the bridge owners on construction. Mexico itself has also purchased additional scanning technology for their side of the border that we will be working with them on. So by 2024, we believe that we are going to at least have started to put all of that technology in the ground at the same time, to your previous question, developing that artifical and machine learning to get it on top of it.

Now, I am with you, I want to do it quicker, and we are going to do it as quick as possible. But this is a once in, you know, my lifetime chance to change the way we are doing business and really getting all that information to our officers and agents real time so they can make the best decision.

Mr. TRONE. Seventy-three million cars coming across the border at legal ports of entry, 200,000 a day, you know, we have really got to use technology, or we have got no shot.

And I want to just stress—I know my time has run out, but follow my Republicans' lead—stress the importance of the southbound. I mean, the Mexican Government is obsessed with the southbound flow of guns going into the cartels, which has made the country so unstable and leading to immigration issues, et cetera.

You know, we have got to make sure we work on that 30 million CBP got in 2023, and make sure that happens again in 2024, and we work on the southbound gun issue.

I yield back.

Mr. MILLER. Thank you, sir.

Mr. JOYCE [presiding]. The chair will recognize Mr. Cloud.

Mr. CLOUD. Thank you, Chairman.

And thank you, Acting Commissioner, for being here. And just want to echo the sentiments that we certainly appreciate what the boots on the ground are doing and what your Department's tasked with.

You know, I live in south Texas, and so, I got the opportunity, of course, to tour, as many people have, and shake hands a know

many of the people who work in the communities and what have you. And it is a yeoman's effort in very difficult circumstances, and so, certainly appreciate that.

A lot has been said about what operational control is, and I will read the definition again. It has been read already, but in this section, the term operational control means the prevention of all unlawful entries into the United States, including entries by terrorists and other unlawful aliens, instruments of terrorism, narcotics, and other contraband.

And you have said, you know, by that definition, we do not have operational control, neither has anyone since this definition was meant.

It seems to me that the hang-up is on the word "all," in the sense, like, until we get that number to zero, we will never have—you know, and I would just like to ask you: Why do you think that word "all" is there, and what is the purpose of that?

Mr. MILLER. I can guess. I mean, it is certainly an aspirational goal that we would all like to attend.

Mr. CLOUD. Yeah. It would seem to me like that is meant to make very clear what the goal is, as opposed to being some sort of get-out-of-accountability-free card when members come before us in the sense of, you know, we shouldn't be creating exclusions or exceptions or creating—redefine parole and all these different kind of things, that we need to do what the law says and not make exceptions to what the law says.

I wanted to ask you about the budget. You are advocating for the hiring of 100 more Border Patrol agents, yes?

Mr. MILLER. I believe it is 350, yes.

Mr. CLOUD. Oh, 350? Okay. Oh. That is—I am sorry. Border Patrol—that is Border Patrol agents and processing, or—and support, or that is just the agents?

Mr. MILLER. I believe it is 350 agents, 300 Border Patrol processing coordinators, and 150 OFO officers.

Mr. CLOUD. Okay.

Mr. MILLER. And I have got a lot of numbers in my head, so——

Mr. CLOUD. Okay. 350 agents, 350 border processing?

Mr. MILLER. 350 agents, 300 Border Patrol processing coordinators, and 150 CBP officers for our ports of entry, I believe.

Mr. CLOUD. Okay. That is great.

There has been a good number of—a good amount of attrition lately. Could you speak to what you are seeing and why?

Mr. MILLER. So there is a number of issues that affect attrition, frankly. With our Office of Field Operations, the folks at the ports of entry, they got a law enforcement status in 2008, which means, in 2028, we are going to have a large retirement surge. And Congress tasked us with a study to do what we needed to do.

The southwest border, very much the same. We have had hiring surges in the last 20 years, so a lot of these folks are now available for retirement, when we are talking about Border Patrol agents, so certainly that is part of the attrition rates.

Mr. CLOUD. I know a number of people that I talked to—a number of agents I talked to were very concerned that, at the same time the administration was talking about getting rid of title 42, it was placing a new COVID testing regime on the agents, using,

ironically, tests that were imported from China that had agents on—on the testing.

Basically, they had to put a carcinogen in their nose to test. I asked about this before. The director at the time didn't know that was even happening.

Is that testing regime still in place?

Mr. MILLER. No.

Mr. CLOUD. Okay. Thank you. I am happy—happy to know that.

Have the agents that were falsely accused of being whipped been—been apologized to?

Mr. MILLER. Not to my knowledge.

Mr. CLOUD. Okay. Have they been reinstated to their former role?

Mr. MILLER. So the process is still ongoing.

Mr. CLOUD. It is still ongoing? And how long has it been?

Mr. MILLER. Let's see. About 18 months or so. Is that right?

Mr. CLOUD. Do you think actions like being falsely accused of doing something that you are not doing, when you are doing your stated mission, leads to low morale?

Mr. MILLER. So the—the investigation is ongoing, and most certainly, you know, we are concerned about the morale of the Customs and Border Patrol folks.

Mr. CLOUD. Okay. My time is up. I just saw that. Finally figured out where the clock was, and so, I will save the rest of my time——

Mr. JOYCE. It is not as fancy down here as it is upstairs. We have a clock.

Mr. CLOUD. Maybe buzzers and bells are—would help.

Mr. JOYCE. No worries.

Dr. Harris.

Dr. HARRIS. Thank you very much.

I am just going to ask one question. I will yield the balance of my time.

Global entry—CBP is in charge of global entry. Is that right? Global entry program?

Mr. MILLER. Yes, sir.

Dr. HARRIS. Yeah. So I have got a lot of complaints in my office, my district office, that it takes literally years to book an appointment for global entry. Is that true, to book an interview?

Mr. MILLER. No, that is not true.

Dr. HARRIS. So—so is there—and I will follow up—now that you say it, I will follow up with my person in the district. But what is the maximum acceptable time in your mind that you should have to wait for an interview?

Mr. MILLER. So, if I may, we have established a number of additional venues to be able to complete your interview, and one of, I think, the best ways to do it is enrollment on arrival, so you can actually complete your interview when you arrive from international travel.

Dr. HARRIS. Right. But if you are planning to do it—I mean, again, I live in a rural area. I mean, my people don't take a lot of international flights, but what is the maximum time you think someone should wait for—to have to wait for an interview?

Mr. MILLER. Well, again, if they are—I mean, I am not trying to be difficult, but if you are not traveling internationally, global entry——

Dr. HARRIS. Well, they are traveling internationally, but, you know, I—they have to go to Dulles or BWI from the Eastern Shore of Maryland. You know this little bridge over there sometimes has a lot of traffic. You know, so it is—when they call to set up their appointment for an interview in the future—not on arrival—what is the allowable amount of time that you think they should be having to wait for that interview?

Mr. MILLER. So right now, it is approximately 6 months. You know, we would like to get that process down to maybe 30 to 60 days.

Dr. HARRIS. Okay. So you think it shouldn't be more than 6 months. Okay. Thank you very much. I yield the balance of my time to Mr. Guest, because I know he has got a lot of questions, but they are good questions.

Mr. GUEST. Thank you.

Walk me through this and tell me if my figures are correct. I show that the CBP fiscal year 2024 request to be $16.87 billion. Is that number accurate?

Mr. MILLER. Yes, sir.

Mr. GUEST. And this would be a $1.37 billion decrease from fiscal year 2023 levels?

Mr. MILLER. No. The——

Mr. GUEST. Because I have fiscal year 2023 being 18.374 billion.

Mr. MILLER. So I think what you are referencing is that also includes the Border Management Fund that we received last year. This year, that is covered by the Contingency Fund.

Mr. GUEST. Okay. And so the Contingency Fund is money that is really not going to hire agents, invest in technology, build walls. I mean, that money is going to transport migrants, medical care, alternative to detention, processing, kind of what we have seen over the last 2 years where we are investing money not really in anything of any substantial nature, but really just investing money to process people through the system quicker. Is that correct?

Mr. MILLER. So the contingency funding will cover things like Border Patrol processing coordinators, as we talked about, doubling our transport, the medical support, the soft-side facilities, and the capacity to hold individuals as we are doing enhanced expedited removal.

We have also put in some of the booths that we talked about. So there is a number of different things that we will continue to do with those funds.

Mr. GUEST. Is any of that money going—from the Contingency Fund—and this is separate. I know you are talking about trying to hire 350 new agents and 300-plus new processors. But, from the Contingency Fund, none of the money from the Contingency Fund is going to hire new agents, correct?

Mr. MILLER. Correct.

Mr. GUEST. And none of the money is going into technology as far as ports of entry, screening processes, as far as things of that nature?

Mr. MILLER. Correct.

Mr. GUEST. All right. And so, overall, is it your testimony that you are asking for an increase from last year's budget, or a decrease, because, again, the numbers I am getting were the numbers that I relayed to you, which were a budget decrease?

But the total numbers, are you saying, is an increase from last budget year?

Mr. MILLER. The total number is almost exactly the same.

Mr. GUEST. Okay. So you are asking for basically level funding?

Mr. MILLER. Yes, sir.

Mr. GUEST. Okay. And, based on what you are asking for, on the historic nature of what we have seen and the fact that we expect another surge to be coming when title 42 ends, are you saying that that money is adequate for Customs and Border Patrol to do the job that they are tasked with doing?

Mr. MILLER. Well, sir, to start, I mean, I think I relayed that we do have some structural shortfalls that we are going to have to fix in our budget to ensure that we sustain the technology that we received in the last—last several years.

And, secondly, you know, given the flow of migrants across the southwest border, we are certainly going to hit the triggers for the Contingency Fund.

Mr. GUEST. I yield back.

Mr. JOYCE. Thank you, Mr. Guest.

I apologize for being late, Acting Commissioner Miller, but I would like to ask you: Do you believe that physical barriers are an important border security tool?

Mr. MILLER. Yes, sir. I believe personnel, technology, and infrastructure is very important for CBP.

Mr. JOYCE. The President abruptly canceled contracts to build physical barriers. And, while the Secretary has authorized closing some gates and gaps, no substantial amount of physical barriers have been built since January of 2021.

Does the agency need additional physical barriers to help secure the border and buy time for agents to apprehend migrants who cross the border illegally?

Mr. MILLER. Sir, you know, I believe, as I stated, we need additional infrastructure, technology, and personnel to ensure that our agents have the tools that they need to respond.

Mr. JOYCE. Okay. Well, last Congress, my bill, the PREVENT Act, was signed into law to require CBP to provide the frontline personnel with containment devices to prevent secondary exposure to illicit narcotics in the line of duty, including fentanyl and other potentially dangerous substances. Has CBP moved to procure or provide these containment devices? Where is the CBP in the process of ensuring our officers and agents on the front lines of the opioid epidemic have access to these containment devices?

Mr. MILLER. Sir, first of all, thank you for the Act. I am aware of the Act. And, you know, secondly, obviously, the physical well-being of our agents and officers, hugely important to us. So obviously you know that we have—we have given them PPE. We have given them the appropriate training. We have given them the Naloxone and, you know, provided them with containment training and the like.

And we are working very closely, you may or may not know, but with our Office of Science and Technology to look at the containment technology, and we will procure it in conjunction with S&T if determined to be viable technology.

Mr. JOYCE. Sir, it exists, and it is not having to look at it. It exists. And, if one of these—if powder form had exploded in one of your offices, it would kill everybody in your office.

Mr. MILLER. No. Again, sir, we are working very closely with S&T, and as you know, we have our forward operating labs to ensure we are containing appropriately, and we look for additional technology as it becomes available to ensure our officers and agents are safe.

Mr. JOYCE. Thank you.

Mr. Cuellar.

Mr. CUELLAR. Thank you, Mr. Chairman.

Border wall, 14th century solution. If you look at the 11, 12 million undocumented aliens, whatever the number is in the U.S., the last figure I saw—and I was just double-checking this again—maybe you have better figures—two-thirds of them were visa overstays. And at that time, the number one violator was Canada.

Now, I don't know if my friends are talking about putting a fence at the northern border, which I hope they are not. And so I—I just want to make sure that we secure the border and believe in a 21st century technology, AI, other things that are important. I think it is the way to look at.

And, also, I would like to remind my friends that, in the last 2 years, from the prior administration, $2.4 billion have been added to the CBP budget authority. That is a 15 percent increase of dollars.

So we want to find a way, working together, to secure the border, including the northern border.

And I remind that 9/11 terrorists didn't come through the southern border, but they actually came through the northern border.

One of the things that I also want to look at also is the fact on the south-sided facilities, let's keep in mind that Border Patrol facilities were set up to handle small amounts, mainly male adults—in the old days, they were coming from Mexico to come and do a little bit of work, and then they would go back.

So the border facilities—Border Patrol facilities were not set up to handle a lot of folks. So the south side, which I think the first one—I think it was year 2019. President Trump was the President. The Senate, I think at that time, was Senate controlled by Republicans, and of course the House by Democrats.

So it was set up to handle—because Border Patrol facilities don't have that.

Now, having something different—and, again, I don't want to—if you have heard me say—I don't want to—I don't want to have the border just be a processing center. I want to make sure that we keep whoever is supposed to stay here and go back. Usually the numbers are 88 to 90 percent of the people that ask for asylum are going to be rejected.

And, by the way, looking at some of the latest numbers, China was the one that was getting the biggest asylum granted, 16.2; then Venezuela was 14.5; and then you have other folks.

By the way, who are the largest folks who have been—the number sector folks who have been staying here lately? It is India and China, right? Isn't it?

Mr. MILLER. Excuse me. Repeat the question.

Mr. CUELLAR. Where is China and India in number of folks who are being—coming into the U.S. or staying here in the U.S.?

Mr. MILLER. Oh, I think the migrant population, India is number two, and China is number three.

Mr. CUELLAR. Number 3. And No. 1 are Mexicans.

Now, one of the things that I want to look at is—and, by the way, I want to thank—you remember David Higgerson? He was the one that gave me the idea about border processing centers. We need to use agents to do their job, but there are certain jobs that I think the support staff or border processing or whatever you want to call them, are important. So, you know, we want to get agents, but we also want to get the support staff. And that includes ICE also to make sure.

Now, one of the things that concerns me is—and I agree with my friends—the attrition. We have been losing folks. You know Border Patrol sometimes—at one time, we were losing more folks than we were actually hiring. So anything you can do to speed up the hiring process, and I would appreciate that. But one of your former Border Patrol chiefs gave me some numbers that are alarming.

He said that, besides the regular attrition, the mandatory retirements coming up, for fiscal year 2024, 800 Border Patrol folks that would be hit by mandatory retirements; fiscal year 2025, 1,500; and then fiscal year 2026, 2,200 mandatory retirements.

Now, that worries me, because, besides regular attrition and the time it takes, we have got to do a better job. So let us know what we can do to help you in that aspect.

Mr. MILLER. Yeah. No. Thank you so much. I mean, I think a lot of the things that—the flexibility that this committee has given us to spend our money, certainly on retention bonuses; hiring bonuses; you know, what we are doing to, as we already discussed, shorten the timeframe, but, you know, we have to continually look at that and continue and also look at potentially some waivers for folks as they hit those caps.

So there is a number of different things we have to do to ensure that we continue to not only hire—fix the hiring process, but keep the folks that we have to the point of your colleagues.

Mr. CUELLAR. And, Mr. Chairman, I know this was at—when you were out, but Mr. Miller is a career individual.

Mr. JOYCE. Okay.

Mr. CUELLAR. And 30 years, right, this year?

Mr. MILLER. [Nonverbal response.]

Mr. CUELLAR. And I know sometimes there is political appointees by Democrats and Republicans, but we really should look a lot to these career folks that know and know the trends and have seen it before. Something new might be something that has been tried. So I really appreciate the career folks like Mr. Miller.

Thank you, Mr. Chairman.

Mr. JOYCE. I think we all agree, Mr. Cuellar.

Sheriff Rutherford.

Mr. RUTHERFORD. Thank you, sir.

Commissioner, I presume that CBP has either general orders or SOPs or training manuals for how to vet individuals that they run across. Is that correct?

Mr. MILLER. Yes, sir.

Mr. RUTHERFORD. Okay. I would like to request through the chair, if we could—I would like to see those documents, the training that they get, the processes that they are supposed to go through.

And I am going to tell you why. And it goes back to the questioning that Ms. Hinson had earlier as well, and I keep—I keep bringing this case up.

My question is: So we have an individual who crosses the border, no ID. We go to vet them. They are not in the biometrics system. They have no documents. We have no way of knowing who they are.

What is the default policy of CBP with an individual like that?

Mr. MILLER. So there would be a number of questions I would have to ask, number one. You know, certainly, just like you said, we would do the biometric, biographic checks. And certainly, if it is a minor or——

Mr. RUTHERFORD. They go to HHS.

Mr. MILLER. They go to HHS.

Mr. RUTHERFORD. And they go through the same vetting process.

Mr. MILLER. Right.

Mr. RUTHERFORD. Now, here is my question, because the individual that Ms. Hinson spoke of was later determined somehow, through vetting, to be on the terrorist watch list.

Mr. Ulloa, who went to Jacksonville, Florida, and killed one of my citizens, one of my constituents, he actually came across and used a fake name and fake ID—I am sorry. Not a fake ID. Just a fake name and fake date of birth that made him a juvenile.

CBP couldn't tell who he was, so they—but, since he used a date of birth that made him a juvenile, they turned him over to HHS. HHS couldn't tell who he was, so they sent him to Jacksonville because he has got a relative there allegedly, who turns out not to be a relative, because they didn't vet him either.

He gets—he murders my constituent. Then we find out who he is. How did we not—so here is my question: If he can go into a—if he can go into the Duval County jail and eventually we could identify who he is, how did we not identify who he was before we shipped him to Jacksonville?

So my question is: Is the default policy of CBP, if you can't tell who they are, let them in, because that is what it appears to be.

Mr. MILLER. No, sir. That is not the default policy. Again, I have spent my career trying to increase information sharing, vet individuals against all available databases, whether they are IC-held databases, LD-held databases.

Mr. RUTHERFORD. And we are doing all we can in that regard. But, when you can't tell who they are, what do we do with them?

Mr. MILLER. So, in the case of a minor, we are mandated by the TV——

Mr. RUTHERFORD. You don't know that he is a minor.

Mr. MILLER. Well, they claim to be, so I am just telling you, we follow—we have to follow the law, too, which is the TVPRA, and

we have to turn a minor over to Health and Human Services. And, as discussed at length——

Mr. RUTHERFORD. But there is my question. How do you know he is a minor?

Mr. MILLER. We have to use all available information that we have, and we have to make that determination.

Mr. RUTHERFORD. So we take whatever they tell us, and we are making—we are making decisions about the security of this country based on what somebody that just illegally crossed the border is telling us.

I have serious problems with the way we vet—we are vetting people. And the fact that we can't tell who they are at the border, yet when he gets sent—when he gets arrested in Duval County, we find out who he is—he is doing 60 years now. Why couldn't we determine that before they sent him to Jacksonville? Why couldn't we determine that—what—what changed? How did they determine who he was later?

Mr. MILLER. You know, again, sir, you know, first of all, my condolences to the family in your community.

Mr. RUTHERFORD. Look, I—I understand completely. And I am not blaming you. I am just saying it looks like the default policy is to let them in.

Why wouldn't we say, No, I can't prove who you are, so you are not coming in. Why wouldn't—should that not be our policy, or is that our policy?

Mr. MILLER. Well, again, when somebody comes in, we are going to use all the available information that we have, so the biometrics, to the facial comparison.

Mr. RUTHERFORD. You can't tell who they are, because they are not in any system. What do we do with them?

Mr. MILLER. And so we are going to coordinate——

Mr. RUTHERFORD. We are letting them in.

Mr. MILLER. Or we are going to coordinate as appropriate.

Mr. RUTHERFORD. We are letting them in.

We need to look at that policy, because we are letting killers into this country. That has got to stop.

I yield back.

Mr. JOYCE. Thank you, sir.

Mrs. Hinson.

Mrs. HINSON. Thank you.

And thank you, Sheriff, for bringing that up, because that is a true concern in my district. And I am pretty sure I—let's see if it stays on. Can you hear me?

Okay. This is the finicky one from earlier, I want to echo my colleague's concerns about the attrition at CBP. And you talk about the 25 suicides in the last 2 years.

And that is truly heartbreaking, that people are facing these challenges and they feel like there is no other way out. And we want to do everything we can to make sure your workforce feels supported.

But can you talk a little bit more about the morale? And, you know, I think that it is very clear something has got to change with policy, because people feel like they have no other option but to ei-

ther quit, or take their own life. And we don't want to put people in that position.

Can you talk about what policies should change at DHS to make sure that we don't face these major problems with our CBP agents?

Mr. MILLER. Well, first of all, thank you, you know, for the support for the men and women of Customs and Border Protection. It is much appreciated.

Second of all, thank you for the funding we have received the last couple of years. Number one, we have to take care of our folks.

But, you know, No. 2 you know, I think one of the things we have done over the last 6 months, specifically for the Border Patrol agents, well, the last year or so, is really making a concerted effort to get the men and women of CBP, or Border Patrol in particular, back in between the ports of entry.

Mrs. HINSON. Back to actually fulfilling their mission, not processing people, but back in the field?

Mr. MILLER. Back to, yeah, in between the ports of entry. And we have made significant strides with the Border Patrol processing coordinators, that we have got over a thousand. We have additional classes. And, in fact, those folks are being—becoming our biggest recruiting pipeline that folks who want to do that same job that the Border Patrol agents are——

Mrs. HINSON. And then you might feed them into those positions more quickly?

Mr. MILLER. Exactly.

Mrs. HINSON. We are happy to hear that, obviously, but, I mean, you still have a pretty good delta to get to your full force. So can you speak a little bit—you know, obviously you are asking for these new agents.

And I asked Acting Director Johnson the same question with ICE, right? You have got this need, and you have got a gap here, over 800 open slots that you currently have, and you are asking for more.

Can you tell me more about how you are going to get these people into these slots so we can actually keep our border under control?

Mr. MILLER. Yes. So thank you, ma'am.

So, again, I think the flexibility has helped us. Certainly getting the hiring engine back up and running was extremely important. So our application numbers are going up. So we are getting more people into the pipeline.

The Border Patrol processing coordinators are actually one of our top recruits. We have looked at the back end, and we spoke at this at length, and Sheriff Rutherford actually mentioned as well at the Academy, and fixing our attrition rate, or our——

Mrs. HINSON. Changing the testing, yes.

Mr. MILLER. Changing the testing. So, in between, we are looking at our HRM processes to try to—really for me, it is yield rate, the number of folks coming into the pipeline, making it to Border Patrol agent and the time to hire, so we have to fix those two things. It is about 260 days right now from the time somebody applies for the job to the time that they get hired. So we need to shrink that, and my challenge to the team is in half. And we are

doing that by looking at the processes and procedures of our HRM staff.

Mrs. HINSON. Well, because I think—when I was down there—I have been down there twice to hear directly from folks. And it was shocking to me to see how many people were being pulled from other areas of DHS, including FEMA, to help with these positions. And that is just unacceptable. These should be CBP agents, not FEMA agents. FEMA should be dealing with hurricanes in Florida and flooding in Iowa, not our southern border.

So another thing that the agents pointed out to me is that technology is helpful, you know, and I have been a big supporter of automated surveillance technologies, technical kits, mobile surveillance capabilities. All of those are force multipliers, and I believe that cross-border tunnel detections—you know, I have learned a lot about that technology and how effective that is, especially when we are talking about stopping fentanyl and these transnational gangs and cartels.

Can you talk about the number of encounters with—that CBP is experiencing at the border, the growing number of people that the cartels are bringing across to distract you from doing your mission, right? And I think it is very clear they are doing that.

How valuable are those technologies to your Border Patrol agents?

Mr. MILLER. The technology is—we need the technology. We have to have the technology now. It really—especially with the new automation, machine learning, artificial intelligence that shrinks the number of folks that we need in these command centers to actually look at the screens and try to determine what is happening.

And, to your point, with the tac devices and getting that information directly to our officers and agents so they can respond to those events, it is vitally important. We need the technology. We need the continuing funding. And, you know, I think our Office of Information Technology and Border Patrol is doing a good job to really get that actionable information to the hands of the frontline agents so they can respond appropriately.

Mrs. HINSON. Yeah. And I know I am out of time, but I will submit some follow-up questions for the record, specifically about countering things like new threats, like xylazine that we are seeing as an amplifier for our fentanyl problems that are already a huge challenge. So thank you.

Mr. MILLER. Thank you, ma'am.

Mrs. HINSON. Appreciate it.

I yield back.

Mr. JOYCE. Thank you, Mrs. Hinson.

Mr. Guest.

Mr. GUEST. Commissioner, again, I don't want anything that I say to make you believe that we don't fully support Border Patrol. I support personally—as a new member on this committee, I can tell you that I will fight as hard as I can as a member of this committee to make sure that we are hiring new agents, a number in addition to the ones that you have requested; that we are getting agents pay increases; that we are investing in technology; that we are investing in what we need to vet the individuals coming into the country.

My frustration, and I believe the frustration of many people on this committee, is the amount of tax dollars that we are having to spend every year on processing. The $4.7 billion Contingency Fund that has been requested, that is roughly 28 percent of the entire budget of CBP. And so, one out of every $4 would then be going to doing nothing but processing.

And so we are incredibly frustrated. And I don't want you to feel when you leave here that we are intentionally taking our frustration out on you. We know you don't make those decisions, that those decisions are made—you are career law enforcement officer, and we want to thank you for that.

Now, one of the things that the chairman mentioned that I want to talk about as well is physical barriers, wall construction. And we know it is not feasible to build a wall from sea to shining sea, that we are not going to build a wall from RGV to San Diego. But under Secretary Mayorkas, we have had zero wall construction.

If I am not mistaken, there is $7 million in this budget for wall construction. Is that correct? Or how much is in it? Maybe I should just ask you. It is my understanding that it was seven, but how much money is in the budget request for this physical year for wall construction?

Mr. MILLER. I would have to look. I didn't know that there was money in this budget for wall construction.

Mr. GUEST. Are physical barriers an important component to securing the border?

Mr. MILLER. I will say time and time again, we need infrastructure, we need personnel, and we need technology.

Mr. GUEST. All right. But there is no money in this budget for wall construction?

Mr. MILLER. I don't believe so.

Mr. GUEST. All right. And so do you agree or disagree with that?

Do you think it should be in there? Do you think we should put money in there? If we are going to be writing the budget, should we write money in the budget for wall construction?

Mr. MILLER. I would have to work with, you know, the Border Patrol and their requirements and get back to you on technical assistance on exactly what we need in our budget.

Mr. GUEST. All right. Chief Ortiz—do you know Chief Ortiz?

Mr. MILLER. Of course.

Mr. GUEST. All right. Chief Ortiz testified—

Mr. MILLER. Twenty-plus years.

Mr. GUEST. Chief Ortiz testified before Congress just last month. He testified that five of the nine sectors along the southwest border are not secure.

Do you agree with the assessment of Chief Ortiz?

Mr. MILLER. Well, thank you for the question.

You know, certainly—and I think we discussed this a little bit the other day. In my 29, almost 30 years of experience, I have seen, you know—it is an evolving situation. It is an evolving situation every single day.

Today, we might have a situation in El Paso where we need to surge additional resources because of a surge that we are experiencing. Like I am doing in the southwest, I may surge resources

so I can attack the fentanyl that is coming across the southwest border which that surge is certainly having.

So I guess my answer is, you know, I defer to Chief Ortiz on his expertise. He runs the Border Patrol. It could be three sectors today. It could be five sectors tomorrow. And it has been that way ever since we have had a border.

Mr. GUEST. And final question: title 42 ends May 11. I know we have talked just very briefly about it. The most recent figures that you have seen as far as expected number of immigrants—we saw some numbers that came out in December. It seemed to me that they were somewhere in the—potentially up to 15,000-a-day range, and I could be wrong. And I apologize. I don't have those figures in front of me.

But do you have any recent information as to what we can expect when title 42 ends?

Mr. MILLER. So we are certainly going to see a surge higher than the numbers, you know, and I am doing my best to answer the questions directly. We are going to certainly see numbers higher than we are seeing today. We are going to see a surge in migrants.

We are also going to immediately, when title 42—and, as you know, there are certain court rulings that really are hindering what we can and can't do at the particular moment. So, when title 42 goes down, we will immediately start doing enhanced expedited removal across the southwest border, but it is going to take some time for that consequence to take effect in my opinion.

We are certainly going to see a surge. What that exact number, I don't know what that exact number is. I know I am preparing for, you know, certainly 10,000 or so a day. But again, we will—we can continue to surge resources and look at the intelligence every single day, the—each sector—individual sector every single day, work with the chief of the Border Patrol, Chief Ortiz, the Office of Field Operations, to ensure that we are getting resources down there to respond to the best of our ability.

Mr. GUEST. Thank you, Mr. Chairman. I yield back.

Mr. JOYCE. Thank you, Mr. Guest.

Mr. Cloud is recognized.

Mr. CLOUD. Thank you.

And I do want to echo what Mr. Guest said about we have nothing but appreciation for the members of CBP and appreciation for the understanding and—that we need to get you the resources that you need to do your job, and you are in a very difficult situation.

A lot of the issues we have is with the policy that you are being asked to implement, and certainly recognize that.

I wanted to ask you about visa overstays. By my understanding, there was, in 2020, about 684,499 visa overstays. Does that sound about right?

Mr. MILLER. I am sorry, sir. I would have to get back to you on the particular numbers.

Mr. CLOUD. Okay. Do you know how many gotaways there were last year?

Mr. MILLER. I just looked at the numbers this morning. I can tell you if you give me 2 seconds. I just looked up the numbers this morning, but I don't want to not give you the right number.

Mr. CLOUD. I think it is also 600,000.

Mr. MILLER. Yes.

Mr. CLOUD. Is that correct?

Mr. MILLER. Yep. That is correct. I just wanted to make sure I had them in front of me.

Mr. CLOUD. And that is what we actually call known gotaways, right?

Mr. MILLER. It is.

Mr. CLOUD. Yeah. So do you know how many unknown gotaways we had?

Mr. MILLER. No.

Mr. CLOUD. No, because it is unknown, right? So—and those are not coming through the port of entry, by and large? Is that correct? They are not running the port of entry? That is—the gotaways are coming in between ports of entry?

Mr. MILLER. Yeah, the gotaways are coming in between the ports of entry.

Mr. CLOUD. And so the infrastructure would be helpful in stopping gotaways. Infrastructure, everything you were saying—infrastructure, manpower, technology.

Mr. MILLER. And let's not forget access. Access is one of the—and having—roads access to make sure our agents can get to respond to that technology alert that you are talking about.

Mr. CLOUD. Exactly. And removal of the Caruso gang and everything else, right?

Mr. MILLER. Yes.

Mr. CLOUD. I wanted to also talk to you about the apprehensions, because, if we are looking at last year encounters, we are 200 or 2,300,000-plus. If we go back to 2020, or if we go back to 2020, COVID was certainly allowance for 450,000, but even going back a year before that, we are talking a million, so half of where we are at right now.

Going back to the definition of operational control, I mean, the idea is to be moving toward it, not away from it. It would seem that we are moving away from it.

Now, you gave a pretty bleak picture when someone on the committee mentioned the fact that we are looking at going back to discretionary spending levels back to pre-COVID. So pre-COVID traffic would have us at about half of what we have right now with the budget that they had then.

And I am not suggesting that we need to cut the budget for it. I am for raises for our men and women. But like it has been said, I am not for paying for processing.

And so, you gave a pretty bleak picture, almost a Chicken Little list of all the things that could not happen, yet I am looking at this saying, Well, at the pre-COVID budget, they were able to have a more secure border.

So there seems to be a disconnect there. Could you address that? To me anyway.

Mr. MILLER. Certainly, sir. As we know, agents' salary—let's start with the budget. Seventy-five percent of our budget is salary, and salaries continue to go up. Obviously, inflation continues to go up. Construction costs continue to go up. And I am not only talking when—you know, the Chicken Little scenario.

In between the ports of entry, it is also at the ports of entry as well. So, you know, certainly our CBP officers, the technology that they are using, the technology we are talking at the southwest border, really the civil works projects that we are trying to do along the southwest border, all those costs are going up.

So, if we were to go back to our budget 2 years ago, most certainly, that would affect us across our organization. But to your point, most certainly at the southwest border.

Mr. CLOUD. But we are seeing a lot of the funding go to not protection, but go to processing. Is that correct?

Mr. MILLER. It is correct, but, if I may on the processing, we have made significant advancements in automating our A-file, significant advancements in being able to process people in between the ports of entry through the facial recognition, biometrics. We are testing out where you can actually take a picture of the prints and enroll the individuals, again, making us safe and secure and run against that information, things that we have been talking about. So there is a number of different things that we are talking about when we are talking about processing, sir.

Mr. CLOUD. Okay. But it still seems like we could find some efficient—it is the ROI, if that makes sense, that we are looking for? We are looking for protection, which is actually the P, not processing—CBP, Customs and Border Protection, not Customs and Border Processing. So we are looking for dollars for protection. And the concern here is that we are seeing the border get less secure, and we are spending more money doing it.

And some of that, I know, is no big contracting. The grants processing is very opaque. I would like to see that—and I know we are talking more agency secretary-level on some of this stuff, but we will be working on that.

Thank you, Chairman. Thank you for your being here today, and, again, appreciate your work.

Mr. MILLER. Thank you, sir. Appreciate it.

Mr. JOYCE. Thank you, Mr. Cloud.

Acting Commissioner Miller, all good things must come to an end, and I know you have been having a great time here.

Mr. CUELLAR. We can keep going. Round three.

Mr. JOYCE. Appreciate your tour of duty in the agency and your hard work.

There has been some questions asked that you are going to give answers to or some other things you would get back to us. We would ask that you do that within 15 business days from today. That gives you roughly 3 weeks or so to get those things accomplished.

Any other questions or concerns? With that——

Mr. RUTHERFORD. It was general orders, SOPs, and training documents.

Mr. JOYCE. All the documents you requested.

Mr. RUTHERFORD. Thank you.

Mr. JOYCE. Okay. This meeting is now adjourned.

Mr. MILLER. Thank you.

Mr. JOYCE. Thank you.

[Answers to submitted questions follow:]

QUESTIONS FOR THE RECORD
SUBCOMMITTEE HOMELAND SECURITY
U.S. HOUSE COMMITTEE ON APPROPRIATIONS

Budget Hearing –
U.S. Customs and Border Protection
Wednesday, April 19, 2023

Representative Joyce

Cross-Border Tunnel Detection

To: CBP Acting Commissioner Troy Miller

For over a decade, the United States, through Customs and Border Protection (CBP) and the Department of Defense (DOD), have worked closely with Israel's Ministry of Defense developing counter-tunneling technologies. The U.S. faces numerous subterranean threats on the southern border, the Korean Peninsula, and in various locations in the Middle East. The Department of Homeland Security, specifically CBP, has been working hard to address the tunnel challenge at home where cartels are building and operating tunnels to bring fentanyl, weapons, and other contraband into the United States.

Question 1: Can you expand on the scale of the current tunneling threat at our southwest border?

Answer: Please see separate attachment.

Question 2: Is our technology and overall capacity at the level required to effectively locate, map, and destroy these illicit tunnels?

Answer: NSO collaborates closely with the Cross Border Tunnel Threat (CBTT) Program of Record and DOD counterparts to deploy various technologies needed to effectively combat tunnel threats. Due to the adaptive nature of the mission, CBTT and NSO codified the need for additional solutions beyond Persistent Surveillance Detection (PSD) systems currently in progress. Once approved, additional capabilities outlined within the Mobile Detection Tunnel Toolkit (MDTT) will build user confidence in potential threats and narrow the search area for tunnel adjudication missions. Together, these capabilities represent a technology layering approach enabling the user to use a variety of sensor modalities to detect, localize, and map cross border tunnels.

Question 3a: Much of the funding put towards this initiative is in the R&D space. Are these counter-tunneling technologies operational and ready to be fielded?

Answer: Several technologies developed through the partnership with Department of Defense Special Operations/Low-Intensity Conflict (SOLIC) Irregular Warfare Technical Support Directorate (IWTSD) are mature and currently deployed by the NSO and Tunnel Reachback Center operationally. In tandem with those efforts, USBP leverages the CBTT program to focus on mature, commercially, and/or governmentally available technologies with proven operationally relevant for this mission space. MDTT is currently going through acquisition lifecycle reviews needed to move forward with procurement and deployment.

Question 3b: If so, where is CBP in that procurement process?

Answer: Last fiscal year, CBTT procured three prototype components (half of a Mobile Tunnel Detection Toolkit (MDTT)) currently available for operational use. Two additional MDTT units will be procured following approval of the Acquisition Decision Event 2A. Additionally, CBTT has one open contract and one Interagency Agreement (IAA) with U.S. Army Corps of Engineers, Engineering Research and Development Center (ERDC) to deliver six miles of PSD system capabilities to achieve the program's Initial Operating Capability.

Question 3c: How much funding would be needed to ensure each mile of the southern border is sufficiently protected?

Answer: CBTT program requires approximately $189.2 million in Procurement, Construction and Improvements funds to meet the Full Operating Capability (FOC) of 36 miles of PSD system deployment and 4 MDTT units, as captured in the CBTT Life Cycle Cost Estimate (LCCE). Additionally, CBTT requires approximately $550,000 per mile per fiscal year to sustain those systems once completed, $2 million per year for tunnel adjudication missions, and $3 million per year to remediate tunnels upon discovery.

Non-Intrusive Inspection

To: CBP Acting Commissioner Troy Miller

Question 4: CBP's FY2024 Budget Request includes $305 million for Non-Intrusive Inspection (NII) Procurement, but over $200 million is for civil works, and only $65.3 million was requested for just 10 large-scale NII scanners at Southwest Border Land Ports of Entry. Please provide the Committee with CBP's plans to procure the remaining 113 large-scale scanners by Fiscal Year 2026, or if the remaining 113 large-scale scanners were previously procured with prior year appropriations, then please share deployment plans for those 113 systems, as well as the total number of large-scale scanners that will be required beyond 123 systems to fully furnish all Land POEs on both the Southern and Northern borders of the U.S., and achieve 100% Scanning in accordance with Public Law 116-299, the "Securing America's Ports Act."

Answer: CBP is actively working to deploy 123 arge Scale NII systems at Land Ports of Entry. The 123 systems were procured with prior year funds.

Please see the attachment, LS NII Deployment Status May 1, 2023, which includes planned deployment locations and projected kickoff timeframes for 123 systems and 12 High-Energy Rail Systems that were also procured with prior year funds.

Table 1 below provides estimated procurement quantities, by equipment type, to achieve 100 percent scanning of commercially owned vehicles (COVs), privately owned vehicles (POVs), and railcars at U.S. Land Ports of Entry (LPOE). The second column indicates the number of systems CBP estimates for 100 percent scanning at all LPOEs (Northern and Southwest Border), and the third column indicates the number of systems CBP has procured with prior year funds. Further details of this estimate are contained within CBP's FY21 Congressional Report titled, "Large Scale Non-Intrusive Inspection Scanning Plan," as required by Public Law (P.L.) 116-299.

Table 1 – Estimated Unit Quantities to Achieve 100% Scanning at U.S. LPOEs

System Type	# 100% U.S. LPOEs	# Procured in Prior Year
Multi-Energy Portal	65	35
Low-Energy Portal	337	88
High-Energy Rail	32	12
Total	**434**	**135**

Question 5: CBP's FY2024 NII Procurement Budget Request also includes $12.6 million for Algorithms to Enhance Narcotic Detection. Please provide the Committee with a timeline of when you will have AI and Algorithms in place that will allow for increased efficiency of the recently deployed NII systems and also allow for additional manpower savings?

Answer: CBP is actively working with industry and government partners to assess the effectiveness of applying AI algorithms along with instituting responsible AI practices in line with the DHS/CBP Sensitive Security policies. The broader program goal is to leverage AI technology to reduce manpower hours needed to adjudicate NII images and address mission critical requirement of increased vehicle scanning throughput of existing and emerging NII technology. To meet this goal, CBP is on track to begin supervised machine learning on algorithms in FY23 and conduct a pilot of production data in FY24. The number of officer hours redirected from reading NII scans is not fully quantifiable at this time and is dependent on several factors, not limited to how advanced technology capabilities are, increased vehicle throughput CBP is able to handle, and the ability for AI technology to assess risk and identify anomalies.

Question 6: CBP's FY2024 NII Procurement Budget Request also includes $12.1 million for Integration of Systems to enhance the overall effectiveness and efficiency of CBP's inspection process at POEs.

Please provide the Committee with a timeline of when you will complete the Integration of Systems at all POEs on the Southern and Northern Borders that will allow for increased efficiency of the recently deployed NII systems and also allow for additional manpower

savings?

Answer: CBP is currently conducting civil works installation of NII systems to POEs. Integration of the NII systems along with automation within the CBP infrastructure is scheduled to begin in FY24.

Question 7: This Committee (and the Senate Appropriations Committee) have asked you to address outbound operations, when will we see a plan to increase screening of outbound vehicles and passengers to disrupt the flow of illegal weapons and cash flowing out of our U.S. POEs, which is funding the Transnational Criminal Organizations (TCOs) who are smuggling hard narcotics such as fentanyl into the U.S. through our POEs?

Answer: Though not at the same rate as inbound inspections, CBP has always performed outbound inspections of vehicles and passengers to disrupt the flow of illegal weapons and currency out of the United States..

Throughout the previous fiscal years, the four CBP Southwest Border (SWB) field offices (Laredo, El Paso, Tucson, and San Diego) performed many successful outbound enforcement operations aimed at interdicting weapons, firearms components and ammunition, and currency. These outbound enforcement operations are strategically conducted using a pulse and surge method, based upon analysis and intelligence, and usually in collaboration with the U.S. Border Patrol (USBP), Immigration and Customs Enforcement's Homeland Security Investigations (ICE I), the Drug Enforcement Administration (DEA), state and local law enforcement agencies, and often with Government of Mexico law enforcement officials. Furthermore, CBP's specialized resources, including non-intrusive inspection technology and CBP canines, are utilized during these operations.

CBP's sustained outbound efforts along the SWB in FY22 included 7,057 operations resulting in the seizure of almost $7 million in U.S. currency, 415 weapons, and over 385,000 rounds of ammunition. CBP outbound enforcement is a standard operating environment as can be seen in previous results: in FY20, CBP seized 355 weapons and in FY21 CBP seized 421 weapons outbound to Mexico. At the mid-way point of FY 2023, CBP has seized 423 weapons and is set to surpass the amount seized during the last three fiscal years.

	FY20	FY21	FY22	FY23 (April 1)
Currency (in millions)	$17.10	$14.65	$7.35	$4.17
Weapons	355	421	415	423
Ammunition	223,086	160,711	385,418	68,145

CBP BorderStat: Outbound seizures effected by OFO on the SWB only.

Much of the success above for FY23 is attributed to Operation Desert Lightning, a CBP outbound enforcement operation utilizing focused and enhanced analytics and intelligence developed through HHSI and USBP enforcement actions in furtherance of leveraging relationships with the Government of Mexico (GoM). This operation, led by OFO in collaboration with the National Targeting Center (NTC), USBP, the Bureau of Alcohol, Tobacco, Firearms., and Explosives (ATF), and ICE HSI, identify new targets and encourage robust information and intelligence

sharing to drive both U.S. and Mexican enforcement operations on the SWB.

Operation Desert Lightning plans to execute a phased approach utilizing local field assets as an intelligence gathering venture. Concurrently, GoM conducted operations at locations where OFO is not set up for pulse and surge enforcement actions. This will cover geographic gaps and attempts by TCOs to divert smuggling routes when spotters identify increased enforcement. The first iteration of Desert Lightning was conducted at the Laredo POE and Nuevo Laredo, Mexico, Port in from January 25-31, 2023, and resulted in the following:

- 61 total operational hours dedicated to Op Desert Lighting;
- 129 participating CBP Officers over the duration of the operation;
- 196 secondary referrals;
- 674 travelers interviewed;
- 5 seizures which yielded 7 handguns, 140 rounds of ammunition, and $169,243.

CBP plans to continue outbound enforcement actions to disrupt the flow of illegal weapons and cash out of the U.S. by TCOs, impacting their operations with enforcement operations planned throughout the remainder of FY 2023.

Question 8: CBP is required by law to maintain 100% of Radiological/Nuclear (R/N) screening of conveyances entering the U.S. at land and seaports of entry, but the DHS Countering Weapons of Mass Destruction (CWMD) Budget Request indicates that CWMD has canceled or delayed indefinitely the Radiation Portal Monitor (RPM) Recapitalization (RAPTER) program because they are waiting on CBP to update and document mission needs/gaps/requirements to replace approximately 1,400 RPM outdated and obsolete RPM systems at U.S. Land and Sea ports of entry. Has CBP identified and provided CWMD with your needs/gaps/requirements to replace or upgrade the outdated RPM fleet? If not, when will CBP provide CWMD with your needs/gaps/requirements to replace or upgrade the outdated RPM fleet?

Answer: CBP worked very closely with CWMD to develop and deliver its radiation scanning mission needs, gaps, and requirements, inclusive of replacing the fixed RPM fleet. Findings from CWMD's RPM Replacement Analysis of Alternatives (AoA), coupled with CBP's operational documents, were utilized to inform a replacement investment strategy that ensures the Department meets the 100 percent radiation scanning mandate. The July 2015, AoA found that replacement of the fixed RPM fleet should be driven by the need for improved functionality – not concerns due to the age of the fixed RPM fleet. This was largely due to robust maintenance support provided through CBP's integrated logistics and sustainment contracts.

CWMD and CBP's joint and agreed upon investment strategy incorporates integrated logistics and maintenance support; periodic and targeted replacement of systems at high priority ports of entry (POE) and decommissioning and re-deploying refurbished fixed RPMs to address POE requirements, including newly constructed POEs. This collective approach ensures the fleet is sustained and modified to maximize performance and efficiency. Investment activities are executed as follows:

- CBP funds integrated logistics and maintenance support of the installed fixed RPM fleet through its Operations and Support appropriations.

- CWMD's RPM Program funds requirements associated with deploying, decommissioning and redeploying refurbished RPMs to address existing and new POE requirements; and evaluating, acquiring, and deploying improvements to fielded fixed RPM systems.
- CWMD's RPM Replacement Program funds requirements associated with replacing a limited number of fixed RPMs to improve effectiveness of the current fleet of fixed RPMs at select, high-priority, POEs.
- CBP does plan to formally transmit mobile RPMs (mRPM) replacement requirements to CWMD in 2023. CBP and CWMD have regular communications regarding the 61 mRPMs that were deployed in 2005 (17 years old), including the overall state of health of the systems. A rapid replacement approach is ideal given the fleet's condition and the operational utility when performing radiation scanning. The systems are utilized to scan cargo at on-dock rail locations, low-volume seaports, and play a crucial role as stopgap emergency stand-ins when fixed RPMs at exit gates are unavailable.

Air Travel

To: CBP Acting Commissioner Troy Miller

All indications point to another record summer travel season. The travel and tourism industry are preparing for the summer travel surge. However, last summer we learned difficult lessons of the importance of planning and operating in a new environment. Air Traffic Controllers, Transportation Security Administration, and Customs & Border Protection staffing need to meet the need and be prepared to provide the government services the traveling public count on so they can make it to their destinations and support economic activity.

Some airports are already seeing the strain of increased passenger volumes and we are not yet at the peak travel season. Long lines and missed flights will shake confidence in our tourism industry.

Question 9: What adjustments has CBP made to ensure that there is a sufficient number of CBP Officers at air ports of entry at domestic airports and preclearance locations this summer?

Answer: CBP continually monitors operations and shifts resources when needed. At POEs this includes using overtime funding to address staffing workload, reassignment of CBP officers from other work units within the port to primary and secondary passenger processing, and meeting with our stakeholders to ensure staffing meets anticipated passenger flow. At the national level CBP can solicit TDY officers and deploy them to ports anticipating staffing shortfalls. CBP also leverages everchanging technology to improve the processing proficiency. CBP has recently deployed Biometric Entry and Exit, which uses facial comparison technology to create entry-exit records for foreign nationals, and upgraded Global Entry kiosks to eliminate issuing paper receipts and leverage mobile officer technology to provide a secure, streamlined, and touchless experience for Global Entry members.

Question 10: Please elaborate on what resources CBP has available to remain flexible and responsive to the summer demand.

Answer: CBP closely monitors passenger volumes and adjusts resource allocation accordingly. During peak summer travel periods, CBP can deploy additional officers to airports to ensure wait times remain reasonable. CBP uses advanced technology to streamline the processing of travelers and reduce wait times. Additionally, our frontline officers receive regular training to ensure they can adapt to changing circumstances. CBP leverages everchanging technology to improve processing proficiency. CBP has recently deployed Biometric Entry and Exit, which uses facial comparison technology to create entry-exit records for foreign nationals, and upgraded Global Entry kiosks to eliminate issuing paper receipts and leverage mobile officer technology to provide a secure, streamlined, and touchless experience for Global Entry members. Overall, CBP's approach to summer demands at airports involves a combination of technology, resource allocation, partnerships, and training.

Question 11: What does CBP consider to be reasonable or acceptable wait times? How is CBP ensuring those wait times are kept at air ports of entry?

Answer: At an enterprise level, CBP does not have goals for wait times at air ports of entry. Field Offices and individual ports of entry work closely with local stakeholders to strive for efficiency and facilitate legitimate travel and trade as expeditiously as possible while carrying out OFO's multifaceted border security mission.

Question 12: How does CBP's budget factor in overtime costs needed to manage operational challenges and competing needs at air, sea, and land ports of entry?

Answer: Overtime is utilized to maximize employee resources, as well as for seizure/arrest processing that goes beyond an officer's regular duty hours. .

The following outlines how OFO currently assigns overtime:

- "Backfills" are assigned to maintain minimum daily staffing levels to address regular and reoccurring workload. Backfills are usually required due to officers who are on leave, attending training and/or are on a temporary duty assignment to another port.
- At non-24 hour ports of entry, overtime is utilized to address after-hours international flight and/or vessel arrivals that require CBP processing.
- During peak seasons (traditionally in the summer), CBP will utilize overtime to augment regular staff to address increased passenger workload.
- To execute special operations that address specific threats (terrorism and/or narcotics), CBP will use overtime to have the appropriate staff available.
- To handle detentions of travelers found to be inadmissible who need to be transported to overnight facilities until they are scheduled to depart on a subsequent date.
- To handle detentions of potential internal narcotics couriers who are transported to a medical facility until they pass all of their ingested contraband.
- To complete the processing of a seizure or arrest that goes beyond a standard tour of duty.

Question 13: How are you working with aviation stakeholders including airlines and airports to ensure the necessary staffing is available and performing at acceptable levels?

Answer: Our teams at international airports meet with key stakeholders (airlines, airports, ground handling agents, etc.) in preparation for peak travel seasons. These meetings focus on current operational conditions, anticipated increases in passenger flow, flights, diversion preparation, resources available, and other factors directly affecting operational conditions. This engagement with our stakeholders allows POEs, based on their stakeholder input, to create projections of workload, staffing, expected staffing needs, overtime considerations, and a plan to meet stakeholder expectations wherever possible.

Question 14a: CBP has been a leader in testing and piloting touchless technology in the aviation environment, how is CBP capitalizing on automation and biometric technology to enhance the passenger experience to address processing times?

Answer: CBP has created a cloud-based service, the Traveler Verification Service (TVS), that uses facial biometrics to compare a live photo of the traveler against photographs from U.S. passports, U.S. visas, or photos from previous DHS encounters that are staged in a gallery prepopulated from advance passenger data. Biometric facial comparison technology is designed to replace the manual travel document comparison process, reducing the need to scan travel documents and take fingerprints of travelers.

Question 14b: What tools can CBP deploy to augment the CBP Officers at air ports of entry?

Answer: CBP leverages mobile technology to augment officers at air ports of entry. Our mobile solutions include a suite of officer-facing applications built by the CBP Office of Information Technology (OIT) used to support traveler processing and enforcement operations and are available for use on any CBP-issued phone or Windows device. A major benefit of the mobile applications is the ability to perform inspections at a location where a CBP workstation is not immediately available. Officers rely on these applications to arrive/depart travelers, run queries, capture biometrics (face and fingerprint), and conduct enforcement inspections. Operational use cases for this technology in the air environment include mitigation of primary system outages, outbound enforcement operations, biometric exit, general aviation, and roving operations.

CBP developed Simplified Arrival (SA), an innovative and modernized primary processing application that leverages the TVS, for primary inspections at entry in the air, land, and sea environments. SA was deployed to all international airports, including 14 Preclearance locations, performing the same function as manual identity verification but significantly faster.

Additionally, Mobile Passport Control (MPC) allows U.S. citizens and Canadian (B1/B2) visitors to submit their passport and customs declaration information through a free secure app on their mobile device, that streamlines the entry process into the United States at 43 international airports, including 10 Preclearance sites. MPC will expand eligibility to Legal Permanent residents before the summer travel season. MPC provides traveler(s), up to a family of 12, with a single Quick Response (QR) code that is scanned once travelers reach the CBP officer. The QR code provides the CBP officer with biometric verification for traveler(s) along with the CBP general declaration responses. In late 2022, CBP partnered with airlines and port authorities to increase awareness of the CBP MPC application. Airline advertising and social media push has resulted in an average increase of 15 percent month over month since December 2022.

3920

201

Representative Guest

Light Enforcement Helicopters

To: Commissioner Miller

For 35 years, CBP has flown a fleet of about 100 Light Enforcement helicopters, made in Mississippi, in support of border security, counternarcotics, and search & rescue missions. CBP has started replacing the oldest airframes, some which are between 20-35 years old, with new helicopters. However, despite CBP reorganizing these helicopters into the Light Enforcement Platform (LEP) program, your FY24 budget only included $8 million for one new helicopter in the Light Enforcement Platform (LEP) program.

Question 15: Why did the Department not request more funds to provide CBP with modern, safer, technologically advanced helicopters? At the rate of this request, CBP would take 75 years to replace the current helicopter fleet.

Answer: The President's FY24 Budget funds the second Light Enforcement Platform (LEP) as the program ramps-up to full production. The first two LEPs will be used to conduct initial testing on configuration changes driven by obsolescence and minor requirement changes.

Question 16: What is the Department's plan, now that the Light Enforcement fleet has been reorganized, to recapitalize the fleet with modern, safer, and technologically advanced helicopters?

Answer: CBP intends to standardize the LEP on the H125, of which 26 are already in service as Light Enforcement Helicopters (LEH) which Congress has funded since 2017. If this standardization strategy is approved, CBP hopes to accelerate operational test and evaluation activities in coordination with Departmental oversight.

Question 17: Is CBP's ability to patrol and secure the border affected by operating 20–35-year-old equipment?

Answer: CBP Air and Marine Operations has a rigorous maintenance program that ensures all aircraft, regardless of age are safe to operate.

Non-Intrusive Inspection Program

To: Commissioner Miller

As you know, vehicles are a primary source of drug trafficking. While extremely well resourced over the past five years thanks to Congress's support, CBP has had extreme difficulty evaluating, fielding, and installing vehicle screening systems. It's particularly disconcerting that only 33 percent of passenger vehicle portals will have an under-vehicle screening capability, despite continued indication that this is a primary smuggling area and potentially more effective for

future autonomous detection.

Question 18: CBP awarded three different and distinct configurations of low energy portals for pre-primary passenger vehicle screening. What was the rationale in awarding three separate, but equal contracts?

Answer: CBP identified three solutions which met operational requirements mitigating the risk of procurement delays from a single vendor and lead time to manufacture the equipment, conduct factory acceptance testing, site acceptance testing and ultimately deploy it to the field. Additionally, this shifted responsibility to the vendor to deliver technology in a competitive manner. An additional benefit is future actions can be competed, which has historically reduced pricing significantly, broadening the industrial base to improve CBP's chances of having long-term access to this technology, and allowing CBP to be less dependent on a particular vendor. According to Federal Acquisition Regulation 16.504(c), Contracting Officers must use multiple-award contracts to the maximum extent practicable.

Question 19: Was drug detection performance part of the criteria for selecting screening portal vendors? If so, please indicate how that was weighted in selection criteria.

Answer: Scan Quality was a technical performance parameter evaluated as part of the technical evaluation factor. Performance parameters included functional requirements surrounding system penetration, contrast sensitivity and spatial resolution image quality. CBP measured these image quality requirements in accordance with ANSI N42.46-2008.

The technical factor was evaluated as part of Phase 2 of the source selection process. The evaluation factors that apply for Phase 2 included: Factor 1 – Technical [Sub-factor 1 – Technical Approach; Sub-factor 2 – Management Approach], Factor 2 – Past Performance, and Factor 3 - Price.

The non-price factors above were listed in order of importance. Factor 1 was deemed more important than Factor 2. Subfactor 1 was deemed more important than Subfactor 2. Non-price factors, when combined, are significantly more important than price. The importance of price will increase if more than one offer is considered essentially equal in terms of their technical factors, or if a price is so significantly high as to diminish the value to the government of the proposal's technical superiority.

Question 20: Was cost part of the criteria for selecting screening portal vendors? If so, please indicate how that was weighted in selection criteria and explain how CBP chose to award an equal number of systems to each vendor, given three distinctly different configurations.

Answer: Yes, cost was a factor in the evaluation criteria. Cost is a consideration when we issue requests for quotation to vendors. Selection criteria permita the government to make a best value determination. The technical factor was evaluated as part of Phase 2 of the source selection process. The evaluation factors that apply for Phase 2 included: Factor 1 – Technical [Sub-factor 1 – Technical Approach; Sub-factor 2 – Management Approach], Factor 2 – Past Performance, and Factor 3 - Price.

Non-cost factors above were listed in order of importance. Factor 1 was deemed more important than Factor 2. Subfactor 1 was deemed more important than Subfactor 2. Non-cost factors, when combined, are significantly more important than cost. The importance of cost will increase if more than one offer is considered essentially equal in terms of their technical factors, or if a cost is so significantly high as to diminish the value to the government of the proposal's technical superiority.

The Orders were issued as the initial/minimum buys on the indefinite delivery/indefinite quantity (IDIQ). CBP stated in the IDIQ solicitation that CBP would issue orders for roughly equal system numbers. Part of the idea is that this would assist CBP in fielding the units faster since the production would be split between three vendors and improve production resilience in case one or two vendors could not ultimately produce the units.

Question 21: Is the expectation that all three configurations will detect equally?

Answer: CBP expects all three configurations will meet operational requirements for this technology. However, this does not preclude vendors from exceeding operational requirements.

Question 22: Has CBP evaluated and analyzed port seizures, intelligence of threats at ports of entry, and/or guidance from U.S. drug interdiction experts indicating drug concealment areas? If so, please provide the Committee with information on where contraband is increasingly being concealed and how this procurement helps identify these potential threat areas of the vehicle.

Answer: CBP Office of Intelligence consistently analyzes drug seizure data at and between ports of entry. The vast majority of CBP drug seizures occur at ports of entry in privately owned vehicles and commercial trucks. The loads are typically concealed within the structure and internal environment for privately owned vehicles, typically within door firewalls, gas tanks, car batteries, tire wells, spare tire compartments, within purpose-built hidden compartments, and any natural void that can fit a load. Commercial truck drug loads are typically within the tractor trailer structure, such as walls or ceiling, within the commodity of the trailer both concealed within the physical commodity and storage containers, loaded as rip loads within duffel bags or other easily removed storage in close proximity to the doors for quick removal, and within external compartments such as fire extinguishers, tire wells, and structural voids.

CBP deployed Large-Scale NII to aid in the interdiction of illicit contraband. Low-Energy Portal (LEP) – The LEP is a drive through NII system utilizing low radiation doses to image an occupied vehicle in motion in pre-primary, primary, and secondary. It provides a detailed vehicle images that allows operators to quickly identify organic compounds (drugs, currency, and explosives), high density objects, weapons, and stowaways.

Multi-Energy Portal (MEP) (Fixed) is a drive through NII system utilizing low radiation doses to image an occupied conveyance in pre-primary, post-primary and secondary. The system also has an X-ray feature that provides detailed images of container contents, even when there is heavy shielding. The radiation detection option detects and locates nuclear material, and the optical character recognition (OCR) option identifies containers as they are scanned.

Medium-Energy Mobile system offers high-quality detection capabilities in a compact mobile configuration. The system uses dual-energy transmission imaging to inspect trucks and cargo containers for weapons, explosives, drugs, and other contraband.

High-Energy Mobile system uses dual-energy transmission imaging to inspect trucks and cargo containers for weapons, explosives, drugs, and other contraband. The system itself, along with the associated radiation-controlled zone, is smaller than typical high-energy mobile systems, allowing operators to set up scanning areas at congested USBP checkpoints.

X-Ray undercarriage Inspection is a fixed, in-the-ground system that provides real-time undercarriage and lower vehicle imaging for officers and agents. This system is operationally deployed with MEP systems.

High-Energy Gantry is designed to penetrate dense cargo and conveyance for clear imaging of the presence of contraband, weapons, explosives, and drugs. This high-energy range of scanners is designed to optimize security checks at ports, airports, and border crossings.

Question 23: What percentage of the vehicle does CBP anticipate being scanned with the systems that include an under-vehicle system compared to those without an under-vehicle system?

Answer: Please see separate attachment.

Question 24: Is there a plan to address the lack of scanning coverage applied to the under-vehicle?

Answer: CBP's plan is to continue to utilize small-scale systems, physical search, canine teams, and intrusive tools to identify concealment of illicit substances.

Representative Hinson

Border Security Technology Acquisition

To: Acting Commissioner Troy Miller

The flexibility provided in the "border security pot" has caused lengthy internal reviews and approval processes for associated spend plans. Several technology and security programs are behind schedule or have no plans for acquisition and deployment. Autonomous Surveillance Towers (ASTs), for example, were provided $70 million in of the $250 million FY22 border security pot. This funding was delayed by months due to internal review and approval processes for spend plans at CBP; only 16 of the 74 ASTs funded in FY22 have been fielded. The border security funding pot lacks transparency to ensure that CBP is executing funding by Congress in a timely manner and ensure these capabilities are provided to agents in the field as soon as possible.

Question 25: Why does CBP continue to have lengthy delays in contracting and

deploying technology programs from the allocated "border security pot" of funding?

Answer: CBP worked to deploy technology as expeditiously as possible. In FY22 and FY23 the appropriations language required a report to Congress on the plan for all Procurement, Construction, and Improvement funding within 90 days of enactment, which is where the Border Security Technology funding resides. The FY22 DHS Appropriations Act (P.L. 117-103) was signed into law on March 15, 2022, and the FY22 "Expenditure Plan: U.S. Customs and Border Protection – Procurement, Construction, and Improvements" was delivered to Congress on May 31, 2022, (47 days). The FY23 DHS Appropriations Act (P.L. 117-328) was signed into law on December 29, 2022, and the FY23 "Expenditure Plan: U.S. Customs and Border Protection – Procurement, Construction, and Improvements" was delivered to Congress on March 24, 2023 (85 days). $242 million of the $276 million enacted for border security technology in FY22 was obligated in the four months that remained in FY 2022. This has been an exceptional 88 percent obligation rate, and CBP is on track to attain a similar obligation rate in FY 2023.

Two hundred and twenty-three (223) of the 282 Autonomous Surveillance Towers (AST) funded through FY22 were operational as of April 22, 2023. The remaining 59 ASTs will be operational by the end of this fiscal year. The additional 51 ASTs will be procured with funding received in FY23 and are planned for operational use by the end of FY24, bringing the total to 333, which is a 131 percent increase from FY21.

CBP is committed to the rapid deployment of technology between the ports of entry. However, several obstacles must be overcome. First, acquiring or gaining access to the real estate of operational relevance to place fixed and relocatable towers must occur. CBP, in partnership with the U.S. Army Corps of Engineers (USACE), is required by law to obtain legal possession of a property before installing technology or any other assets. It is always CBP's preference, in partnership with USACE, to acquire private property through a voluntary sale. The process to obtain legal possession starts with acquiring rights of entry for survey and exploration, followed by appraisal, then the landowner is presented with an Offer to Sell (OTS) which is negotiated. If the landowner(s) and USACE/CBP are unable to reach an agreement on an OTS, the landowner is unknown, or there is the absence of a clean title, it is referred to the local U.S. Attorney's Office (USAO) to initiate condemnation proceedings. The USAO attempts to negotiate an OTS before instituting condemnation proceedings. If unsuccessful, the USAO files a Declaration of Taking (DT) in the U.S. District Court in which the property is located. Upon filing the DT and depositing what the government estimates is just compensation for the property it is acquiring, the government has title to the property. The Government can access the property once the Court grants it possession. While this process has many steps, both CBP and USACE have years of experience with successful acquisition of real estate in accordance with the law, but this process does take time.

In addition, the National Environmental Policy Act (NEPA) establishes procedural requirements, applying that national policy to proposals for major Federal actions significantly affecting the quality of the human environment by requiring Federal agencies to prepare a detailed statement on: (1) the environmental impact of the proposed action; (2) any adverse effects that cannot be avoided; (3) alternatives to the proposed action; (4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and (5) any irreversible and irretrievable commitments of resources involved in the proposed action. NEPA ensures agencies consider significant environmental consequences of their proposed

actions and inform the public about their decision making, but this process takes time.

Finally, supply chain issues have lengthened the time it takes to deliver technology over the past two years. Despite these challenges, the amount of technology CBP deployed in the last two years is unprecedented. In FY22 and by the end of FY23 CBP will deploy 138 AST (96 percent increase), 56 Counter Unmanned Aircraft Systems (0 at the end of FY21), over 10,000 Incident Driven Video Recording Systems (0 at the end of FY21), 30 Mobile Surveillance Capability Lite systems (0 at the end of FY21) to replace the aging MSC fleet, more than 360 Small Unmanned Aircraft Systems (250 percent increase), nearly 19,000 Team Awareness Kits (0 at the end of FY21), four miles of Cross Border Tunnel Threat Persistent Surveillance Detection system equipment (200 percent increase), and 148 miles of Linear Ground Detection Systems (161 percent increase).

Question 26: Are these delays caused by bureaucracy within DHS or a failure of leadership to execute these funding programs in a timely manner?

Answer: CBP is committed to the rapid deployment of technology between ports of entry. However, several obstacles must be overcome. First, acquiring or gaining access to the real estate to place fixed and relocatable towers must occur. CBP, in partnership with the U.S. Army Corps of Engineers (USACE), is required by law to obtain legal possession of a property before installing technology or any other assets. It is always CBP's preference, in partnership with USACE, to acquire private property through a voluntary sale. The process to obtain legal possession starts with acquiring the rights of entry for survey and exploration, followed by appraisal and then the landowner is presented with an Offer to Sell (OTS) which is negotiated. If the landowner(s) and USACE/CBP are unable to reach an agreement on an OTS, the landowner is unknown, or there is the absence of a clean title, it is referred to the local U.S. Department of Justice (DOJ)/United States Attorney's Office (USAO) to initiate condemnation proceedings. USAO attempts to negotiate an OTS before instituting condemnation proceedings. If unsuccessful, the USAO files a Declaration of Taking (DT) in the U.S. District Court in which the property is located. Upon filing the DT and depositing what the government estimates is just compensation for the property it is acquiring, the government has title to the property. The Government can access the property once the Court grants it possession. While this process has many steps, both CBP and USACE have years of experience with successful acquisition of real estate in accordance with the law, but this process does take time.

In addition, the National Environmental Policy Act (NEPA) establishes procedural requirements, applying that national policy to proposals for major Federal actions significantly affecting the quality of the human environment by requiring Federal agencies to prepare a detailed statement on: (1) the environmental impact of the proposed action; (2) any adverse effects that cannot be avoided; (3) alternatives to the proposed action; (4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and (5) any irreversible and irretrievable commitments of resources that would be involved in the proposed action. NEPA ensures agencies consider the significant environmental consequences of their proposed actions and inform the public about their decision making, but this process takes time.

Finally, supply chain issues have lengthened the time it takes to deliver technology over the past

two years. Despite these challenges, the amount of technology CBP deployed in the last two years is unprecedented. In FY22 and by the end of FY23 CBP will deploy 138 AST (96 percent increase), 56 Counter Unmanned Aircraft Systems (0 at the end of FY 2021), over 10,000 Incident Driven Video Recording Systems (0 at the end of FY 2021), 30 Mobile Surveillance Capability Lite systems (0 at the end of FY 2021) to replace the aging MSC fleet, more than 360 Small Unmanned Aircraft Systems (250 percent increase), nearly 19,000 Team Awareness Kits (0 at the end of FY 2021), four miles of Cross Border Tunnel Threat Persistent Surveillance Detection system equipment (200 percent increase), and 148 miles of Linear Ground Detection Systems (161 percent increase).

Question 27: How do you envision border operations will be affected in FY24, as the Department's budget does not support the technology investments this Committee provided CBP?

Answer: CBP made strategic decisions to include any reductions across the budget. CBP has identified high priority areas and will prioritize resources to the most critical areas.

Question 28: How can we ensure that these technologies are procured and deployed as soon as possible?

Answer: CBP made strategic decisions to include any reductions across the budget. CBP has identified high priority areas and will prioritize resources to the most critical areas.

Autonomous Technology Between Ports of Entry

To: Acting Commissioner Troy Miller

Most "between the ports" border technology deployed over the last 20 years requires 24/7 manpower to operate. During my trips to the Southern Border, I met with agents and sector chiefs who have told me that leveraging autonomy through programs of record, such as the AST program, is a true force multiplier. Rather than manning legacy cameras in operations centers, autonomy enables agents to focus on safely and effectively performing their security and humanitarian missions.

Question 29: How has feedback from the border sectors (including feedback specifically from the agents and on-the-ground local law enforcement) about the value of autonomy shaped future procurements of between the ports technology, both with the resources Congress has provided as well as future technology procurements?

Answer: USBP envisions that future domain awareness technology will incorporate an autonomous backbone. Current surveillance systems will be enhanced to incorporate autonomy and all future deployments will require autonomy as a key functional requirement. Autonomous systems are capable of consistently executing redundant tasks such as persistent surveillance, enabling agent operators to return to the field. These autonomous features increase situational awareness and achieve greater consistency in meeting our key performance parameters across systems and operational domains. To achieve increasing levels of autonomy throughout all surveillance and intelligence systems, USBP will leverage current and future advances in artificial

intelligence (AI), machine learning, and commercial sensors designed for an ever-evolving, world that increasingly incorporates autonomous systems. USBP deployed 216 Autonomous Surveillance Towers (AST), as of the end of the second quarter FY23.

A total of 333 ASTs will be deployed with funding received to date. In addition, USBP is conducting a pilot for the USBP Common Operational Picture (COP) which will inform the development of functional requirements for the COP acquisition program. Funding received in FY23 will be used to develop and deploy COP to Douglas, Arizona, establishing Initial Operational Capability (IOC). This will include creating a common user interface using WebTAK, creating a unified targeting queue that integrates detections from Integrated Fixed Towers (IFT), Remote Video Surveillance Systems (RVSS), ASTs, imaging sensors, and Linear Ground Detection Systems (LGDS), as well as building out cloud infrastructure and applications, and continuing to work with USBP agents and human factors experts to design and build workflows.

Regarding feedback from the sectors about the value of autonomy shaping future procurements, USBP utilizes its Capability Gap Analysis Process (CGAP) to capture, develop and analyze operational gaps for current and future procurements. Examples of procurements based on such analysis are AST towers, USBP COP, and the Mobile Video Surveillance Systems – Radar (MVSS-R).

Additionally, all southern border sectors and stations completed technology laydown exercises to support their respective plans for achieving operational advantage of the border. The effort was facilitated by USBP Operational Requirements Management Division (ORMD) and included the participation of Sector and Station leadership, key planners and USBP Program Management Office Directorate (PMOD) technology Program Managers. This effort provides a mechanism for developing notional solution and laydowns informed by both operational and programmatic expertise.

Notional exercises inform resource allocation planning and provide a starting point for more comprehensive pre-deployment planning by PMOD. During an exercise, field commanders identify those capabilities required to gain operational advantage within their respective areas of responsibility. Key takeaways regarding the requirement for autonomous technology include the following:

- Field commanders identified autonomous surveillance solutions as a preference to traditional alternatives based on their improved force multiplying value.
- Autonomy allows agents to be more effective at maintaining awareness of border activity while conducting multiple mission essential tasks.
- Autonomous surveillance technology enables sectors that have limited command and control infrastructure the ability to effectively deploy and use persistent surveillance assets.
- Every USBP sector along the southern, northern, and coastal border environments identified ASTs as a solution to meeting persistent surveillance requirements.
- Collected solutions sets are notional in that they are not currently funded and remain subject to refinement by PMOD pre-deployment planning teams.
- Laydowns were built around current or currently expected operational conditions and are subject to change.

- Solution sets were created to reflect overall technology requirements and needs.
- Proposed solutions and laydowns emphasize the containment of illicit activity and compression of operations toward the immediate border to the extent possible.

Lastly, CBP and USBP Innovation Team efforts to identify, adapt, and deliver industry advances with autonomous functionality are a priority based on frontline personnel input upon utilizing these operational capabilities. Feedback on these early autonomous systems indicates enhanced situational awareness, accuracy of detections, and overall improvement in operational efficiencies and coverage.

Cross Border Tunnel Detection

To: Acting Commissioner Troy Miller

Cartels have been increasingly utilizing cross border subterranean tunnels for illicit purposes, such as smuggling drug paraphernalia and funneling drugs and weapons into the homeland at an unknown rate. CBP's Cross Border Tunnel Threat (CBTT) is intended to be a series of sensors to detect, classify, and locate subterranean activities. CBTT has been an established program of record since 2020. Now, three years later, despite at least one technological solution having passed systems acceptance testing as far back and two years ago, CBP has still yet to communicate any plans to deploy this technology to counter the threat.

Question 30: How much of the PC&I funding has CBP set aside for the CBTT program within the appropriated FY22 and FY23 funding allocation?

Answer: In FY22 PC&I funding, CBTT received a total of $6.731 million. Funding was used for software enhancement, MDTT seed funding, and adjudication support. In FY23 PC&I funding, CBTT received a total of $7 million. The funding is needed to complete the remaining three miles of Persistent Surveillance Detection (PSD) systems and adjudication support.

Question 31: What will the additional $5.2 million in Operations and Support funds appropriated in FY23 be used for?

Answer: The $5.2 million in enacted Operations and Support (O&S) funding supports PSD sustainment and three tunnel remediation projects.

Question 32: Why does the FY24 requested budget not provide support for the CBTT program of record?

Answer: The President's FY 2024 Budget maintains the baseline $2 million O&S funding.

Non-Intrusive Inspection Reprogramming

To: Acting Commissioner Troy Miller

Reprogramming unused funding within CBP for Non-Intrusive Inspection (NII) technologies would enhance screening technologies to combat the fentanyl and illicit drug trafficking crisis. Procuring and deploying CBP-tested passive scanning systems for secondary inspection at ports of entry should be a priority for countering smuggling. Deploying state-of-the-art cargo scanning systems that utilize muon tomography will support CBP in safely and efficiently conducting a secondary scan of containerized cargo that is naturally dense and/or densely packed. These types of containers are unable to be sufficiently scanned with the primary x-ray inspection technology deployed by CBP today.

Question 33: What is CBP doing to elevate the procurement and deployment of the new, passive scanning systems for non-intrusive inspection at our ports of entry?

Answer: CBP is continuously assessing scanning needs in multiple environments to identify capability gaps within the inspection process. CBP prioritizes needs and aligns those with evolving threats to ensure mission goals are met. Additional items of consideration include manufacture timelines, deployment coordination, funding requirements and test and evaluation results.

Mobile Surveillance Capability

To: Acting Commissioner Troy Miller

Mobile Surveillance Capabilities (MSCs) are critical to countering illegal border crossings and illicit activity between ports of entry. MSCs aid Border Patrol Agents in navigating the vastness of the US land borders and provide them with the support they need at the country's borders.

Question 34: What number of MSCs in the USBP inventory are at or near the end of useful life and require recapitalization to maintain the fleet.

Answer: The MSC program has a total inventory of 100 units (42 MSC-Lites and 58 MSCs). All 58 MSC units are at the end of their useful life. With available FY 2023 funding, the MSC program plans to replace 12 units, leaving 46 MSC systems that require recapitalization in the near term (FY 24-26) to replace with MSC-Lites or other existing truck-based surveillance capability with radar to maintain the same level of domain awareness. Long term (FY26 and beyond), future investment in the next generation of truck-based mobile surveillance system (i.e., Modular Mobile Surveillance System (M2S2)), are needed to leverage advancements in technology, autonomy, and multi-domain mission capability.

Question 35: Can the agency provide an update on the consideration of evaluation of kinetic and non-kinetic UAS payloads on the legacy MSCs or MSC-lites?

Answer: CBP will conduct a technology demonstration of two MSC-Lites that are integrated with a multi-domain (air, ground, and maritime) radar and counter-unmanned aerial systems (C-UAS) non-kinetic mitigation payloads. The purpose of the technology demonstration is to evaluate the effectiveness of an MSC-Lite performing a multi-domain mission and the agent operator's ability to detect, track, identify, classify, and mitigate drone targets with upgraded command and control

software. The technology demonstration will be completed in FY 2024.

Representative Case

Border Patrol Hiring Targets

To: Acting Director Troy Miller

Your Fiscal Year 2024 request would support the hiring of 350 additional border patrol agents. In Fiscal Year 2023, the Committee provided funding for 300 additional agents.

Question 36: Is Border Control on track to recruit 300 additional agents in Fiscal Year 2023? If not, what factors are negatively affecting recruitment and retention?

Answer: CBP has significantly bolstered efforts to increase the number and quality of applicants entering the pipeline by increasing its marketing and advertising spend plan to $1.5M per month to reach a wide-ranging audience. Key focus areas include providing a consistent value proposition to candidates spanning digital resources, applicant communications, and recruitment outreach. This targeted marketing and advertising (M&A) approach, including paid media buys, production of new creative materials such as social media imagery and videos, virtual recruitment events, and other innovative sourcing methods allowed CBP to take an agile, flexible approach to recruitment. In addition, in FY23, CBP increased the number of National Recruiter Courses to dramatically increase the number of recruiters available to bring applicants into the CBP hiring pipeline. Finally, in FY22, CBP began investing in data-driven recruiting and sourcing decisions to improve the quality of candidates and better understand the return on investment of sourcing activities. These investments have continued in FY23 with the goal of increasing the number of applicants while improving the quality of the applicant.

The U.S. Border Patrol is on track to recruit approximately 60,000 Border Patrol agent applications by the end of FY23. However, due to the increase in departures, both voluntary and mandatory, such as age-related retirements, USBP is likely to have more losses than gains by the end of FY23.

Counter Narcotics

To: Acting Director Troy Miller

Customs and Border Protection in Hawai'i screens international shipments for illegal drugs and other items. Given the large number of air and sea cargo shipments that must be screened, this can sometimes be like finding a needle in a haystack.

Question 37: How does your budget provide the resources and technology needed for cargo and air screening to keep pace with increasing volume?

Answer: We continue investing in our frontline officers and intelligence research specialists. The FY24 President's Budget requests 150 additional CBP officers. We will also pursue new and innovative technology to aid in layered enforcement and identification strategy efforts, to include safety measures for frontline personnel and procurement of advanced detection and identification tools to support our fight against this ever-evolving threat. The FY24 President's Budget requests a $305.4 million investment in Non-Intrusive Inspection (NII) technology for land border, express, and mail environments to provide additional NII tools to CBP officers helping them keep pace with increased narcotics risk, such as fentanyl, in those environments.

Question 38: What steps has Customs and Border Protection taken to work with the interagency and international partners to pursue bad actors shipping narcotics?

Answer: Please see separate attachment.

Representative Trone

To: Troy A. Miller, Acting Commissioner, U.S. Customs and Border Protection

Non-intrusive inspection (NII)

The challenges facing CBP are substantial and dynamic, requiring the soonest possible access to new, more effective technologies. Over the last few years, Congress has increased the funding for CBP to close the vehicle scanning capacity gap and increase the probability of interdiction. CBP's Innovation Team has been very successful in identifying and demonstrating promising new commercial technologies, but more work is required to capitalize on Congress' investment in innovation by more quickly transitioning successful technologies into CBP's base budget.

Question: 39. How many locations along the Southwest Border have pre-primary systems already been deployed?

Answer: Three Southwest Border Land Port of Entry locations are currently operating NII systems in pre-primary inspection. Brownsville, TX (Veterans International Bridge) has two Multi-Energy Portals (MEP) to scan commercially occupied vehicles and six Low-Energy Portals (LEP) to scan passenger occupied vehicles at Anzalduas, TX, and Donna, TX; both have three LEPs, respectively.

Question: 40. What is the FY23 scale-up plan for pre-primary systems?

Answer: Please see attachment titled, "LS NII Deployment Status May 1, 2023", which includes the status of CBP systems planned for deployment with prior year funds. CBP does not have activities or resources to procure additional systems beyond the unit quantities included in the attachment.

Question: 41. What is the most recent data on NII scans of passenger vehicles and fixed occupant commercial vehicles crossing the Southwest Border?

Answer: The following includes number of scans through April 2023 for El Paso, Laredo, San Diego, and Tucson Field Offices.

Table 2 – LS NII Exams between 10/1/2022 and 4/30/2023
(Selected Field Offices: El Paso, Laredo, San Diego, Tucson)

Conveyance Type	# of LS NII Exams
Passenger Occupied Vehicles	1,818,436
Commercial Occupied Vehicles	827,059
Bus	81,254
Railcar	1,099,779
Total	**3,826,528**

Source: Equipment Transactional Platform, accessed on May 4, 2023.

Below are pre-primary Non-Intrusive Inspection scan rates for passenger occupied vehicle (POV) and commercially occupied vehicle (COV) crossings for March and April 2023. At the two locations below, POVs are scanned using three Low-Energy Portals (LEPs) currently operational at Anzalduas, TX, and COVs are scanned using two Multi-Energy Portals (MEPs) currently operational at the Veterans International Bridge in Brownsville, TX.

	Anzalduas (POV/LEP)			Brownsville (COV/MEP)		
	March 2023	April 2023	March + April 2023	March 2023	April 2023	March + April 2023
Total Crossings	131,681	125,712	257,393	22,825	19,248	42,073
Total Pre-Primary Scans (LEP/MEP)	93,663	97,383	191,046	12,888	12,734	25,622
Total Pre-Primary Scan Rates	71%	77%	74%	56%	66%	61%

NII capabilities gap analysis

For large-scale NII systems (Multi-Energy and Low-Energy Portals, and any other advance, large-scale NII that CBP is considering procuring)

Question: 42. Where is CBP currently with regards to the number of systems you have committed to acquire versus the number actually deployed?

Answer: Please see the attachment titled, "LS NII Deployment Status May 1, 2023," which includes the status of CBP systems planned for deployment with prior year funds.

Question: 43. Of the total number of systems ordered, how many have been paid for fully or partially?

Answer: CBP obligated funding to procure all Drive Through NII systems placed on contract (35 Multi-Energy Portal and 88 Low-Energy Portal systems).

Question: 44. To date, CBP has failed to request adequate funding to address unfunded requirements for civil works, installation, and site prep for previously funded NII equipment to

be deployed in pre-primary lanes at LPOEs. Can you explain the FY24 plan to address the total amount of funding needed to successfully install the procured NII and additional NII planned to be procured?

Answer: Through the FY24 President's Budget, CBP requested $201 million (of $305.4 million) for civil works activities for drive-through NII deployments. If received, funds will be executed on civil work activities to deploy the drive-through NII systems at SWB LPOEs. The request supports funding required for infrastructure modifications, increases in costs for construction materials, circuit costs, traffic controls, and public information signage. An additional $79.7 million of the total FY24 request was included to support the procurement of the following NII systems:

- $65.3 million to procure and deploy 10 systems to enhance narcotic detection at nine locations in the Southwest.
    - $36.4 million to procure and deploy four Multi-Energy Portals to increase commercially occupied vehicle scanning at four Southwest Border Land Port of Entry (LPOE) locations.
    - $14.6 million to procure and deploy five additional Low-Energy Portals for passenger occupied vehicles (POV) at four Southwest Border LPOEs.
    - $14.3 million to procure and deploy one High-Energy Rail system at one ferry seaport with inbound cargo from Mexico.
- $14.4 million for 17 Advanced Inspection Technology and Algorithm Detection capabilities at approximately 10 Mail and Express Consignment Facilities.
    - $13.2 million to procure up to 17 advanced CT scanners for deployment at a minimum of 10 mail and express consignment courier facilities.
    - $1.25 million to support automation/machine learning to support de minimis targeting. Funding will be utilized to identify and leverage automated solutions to assist CBP in identifying threats.

Question: 45. To what extent currently do these advanced NII systems incorporate AI/machine learning capabilities?

Answer: Currently the systems do not incorporate any AI/machine learning capabilities.

Question: 46. Can CBP brief the Subcommittee on its current processes for considering investments in new operational technologies and technology services evaluated through the Innovation Team, along with any plans for improving those processes to more timely transition successful technologies to enduring operations?

Answer: Yes, the CBP Innovation Team would be pleased to brief the Subcommittee, and will reach out to arrange the briefing.

WITNESSES

	Page
Criswell, Hon. Deanne, Administrator, Federal Emergency Management Agency	63
Prepared statement	65
Answers to submitted questions	95
Fagan, Admiral Linda, Commandant, U.S. Coast Guard	111
Prepared statement	113
Answers to submitted questions	140
Johnson, Tae, Acting Director, Immigration and Customs Enforcement	4
Prepared statement	6
Answers to submitted questions	42
Miller, Troy, Acting Commissioner, U.S. Customs and Border Protection	151
Prepared statement	154
Answers to submitted questions	193

3935

THE BIDEN BORDER CRISIS: EXPLOITATION OF UNACCOMPANIED ALIEN CHILDREN

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

WEDNESDAY, APRIL 26, 2023

Serial No. 118–16

Printed for the use of the Committee on the Judiciary



Available via: *http://judiciary.house.gov*

U.S. GOVERNMENT PUBLISHING OFFICE

51–996 WASHINGTON : 2023

COMMITTEE ON THE JUDICIARY

JIM JORDAN, Ohio, *Chair*

DARRELL ISSA, California
KEN BUCK, Colorado
MATT GAETZ, Florida
MIKE JOHNSON, Louisiana
ANDY BIGGS, Arizona
TOM McCLINTOCK, California
TOM TIFFANY, Wisconsin
THOMAS MASSIE, Kentucky
CHIP ROY, Texas
DAN BISHOP, North Carolina
VICTORIA SPARTZ, Indiana
SCOTT FITZGERALD, Wisconsin
CLIFF BENTZ, Oregon
BEN CLINE, Virginia
LANCE GOODEN, Texas
JEFF VAN DREW, New Jersey
TROY NEHLS, Texas
BARRY MOORE, Alabama
KEVIN KILEY, California
HARRIET HAGEMAN, Wyoming
NATHANIEL MORAN, Texas
LAUREL LEE, Florida
WESLEY HUNT, Texas
RUSSELL FRY, South Carolina

JERROLD NADLER, New York, *Ranking Member*
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
STEVE COHEN, Tennessee
HENRY C. "HANK" JOHNSON, JR., Georgia
ADAM SCHIFF, California
DAVID N. CICILLINE, Rhode Island
ERIC SWALWELL, California
TED LIEU, California
PRAMILA JAYAPAL, Washington
J. LUIS CORREA, California
MARY GAY SCANLON, Pennsylvania
JOE NEGUSE, Colorado
LUCY McBATH, Georgia
MADELEINE DEAN, Pennsylvania
VERONICA ESCOBAR, Texas
DEBORAH ROSS, North Carolina
CORI BUSH, Missouri
GLENN IVEY, Maryland

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

TOM McCLINTOCK, California, *Chair*

KEN BUCK, Colorado
ANDY BIGGS, Arizona
TOM TIFFANY, Wisconsin
CHIP ROY, Texas
VICTORIA SPARTZ, Indiana
JEFF VAN DREW, New Jersey
TROY NEHLS, Texas
BARRY MOORE, Alabama
WESLEY HUNT, Texas

PRAMILA JAYAPAL, Washington, *Ranking Member*
ZOE LOFGREN, California
J. LUIS CORREA, California
VERONICA ESCOBAR, Texas
SHEILA JACKSON LEE, Texas
DEBORAH ROSS, North Carolina
DAVID N. CICILLINE, Rhode Island
ERIC SWALWELL, California

CHRISTOPHER HIXON, *Majority Staff Director*
AMY RUTKIN, *Minority Staff Director & Chief of Staff*

C O N T E N T S

WEDNESDAY, APRIL 26, 2023

OPENING STATEMENTS

Page

The Honorable Tom McClintock, Chair of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of California 1
The Honorable Pramila Jayapal, Ranking Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Washington 3
The Honorable Jerrold Nadler, Ranking Member of the Committee on the Judiciary from the State of New York 5

WITNESSES

Robert Carey, Principle, Migration Works LLC
Oral Testimony 7
Prepared Testimony 10
Jessica Vaughan, Director of Policy Studies, Center for Immigration Studies (CIS)
Oral Testimony 15
Prepared Testimony 17
Sheena Rodriguez, Founder and President, Alliance for a Safe Texas
Oral Testimony 27
Prepared Testimony 29
Tara Lee Rodas, HHS Whistleblower, Federal Inspector General Employee
Oral Testimony 32
Prepared Testimony 34

LETTERS, STATEMENTS, ETC. SUBMITTED FOR THE HEARING

All materials submitted for the record by the Subcommittee on Immigration Integrity, Security, and Enforcement are listed below 61

Materials submitted by the Honorable Andy Biggs, a Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Arizona, for the record
A letter to Assistant Secretary Contreras, Assistant Secretary of the Administration for Children and Families (ACF), Oct. 24, 2022
A letter from the Administration for Children and Families' (ACF), Office of Refugee Resettlement, Jan. 10, 2023
Statement from Robin Dunn Marcos, Director of the Office of Refugee Resettlement, submitted by submitted the Honorable Jerrold Nadler, Ranking Member of the Committee on the Judiciary from the State of New York, for the record
Materials submitted by the Honorable Pramila Jayapal, Ranking Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Washington, for the record
An article entitled, "Meet Latin America's First Millennial Dictator," Aug. 26, 2021, Slate
An article entitled, "Why El Salvador's president Nayib Bukele wants everyone to know about his new prison," Mar. 7, 2023, CNN

Page

A press release entitled, "FACT SHEET: Unaccompanied Children (UC) Program," Apr. 17, 2023, Administration for Children and Families, Press Office, submitted by the Honorable Veronica Escobar, a Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Texas, for the record

APPENDIX

Materials submitted by the Honorable Pramila Jayapal, Ranking Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Washington, for the record
- A statement from Kids in Need of Defense (KIND)
- A collaborative statement from the Church World Service, First Focus on Children, Women's Refugee Commission, Legal Aid Justice Center, National Immigrant Justice Center, the Young Center, Michigan Immigrant Rights Center, and Save the Children
- A statement from the Young Center for Immigrant Children's Rights
- An article entitled, "Meet Latin America's First Millennial Dictator," Aug. 26, 2021, The Slate Group

A statement from the Honorable Jackson Lee, a Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Texas, for the record

THE BIDEN BORDER CRISIS: EXPLOITATION OF UNACCOMPANIED ALIEN CHILDREN

Wednesday, April 26, 2023

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

COMMITTEE ON THE JUDICIARY

Washington, DC

The Subcommittee met, pursuant to notice, at 3 p.m., in Room 2141, Rayburn House Office Building, Hon. Tom McClintock [Chair of the Subcommittee] presiding.

Members present: Representatives McClintock, Biggs, Roy, Spartz, Van Drew, Nehls, Moore, Jayapal, Nadler, Escobar, Jackson Lee, Ross, Cicilline, and Swalwell.

Mr. MCCLINTOCK. The hour of 3:00 has arrived, and a quorum being present, the Subcommittee will come to order.

Without objection, the Chair is authorized to declare a recess at any time.

I want to welcome everyone to today's hearing on the Biden border crisis and the unaccompanied alien children crisis that has accompanied it.

I will now recognize myself for an opening statement.

On Inauguration Day our border was secure. The Remain in Mexico policy had slowed illegal immigration to a trickle, court-ordered deportations were being enforced, and the border wall was nearing completion. By the afternoon of that day, Joe Biden had reversed these policies, producing the largest illegal mass migration in history.

In the last 27 months, they deliberately admitted two million illegal aliens into our country, a population larger than the State of Nebraska. While the Border Patrol was overwhelmed, another 1.5 million known got-aways have entered as well. That is an additional illegal population larger than the entire State of Hawaii.

The Trump policy slowed encounters of unaccompanied children to 33,000, the lowest level in eight years. In the last fiscal year, a record 152,000 came across. That is almost a fivefold increase.

Biden had exactly the same tools available to him as Trump, so it should be obvious that this is a deliberate policy that ignores not only the welfare of Americans but that of the migrant children as well.

On a border trip last year, I asked a CBP officer how to stop the trafficking of children into this country. His answer was immediate: get them safely home.

He said the cartels charge thousands of dollars to traffic these children, and they don't give refunds. The moment children are returned home, their business will dry up.

On another border trip I was shocked to learn that no effort is made to get these children back to their homes, and very little effort is made vetting the so-called sponsors of these children, and very little is shown in following up on their welfare once they are abandoned to these so-called sponsors.

So, what happens to them? The administration's response is basically don't know, don't care. A recent *The New York Times* investigation shed some light on this question.

After they get to the U.S., many are forced by their so-called sponsors into dangerous jobs with fake identity documents. Earlier this year a sanitation company, employing over 100 illegal alien children in jobs in slaughterhouses and meatpacking plants in the Midwest, paid $1.5 million of civil penalties after a Federal court found that these children were using caustic chemicals to clean razor-sharp saws, and working overnight shifts.

In one of the great ironies of bill titles, the Trafficking Victims Protection Reauthorization Act of 2008 makes this possible. While children from Mexico and Canada are immediately sent safely home, all others are admitted. That is a tremendous incentive to send unaccompanied children to the border.

In 2014, even the Obama Administration recognized the danger and asked Congress to provide it with,

> ... additional authority to exercise discretion in processing the return and removal of unaccompanied minor children from non-contiguous countries like Guatemala, Honduras, and El Salvador.

The House passed a bill to do just that, but Senate Democrats blocked it.

The Trump Administration was able to staunch the flow with new and strict requirements to ensure the safety of these children once placed with a sponsor, as well as Title 42 expulsion authority. In 2021, the Biden Administration dismantled Trump era requirements to vet sponsors and perform background checks for individuals in the sponsor household, many of whom are involved in smuggling the children in the first place. The Biden Administration stopped subjecting them to Title 42.

We now know that the administration simply lost track of over 85,000 of these children. In September 2022, *Axios* reported that,

> ... roughly one in three follow-up calls made to released migrant kids or their sponsors between January and May went unanswered.

Don't know, don't care.

According to *The New York Times*, the cabinet secretary responsible for these children, Xavier Becerra, likened the sponsor placement process to an assembly line that wasn't moving fast enough. He complained,

> If Henry Ford had seen this in his plant, he would never have become rich and famous. This is not the way you do an assembly line.

Last week this Committee approved a bill that would help stop this tragedy by returning these children safely home, as we already do for children coming from Mexico or Canada. No Democrat supported our bill. I am hopeful that after hearing the testimony of our witnesses our colleagues will rethink their opposition to this long-overdue reform.

Although we are focusing today on young and vulnerable children, we should note that a large majority of so-called unaccompanied children are late teenagers or young men claiming to be minors. That is a subject for another day.

I am now pleased to recognize the Ranking Member for five minutes.

Ms. JAYAPAL. Thank you, Mr. Chair.

Since this is the first Immigration Subcommittee hearing of the 118th Congress, I just want to start by congratulating you on becoming Chair, and also saying how honored I am to serve as Ranking Member.

As the first South Asian American woman elected to the House, I came to this country by myself at the age of 16. It took me 17 years on an alphabet soup of visas to actually become a U.S. citizen.

Prior to coming to Congress, I devoted a decade-and-a-half to working on the issue of fair and humane immigration policy. So, this is an issue that is both personal and collective for me. I am very proud to be the first immigrant to serve as either Ranking or Chair of this Subcommittee.

Looking forward to working with you and being in a position to help shape the debate of reforming our immigration system around the values of dignity, humanity, and respect.

I also want to sincerely thank Representative Zoe Lofgren who has for the last 15 years either Chaired or been the Ranking Member of the Immigration Subcommittee. She is a stellar champion for a working and humane immigration system. I know she is going to continue to be an invaluable resource for this Committee and for our whole Congress.

Now, to the work of the hearing.

Unfortunately, between the hearings that we have held and the cruel, extreme, and unworkable immigration legislation that was marked up last week, this majority is once again showing that they are not serious about finding real solutions to fix our complex immigration system.

This hearing is ostensibly about showing that the majority cares about the exploitation of children. Just last week, the same majority passed legislation out of this Committee that would actually gut protections for unaccompanied children. That bill passed out of Committee with not a single Democratic vote, and even Republican colleagues decrying the bill as extreme, un-American, and not ready for prime time.

Specifically, that bill would allow unaccompanied children to languish in Border Patrol facilities for up to a month; it would force children to appear within two weeks before an immigration judge, with no access to an attorney; and it would send children back to their home countries where they are at high risk for exploitation and abuse.

The bill would decimate the bipartisan Trafficking Victims Protection Reauthorization Act, which Congress passed on a sweeping bipartisan basis, and establish the U.S. Government's central framework for keeping unaccompanied children out of the hands of trafficking.

Democrats want to protect children, not make it even more difficult for them to be safe. We have got more work to do, real serious work to make that happen.

I was heartbroken reading *The New York Times* articles about young children who are being taken advantage of by unscrupulous sponsors and employers, and the potential warning signs that were missed. This increase in child labor is actually a trend that has been steadily on the rise, especially since 2018 under the former President. It is completely unacceptable.

That is why I was very pleased to see that the Office of Refugee Resettlement has announced an audit of their sponsor vetting process. I look forward to seeing the results of that audit.

I was also encouraged by the Department of Labor, and Health and Human Services' recent announcement of a variety of new efforts to combat exploitative child labor, including a new interagency task force to improve coordination and information sharing among agencies.

At the same time, we know that the Office of Refugee Resettlement and the administration overall need more resources to do more to ensure the safety of kids. We in Congress have a responsibility to provide sufficient funding to those agencies to do this critical work.

That includes funding to increase post-release services for children after they are placed with a sponsor, as well as increased appointment of counsel. Improvement in both of these areas will help protect children from mistreatment, exploitation, and trafficking.

The Department of Labor also needs to be more aggressive in going after these unscrupulous employers to the fullest extent of the law. Many of these employers, by the way, were using E-Verify, which just goes to show how ineffective that system is, which was in the majority's bill last week. They should be held accountable for hiring kids and subjecting them and all workers to harsh conditions.

Every policy is about real human beings. So, I just want to close with a success story of an unaccompanied child who came to the United States a few years ago.

Fifteen-year-old Alejandra fled the gangs of El Salvador with her 10-year-old brother and sought safety here in the United States. Here, they reunited with their mother after being separated for 10 years.

When she arrived in the United States, Alejandra did not speak English. She had problems understanding her teachers and she debated dropping out of school. She drew inspiration from her mother and from the support network around her, including the legal representation that she was fortunate to obtain. She persevered.

She ended up graduating high school as the salutatorian of her class, and going to George Washington University on a full ride, where she majored in biology.

There are so many Alejandras out there waiting for Congress to help keep them safe and help them succeed by passing humane immigration laws. That is what we should be focused on today.

I look forward to hearing from our witnesses today. The protection of children from exploitation, abuse, and trafficking should be a bipartisan issue. I hope my colleagues approach it that way today.

I yield back.

Mr. MCCLINTOCK. Thank you.

We have with us the Ranking Member of the House Judiciary Committee. Mr. Nadler is recognized for five minutes for an opening statement.

Mr. NADLER. I thank the gentleman.

Mr. Chair, today's hearing would have been more appropriate to conduct last week, before the Republican majority marked up its extreme, enforcement-only immigration legislation. The majority's supposed concern for the exploited children that are the subject of today's hearing is hard to reconcile with a bill that would render unaccompanied children more vulnerable to exploitation and abuse.

That legislation would eliminate the right of many unaccompanied children at the border to seek protection in Immigration Court from human trafficking and other dangers, and to receive robust screenings by child welfare experts for evidence of mistreatment.

That legislation would leave these unaccompanied children with the right merely to cursory screenings by law enforcement personnel lacking child welfare expertise, screenings that would largely fail to identify signs of trafficking and exploitation.

This would lead to the summary return of too many children with valid protection claims, the same dangers they fled.

Even more alarmingly, the Republicans' bill would subject unaccompanied children to detention in jail-like Customs and Border Protection facilities for up to 30 days, 10 times longer than what is permitted under current law.

Unaccompanied children would undergo their first Immigration Court hearing within 14 days of their border screening. This would leave them with almost no time to obtain counsel, to understand their legal options, or, in many cases, to comprehend what a court hearing even is, much less to demonstrate their eligibility for legal protection from trafficking and other mistreatment.

As if that is not bad enough, the bill would prohibit Health and Human Services from funding counsel for unaccompanied children, stripping thousands of children of the lawyers they depend on to protect them from exploitation and other harm.

As we pointed out last week, many of the components of the bill were not discussed in a hearing this Congress. That makes sense, given that we are four months in, and this is the first hearing the Immigration Subcommittee has held.

It is too bad, because if this Subcommittee had met earlier, we could have also discussed the flaws of the E-Verify system. Some of the companies that employed and exploited the children who were the subject of recent reporting, used the E-Verify system to ensure that their employees are eligible to work. It clearly did not work correctly, or it was abused.

It would have been helpful, before we marked up legislation that mandated nationwide E-Verify, to learn about these issues.

We could have discussed how H.R. 2640 contains modest protections for authorized workers, but it assigns no penalties to employers who violate these protections under E-Verify, rendering these provisions practically meaningless.

Yes, I think the Committee would have learned a lot if it had actually held a hearing on this issue before marking up that cruel and extreme piece of legislation.

At last week's markup we heard a lot from our Republican colleagues about the so-called missing 85,000 kids, as reported by *The New York Times*. Let's be clear, that headline was misleading when such allegations were made against the Office of Refugee Resettlement under the previous administration, and it is misleading today. We will discuss that issue in greater detail during the hearing.

However, *The New York Times* reporting of children unlawfully working in factories, slaughterhouses, and other dangerous jobs is very concerning. ORR and the Department of Labor have taken some positive steps forward to address these issues.

Make no mistake, more must be done. That will take significant resources devoted to both agencies, agencies that would likely see draconian cuts if the Republicans were successful in their efforts to hold our economy hostage to their extreme debt reduction demands or they threaten a catastrophic default on our Nation's credit.

As we consider Federal efforts to address the exploitation of children, it is not helpful that in multiple Republican legislatures across the country States are loosening their child labor laws to allow children to lawfully work in some of these dangerous occupations.

The fact that Republicans are actively making it easier for young teenagers to work in assembly line plants, slaughterhouses, and night shifts in States like Iowa and Arkansas, is appalling. It only encourages the exploitation of these vulnerable children.

It is hard to take seriously the party that boasts of its concerns for exploited children, while simultaneously stripping vital protections from unaccompanied children, promoting policies that would create the conditions for these children to be exploited, and then starving agencies of the resources necessary to protect them from exploitation.

If Republicans want to engage in a serious effort to protect children, Democrats stand ready to work with you.

I look forward to hearing from the witnesses today. I yield back the balance of my time.

Mr. MCCLINTOCK. Thank you.

Now we are very honored to have four witnesses with us today.

Ms. Tara Lee Rodas is a Federal employee with the Council of the Inspectors General for Integrity and Efficiency. She is speaking to us today in her personal capacity as a whistleblower who witnessed and reported the harm and danger to unaccompanied alien children while working as a volunteer with the Office of Refugee Resettlement in the Department of Health and Human Services.

She worked at the Pomona Emergency Intake Site in California that housed and processed thousands of unaccompanied alien children arriving at the southwest border in 2021.

Ms. Sheena Rodriguez is the founder and President of the Alliance for a Safe Texas. She is a mother and former teacher who founded the Alliance for a Safe Texas during the current border crisis. As part of her work, she has interviewed many women and children who have crossed our southwest border and has testified before the Texas State Legislature regarding the impacts of the border crisis.

Ms. Jessica Vaughan is the Director of Policy Studies for the Center for Immigration Studies, a Washington, DC, based research institute that examines the impact of immigration on American society. Her area of expertise is immigration policy and operations, covering topics such as unaccompanied alien children, visa programs, immigration benefits, and immigration enforcement.

Finally, Mr. Robert Carey served as the Director of the Office of Refugee Resettlement within the U.S. Department of Health and Human Services under the Obama Administration. Prior to his service at ORR, he served as Vice President of Resettlement and Migration Policy at the International Rescue Committee.

Mr. Carey has served as Chair of the Refugee Council of the United States of America.

I want to welcome all our witnesses and thank you for appearing. We will begin by swearing you in.

Would you please rise and raise your right hand.

Do you swear or affirm under penalty of perjury that the testimony you are about to give is true and correct to the best of your knowledge, information, and belief, so help you God?

[Witnesses sworn.]

Mr. MCCLINTOCK. Great. Thank you very much.

Let the record reflect that the witnesses have answered in the affirmative.

Please know that your written testimony will be entered in the record in its entirety. Accordingly, we would ask that you summarize your testimony in five minutes.

Mr. Carey, why don't we begin with you?

STATEMENT OF ROBERT CAREY

Mr. CAREY. Thank you, Mr. Chair, Ranking Member, and Members of the Subcommittee for the opportunity to appear before you today.

I am Bob Carey. I was the Director of the Office of Refugee Resettlement, ORR, in the Department of Health and Human Services, from March 2015–January 2017.

ORR, in addition to its work on behalf of refugees, asylees, and other vulnerable populations, is responsible for the care and maintenance of unaccompanied children while they are in U.S. Government custody, and their placement with U.S.-based sponsors while they go through their immigration proceedings. The placement process includes vetting of sponsors to verify their relationship to the child and the suitability of the placement.

The overwhelming majority of sponsors are immediate or close family members.

The vetting process is rigorous and is derived from a range of sources, including records obtained from the countries of origin through their U.S. consulates, and documentation provided by U.S.-based sponsors. There are, however, limitations on ORR's capacity to review information obtained both prior to and after the release of children.

The office, and the agency in which it is housed, are not investigative or law enforcement bodies. Many of the children profiled in recent coverage were taken into custody at our southern border. They faced physical and sexual violence, human trafficking, forced gang recruitment, and the very real possibility of death in their home countries and in flight. Rather than fall prey to these forces, they fled, often to join family in the U.S.

They remain vulnerable even after arriving. It has been alleged that approximately 85,000 children have been "lost by ORR." In fact, most of these children were released to the care of a parent or close relative. I believe that failure to respond to follow-up phone call from an unknown phone number does not constitute being lost.

Recent investigations have documented the use of child labor in workplaces in the U.S., including, among others, unaccompanied children admitted to the U.S. pending adjudication of their asylum claims. There are multiple explanations for this: Inadequate funding and enforcement of existing child protection and labor laws, outdated statutes that allow large corporations to skirt workplace responsibility by using intermediaries, partisan politics designed to divide and demonize foreign-born people, and insufficient coordination among government agencies, among others.

Since I left ORR, Congress has repeatedly directed ORR to enhance protections for children. In response, ORR has dramatically increased the number of children who received post-release services. Properly implemented, post-release social services, often referred to as PRS, are essential to ensuring the safety, stability, and transition to permanency of unaccompanied children released from Government custody to sponsors in the United States.

I am pleased to see ORR's progress, as I believe these vital services are vital tools to ensure a child's safety while they go through Immigration Court processes. Further, ORR has stated that it plans to provide legal representation to 100 percent of unaccompanied children by the end of Fiscal Year 2027, which is an essential objective.

No less crucial for protecting children is access to an attorney. Currently many, if not most, unaccompanied children lack an attorney. The TVPRA requires that, "to the maximum extent practicable," HHS ensure legal counsel for unaccompanied children "to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking." This includes mistreatment and exploitation in the workplace.

Providing unaccompanied children with attorneys for the duration of their case is one of the best ways to intervene early when children are working in illegal and dangerous conditions and, thus, to protect them from abuse.

Attorneys also help evaluate children's eligibility for legal protections and supportive services specifically designed for survivors of trafficking, severe crimes, and abuse. This includes work authoriza-

tion, where eligible, which helps older teenagers access safe, lawful, and appropriate employment; and serves as a bulwark against dangerous working conditions, wage theft, and other labor abuses in the unregulated workforce.

Let me conclude by reiterating that unaccompanied children are by and large children in need. When the exploitation of underage, unaccompanied children occur, it required multiple failures.

The solutions require addressing all five of these factors:

(1) Accountability for those who exploited children;
(2) Accountability for those that profit from child-labor exploitation;
(3) Expanded and enhanced access to post-release services, legal services, and child advocates;
(4) Expanded legal authority and resources to act affirmatively to investigate possible child-labor exploitation and to provide protection to affected children;
(5) Better communication across Federal agencies.

Also, ORR can do a better job of protecting children.

Mr. MCCLINTOCK. Mr. Carey, I am sorry to interrupt, but your time expired about a minute ago.

Mr. CAREY. Right. Thank you for your time.

Mr. MCCLINTOCK. We will be getting to you with questions.

Mr. CAREY. Thank you.

[The prepared statement of Mr. Carey follows:]

Testimony of Robert Carey,

Principal, Migration Works LLC,

Subcommittee on Immigration, Integrity, Security, and Enforcement

House Judiciary Committee

Thank you for the opportunity to appear before you today.

My name is Bob Carey. I was the Director of the Office of Refugee Resettlement (ORR) in the Administration for Children and Families in the Department of Health & Human Services (HHS) from March of 2015 through January of 2017.

ORR, in addition to its work on behalf of refugees, asylees and other vulnerable populations, is responsible for the care and maintenance of unaccompanied children while they are in U.S. government custody and their placement with U.S. based sponsors while they go through immigration proceedings. The placement process includes vetting sponsors to verify their relationship to the child and the suitability of the placement. The overwhelming majority of sponsors are immediate or close family members. During the time that I was at ORR, this cohort accounted for approximately 95 percent of the unaccompanied children population.

The sponsor and family reunification vetting process involves consulting a range of sources, including records obtained from countries of origin through their U.S. consulates and documentation provided by U.S.-based sponsors. There are, however, limitations on ORR's capacity to review information obtained both prior to and after the release of children. The office, and the agency in which it is housed, are not investigative or law enforcement bodies. Beyond the limited role granted to them by Congress and the administration, they do not possess the mandate, resources, expertise or scope of authority to conduct law-enforcement types of investigations either prior to and after the release of a minor (at which point ORR legal authority ends). In fact, one reason Congress in the Homeland Security Act assigned HHS responsibility for the care and custody of children was to ensure that they would be quickly moved out of an agency with a law enforcement mandate and into one concerned with child and family well-being.

Many of the children profiled in recent media coverage were taken into custody at our southern border. They faced physical and sexual violence, human trafficking, forced gang recruitment and the very real possibility of death in their home countries and in flight. Rather than fall prey to these forces, they fled, often to join family in the U.S. They

remain vulnerable even after arriving. It has been alleged that approximately 85,000 children have been "lost by ORR." In fact, most of these children were released to the care of a parent or close relative. The conclusion that they were "lost" stems in large part from their failure to respond to a follow-up phone call from an unknown phone number; for children who are often fleeing criminal actors seeking money, not answering such a phone call does not constitute being lost.

Recent media and government investigations have documented the use of child labor in dangerous and inappropriate workplaces in the United States; these reports have involved, among others, unaccompanied children admitted to the country pending adjudication of their asylum claims. Unaccompanied children are vulnerable, and the newest investigations demonstrate that some have been exploited by employers, often laboring for staffing agencies or contractors performing work for prominent US companies and brands.

Investigations have also revealed that this exploitation is taking place in businesses across the US and in multiple industries. There are myriad explanations for this: inadequate funding and enforcement of existing child protection and labor laws, outdated statutes that allow large corporations to skirt workplace responsibility by using intermediaries, partisan politics designed to divide and demonize foreign-born people, and insufficient coordination among government agencies, among others.

Our immigration system is broken. Too often, families are separated, making children more vulnerable to exploitation. ORR has taken meaningful steps to improve outcomes for unaccompanied children, bringing more child welfare expertise to ORR, ensuring that children get to family swiftly, and whenever possible, keeping families together. Under this administration, tens of thousands of children have been released to caring family members, minimizing children's time in congregate care in line with best practice in child welfare. Many of these children are thriving.

Nevertheless, the problem of exploitation is much bigger than ORR and so the solutions must also come from a range of stakeholders. As noted above, ORR has responsibility for care and placement of unaccompanied children, housing them, often in shelters, until parents, family members, or sponsors are located. But it is worth repeating that ORR has limited legal authority or resources to act or provide protection after a child is released from care.

We have to prioritize both children and labor law enforcement, with a whole of government approach that protects children from exploitation. A good model for this is

the Family Reunification Taskforce, which was established in 2021 to reunite families separated by the previous administration. When intervention is necessary, protecting children in these situations requires ongoing communication and coordination among multiple agencies, including ORR and Customs and Border Protection, along with local law enforcement and social service agencies, many of which are already starved for funds. But lines of authority, accountability, and critical information flow between the government agencies charged with caring for the children are in some instances weak or fractured. Children who await legal hearings to determine their right to claim asylum should not be exploited and harmed for doing so. They should have access to legal protection and representation. To prevent such outcomes, it is essential that a government agency, whether ORR or a more appropriate office, be given authority to ensure such children's ongoing wellbeing and provided with appropriated funding to ensure children's safety after they are released from government care.

Meanwhile, insufficient funding means that our labor agencies lack the capacity to be proactive in a way that would allow ready detection of these cases. The U.S. Department of Labor's Wage and Hour Division (which enforces child labor, minimum wage, and other laws) and Occupational Safety and Health Administration have absurdly scant resources relative to the need. In 2019, the number of private sector workers per OSHA investigator was over 198,000. The ratio for Wage and Hour investigators wasn't much better: more than 189,000 private sector workers per investigator.

Prevention is equally important. Since I left ORR, Congress has repeatedly directed ORR to enhance protections for children. In response, ORR has dramatically increased the number of children who receive post-release services, from 15,160 in Fiscal Year (FY) 17 to 21,894 in FY21 to more than 54,000 in FY22. Properly implemented, post-release social services—often referred to as "PRS" and programmatically distinct from legal services—are essential to ensuring the safety, stability, and transition to permanency of unaccompanied children released from government custody to sponsors in the United States. I am pleased to see ORR's involvement in this area grow, as I believe these services are vital tools to ensure a child's safety while they go through the immigration court process. Further, ORR has stated that it plans to provide legal representation to 100 percent of unaccompanied children by the end of FY27—an essential objective.

No less crucial for protecting children is access to an attorney. I would continue to emphasize that these are vulnerable children in a new environment where they do not speak the language. Currently, many, if not most, unaccompanied children lack an attorney. The Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA)

requires that, "to the maximum extent practicable," HHS ensure legal counsel for unaccompanied children "to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking." This includes mistreatment and exploitation in the workplace. Providing unaccompanied children with attorneys for the duration of their cases is one of the best ways to intervene early when children are working in illegal and dangerous conditions, and thus to protect them from such abuses.

Many children have difficulty reporting harms that they experience in the workplace and beyond, due to fear and prior trauma. Attorneys play a critical role in identifying risks to children, not only those risks that children have fled in their home country but also those confronting them after they arrive to the U.S. Lawyers often become the only authority figure to whom a child feels safe disclosing protection needs such as exploitative working conditions, trafficking, and abuse. In such instances, attorneys can inform the child about their rights and legal options, provide referrals to specialized providers who may be necessary, and with the child's consent, can report labor exploitation or other dangers to authorities to help extricate their clients from harm.

Attorneys also help evaluate children's eligibility for legal protections and supportive services specifically designed for survivors of trafficking, severe crimes, and abuse. This includes work authorization where eligible, which helps teenagers who can legally work access safe, lawful, and appropriate employment, and serves as a bulwark against dangerous working conditions, wage theft, and other labor abuses in the unregulated workforce. Work authorization also serves as an essential form of government-issued photo identification for accessing daily activities and services for many children, even where not used for employment. Without legal representation, unaccompanied children have no virtually no meaningful chance of navigating the opaque and broken U.S. immigration system.

Over the years, ORR has also increased the number of children provided independent Child Advocates. Child Advocates are appointed to child trafficking survivors and other particularly vulnerable unaccompanied children and provide best interests determinations to any agency–state or federal–and any adult (including attorneys) working with a child. Child advocates–who meet children in custody and continue working with them after release–are well positioned to identify when children are in danger, but currently serve only a tiny fraction of children in ORR custody.

Let me conclude by reiterating that unaccompanied children are, by and large, children in need. When the exploitation of underage, unaccompanied children occurs, it indicates multiple failures. Bad actors must be present – traffickers or children's direct employers –

as well as others who are willing to look the other way in order to profit. We might also see curtailed access to the social services that play a preventive role. Similarly, the government agencies who are meant to intervene may be underfunded, lack appropriate staff, or lack a mandate to intervene when exploitation does occur. And lack of agency coordination is recognized as an ongoing and longstanding concern.

The solutions require addressing all of these factors:

1) Accountability for those who exploit children.

2) Accountability for those that profit from child-labor exploitation.

3) Expanded and enhanced access to post-release social and legal services and child advocates.

4) Expanded legal authority and resources to act affirmatively to investigate possible child-labor exploitation and to provide protection to affected children.

5) Better communication across federal agencies

6) Better work by ORR to connect children to community-level services including local charities, non-profits and other social groups that assist children and their families to meet outstanding and everyday needs.

Thank you. I am happy to take your questions.

Mr. MCCLINTOCK. The Chair is next pleased to recognize Ms. Vaughan.

STATEMENT OF JESSICA VAUGHAN

Ms. VAUGHAN. Thank you, Mr. Chair and Ranking Member for having a hearing on this topic, which has been ignored for too long. It is disturbing and sad to hear the stories of what these younger migrants go through. They are no less deserving of personal safety and protection just because of the circumstances under which they arrived.

It is also infuriating, though, because the dysfunction in the ORR placement program has been known for a long time, for about 10 years since States and local communities that have been dealing with the influx starting raising the alarm.

What is most infuriating is that even with all the well-documented risk and problems associated with the Federal government taking custody of minors, and adults claiming to be minors, who are smuggled in, and then releasing them to unvetted sponsors, and the washing its hands of responsibility for them, even knowing the risk, still, the Biden Administration chose to throw gasoline on that dumpster fire by actually expanding opportunities for the illegal smuggling of minors into the country, and expanding opportunities for these minors to be trafficked for cheap labor, commercial sex, gangs, and more.

It was done by dismantling the relatively effective policies enacted by prior administrations that had tried not only to improve the UAC placement system and mitigate the risk of trafficking, but to decrease the flow of child migrants.

Under the Biden policies, the annual number of UACs referred to HHS custody after crossing illegally has tripled from an average of 40,000 a year to more than 120,000 in each of the last two years. Half of the 600,000 unaccompanied minors who have been released in the country since 2012 have arrived on Biden's watch.

Not only did he relax border controls and suppress immigration enforcement inside the country, when the numbers predictably exploded his officials responded by gutting what few meager protections for child migrants still existed. As HHS Secretary Becerra revealed in his now notorious video statement, the goal was to release these kids faster, with few questioned asked, to make it a more efficient assembly line. This assembly line is staffed by crony contractors spending billions of taxpayer dollars on what is now a pipeline for child labor trafficking.

It is truly an urgent task for Congress to address this problem. There is no question that the placement process for UACs can be improved. These improvements should be informed by experts like those here today who know the system, by child welfare agencies within the States and communities where the migrants are placed, and by the Federal immigration and other law enforcement agencies who understand the smuggling and trafficking business. We need these improvements, and we need more oversight on HHS and its contractors.

Just last night I got a message from an insider voicing their concern about how HHS lets its contractors operate the youth migrant shelters with unlicensed and untrained staff who, apparently, are

utterly unqualified to be in charge of these kids. We would never allow this to happen in a school or any other juvenile setting involving American kids.

Fixing the shelter and placement system is not going to solve the problem really. Based on my experience, I see no change that the Federal government can construct a system for processing unaccompanied illegal alien minors that is up to the task of handling the huge number of kids, more than 120,000 last year, who will continue to come, who will continue to be put in the hands of criminal smugglers, traffickers, unscrupulous employers, abusive sponsors, as long as they know that they are going to be released into the country once they get here.

The fundamental problem which Congress can solve is with the law.

First, the loopholes in the TVPRA must be closed, allowing the Government to swiftly repatriate the minors to their homes if they are not at risk, which most are not.

Congress must direct and fund ICE to boost its anti-trafficking and its worksite enforcement activities to go after the illegal and exploitative employment of the young migrants.

It is also imperative to restore ICE's authority to arrest sponsors who it finds have been involved in smuggling, or trafficking, or illegal employment of these minors, which was taken away from them by the Harris Amendment that passed a couple of years ago, which I noted in my written statement.

Congress should use its appropriations authority to force HHS and DHS to have meaningful coordination with State, local governments, and their child welfare agencies.

Finally, Congress should reform other provisions in the law that entice minors to come illegally, such as the Special Immigrant Juvenile Program, which should be limited to accommodate only those youths who have no responsible parent or guardian to care for them.

Thank you.

[The prepared statement of Ms. Vaughan follows:]

U.S. House Judiciary Committee
Sub-committee on Immigration Integrity, Security and Enforcement
The Biden Border Crisis: Exploitation of Unaccompanied Alien Children
April 26, 2023

Statement of Jessica M. Vaughan
Center for Immigration Studies

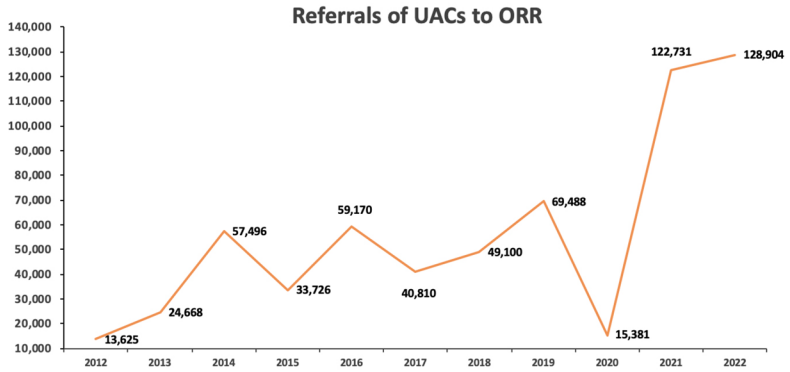
Thank you, Mr. McClintock and Ms. Jayapal, for the opportunity to testify today. The mass migration crisis instigated by the Biden administration's misguided immigration policies has caused incalculable harm to American communities, to the integrity of our immigration system, and, tragically, to many of the migrants themselves. These migrants were enticed by these policies to put themselves in risky situations to cross the border illegally, led by criminal smuggling and trafficking organizations, and enabled by government agencies and contractors that have looked the other way at the abuse and exploitation that frequently occurs en route and after resettlement. The most vulnerable group that has been endangered by the Biden policies are the more than 300,000 minors who have arrived on his watch (out of 660,000 total since 2012). They have been carelessly funneled through the custody of U.S. government agencies and contractors, and handed off to very lightly vetted sponsors (who are usually also here illegally) in our communities without regard to their safety and well-being. There is no question that the system for processing minors who cross illegally is dysfunctional, and has been for some time, and needs to be fixed. However, merely improving the processing and placement of UACs will not address the cause of the problem; it would only make a bad policy just slightly more safe for a still endless flow of unaccompanied minors. Instead, Congress must focus on fixing the main cause of the problem – the legal loopholes and judicial rulings that force and enable the government to operate a massive catch and release program for illegally-arriving alien children. In addition, Congress should refuse to fund the Biden programs that facilitate this influx of child migration and reform the Special Immigrant Juvenile program that offers a green card to tens of thousands of UACs.

Biden Policies Set Off Flood of Illegal Migrants, Overwhelming Federal Agencies, Border Communities, and NGOs. When he took office, President Biden inherited what many experts considered to be the most secure land borders in U.S. history, with expanded and improved barriers, updated technology, and more personnel, all of which was backed up by policies that deterred migrants from crossing illegally. Within a short time, that relatively secure southern border was transformed into a chaotic, lawless, and dangerous frontier, with cartels and criminal smuggling organizations strategically orchestrating illegal crossings of migrants. The incentive: the understanding that a large share of migrants who are apprehended by the Border Patrol, especially minors and those arriving with minors, would soon be released and transported to their destination, despite low expectations that they will comply with immigration proceedings or ever qualify to remain legally.

From the very beginning of his term, President Biden began dismantling a laundry list of policies that had succeeded in controlling the years-long wave of illegal migrants hoping to take advantage of our dysfunctional asylum system and court rulings that require minors and those arriving with minors to be released into the country. Biden ordered an end to construction of the border wall system; terminated the Migrant Protection Protocols that sent tens of thousands of alleged asylum seekers to wait in Mexico; cancelled agreements with transit nations to offer safe haven to migrants and enforce their borders; relaxed application of Title 42 pandemic controls so that minors and families could enter; began awarding immigration parole to tens of thousands of illegal crossers, in defiance of the intent of Congress; extended Temporary Protected Status (TPS) to citizens of more nations and more recent arrivals; established strict limitations on interior enforcement to suppress deportations of all but the most egregious criminals; and launched plans for a new asylum system designed to expedite the legalization of illegal border crossers. Not surprisingly, the number of illegal border crossers has exploded, in response to what the migrants call Biden's "invitacion."

As a result, the number of illegal border crossings continues to rise to record-breaking after record-breaking levels. According to the most recent Border Patrol statistics, last month, agents apprehended more than 162,000 illegal migrants at the Southwest border, up from just over 130,000 in February, and an increase of more than 33,000 over January. That's an almost 25 percent increase over each prior month. The daily rate of apprehensions in March is 13 percent higher than February and 26 percent higher than January, when the president announced new border enforcement actions.[1] These figures do not account for the additional hundreds of thousands of illegal border crossers who evade apprehension (the "gotaways").

The trend in the number of unaccompanied alien child illegal border crossers arriving each year has followed a similar trajectory, as shown in the chart below. These figures, drawn from HHS/ORR data, show the annual number of UAC case referrals to HHS from DHS since 2012.[2]



Problems Were Well Documented Before Biden Policy Changes. Considerable data, information, and analysis has been available to lawmakers and the public on the UAC migration crisis since its early stages. Numerous reports and studies have been published that have documented the demographic characteristics of the UACs, their motivations for coming to the United States, and their experiences. Several major investigative reports conducted by branches of the U.S. government and news media outlets have documented how U.S. policies and practices have facilitated not only this mass migration episode, but also the resulting exploitation and abuse of the participants, which has been present since the onset of this episode. These studies and reports have exposed numerous incidents of abuse, fraud, and trafficking for the purposes of commercial sex and forced labor. This is not a new problem; we know when it started and why, how it has worsened in recent years, and the disturbing consequences for many of the young people who have been caught up in it.

These reports include:

[1] https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/05/fact-sheet-biden-harris-administration-announces-new-border-enforcement-actions/.
[2] https://www.acf.hhs.gov/orr/about/ucs/facts-and-data.

- A 2014 memorandum by a senior Border Patrol official, leaked to the public, raising concerns about the growing number of UACs encountered at the border, and documenting that one important, if not primary, motivation for the migrants was understanding that they would be released into the United States for an indefinite period and have the opportunity to work.[3]
- A 2014 intelligence report by U.S. Immigration and Customs Enforcement (ICE), leaked to a reporter, that similarly confirmed that migrants were drawn by U.S. policies, including the opportunity for release to join family members and find employment, escape difficult living conditions in their home countries, and the potential availability of legalization and amnesty programs in the United States.[4]
- A six-month investigation by the U.S. Senate Homeland Security and Government Affairs Committee in 2015 into the case of UACs trafficked for indentured labor at an egg farm in Ohio, resulting in hearings and a major report.[5]
- A September 2022 report by the HHS Office of the Inspector General, sharply criticizing the agency's handling of the UACs, in particular the relaxation of protocols for screening UAC sponsors.[6]
- A new report from a grand jury investigation in Florida, calling out the federal government, and in particular the Biden administration, for policies that have encouraged the influx of minors and lax placement policies that have led to exploitation of minors, fraud, and significant costs to state taxpayers for schooling and services to UACs.[7]
- Federal prosecutions and court rulings with detailed findings about the trafficking and exploitation of UACs and the role of U.S. policies in facilitating the crimes.[8]
- Numerous investigative journalism reports published over the years in the *Washington Times,* Reuters, and the *New York Times*, Project Veritas, and others, that provide graphic details of the experiences of UACs during and after their illegal crossing and placement with sponsors in the United States, including domestic servitude, sexual abuse, forced labor, labor exploitation, and illegal employment in manufacturing, landscaping, and other inappropriate and dangerous jobs.
- Open source research on involvement of UACs in criminal gangs, and the recruitment and exploitation of UACs by these gangs.[9]
- Several investigations by the Government Accountability Office on deficiencies in government agencies efforts to address the influx and processing of UACs, including one in 2020 on HHS oversight of UAC care facilities.[10]
- Numerous congressional hearings and committee reports over the last decade presenting testimony from government officials and independent experts on the legal issues, the operational challenges, the impact on local communities, and the disastrous outcomes for the UACs.

This litany of reports establishes that a combination of loopholes in U.S. immigration law, controversial judicial rulings, and deliberate but egregiously misguided policies have led to the victimization of countless young illegal migrants. This system, and especially the recent policies, have provided the incentives for minor

---

[3] Internal Memo Reveals High-Level Dissent on Border Surge Policies (cis.org)
[4] Darby Leaked ICE | PDF (scribd.com)
[5] Majority & Minority Staff Report - Protecting Unaccompanied Alien Children from Trafficking and Other Abuses 2016-01-282.pdf (senate.gov)
[6] https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf
[7] 3rd Presentment of 21st SWGJ - DocumentCloud
[8] See, for example, the ruling of Judge Andrew Hanen in U.S. v Nava-Martinez, 24747.pdf (texas.gov), and numerous cases of trafficking and exploitation of UACs that have been prosecuted in federal court.
[9] See, for example, numerous reports by the Center for Immigration Studies at Gangs (cis.org).
[10] Unaccompanied Children: Actions Needed to Improve Grant Application Reviews and Oversight of Care Facilities | U.S. GAO

migrants to cross illegally with the help of criminal smugglers, the means for successful illicit crossings to resettle in the United States, and the opportunity for illegal employment that results in exploitation.

The most significant loophole in immigration law is the provision in the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) that directs the immigration agencies allow minors from non-North American countries who enter the United States illegally to remain here in the custody of a (loosely defined) sponsor under the auspices of completing immigration proceedings.[11] In addition, the TVPRA does not permit the repatriation of a child to a parent remaining in the home country.[12]

The controversial Flores Settlement Agreement (FSA) also has complicated matters for the government, in stipulating conditions and considerations on how UAC cases must be handled.[13] In addition, since 2019, Congress has further frustrated government efforts to investigate problem cases involving UACs by greatly restricting DHS agencies from obtaining information about UACs, statements they make about their sponsors or other contacts, and even performing background checks. According to then-Senator Kamala Harris, who authored the restrictions for a government funding law, the rule is designed to:

> *Prohibit the Secretary of the U.S. Department of Homeland Security from using U.S. Department of Health and Human Services (HHS) information provided by an unaccompanied child, or initially obtained to evaluate sponsorship of an unaccompanied child, to conduct civil immigration enforcement actions against a child, prospective or current custodian or sponsor, or resident in the home of the prospective or current custodian or sponsor.*[14]

As a result, even if immigration enforcement agencies had the capacity and/or the marching orders to look into suspicious, potentially inappropriate, or fraudulent placement situations, it would be very difficult to obtain actionable information from its own federal agency partners.

Making matters worse, the Biden administration has shut down immigration enforcement at worksites, which is the obvious place to detect instances of exploitative employment of UACs, instead leaving these cases to be handled by the Department of Labor, which lacks some of the authorities of DHS agencies, especially concerning non-citizens, who are responsible for at least half of the forced labor trafficking violations that have been prosecuted in federal court each year, according to the Human Trafficking Institute.[15]

From 2012 to the 2020 pandemic, the UAC migrant crisis was bad enough under the constraints of the TVPRA and FSA. But under the new policies of the Biden administration, it has spiraled out of control, and led to a disturbing increase in reports of child exploitation, such as reported in the *Washington Times,* Project Veritas, Reuters, and *New York Times* accounts. As shown in the graph above, the number of UAC referrals to HHS custody in 2021 (about 123,000) was more than triple the average annual number of referrals over the previous nine years (about 40,000). From Day One of his administration, Biden relaxed immigration enforcement, implementing a lenient catch and release policy for most illegal migrants, including UACs. News of the more lenient policies led to more illegal migrant arrivals, which in turn overwhelmed the border agencies, and compromised their capacity to interview and screen migrants and their handlers.

---

[11] For more on this and other loopholes, see Why Are Central American Migrants Entering Illegally? Part 2 (cis.org).
[12] CBP IAP Interim Report (dhs.gov)
[13] The History of the Flores Settlement (cis.org)
[14] NYT Reveals Child Labor Exploitation Corresponds to Actions Taken by Harris, Biden, and Mayorkas (cis.org)
[15] Federal Human Trafficking Report | Human Trafficking Institute

Even more concerning is that despite the rapid escalation in numbers of UAC arrivals, the Biden administration, apparently unconcerned about the known risks, made a bad situation worse by deliberately gutting many of the policies that had been in place to help avoid releasing minors to abusive situations. As noted in the Florida Grand Jury report, in the last two years the Office of Refugee Resettlement (ORR) has intentionally reversed certain critical procedures that helped to ensure the UACs' safety, such as home studies and background checks on sponsors and members of their households, post-placement monitoring, fraud referrals and investigations, and more. The Grand Jury observed:

> *Some "children" are not children at all, but full-grown predatory adults; some are already gang members or criminal actors; others are coerced into prostitution or sexual slavery; some are recycled to be used as human visas by criminal organizations' some are consigned to relatives who funnel them into sweatshops to pay off the debt accumulated by their trek to this country; some flee their sponsors and return to their country of origin; some are abandoned by their so-called families and become wards of the dependency system, the criminal justice system, or disappear altogether. Meanwhile ORR's efforts and resources are less-directed at preventing or remedying any of these maladies, and instead appear fully focused on maximizing the number of children they can process, heedless of the downstream consequences to either the children or the communities into which they are jettisoned.* [16]

Biden officials have been clear that they are more interested in moving UACs through the system as quickly as possible than they are concerned about the safety and well-being of the minors in their custody. In a shocking video that was widely circulated earlier this year at just about the time of one of the news media reports on the burgeoning problem of UAC labor trafficking, HHS Secretary Xavier Becerra urged HHS staff to further accelerate the processing of the kids, saying, "This is not the way you do an assembly line."[17]

Examples of Exploitation of UACs Abound. Easy access to resettlement in the United States is an irresistibly lucrative business opportunity for human smugglers and traffickers who exploit the UACs and their families. Immigration and Customs Enforcement (ICE) has said that the criminal organizations involved are raking in more than $10 million a day, or $6 billion a year, taking advantage of the Biden administration's catch and release policies and the dismantling of interior immigration enforcement.[18]

Sometimes the traffickers promise naïve young migrants that they can go to school or work in the United States, and instead lure them into indentured servitude, peonage, sex trafficking, extortion, or demand that they work for the smugglers to pay off their debts to the traffickers. In other cases, desperate, unsuspecting, or opportunistic parents will arrange for their child to cross with a trafficker to work in the United States at a farm or factory, or worse. In the notorious Ohio egg farm case:

> *... The defendants and their associates recruited workers from Guatemala, some as young as 14 or 15 years old, falsely promising them good jobs and a chance to attend school in the United States. The defendants then smuggled and transported the workers to a trailer park in Marion, Ohio, where they ordered them to live in dilapidated trailers and to work at physically demanding jobs at Trillium Farms for up to 12 hours a day for minimal amounts of money. The work included cleaning chicken coops, loading and unloading crates of chickens, de-beaking chickens and vaccinating chickens.*[19]

---

[16] Florida Grand Jury report, p. 4.

[17] White House promises crackdown on migrant child labor (usatoday.com)

[18] 5 Human Trafficking is Facilitated By Lenience and Chaos at Border

[19] U.S. Department of Justice, "Two Defendants Plead Guilty to Forced Labor Scheme that Exploited Guatemalan Migrants at Ohio Egg Farms," August 25, 2015, Two Defendants Plead Guilty to Forced Labor Scheme that Exploited Guatemalan Migrants at Ohio Egg Farms | OPA | Department of Justice

In 2021, the federal government reportedly stopped releasing unaccompanied minors in at least two locations – Enterprise, Ala. and Woodburn, Ore. -- due to concerns about labor trafficking. The Department of Justice and two other federal agencies launched investigations based on suspicious clusters of arriving minors: "Some of these situations appear to involve dozens of unaccompanied minors all being released to the same sponsor and then exploited for labor in poultry processing or similar industries without access to education," according to an email from a Justice official. So far, one couple in northern Alabama has been convicted of money laundering and conspiracy to transport illegal aliens unlawfully, and the other investigations apparently are still in progress.[20]

Some unaccompanied minors end up staying for longer terms in lightly supervised youth shelters, foster care, or with a sponsor, and then become vulnerable to enticement into gangs and/or sex trafficking. Just last week, in San Antonio, a man (an illegal alien who has been deported 15 times) was arrested for allegedly prostituting and sexually assaulting a teenage girl who was being sheltered by her trafficker last year at a stash house used for human smuggling. "State police said Diaz-De la Cruz, who is known as Karlos, housed the girl and allowed men to have sex with her for $150, according to an affidavit supporting his arrest. In exchange, Diaz-De la Cruz would provide the girl with money, food and shelter." The alleged trafficker had been deported in the previous year, but was later arrested on a South Texas ranch after once again crossing illegally with a large group.[21]

The establishment and resurgence of the transnational gang MS-13 in the Washington DC-Maryland-Virginia area, whose members are largely illegal aliens, many of whom originally arrived as unaccompanied minors, has brought an increase in cases of brutal sex trafficking in the area. The gang preys on young teenage girls who run away from shelters, foster care, or broken homes:

> *In the United States, victims of MS-13 tend to be Latino immigrant girls or girls from the Northern Triangle countries who came into the country as unaccompanied minors…. HHS places minors either in foster care, with family or a sponsor…. MS-13 preys on the vulnerability of the unaccompanied minors; some have previously suffered sexual abuse either in their home country or during the trip north; others lack a community and do not speak English. Members of MS-13 seek out the vulnerable young girls using violence and other coercive tactics to intimidate the girl into having sex for money to help financially support the gang. Runaways are also appealing to the MS-13. Family problems, transitions from foster care and economic problems are some of the reasons that unaccompanied minors run away from their homes. Many of the unaccompanied minors may have experienced sexual abuse, exploitation or physical abuse in their home countries or during their migration to the United States and even more suffer from poverty and lack of a stable social network. These are all factors that make young girls more susceptible to human trafficking.*[22]

One typical case occurring in the area resulted in the prosecution of eleven MS-13 gang members for sex trafficking, assault, and other charges related to the prostitution of a 13-year old and 16-year old runaways. ICE officials have stated that an estimated 40 percent of MS-13 members they arrest originally arrived as UACs.

Biden Policies on Unaccompanied Minors Fail to Protect Them From Trafficking. The current policies that govern the placement of minors who arrive unaccompanied are inadequate to prevent these minors from being placed in inappropriate environments that include labor and sex trafficking situations and participation in or

---

[20] U.S. Probes Trafficking of Teen Migrants for Poultry-Plant Work (bloomberglaw.com)

[21] Undocumented migrant arrested, charged with trafficking, prostituting, sexually assaulting a teenage girl in San Antonio (expressnews.com)

[22] The Connection between the Mara Salvatrucha (MS-13) and Human Trafficking (humantraffickingsearch.org)

exposure to criminal gangs. These policies have always been inadequate, in part due to the unmanageable volume of cases, but have been loosened even more by the Biden administration, increasing opportunity for bad actors to exploit the system.

The systemic deficiencies were described in detail in the Senate report following the investigation of the Ohio egg farm in 2014. They included poor vetting of sponsors and their households for suitability and financial stability, low standards for sponsors, allowing individuals with criminal histories and without legal status to sponsor minors, failure to monitor the minor's well-being after placement, and failure to deliver post-release services.

While the Trump administration adopted a number of policies recommended by the bipartisan investigators, including more thorough background checks and questioning of prospective sponsors, many of these reforms have been reversed by the Biden administration as it struggles to deal with the new influx and in its decision to prioritize swift release from federal custody over vetting of sponsors. These practices stray from well-established best practices for foster care, refugee, and similar child placements, greatly increase the risk of problems for the youth and increase the likelihood that some will end up being victimized by traffickers. According to HHS and numerous outside observers, the sponsors who come forward to take custody of these minors receive little meaningful vetting. They typically are subject to a biographical name check for criminal records, but are fingerprinted only if staff are able to articulate a reason why the placement might be a problem, not to discover information that might suggest a risk. Similarly, home studies to evaluate the environment to which the minor will be released or the sponsor's credibility or financial stability are done only in very rare cases, such as with child trafficking victims they have discovered; very young (under 12 years), disabled or abused children; or if a sponsor has volunteered to take in multiple kids. Contrary to best practices, other adults in the sponsoring household are not routinely subject to fingerprinting or investigation.

There is no meaningful monitoring of the minors' activities or well-being after they leave government custody and are placed with a sponsor. They are not required to accept post-release services, and in many cases the sponsors have blocked case workers from contact with the minors. In fact, the government usually loses track of the minors after release, either because the minors and their sponsors refuse to communicate, the youth moves to another household, drops out of school and services, and skips out on immigration hearings. As a result, it is difficult for authorities to detect situations where a minor is a victim of labor trafficking or coerced into indentured labor or other exploitation – until it is too late, and the damage to the victims is already done.

The Florida Grand Jury provided details on a notorious case in which a 24-year old man made it through Border Patrol screening to qualify for resettlement as a minor and placement with a sponsor in Jacksonville, who he later murdered.[23]

In June 2014, a 16-year old girl from Honduras approached Baltimore County, Md. police, telling them she had been smuggled into the United States to live with a 42-year old man, Pedro Lara Portillo, who claimed to be her guardian, and was forced into a sexual relationship:

> *Federal investigators say that Lara had coordinated with the girl's mother and arranged to pay fees to a contact in Mexico so that she could cross into the country after leaving Honduras. From there she entered the U.S. alone, crossing the border in Texas, according to court documents. The teen ager gave Lara's name to officials working with the Office of Refugee Resettlement, and he falsely told them she would have her own room, according to court documents*.[24]

---

[23] Illegal immigrant who posed as minor while crossing border charged with murder (nypost.com)

[24] Unaccompanied minor from Honduras alleges abuse by guardian – Chicago Tribune

In the Virginia MS-13 sex trafficking case, after running away from a group home in Fairfax, Va, the teen victims were horribly beaten to initiate them into the gang, and then repeatedly forced to engage in prostitution both to members of the gang and outsiders. From once court document:

> *MINOR 2 was sex trafficked by numerous MS-13 gang members and associates shortly after she and MINOR 3 ran away from Shelter Care on August 27, 2018. According to MINOR 2, MINOR 3 informed her that she would engage in sex in exchange for money, food, and other things that MINOR 2 needed. During interviews with law enforcement, MINOR 2 and MINOR 3 both discussed staying at the residence of MOISES and JOSE ELIAZAR, two brothers who lived together… in Woodbridge, Virginia…. MINOR 2 informed law enforcement that multiple men engaged in sex with MINOR 2 in the wooded area behind MOISES' apartment. …Geolocation data obtained during the investigation shows that MINOR 2 was harbored at multiple locations in Northern Virginia and Maryland….Numerous social media conversations involving MOISES, GUTIERREZ, and others, show their active involvement in finding different residences to harbor MINOR 2 for purposes of commercial sex.*[25]

States Take Steps to Limit the Resettlement of UACs. This influx has so severely strained schools, foster care systems, health care, and other social support systems that several states (South Carolina, Iowa, Nebraska, South Dakota, Texas and Florida) have announced that they will not participate in the resettlement of unaccompanied minors. In the case of South Carolina, the state determined that the arrival of any large group of children needing foster care placement would be an unacceptable burden on the state's existing capacity for "timely and stable placements and other services and supports."[26] The order further states that in light of a recent class action settlement agreement (Michelle H. v Haley) that requires the state to address numerous problems in its foster care placement system, including the number of foster homes, a case worker shortage, and the availability of health services, the governor determined that: …accepting placements of unaccompanied migrant children entering the United States via the southern border into residential group care facilities or other foster care facilities located in, and licensed by, the State of South Carolina would unduly limit the availability of placements for children in South Carolina and would present a threat of harm to the children in such facilities and would constitute a failure of any such facility to keep the facility safe to care for children as contemplated by [SC law].

The Florida Grand Jury has recommended that the legislature pass a law that anyone taking custody of a UAC who is not the parent of legal guardian must report to the state within 30 days and initiate proceedings to determine legal custody of the UAC, or face felony charges. In addition, child welfare agencies involved in UAC resettlement would have to document claimed parental relationships with verifiable paperwork or DNA testing for those seeking to take custody of a UAC as claimed parents.

Recommendations. The Biden administration has implemented policies that incentivize the illegal entry of unaccompanied alien children on a massive scale, to the profit of criminal smugglers and traffickers, even with full knowledge of the risks that such policies will endanger the safety and well-being of the migrant children. Some supporters of these policies have defended them on the belief that they are aiding the reunification of families, providing a safe haven from difficult living environments in their home countries, and even benefiting US employers. On the contrary, I submit that there is no possible rationalization for policies that have facilitated the abuse and exploitation of child migrants on such a large scale for so many years. There is no possible humanitarian or economic motive that could justify or make up for the damage that has been done to the victims by the smugglers, traffickers, abusive sponsors, and even family members who participated in these dreadful arrangements.

I could propose a laundry list of reforms to the UAC placement process that would help prevent UACs from being placed into abusive situations and detect inappropriate or dangerous sponsors from getting custody of

---

[25] Affidavit in Support of Criminal Complaint and Arrest Warrant in *United States v MOISES et al*, July 31, 2020.
[26] 2021-04-12 FILED Executive Order No. 2021-19 - Prioritizing SC Children.pdf

UACs. These reforms should occur, but Congress should not be satisfied with such an approach – merely improving the UAC placement process will not solve the problem, it will only make a bad system slightly less risky for the children. Even if every reform on my list were implemented, still it is impossible for government agencies and child welfare programs to prevent all instances of abuse and exploitation; there simply are not enough resources for the government to do this job. And, such reforms would not be enough to address the problem of illegal and exploitative employment of UACs. Experience has shown that even the most attentive home studies, background checks, follow up phone calls and visits, hot lines for minors, and alert neighbors and bystanders will not solve this problem.

To solve the problem, Congress must change the immigration laws and rein in the executive policies that are incentivizing the mass illegal migration of both adults and minors. When we reach the point where migrants understand that there is no point in entering an agreement with a criminal smuggling organization or a labor trafficker, or even attempting to illegally join a family member in the United States, because such illegal entry and employment will not be tolerated and result in the consequence of being sent home promptly, then the smugglers and traffickers will have few clients, and the government agencies will have a much greater ability to deal with a far fewer number of exploitation cases.

Such reforms would include:

- Scrapping certain provisions of the TVPRA to equalize treatment of illegal alien minors from contiguous and non-contiguous countries, and to allow for the repatriation of minors without delay;
- Writing a law to supersede the Flores Settlement Agreement, along the lines of the Trump administration's 2019 proposed rule;
- Reining in the Biden administration's abuse of parole authority that undergirds the catch and release policies, including the Central American Minors Program;
- Defunding certain programs that underwrite the contractors who administer the resettlement process and provide services to UACs, until Congress is satisfied that these processes are not facilitating trafficking and incentivizing illegal migration.

Many of these reforms would be accomplished by H.R. 2640, the Border Security and Enforcement Act of 2023, introduced by Mr. McClintock and Mr. Biggs, which was just passed by this committee last week. I respectfully suggest that Congress should consider a number of other reforms that relate specifically to the UAC problem:

- Reverse the Harris provisions, which prohibit information-sharing on UACs between HHS and immigration enforcement agencies;
- Terminate the Special Immigrant Juvenile program in its current form, which enables aliens who entered as unaccompanied minors to obtain orders of protection from state family courts based on a claim (often flimsy, unverifiable, or downright fraudulent) of abuse, neglect or abandonment by one parent. This order of protection is the basis for applying for a green card and offers a path to citizenship for tens of thousands of UACs now in the pipeline, many of whom would otherwise be ineligible due to a criminal history, gang involvement, immigration fraud, or simple inability to qualify under the legal immigration system created by Congress. If the program is to be continued, USCIS should have sole discretion to determine eligibility, and the law should limit access to minors who are entirely lacking appropriate guardianship either here or in their home country;
- Require federal agencies to notify state and local authorities about the transport and release of aliens in their jurisdiction, to include information on the number, locations, and expected needs of newly arriving migrants who are released pending immigration proceedings;
- Authorize and encourage states to regulate the child welfare contractors who work with the federal government on resettlement of UACs, to ensure that the resettlement programs occur with proper

consultation and cooperation with state and local authorities, without burdening communities in the state, and within the standards the state has established for all child welfare programs.

- Use appropriations authority to more effectively ensure that the executive branch is faithfully enforcing immigration laws according to congressional intent, including specifying how funds will be used for border enforcement, detention, and processing of specific categories of illegal border crossers, visa overstays, asylum applicants, and criminal aliens, and to include sufficient resources to detain illegal border crossers in the border area and a larger number of criminal aliens, deportation recidivists, fugitives and absconders, and to allow releases and alternatives to detention only in specified types of cases;
- Create more opportunity for state and local governments to investigate and penalize human trafficking and the illegal migration, human smuggling, identity fraud, and illegal employment.

###

Mr. MCCLINTOCK. Great. Thank you very much for your testimony.

Next, we will hear from Ms. Rodriguez for five minutes.

STATEMENT OF SHEENA RODRIGUEZ

Ms. RODRIGUEZ. Good afternoon, and thank you, Chair and Members of the Committee, for giving me this opportunity to present my eyewitness testimony and express my concerns regarding what is happening to the children at the southern border because of the current administration's policies. I am Sheena Rodriguez, Founder and President of Alliance for a Safe Texas. As a U.S. citizen, mother, and former educator who deeply cares about our country and the welfare of all children, I was compelled to see for myself what was occurring at our southern border.

I have been to various parts of the border in Texas and Arizona nearly three dozen times and under two years. What I have witnessed would and should disgust and terrify every American. In April 2021, when Texas Governor Greg Abbott learned of allegations of abuse of unaccompanied minors in a Federal facility in San Antonio, he stated, quote, "the Biden Administration is presiding over the abuse of children."

He also called on the administration to shut these facilities down. Instead, the administration has only expanded them without communicating with State and local authorities. Local communities are not told how long the minors will be there or where they will go when they are released and with no concern to the local—of impact to the local cities.

I am requesting that Congress launch a full investigation into the Federal agencies responsible for approving these contracts. These are just a handful of many examples I have encountered. During one border trip to the Del Rio area in December 2021, the group I was with encountered six men who had illegally entered the U.S. and were hiding in the brush.

They surrounded our vehicle believing that we were their transport to smuggle them further into the U.S. When we spoke to them, they said that they had witnessed cartel operatives murder children who were traveling alone and could not pay the smuggling fees. One man claimed he witnessed children being used and traded as currency. Another encounter in La Joya, I met and spoke with a 10-year-old Honduran girl who arrived by herself carrying only a small piece of paper with handwritten phone numbers on it.

She stated the numbers were given to her by a woman and an NGO along the route who told the young girl the numbers were to her father who she said that she would be staying with, a man, the young girl claimed, she had never met or spoken to. Also, in La Joya, I met a 14-year-old girl reportedly abused by her father and claimed that she was held for 11 days in a bodega and abused further. Similarly, she was told by a stranger that she would be going to stay with her mother who the teen claimed again she did not know.

I also met teenage boys between the ages of 14–17 who claimed cartel operatives often transported children through Mexico and held them at the bodegas where armed cartel members stood guard. Many were told they were going to stay with sponsors in

America with several claims, again, that the teens had never met or personally communicated with their supposed sponsors. Since January 2021, there have been over 356,000 UACs encountered at the southern border, a majority of which have been released into the U.S., more than 10,000 of which that have been released in my respective area of North Texas.

The current administration has admitted they do not keep track of the whereabouts when they're released into the U.S. With the use of taxpayer dollars, tens of thousands of children are simply missing. How many of the missing children are in my city or in yours? This has forced the State of Texas to take actions we never should've had to take as a direct result of the failed Federal policies.

Currently, we have bipartisan support for my State level legislative sponsored letter calling for a State investigation into the trafficking of unaccompanied minors in Texas. I'm calling on Congress to investigate the Federal agencies responsible for these minors to locate these children and to act with urgency to end the policy of releasing UACs in the U.S. with sponsors and nonfamily members they do not know. I am also calling on Congress to require that all alleged family members undergo a DNA test.

The abuse of children is not a political or partisan issue. It is a humanitarian and legal issue. I am calling on Congress to investigate the actions of DHS Secretary Alejandro Mayorkas, HHS Secretary Xavier Becerra, border czar, and Vice President Kamala Harris and to identify their role in facilitating the abuse of children through Federal agencies and demand that they be held accountable.

I agree with Florida Governor Ron DeSantis who describes what is happening as, quote, "effectively the largest human smuggling operation in American history." We can no longer turn a blind eye and pretend that this isn't happening. Congress has the power to stop this which is why I am calling on you to do what is right. Americans and these children deserve no less. Thank you.

[The prepared statement of Ms. Rodriguez follows:]

Testimony presented to House Judiciary Subcommittee: Immigration Integrity, Security and Enforcement

April 26, 2023

Sheena Rodriguez – President/Founder, Alliance for a Safe Texas

Good afternoon and thank you Chairman and members of the committee for giving me this opportunity to present my eye-witness testimony and express my concerns regarding what is happening to children at the southern border because of the current administration's policies.

I am Sheena Rodriguez, founder, and president of Alliance for a Safe Texas. As a U.S. citizen, mother and former educator who deeply cares about our country and the welfare of all children, I was compelled to see for myself what was occurring at our southern border. I've been to various parts of the southern border in Texas and Arizona nearly three dozen times in under two years. What I have witnessed would and should disgust and terrify every American.

In April 2021, when Texas Gov. Greg Abbott learned of allegations of abuse of unaccompanied minors in a federal facility in San Antonio, he said, "The Biden administration is presiding over the abuse of children." [1] He also called on the administration to shut these facilities down. Instead, the administration has only expanded them without communicating with state or local authorities. Local communities are not told how long the minors will be there, or where they will go when released and with no concern of the impact to local citizens.

I am requesting that Congress launch a full investigation into the federal agencies responsible for approving the contracts for these facilities.

These are just a handful of many examples I have encountered over the last two years.

On the bank of the Rio Grande in the RGV, one woman with a premature baby just under a month old stated that after seeing reports on Telemundo of people with young children and single minors being easily accepted into the U.S., she was convinced the time to come to the U.S. was now. Many adults in the same group reported having no fear of retribution or being turned away if they were with children under the current policies. The mother and other adults in the group described how they were placed in the back of multiple 18-wheelers along the route and guided by information on Facebook on how to arrive to the U.S. border.

I have also been a witness to several incidents where children were intentionally put in harm's way by adults who forced the children into the deadly currents of the Rio Grande instead of walking through a legal port of entry feet above from their crossing point in the river.

I interviewed women in various locations along the U.S. border, who detailed their perilous journeys. Women who willingly brought young children in an age range that would ensure they would be granted access, some of whom divulged their plans to send for their teenage daughters

[1] "Abbott: the Biden administration is presiding over the abuse of children," April 7, 2021, https://www.thecentersquare.com/national/article_d688243e-9804-11eb-add3-ef2cb6d13b6a.html

separately to take the same treacherous journey knowing the young girls would endure similar abuses.

During one border trip to the Del Rio area of Texas in December 2021, the group I was with encountered six men who had illegally entered the U.S. and were hiding in the brush. They surrounded our vehicles believing we were their transport to smuggle them further into the U.S. When we spoke to them, they said they had witnessed Mexican cartel operatives murder children who were traveling alone and could not pay the smuggling fees. One man claimed he witnessed children being used and traded as currency.

In another encounter in La Joya, I met and spoke with a 10-year-old Honduran girl, who arrived by herself carrying only a small piece of paper with handwritten phone numbers on it. She stated the numbers were given to her by a woman in an NGO along the route, who told the young girl the numbers were to her father, who she would be staying with. A man, the young girl claimed she had never met or spoken to.

Also in La Joya, I met a 14-year-old girl reportedly abused by her father and claimed that she was held for eleven days in a bodega and abused further. Similarly, she was told by a stranger that she would be going to stay with her mother, who the teen claimed she did not know.

In Roma, I encountered another 14-year-old girl from Belize. She described how she was separated from her mother and siblings days prior to her being sent over the Rio Grande into Texas. She told me she was sent by herself, crossed by a coyote into a dark, treacherous area with no immediate law enforcement presence. She was reportedly going to live with her uncle; it's unclear if he was really her uncle.

I also met teenage boys between the ages of 14 to 17, who claimed cartel operatives often transported children through Mexico and held them at bodegas or warehouses where armed cartel members stood guard. Many were told they were going to stay with sponsors in America, with several claims that the teens had never met or personally communicated with their supposed sponsors.

Since January 2021, there have been over 356,000 UACs[2] encountered at the southern border, a majority of which have been released into the U.S.: more than 10,000 of which have been released in my respective area of north Texas[3].

The Biden administration has admitted they do not keep track of their whereabouts when they are released into the U.S. With the use of taxpayer dollars, tens of thousands of children are simply missing.[4] How many of the missing children are in my city or in yours. This has forced Texas to take actions we never should have had to take as a direct result of failed federal policies.

---

[2] https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters

[3] https://www.hhs.gov/programs/social-services/unaccompanied-children/index.html

[4] Biden administration lost track of thousands of unaccompanied minors who entered U.S. illegally in 2021, Feb. 10, 2022, https://www.thecentersquare.com/florida/article_dfae43c6-8904-11ec-af84-03cf15976aa7.html

Currently we have bi-partisan support for my state-level legislative sponsored letter calling for a state investigation into the trafficking of UACs in Texas. I am calling on Congress to investigate the federal agencies responsible for these minors, to locate these children, and to act with urgency to end the policy of releasing UACs into the U.S. with sponsors and nonfamily members they do not know. I am also calling on Congress to require that all alleged family members undergo a DNA test.

The abuse of children is not a political or partisan issue. It is a humanitarian and legal issue. I am calling on Congress to investigate the actions of DHS Secretary Alejandro Mayorkas, HHS Secretary Xavier Becerra, and Border Czar Vice President Kamala Harris and to identify their role in facilitating the abuse of children through federal agencies and demand they be held accountable.

I agree with Florida Gov. Ron DeSantis who describes what's happening as "effectively the largest human smuggling operation in American history."

We can no longer turn a blind eye and pretend this isn't happening. Congress has the power to stop this, which is why I am calling on you to do what is right. Americans, and these children deserve no less.

Mr. MCCLINTOCK. Thank you for your testimony. Our final witness is Ms. Rodas who's recognized for five minutes.

STATEMENT OF TARA LEE RODAS

Ms. RODAS. Good afternoon, Chair McClintock, Ranking Member Jayapal, and distinguished Members of the Committee. It is an honor to be here. I thank you for the invitation to share my testimony.

My goal is to inspire action to safeguard the lives of migrant children, including the staggering 85,000 that are missing. Today, children will work overnight shifts at slaughterhouses, factories, restaurants to pay their debts to smugglers and traffickers. Today, children will be sold for sex.

Today, children will call a hotline to report they are being abused, neglected, and trafficked. We don't know if they're going to get the help they need. For nearly a decade, unaccompanied children have been suffering in the shadows.

I have to confess I knew nothing about their suffering until 2021 when I volunteered to help the Biden Administration with the crisis at the southern border. As part of Operation Artemis, I was deployed to the Pomona Fairplex emergency intake site in California to help HHS Office of Refugee Resettlement reunite children with sponsors in the United States. I thought I was going to help place children in loving homes.

Instead, I discovered that children are being trafficked through a sophisticated network that begins with recruiting in home country, smuggling to the U.S. border, and ends when ORR delivers a child to a sponsor. Some sponsors are criminals and traffickers and members of transnational criminal organizations. Some sponsors view children as commodities and assets to be used for earning income.

This is why we are witnessing an explosion of labor trafficking. Now, whether it's intentional or not, it could be argued that the U.S. Government has become the middle man in a large-scale, multibillion dollar child trafficking operation that is run by bad actors seeking to profit off of the lives of children. As for me, my interest is the safety of the children.

I do not view this as a political issue. I view this as a humanitarian issue. I assure you my motives are the highest and best. I want the children protected.

So, I want to tell you some of what I witnessed personally at the Pomona Fairplex. I saw vulnerable indigenous children from Guatemala who speak Mayan dialects and cannot speak Spanish. That means they cannot ask for help in English. They cannot ask for help in Spanish.

They become captives of their sponsors. I have sat with case managers as they've cried to tell me the horror of what has happened to children as they made the journey to this country. I saw apartment buildings where 20, 30, and 40 unaccompanied minors had been released.

I saw sponsors trying to simultaneously sponsor children from multiple ORR sites at one time. I saw sponsors using multiple addresses to obtain sponsorships of children. I saw numerous cases

of children in debt bondage and the child knew they had to stay with the sponsor until the debt was paid.

Realizing that we were not offering the children the American dream but instead putting them in modern day slavery with wicked overlords was a terrible revelation, a terrible revelation. These children are a captive victim population with no access to law enforcement or knowledge of their rights. They are extorted, abused, neglected, and that is why I blew the whistle in 2021.

I witnessed firsthand the horrors of child trafficking and exploitation. My life will never be the same after what I saw. I have hope because I'm counting on you.

It's my hope that you'll take action to end this crisis to safeguard the lives of these vulnerable children. People have asked me what can be done? What would you suggest?

Well, first, I think HHS' No. 1 priority is oversight. They must commit to oversight, transparency, and accountability. If I could wave a magic wand, this, I believe, could be quickly solved by experts in the IG community.

There is a Pandemic Analytic Center of Excellence or the PACE as we call it. I believe if data analysts at the PACE could look at the data, children could be rescued. Criminals could be prosecuted if the PACE had access to this data. It shows where the children are and who has them.

I think also we need to change the culture of speed over safety. Speed is the wrong performance measure when dealing with children. We need to revamp the vetting process of sponsors and have case managers who have investigative backgrounds, data analytics backgrounds, and some certified fraud examiners.

I think we need to reimagine a system where the sponsor is the accountable party. Sponsors should be required to report to ORR. Last, stop retaliating against whistleblowers.

Stop retaliating against the people who are trying to tell the truth to save the children. As it is written, a wise man listens to advice while a fool continues in his folly. HHS needs to be wise to care for these children.

[The prepared statement of Ms. Rodas follows:]

Testimony by Tara Lee Rodas

for

The House Judiciary Subcommittee on Immigration Integrity, Security, and Enforcement

Hearing Date:
Wednesday 04/26/2023 - 3:00 PM
Hearing Location:
2141 Rayburn House Office Building

The hearing, "*The Biden Border Crisis: Exploitation of Unaccompanied Alien Children*," will examine the unprecedented surge of unaccompanied alien children at the southwest border and how open-border policies enable the exploitation of those children.

WITNESSES:
Tara Lee Rodas, Health and Human Services Whistleblower, Federal Inspector General Employee
Sheena Rodriguez, Founder and President, Alliance for a Safe Texas
Jessica Vaughn, Director of Policy Studies, Center for Immigration Studies

Good afternoon, Chairman McClintock, ranking member Jayapal and distinguished members of the committee. It's an honor to be here. I thank you for the invitation to share my testimony. My goal is to inspire action to safeguard the lives of migrant children, including the staggering 85,000 that are missing.

Today, children will work overnight shifts at slaughterhouses, factories, restaurants to pay their debts to smugglers and traffickers. Today, children will be sold for sex. Today, children will call a hotline to report the are being abused, neglected, and trafficked. For nearly a decade, unaccompanied children have been suffering in the shadows.

I must confess; I knew nothing about their suffering until 2021 when I volunteered to help the Biden Administration with the crisis at the Southern Border. As part of Operation Artemis, I was deployed to the Pomona Fairplex Emergency Intake Site in California to help the HHS Office of Refugee Resettlement reunite children with sponsors in the US.

I thought I was going to help place children in loving homes. Instead, I discovered that children are being trafficked through a sophisticated network that begins with being recruited in home country, smuggled to the US border, and ends when ORR delivers a child to a Sponsors – some sponsors are criminals and traffickers and members of Transnational Criminal Organizations. Some sponsors view children as commodities and assets to be used for earning income - this is why we are witnessing an explosion of labor trafficking.

Whether intentional or not, it can be argued that the US Government has become the middleman in a large scale, multi-billion-dollar, child trafficking operation run by bad actors seeking to profit off the lives of children.

As for me, my interest is in the safety of the children. I don't view this as a political issue. I view this as a humanitarian issue. My motives are the highest and best. I want to see the children protected, so I want to tell you some what I witnessed at the Pomona Fairplex:

- I saw vulnerable indigenous children from Guatemala who speak Mayan dialects and can't speak Spanish. That means they can't ask for help in English and they can't ask for help in Spanish. These children become captive to their Sponsors.
- I've sat with Case Managers as they cried retelling horrific things that were done to children on the journey.
- I saw apartment buildings where 20, 30 & 40 unaccompanied children have been released.
- I saw sponsors trying to simultaneously sponsor children from multiple ORR sites.
- I saw sponsors using multiple addresses to obtain sponsorships of children.
- I saw numerous cases of children in debt bondage and the child knew they had to stay with the sponsor until the debt was paid.

Realizing that we were not offering children the American dream, but instead putting them into modern-day slavery with wicked overlords was a terrible revelation. These children are a captive

victim population, with no access to law enforcement or knowledge of their rights. They are extorted, exploited, abused, neglected, and trafficked. This is why I blew the whistle.

I've witnessed firsthand the horrors of child trafficking and exploitation. My life will never be the same. But I have hope. I'm counting on you. It's my hope you'll take action to end this crisis and safeguard the lives of these vulnerable children."

People have asked me, "What would you do to turn the ship around?" I usually say some of the following:

- Commit to oversight, transparency, and accountability. #1 Priority for HHS is Oversight. Data from the UC program needs to be examined by expert data analysts. This can quickly be done by experts in the IG Community at the Pandemic Analytics Center of Excellence (PACE). Children could be rescued, and criminals could be prosecuted if the PACE had access to the data in the UC portal.
- Stop retaliating against whistleblowers. Stop retaliating against the truth tellers who are trying to help. As it is written, "A wise man listens to advice, while a fool continues in his folly." HHS needs to be wise.
- Change HHS' culture of speed over safety. Speed is the wrong performance measure.
- Revamp the vetting process of Sponsors and have Case Managers who are investigators, data analysts, certified fraud examiners, etc.
- Reimagine a system where the Sponsor is the accountable party. Sponsors should be required to report to ORR.

Again, I have hope. I'm counting on you. It's my hope you'll take action to end this crisis and safeguard the lives of these vulnerable children. Thank you for your time and attention to this urgent matter. I'd be happy to answer any questions from the committee.

Mr. MCCLINTOCK. Thank you very much. Your time has expired.

Ms. RODAS. OK. Thank you for the opportunity.

Mr. MCCLINTOCK. You're very welcome, and we'll get to questions now. Under the five-minute rule will be given Mr. Van Drew of New Jersey.

Mr. Van Drew. Thank you very much, Mr. Chair. First, I want to thank you for whistleblowing. It's people like you and all of you that when you come forward and tell the truth. Those are big words, tell the truth.

You want to know—and I'm going to be a little different and I'm going to be a little bit political because we have the other side of the aisle saying that we're hurtful, we're cruel, we're harsh, and we're inhumane. Our bill is bad. They were in the majority when this was all done.

This is their plan. I've spoken to Mr. Mayorkas numerous times, more than once, more than twice, more than three times. He has told me that there's nothing wrong, everything is fine, everything is good. Our system is working, and it's better than ever.

The bottom line is we changed the system a number of years ago where we opened our gates. We opened our doors. We don't have all the ability to take care of everybody all the time and that's the truth.

We have enough problems in America that we can only help legal immigrants and do things at a certain pace. We just can't let the gates be open. That is exactly what was happening under this administration.

It's exactly what they've done. I don't want to be partisan. Believe it or not, I don't like being partisan. I have to be in this case because when Mr. Mayorkas tells me nothing is wrong, when you see that adults are pretending to be children in some cases as well and taking advantage, when you see little babies that are just tossed aside, when you see children that are bought and sold, used for sex slavery and worse multiple times, the stories are horrific.

I know how you were sick. You know what? I don't want anybody from the other—if we want to find solutions, we have solutions. People have to stay home or go back home.

We need legal immigration. We need a border, a border that really works, a border that is solid, a border that doesn't allow this to happen to children. You know what? The real goal here is to bring in as many undocumented people.

You talked about speed, and that's the way they're doing it, as they possibly can, as fast as they can to just bring them in. So, the numbers go up double, triple. We see just millions upon millions of undocumented illegal immigrants.

It doesn't do them good. It certainly doesn't do these children good. That's what's cruel. That's what's harsh. That's what's inhumane. That's what's wrong and what's going on, and it has to be stopped.

We do need a system and we do have to look at HHS. That should've been done in the beginning two years ago when this all started. We weren't in control.

We didn't have the ability to do it. We talked about it. We asked about it. We pushed for a change. We didn't have the ability to do it.

So, I don't want anybody—and if they can do it. You come to me and say that it's my fault in the minority at the time or that it was the Republicans fault or that we're mean, bad people that want to hurt, no. This is the system that you set up on the other side of the aisle.

This is your system. This is what you did. This is what you made. Of course, it's not going to work. Of course, it's worse. It is so much better if children—they're trying to bring children that are undocumented over.

Let them go back to their home. Let them go through a legal process. I know it takes time, but it's the only way that's going to work.

We are destroying our country. We're hurting little babies. We're destroying other countries in the way that we're doing this.

What we're also doing is making a place for the cartels in America. I read somewhere recently. They said our latest challenge is going to have to be like the military to go after the cartels.

The cartels shouldn't even be in America. They shouldn't have the ability to do this to these children. These children and their families, whatever, are given false hope and false aspirations and I'm tired of it.

I'm tired of being blamed for something that somebody else made, that somebody else created that we didn't do. Mr. Chair, I yield back. Oh, I'm sorry. I'm going to actually yield—yes.

Mr. BIGGS. Many thanks, and I thank the gentleman for yielding. Mr. Carey, during your tenure of about two years, there were roughly 93,000 unaccompanied minors that came to HHR—or excuse me, ORR during your time. Is that a fair statement? You need to put the microphone on.

Mr. CAREY. I would have to check on those numbers.

Mr. BIGGS. That's what the official website indicates. Are familiar that since January 2021, there's been 356,000—just under 357,000 unaccompanied children that have come across?

Mr. CAREY. Yes, I'm aware of that.

Mr. BIGGS. Thank you. I yield.

Mr. MCCLINTOCK. The gentleman yields back. Ms. Jayapal for five minutes.

Ms. JAYAPAL. Thank you, Mr. Chair. I want to discuss the 85,000 so-called lost children that we've heard so much about in this Committee. Mr. Carey, as you testified, *The New York Times* wrote a detailed article with some very concerning stories related to unaccompanied children unlawfully working in some very dangerous conditions.

I've said before that these incidents are extremely upsetting. They need to be addressed. The article also discussed how the Office of Refugee Resettlement did not know the whereabouts of those 85,000 unaccompanied children who have been released to sponsors since the Biden Administration began.

Many outlets and some of my colleagues have latched onto this headline to claim that the Biden Administration has, quote, "lost 85,000 children." So, I want to start with the most important question because you ran the Office of Refugee Resettlement. Are those children actually lost by the Federal government?

Mr. CAREY. No, they are not. Approximately 85 percent, and during my tenure, 90 percent of those children were going to parents or very close relatives. Upwards of 70 percent, I believe, were going to their parents.

So, it was the reunification of families that was taking place. Now, it is true that some of those calls are not answered. However, not answering a phone call I do not believe constitutes losing a child.

There are some very legitimate reasons why those calls might not be answered. They're unknown numbers from the U.S. Government. They're not recognized.

I think that understandably people do not answer calls from unknown numbers. They may be fearful of traffickers, other forces. So, in short, I do not believe that constitutes being lost.

Ms. JAYAPAL. So, when somebody says lost, what they're talking about is that a phone call to verify and speak to the child was not answered. Then that gets constituted as, quote, "lost." So, if I remember correctly, in 2018, the previous administration was accused of the same issue when headlines appeared stating that the Trump Administration lost 1,500 children in a three-month period. Is that correct?

Mr. CAREY. Yes.

Ms. JAYAPAL. Those claims were untrue as well?

Mr. CAREY. I believe those claims were, in fact, true because the families were separated. Some children went at the time of entry. They were separated. There were data bases did not track where the parents went and where the children went. So, the situation was substantially different.

Ms. JAYAPAL. You're talking about a time when the Trump Administration actually separated thousands of children from their families. In fact, I remember going and visiting some of those parents in a Federal detention center. They had no idea where their parents were.

In fact, the government had no idea where those kids were. Can you discuss why the Office of Refugee Resettlement does not do more in its follow-up? I mean, that is one of the things that has been raised that I think we all want to understand. In your opinion, what more could the Office of Refugee Resettlement be doing?

Mr. CAREY. Well, I think it's important to understand what the parameters are on the ORR office operations. The statutory authority granted to ORR extends only up to the time of release. So, ORR has no authority to track or to investigate.

It's not an investigatory body. So, it's—or a law enforcement body. So, substantial resources are directed in that area. It lacks the expertise, tools, staff, and resources to conduct investigatory processes.

Ms. JAYAPAL. So, you mentioned in your testimony that ORR has no authority over children working, for example, illegal child labor. Is that correct? ORR—

Mr. CAREY. That's correct.

Ms. JAYAPAL. Who has responsibility for that?

Mr. CAREY. That would be the Department of Labor, I believe.

Ms. JAYAPAL. So, that is really not a function of ORR. I want to thank you, Mr. Carey, because I think this question of additional

post-release services and in fact even some of the Republican witnesses have talked about this. I think that's an area that we believe is important to ensure that there are in-person follow-ups, to ensure that there is appointment of counsel.

That's something we didn't cover. That's only going to help ensure that these kids stay stafe and that their claims are heard. So, I appreciate your testimony.

It's important that we get the facts out there, that we don't use the word, lost, in way that's not factual because really what we're talking about is a phone call was made. That was not responded to. That phone call was not responded to for all the reasons that you mentioned. I thank you, and I yield back, Mr. Chair.

Mr. CAREY. Thank you.

Mr. MCCLINTOCK. Mr. Biggs of Arizona.

Mr. BIGGS. Thank you, Mr. Chair. I do think it's interesting that the Ranking Member of the Subcommittee earlier today and in the previous hearing referred to the crisis of the border as the so-called crisis, just like she referred to 85,000 lost children as so-called lost children. I think that gives you the mindset that you need to see.

When I was down at La Joya one time, I remember a CBP agent, and we went down there. If you remember how it is in La Joya, you go and you can watch people coming across the river. They're coming up the road, and there's a sign that tells them where to go, which way to go because that's where CBP is. It's just myself and an agent. It's nighttime, and we saw a group.

They saw us. We're 200 yards away. There's 150 or so of them. They don't want to come because they're not quite sure who we are.

So, we yell at them. We're Border Patrol. Come on up. So, they come on up. There was nobody over the age of 18, no one. We had kids who were three years old coming across.

Who are they coming with? A coyote had brought them across the river and said, "go your own way. Go with this group of people." Is that humane, Ms. Rodas?

Ms. RODAS. No.

Mr. BIGGS. Ms. Rodriguez, is that humane?

Ms. RODRIGUEZ. No, absolutely not.

Mr. BIGGS. Ms. Vaughan.

Ms. VAUGHAN. No, not at all. There are policies that entice people to come like that. Frankly if we're talking about relying on phone calls as so-called monitoring of kids post-placement, that's not—

Mr. BIGGS. I'm going to get into that. Don't go there yet. I'm going to get into that. I've been in Yuma, and I have seen the evidence of kids being reused to create a family unit.

Same kid, same kid, over and over again, rent-a-kid, not humane. We're told that calling 85,000 children lost that have been placed—and by the way, it's not 90 percent going to parents anymore. It's a third or less going to parents in today's statistics and numbers.

The Ranking Member wants to get the facts out. Those are the facts. Ms. Rodas, you have said the U.S. Government is the middleman in a multibillion dollar migrant child trafficking operation. What did you mean when you use the term, middleman? Microphone, please.

Ms. RODAS. So, the U.S. Government is receiving the children from the smugglers at the border. HHS is a 2.7 trillion-dollar agency. Over the last two years has spent approximately 10 billion dollars. So, they are using that money to receive those children and then transport those children to the end user.

Mr. BIGGS. When you say end user, we're not talking necessarily even a blood relative. So, I heard the Democrat witness talk about vetting. Can any of you talk about vetting? I can talk about vetting, but I want to hear from the witnesses. Tell us about the vetting that you've observed.

Ms. RODAS. Well, in my personal capacity as the deputy of the Federal case management team, vetting I would like to say with Mr. Carey what he said is they are not an investigative organization, nor are they law enforcement. There was no one. I was shocked and I am stunned that was no one with law enforcement experience overseeing where children are going.

You have people applying for children who we know are members of transnational criminal organizations, yet there's no one with any data analytics background or anything like that overseeing this operation. It doesn't really pass the commonsense test when we're pumping billions of dollars into a program that's overseen by people who simply are not qualified to do the job. When one individual can sponsor 20, 30, or 40 people and no one is asking a question about it, there's something seriously wrong and flawed with that program.

Mr. BIGGS. That's ultimately how they found that one child in Yuma, because everybody was going to the same place in Charleston, South Carolina. Ms. Vaughan, you were going to expand on the phone calls which I agree with you. I only have time to ask the question. What goes on in that phone call? Then I want to submit some stuff for the record, Mr. Chair, after she's done.

Mr. MCCLINTOCK. Briefly.

Ms. VAUGHAN. Yes, a phone call is not sufficient to detect whether the child is in a safe environment. A phone call is not enough to know if a child is being abused, or if a child is in a forced labor trafficking situation. That is not acceptable monitoring and shouldn't be considered monitoring at all.

That is just a contractor going through the motions of trying to see if a child is there. Frankly, I think almost all these kids are actually lost because the Federal government is taking no responsibility.

Mr. MCCLINTOCK. Thank you. The gentleman's time has expired, but you have some unanimous consent requests?

Mr. BIGGS. Yes, Mr. Chair. I have a letter that I wrote to ORR, the Director of ORR in October, and her response in January of this year admitting that they had lost contact with more than 42,000 children.

Mr. MCCLINTOCK. OK. Without objection. We now recognize Mr. Nadler.

Mr. NADLER. Thank you, Mr. Chair. Mr. Carey, I want to discuss the vetting process the Office of Refugee Resettlement undertakes before it releases any unaccompanied child to a sponsor. Here's some of the news organizations talk about this process. Do you think the children are just given to anyone? It's really much more

extensive than that. Can you discuss the assessment that ORR does of each sponsor, what kind of application interview and background checks does each potential sponsor undergo?

Mr. CAREY. Certainly. I'd like to point that at the time that the children are turned over to ORR from CBP, there is documentation that they have determined is valid or worth passing on. So, before a child enters ORR custody, there has been a vetting process. That continues for the—that is why children tend to be in our care for on average one month where the ongoing vetting process takes place.

It is a rigorous one. It involves relationships with the countries of origin where primary information is available. Any documentation is available from the sponsors including fingerprinting, licensing, license information, whatever checks out against multiple data bases, including those for criminal records or anything of that sort. So, it is a rigorous process, and it goes on for at least a month. So, establishing family relations that are done in concert with the countries of origin and original documents are obtained.

Mr. NADLER. Despite the fact that there have been some pretty heartbreaking stories of sponsors being traffickers or using the children to work, it's my understanding this past Fiscal Year over 85 percent of sponsors are close family members. Is that correct?

Mr. CAREY. Yes, it is.

Mr. NADLER. Would you say that percentage is about on par with what you saw when you were the Director of ORR under the Obama Administration?

Mr. CAREY. It was very close. It may have changed. It varies over time, so a percentage or two different but roughly the same.

Mr. NADLER. Can you share any experiences you had as Director of ORR of reuniting an unaccompanied minor with their family in the United States?

Mr. CAREY. Yes, in many instances, it is known that families have been separated for extended periods of time. Children have been traumatized in their home countries. The rule of law is limited.

They've often been targeted gangs or violent elements often as they reach adolescence. So, children are being put in the care of their families which is, I believe, where children should be if at all possible. It has been established that congregant care facilities are not an idea location and are, in fact, harmful for children.

So, I do think that ORR is reuniting families, and that's the authority that was given to it by Congress. So, the research is rigorous. It's exhaustive, and it's based on whatever information is available. As I said before, ORR is not an investigatory body.

So, there are limits as to what it can do. There are data bases, there's fingerprinting, there's the background checks, and there are interviews.

Mr. NADLER. Thank you. Based on what we're hearing today, the reality is that the issues Ms. Rodas and *The New York Times* have flagged should not be happening under current law and policy. I'm very glad that ORR has announced that it's conducted an audit of its vetting process. Mr. Carey, can you discuss the inherent tension that exists between trying to ensure the safety of all these children,

while also ensuring the children are not held in ORR custody for a long period of time?

Mr. CAREY. Yes, it is a delicate process because children could, in theory, be kept in care indefinitely. The goal is ultimately to reunite children with a caregiver, with a parent, with a family member, or an individual who is designated by their parent as the ideal sponsor. So, it's important that children be closely—their placement be closely vetted which it is to the extent possible, but also paramount that children can be reunited with a family member and placed in a home environment.

Mr. NADLER. Thank you. I'd like to submit—Mr. Chair, I'd like to submit for the record the testimony of the Director of ORR in front of the House Oversight Committee that more than 85 percent of unaccompanied kids are reunited with their families.

Mr. MCCLINTOCK. Without objection.

Mr. NADLER. Thank you. I yield back.

Mr. MCCLINTOCK. The Chair now recognized Mr. Roy of Texas.

Mr. ROY. Thank you, Chair. I would note that were my child one of the 15 percent, even if I take the Chair or the Ranking Member I should say at their word, I would be pretty frustrated about your child being lost. If you're saying your kid is at school and they say, well, we kept up with 85 percent of them. Boy, would you feel good about the education system?

Because what about those other 15 percent of kids, even if you take the Ranking Member at his word? I've got a FOIA request here from Judicial Watch from—this is now six years dated. It is a laundry list of incidents put out by ORR, the FOIA request detailing laundry list of abuses of children.

This one, a young girl reported she was inappropriately touched by an unknown male immigrant in the group after entering the U.S. Another one, several people reported to staff they were inappropriately touched, another where somebody paid money to have sex with her, another—go down the list of hundreds of these examples. Somehow in the greatest country in the history of the world, the most powerful country in the history of the world, we think this is a system that we should defend.

It blows my mind that my colleagues on the other side of the aisle want to defend a system of laws that allows this to occur to children, and then brush away that MAGA extremist *The New York Times* for daring to point out that 85,000 kids aren't being found from the first contact my colleagues on the other side of the aisle say. Oh, OK. We just didn't get them on that first call.

I would ask each of the witnesses very quickly, do you think that the data that's showing that since President Biden took office that 356,665 unaccompanied alien children have crossed the southern border that we know of and been placed in HHS custody is a system that attracts that number of children unaccompanied to come across our border to be exploited by cartels, to be put into the sex trafficking trade, to be put into the slave labor trade, to be sexually abused, to die on ranches in South Texas, or to drown in the Rio Grande? Yes or no, is that a system that you're proud of as an American and that you think is good?

Ms. RODAS. No, Congressman.

Mr. ROY. Thank you, ma'am. Ms. Rodriguez?

Ms. RODRIGUEZ. No, sir. I'm appalled.
Mr. ROY. Ms. Vaughan.
Ms. VAUGHAN. No indeed.
Mr. ROY. Mr. Carey.
Mr. CAREY. I'd like to point out—
Mr. ROY. It's a yes or no question. Are you proud of a system in this country that has 356,000 unaccompanied alien children that allow that to occur to children that we know? By your own acknowledgment and testimony, by our own understanding, children are being abused and raped. They get killed in this process. The system that we created to allow and attract that flood across sour border, do you think that is a good system and are you proud of it as an American?
Mr. CAREY. These children are fleeing violence and threats of death in their country of origin.
Mr. ROY. The numbers have been spiking under this administration because of the policies of this administration and it is well documented. I just want to make clear. You're standing behind the policies of this administration that you're proud of these policies and that is allowing to occur to these children?
Mr. CAREY. I do not currently work for the administration. I was—
Mr. ROY. Doesn't matter to me. Are you proud of the administration's policies and what currently is occurring to these children because of the policies attracting 356,000 unaccompanied alien children when we know the data, 85,000 lost, reams of scores—you worked there. You know of the rapes, of the people getting killed, and of the slave labor. Do you think this is a system that we should say we're proud of?
Mr. CAREY. I believe we should provide protection to children who are fleeing death and persecution.
Mr. ROY. Let me ask you a different question.
Mr. CAREY. They should be allowed an opportunity—
Mr. ROY. Do you believe that the TVPRA policies adopted that unchecked and unfixed by this current Democratic Administration and my colleagues on the other side of the aisle, did that have anything to do with attracting all those children across the border?
Mr. CAREY. Well, I do believe that the Trafficking Victims Protection Act is an important component of U.S. child protection—
[Simultaneous speaking.]
Mr. ROY. Is it a magnet right now, the way it's currently constructed? While children were riding on the top of train cars, President Obama was appalled. Jeh Johnson was appalled. This administration doesn't seem to care. Yes or no, is our current system a magnet to kids?
Mr. CAREY. I do not believe it is.
Mr. ROY. You don't believe it's a magnet?
Mr. CAREY. No.
Mr. ROY. Well, that's the problem. I yield back.
Mr. MCCLINTOCK. The gentleman yields back. Next is Mr. Swalwell.
Mr. SWALWELL. Thank you. Ms. Rodriguez, welcome and thank you for coming today to testify. Ms. Rodriguez, were you at the Capitol on January 6th?

Ms. RODRIGUEZ. Was I at the Capitol?

Mr. SWALWELL. Yes.

Ms. RODRIGUEZ. No, sir. I was on the premises outside of a reflection pond waving a flag.

Mr. SWALWELL. So, you were on the Capitol grounds?

Ms. RODRIGUEZ. I'm not sure if that's technically Capitol grounds. I was near the street.

Mr. SWALWELL. Is this your tweet right behind me at 3:05 on January 6, 2021?

Ms. RODRIGUEZ. I really do not know. I can—

Mr. SWALWELL. Are you *@SecureBorderTX*?

Ms. RODRIGUEZ. Yes, sir.

Mr. SWALWELL. OK. Can you see that picture?

Ms. RODRIGUEZ. I can.

Mr. SWALWELL. Did you go any farther than you were in that picture?

Ms. RODRIGUEZ. No, sir.

Mr. SWALWELL. Did you ever cross any police barricades on January 6th?

Ms. RODRIGUEZ. Not that I'm aware of.

Mr. SWALWELL. Did you ever see any violence on January 6th?

Ms. RODRIGUEZ. No, I did not. I did see a red flare go up. I don't remember the time. That was about it. I did not encounter any violence. As a matter of fact, it was quite peaceful. I was involved in some prayers the day before.

Mr. SWALWELL. So, January 6th, over 150 officers were injured. One lost an eye. One lost a finger. One lost a life. You didn't see any violence?

Ms. RODRIGUEZ. No, sir. I did not. That was not my experience.

Mr. SWALWELL. You agree, though, that violence against police officers took place that day?

Ms. RODRIGUEZ. Sir, I'm not quite sure that this has to do with the exploitation of children like the young girl who wore this band.

Mr. SWALWELL. I guess you recall—you publicly tweeted this. The majority knew that you were on the Capitol grounds on January 6th. So, your credibility is just as every witness including the Democratic witness is fair grounds for questioning. So, I guess my question is you are aware that violence took place at the Capitol on January 6th?

Ms. RODRIGUEZ. That's what the media says.

Mr. SWALWELL. OK. Do you believe the media?

Ms. RODRIGUEZ. Inherently, I do not.

Mr. SWALWELL. No, about January 6th.

Ms. RODRIGUEZ. About January 6th? I can only go by my personal experience. Absolutely, if waving a flag and praying outside of the Supreme Court and standing outside waving a flag on public property is a crime, I'm not—again, I'm really not sure what relevance. We have children that are being raped using our taxpayer dollars.

Mr. SWALWELL. Others—

[Simultaneous speaking.]

Ms. RODRIGUEZ. I'm not quite sure what this has to do with me waving a flag has to do with that.

Mr. SWALWELL. So, you were among a crowd that did commit violence. My question for you is—I accept you at your word. You did not commit any violence that day. You didn't see any violence that day. Certainly, it's not a lie. It's not made up that 150 officers were injured.

[Simultaneous speaking.]

Mr. SWALWELL. My question is to your credibility. Will you condemn the violence that took place against the officers that day?

Ms. RODRIGUEZ. Absolutely. I absolutely condemn any violence, including the violence that is occurring at our southern border using our taxpayer dollars. Absolutely.

Mr. SWALWELL. OK. Did you tell the majority before they invited you here that you had participated on Capitol grounds on January 6th?

Ms. RODRIGUEZ. Did I tell the majority that I waved a flag on—

[Simultaneous speaking.]

Mr. SWALWELL. Did they know that you had been at the Capitol on January 6th—

Ms. RODRIGUEZ. It was not a question that I was asked. No, sir.

Mr. SWALWELL. As it relates to January 6th, you also posted a tweet that encouraged people to attend that day and, quote, "fight for Trump." Do you remember writing on January 1, 2021, imagine over a million patriots screaming fight for Trump. Think Congress and the Supreme Court will hear us. When you say, fight for Trump, and then there was actually fighting, physical fighting on behalf of Trump—

Ms. RODRIGUEZ. Sir—

Mr. SWALWELL. What did you mean?

Ms. RODRIGUEZ. —are stating that I tweeted that?

Mr. SWALWELL. You don't remember tweeting?

Ms. RODRIGUEZ. No, sir. I honestly do not.

Mr. SWALWELL. OK. So, on January 1, 2021, you sent a tweet that said, imagine over a million patriots screaming, quote, "fight for Trump" on the 6th. Think Congress and SC which I believe is Supreme Court will hear us then, *#fight* for Trump. Your testimony is that you did not say that?

Ms. RODRIGUEZ. I'm saying I do not—I honestly do not remember tweeting that. I was not very active on Twitter.

Mr. SWALWELL. Well, you also tweeted at 4:00, I just got home—you said I just got hole safely, I think you meant home—at BWI airport as the gate filled up with those of us with Trump gear on and several Army soldiers near time to boarding. Our gate was surrounded by airport security.

Mr. MCCLINTOCK. Will the gentleman yield for a moment?

Mr. SWALWELL. No, I will not yield. So, you tweeted regularly throughout the days leading up to January 6th. You ask people to fight for Trump, and then you took a picture of yourself near the Capitol. So, I just want to know when you say fight for Trump and people ultimately fought for Trump, do you regret those words?

Ms. RODRIGUEZ. Sir, I do—the second one that you just read, yes, because that was a very traumatic experience. I couldn't understand why my gate surrounding—and BWI was surrounded by Guardsman and how I was—we as a whole, everyone that was on that plane, were threatened to be removed. I could not understand

because again I did not experience any type of violence. As far as the first one that you—I would have to go back and look at that. I really do not honestly remember tweeting that first one.

Mr. SWALWELL. I'll make sure to get it to you.

Mr. MCCLINTOCK. The gentleman's time has expired.

Mr. SWALWELL. I just want to correct. I said January 6th for the BWI airport. It was January 7th. I just want to—January 7th was when you tweeted—

[Simultaneous speaking.]

Mr. MCCLINTOCK. Mr. Nehls.

Mr. NEHLS. Thank you, Mr. Chair. Ms. Rodriguez, I apologize that you had to—you're here for a hearing on the border. They don't want to talk about a border. Mr. Swalwell is down there. Obviously, everybody knows he's made some comments. He's got a checkered past.

[Simultaneous speaking.]

Mr. SWALWELL. I'm sorry? A checkered past? I would ask—

Mr. NEHLS. It's my time. Alleged affairs and relationships with Yum Yum.

[Simultaneous speaking.]

Mr. SWALWELL. No, no, no, no, no. You don't get to say that shit. That's not true.

Mr. NEHLS. He's had alleged relationships with Yum Yum.

[Simultaneous speaking.]

Mr. NADLER. I ask the gentleman's words to be taken down.

Mr. SWALWELL. No, no, no, no, no, no, no. You don't get to say that, pal.

[Simultaneous speaking.]

Mr. NADLER. We ask the gentleman's words to be taken down. He's casting a slur on another Member.

Mr. NEHLS. I am here—

Mr. NADLER. I ask the words of the gentleman be taken down. He's casting a slur on another Member.

Mr. MCCLINTOCK. Let us have some order and civility here, and we will take up the issues one by one.

Mr. NADLER. Mr. Chair, I ask that the words of the gentleman be taken down as expressing a slur on another Member.

Mr. CICILLINE. I join in that request.

Mr. MCCLINTOCK. The specific words were—

Ms. JAYAPAL. He mentioned that Mr. Swalwell had a checkered past. I don't have the rest of the exact words. It was a direct slur on a Member of this Committee. That is not acceptable.

Mr. MCCLINTOCK. We are going to consult the precedents and take a temporary recess.

Ms. JAYAPAL. Thank you.

[Recess.]

Mr. MCCLINTOCK. Would the gentleman wish to withdraw his words?

Mr. NEHLS. Yes, and I would like to rephrase. This is the same Member that was removed from the Intelligence Committee that he previously served on. So, now let's get right down to the serious business as it relates to our southern border.

My question is more related to those who claim to be minors but pose as the adults. I've got several articles in here, Border Patrol

nabs hundreds of illegal immigrant adults posing as children. Border Patrol nabs illegal immigrants who pose as unaccompanied minors to avoid deportation.

This is an article here with our school districts across the country that are dealing with this. This is from city officials in Lynn, Massachusetts that talked about adults now—adults that are in this country. They posed as minors.

They're in this country. Now, we've got 23-, 24-, 25-, and 30-year-old people in our high schools. Think about that. They're in our high schools. They're across the entire country.

City superintendent of schools, Catherine Latham in Lynn, Massachusetts says this is out of control. These individuals are in their schools. There's very little documentation.

It says, Federal policy prohibits city officials from inquiring into a child's immigration and citizenship status and background. We've got problems here, folks. We've got problems, and the left is just continuing to ignore it. They're ignoring it. Mr. Carey, what proof—since we've got individuals coming in here, what proof is required to determine a minor's age?

Mr. CAREY. Well, you talked about screening at the border. So, Customs and Border Protection, I believe, is the law enforcement entity that determine that these—

Mr. NEHLS. DNA, my friend, do they do—

Mr. CAREY. No, I think these children were determined not to be eligible as minors before they would have been turned over to ORR.

Mr. NEHLS. OK.

Mr. CAREY. So, a law enforcement body determined that they were not minors and they did not go into ORR.

Mr. NEHLS. Yes, so DNA, birth certificates, passports, medical records, what does somebody need to produce?

Mr. CAREY. Well, in fact, birth records and a host of other materials are collected, both from country of origin and—

Mr. NEHLS. What happens if they don't have any of these documents, sir?

Mr. CAREY. Well, I believe there are individual circumstances. Those are, in fact—

Mr. NEHLS. What is the protocol then?

Mr. CAREY. Well, I think it would vary greatly. I do not know what it is currently, because I'm not in the office.

Mr. NEHLS. This guy here behind me, I'd like to spend a moment with this guy. This guy here, 24 years old, he posed as a minor. He comes into this country, shares a fake name.

It's not him. He wasn't a minor. He said he was 16–17. He comes in. He's 24 years old. ORR releases him. They send him to Florida. He's over there hanging out with a fellow, his sponsor, not a father, not a mother, just a sponsor.

What does he do a few short months later? He kills him. He kills him. Now, I don't know what the protocol is down there. When I look at this guy, he's got more chin whiskers than most 40-year-olds have.

Look at that guy. Now, how does a guy like that get into this country as a minor? He comes in. He says, my name is such-and-such. No such name. He gets released into this country, and he took a life.

There's just more than this guy. There are hundreds if not thousands of them in this country posing as minors. I could sit here and talk about the MS–13 gangs that are coming in here and harming our American people and our citizens. What are we doing about it?

Ms. Vaughan, I wish I had more time. I do. Ms. Rodriguez, ma'am, thank you for what you do. Thank you for exposing what this administration has done to this country, putting the American people last each and every time. We're in control now, and I can damn well tell you, help is on its way. Thank you, sir. I yield back.

Mr. MCCLINTOCK. Ms. Ross.

Ms. ROSS. Thank you, Mr. Chair. Earlier this year, I joined several of my colleagues on this Committee to visit McAllen and Brownsville, two Texas border towns. While there, we visited an Office of Refugee Resettlement facility that houses unaccompanied children.

All these children had families or sponsors in the United States who were waiting to take them. We learned that to ensure these kids are treated humanely when they leave ORR custody, ORR conducts an assessment of the sponsors to determine that the child is placed in an appropriate environment. What struck me most about our visit to the border was how much our immigration and asylum system relies on nonprofits and community services in areas like McAllen and Brownsville.

The Biden Administration is working to scale up post-release services through which children and their sponsors are connected to community-based services with the goal of being able to provide these services to every child soon. Unfortunately, this Committee has already seen too many proposals this year to strip unaccompanied children of basic protections. The Border Security Enforcement Act would leave kids with a mere cursory screening by law enforcement personnel, lacking child welfare expertise who would be less likely to pick up on signs of trafficking and exploitation which I take extremely seriously.

As a State legislator, I moved through trafficking bills in North Carolina. It would also result in a summary return of many kids who fled legitimate dangers in their home countries. Children who arrive at our southern border have often escaped violence, human traffickers, and gangs in their own countries. Mr. Carey, in your opinion, is it better to allow children to remain in the United States if we can properly vet the sponsors or to summarily deport them with limited due process back to a dangerous situation?

Mr. CAREY. Thank you for the question. It is well documented that these children are coming from three of the most violent countries in the world where there are extrajudicial killings where children are recruited or targeted by gangs or violent elements at the time they reach adolescence. So, no, I do not think without a proper hearing a determination of their legal access to asylum is determined with ideally legal representation as recommended by the TVPRA and Flores.

I also think a society is defined by the way we treat our most vulnerable. Returning—and children are among the most vulnerable. So, returning children to a situation in a country where their lives are at risk, and some have been killed on return does not reflect well on us. I do believe they should have access to a legal

hearing determining the nature—that their claim is either valid or invalid.

Ms. ROSS. Thank you very much. We did hear from some of those children adolescence who had left very dangerous situations. Mr. Chair, just for a brief period of time before I reclaim my time, I'd like to yield about 15 seconds to Mr. Nadler.

Mr. NADLER. I thank the gentlelady. Mr. Carey, I just wanted to ask if I'm correct in that what you were saying before is that conditions in their home countries are pushing these people, kids and adults, out. It does not matter who the President of the United States is or what their policies are. These kids would be coming because of conditions in their home countries.

Mr. CAREY. Absolutely. That's very well documented.

Mr. NADLER. Thank you very much. I yield back. I thank the gentlelady for yielding.

Ms. ROSS. Thank you. Just I completely agree with all the witnesses that we need to do more. When we went to the border, we saw just sad, sad situations with children. I want you to know, all of you to know, that I am committed to helping and hopefully in a bipartisan way, helping these children and making sure that they are safe. Mr. Carey, just in the 10-seconds that we have, have we seen any improvements in the situation that you think Congress should invest in further?

Mr. CAREY. Absolutely. I think post-release services which would provide legal representation and social workers on an expanded level which I know ORR is increasing and would like to have fully in place within the next two years provides another eye on these children, provides a degree of protection that might not otherwise be present. Also, where present, over 90 percent of the children show up at their hearings.

If there is a problem, there are entities and individuals who can determine that it exists and refer to social service providers or law enforcement as appropriate. So, I think that is what I do think that there should be. There is unfortunately an audit process going at ORR to determine what the flaws are and how those can be improved upon. I do think that clearer lines of authority and communication between those entities, such as, ORR which are in essence social service providers and law enforcement and other bodies would be an improvement on the current program.

Mr. MCCLINTOCK. The gentlelady's time has—

Ms. ROSS. Thank you, Mr. Chair, for your indulgence.

Mr. MCCLINTOCK. Mr. Moore.

Mr. MOORE. Thank you, Mr. Chair. Just a week ago, *The New York Times* reported that the Biden Administration has downplayed repeated signs that migrant children are being widely exploited. I will go on the record and say it doesn't sound like just the Biden Administration based on what I'm hearing in here.

Ms. Rodas, you mentioned something. It kind of—it triggered a response a while ago. You said these kids are being recruited in their home country. What do you mean by that?

Ms. RODAS. So, I'd be happy to submit for the record. We have children saying that there are radio advertisements in their hometown. So, in Huehuetenango, for example, in Guatemala, they're

actually advertising on the radio, come with us. We'll give you passage. We'll give you passage to the United States.

There's an example of a sponsor who currently is in Austin, Texas at this moment. He attempted to sponsor four children, one from the Pomona Fairplex emergency intake site and three from the Pecos emergency intake site promising work to these children who are making $2.50 a day on the coffee farm he owns in Guatemala. So, he lured them here.

Now, fortunately they were put into long-term care. They are being lured here, Facebook ads and other things. Children are being lured here and then put to work here.

Mr. MOORE. So, it doesn't sound like they're fleeing as much as they're being moved to come here in a lot of ways from what I'm hearing.

Ms. RODAS. In many ways, they're not fleeing, in many ways. Let's take El Salvador, for example. No one is fleeing from Nayib Bukele. He has a very safe society right now.

Yes, maybe in times past, people were fleeing El Salvador from the gangs. Sadly, the gangs have now set up operation here. We have evidence that there are many of them who are running the networks here who have the children.

It's indisputable evidence. The Department of Homeland Security has transnational criminal organizations on the top watch list. Some of whom got their fingerprints here in Washington, DC, and neighboring areas are sponsoring the children. It's indisputable.

Mr. MOORE. You mentioned debt bondage. What do you mean when you say debt bondage? Who does the money go to?

Ms. RODAS. So, the money goes to the trafficker who ultimately brings them here. *The New York Times* actually showed, Hannah Dreier did an amazing expose where she actually showed the debt page of the child, how much the child had to pay for food, how much the child had to pay for rent, all of those things.

Mr. MOORE. So, the administration is really—we're engaged in creating slavery. We are trafficking slaves to this country.

Ms. RODAS. Absolutely. There is no doubt. We have created a pull. Because this criminal element tragically views children as a commodity and they see us as the middleman because we're paying the flight directly to the end user, the trafficker.

[Simultaneous speaking.]

Mr. MOORE. I remember. I was at Fort Bliss, the emergency intake center. I mentioned this last week in a hearing. I was there as they were shipping kids on buses all over the country.

I actually asked the admiral running the place. I said, we're doing background checks. We're sending these kids to Google addresses. He's, like, no, we're just building the bus as we drive it. So, they were just shipping. American taxpayers, basically we're trafficking children.

Ms. RODAS. Yes.

Mr. MOORE. Making the cartel wealthy in the process and creating a bunch of minors in bad, bad situations.

Ms. RODAS. Yes, yes. Going back to 2014 which was astounding to me because I did not know when I deployed for this mission that one child had ever been trafficked through the program. So, the horror when someone sent me the 2016 Senate report, I'm sitting

there on the Pomona site seeing all these strange things and all these multiple sponsors at multiple addresses trying to collect these kids from multiple sites. I read the report. I thought, which side am I on?

Mr. MOORE. Right, which side are you on.

Ms. RODAS. Which side because we know about trafficking all the way back then how teens were lured from Guatemala, put in slave labor conditions where they were held sometimes at gunpoint. Their families were threatened to be killed.

Mr. MOORE. So, I've got about 45 seconds. Thank you for being a whistleblower. I guess they didn't treat you very nicely when you blew the whistle I understand.

Ms. RODAS. No, they did not. They threatened me with investigation. They walked me off the emergency intake site. They took my badge. My agency—thankfully I work for the Council of the Inspectors General.

I'm not here in that capacity. They actually offered to send agents to retrieve me to escort me home because they were concerned for my safety. It's a terrible thing when you blow the whistle and to try to save children and then you are retaliated against for trying to help. HHS did everything they could to keep all this silent.

Mr. MOORE. Let me ask one more question. You said these kids—they talk about, oh, we're sending them to their moms and their dads. You're saying they hand them a piece of paper and tell them this is your mom, and this is your dad? Is that what I gathered from the testimony?

Ms. RODAS. Well, as they're making their journey, that happens. Then also the case managers who are not law enforcement, right, they're not investigative, they are receiving documents, photographs of documents on their WhatsApp phone. There's a perfect example.

A 20-plus-year-old man sponsored what we believed was his sister who was only 16 years old. He submitted a birth certificate for himself and her as brother and sister. Then about 10 days after she's released, we see she's for sale on his WhatsApp page. Her shirt is buttoned down to her navel. She's all made up. The documents, there is no one at HHS vetting the children—

Mr. MOORE. That's where we need law enforcement. I'm out a time. Mr. Chair, I yield back. Thank you.

Ms. JAYAPAL. Mr. Chair, I have a unanimous consent request.

Mr. MCCLINTOCK. State the request.

Ms. JAYAPAL. Thank you, Mr. Chair. I would like to seek unanimous consent to enter into the record two articles, one from *Slate Magazine*, Nayib Bukele is Latin America's first millennial dictator, and another one from *CNN*, why El Salvador's President Nayib Bukele wants everyone to know about his new prison. This one actually talks about how he went and conducted secret talks with the MS–13 leaders in prison and wanted—essentially it was looking to release those gang members.

Mr. MCCLINTOCK. Without objection.

Ms. JAYAPAL. Just wanted to make it clear that we're not talking about a country that has a benevolent government. Thank you, Mr. Chair.

Mr. MCCLINTOCK. The gentlelady is recognized to make a unanimous consent request, not a speech. Mr. Cicilline.

Mr. CICILLINE. Thank you.

In just the first four months of 2023, U.S. officials have encountered more than 70,000 unaccompanied children. These children, some of them too young to even fully understand where they are, are some of the most vulnerable people to go through our immigration system. They desperately need to be shown care and compassion, the same that we should want for any of the children in our own lives.

Instead, as we know, they are increasingly being put to work in illegal and unsafe jobs, or even worse, sent back into unsafe conditions or human traffickers. We cannot allow this to happen.

What do our Republican colleagues propose we do about this? Just recently, my colleagues across the aisle passed out of this Committee a bill which guts existing protections for unaccompanied children and blocked efforts to allow government-provided lawyers to represent these children at hearings. Simply put, they are making an already complex problem worse.

I know every single Democrat on this side of the dais is ready to do all that we can to improve this effort and ensure that we have the Federal resources devoted to ensuring that no children are forced to work illegally or in the hands of anyone they shouldn't be.

So, I want to ask you, Mr. Carey, first, we all recognize that more has to be done to protect these vulnerable children. What authorities do you suggest Congress give to help these children? Would government-provided counsel, for example, be helpful to protecting children released to sponsors? What sort of role could an attorney play? Do you think legislation that our colleagues just passed that bans the government from providing counsel to unaccompanied children would result in more exploitation of children or less?

Mr. CAREY. I certainly think it would provide more exploitation. When children are in touch with an attorney, they are in regular touch. It ensures they show up at their hearings determining whether they have a claim and whether their lives were in danger in their country of origin. It also is an extra party who is seeing the child, who can assess whether they are in physical danger, whether they are going to school, and whether they are still living with their parents or their other sponsors.

So, yes, I do believe that post-release services, which would also include access to social services, and a host of other physical health services, ensuring that physical needs are being taken care of, educational services and linkages with other community-based services for which children are legally entitled to access. So, yes, I believe these would be extremely beneficial.

Mr. CICILLINE. Mr. Carey, in your testimony, you also indicated that HHS does not have the authority to investigate what happens to children after they leave HHS custody. What agencies do have the authority to investigate those who might put children in exploitative or dangerous working conditions, or other—

Mr. CAREY. Well, certainly, the Department of Labor has the authority to investigate and enforce labor law, and that would cer-

tainly extend to the exploitation of children in unsafe working conditions or underage children working in conditions of that sort.

So, other law enforcement bodies, I believe, as well, though I'm not expert in that area.

Mr. CICILLINE. So, what can Congress do to ensure that the Department of Labor, as an example, has what it needs in terms of resources to go after employers who put children in any kind of danger?

Mr. CAREY. Well, I coauthored a piece in Slate with a colleague who is a labor law expert about a month ago. She determined, the research that she did show, the Department of Labor is very much underfunded. So, the ability to inspect and enforce labor law is, I gather, quite limited. So, certainly, funding to that body to enable it to investigate and prosecute would, I believe, be a critical factor in reducing the potential for exploitation of children.

Mr. CICILLINE. Finally, in light of that statement you just made, our colleagues are about to pass a proposal to deal with the default of the United States, where they are proposing massive cuts—a 22 percent cut, in fact—on HHS, the Department of Labor, and the Office of Refugee Resettlement. So, rather than increases, there are going to be very serious cuts.

How would those cuts, which they are going to vote for this afternoon or tomorrow, how would those impact the catastrophe that we've heard about with respect to unaccompanied minors?

Mr. CAREY. Well, I believe that the expansion of post-release services which is underway—and hopefully, will be funded—would be a critical element in expanding the protection of children beyond the point at which ORR has the authority to do so. So, that is moving forward, and that has expanded in recent years since my departure. Those include mental health services, social work support, physical health services, educational, and other community-based services. I think all these enhance the protection of children beyond the extent that ORR is able to do so. So, I think cutting back those services, inherently, increases the threat to children and society writ large.

Mr. CICILLINE. Thank you. I yield back, Mr. Chair.

Mr. MCCLINTOCK. I'll now recognize myself for five minutes.

First, Ms. Rodriguez, on behalf of the Committee, I apologize for the personal attack that was hurled your way in the vile insinuations. That has no place in this Committee.

Ms. Vaughan, I want to nail down this question of 85,000 children being simply lost by the administration. We're told that's OK; they're just not answering their phones. What does it actually mean to lose track of these children?

Ms. VAUGHAN. Well, HHS has consistently denied that it has any authority or responsibility to—

Mr. MCCLINTOCK. The point is, they're supposed to be doing follow-up phone calls, correct?

Ms. VAUGHAN. Right. Well, that's what they—

Mr. MCCLINTOCK. Those follow-up phone calls for those 85,000 children now are simply going unanswered. We don't know where they are. How do we know what has happened to them?

Ms. VAUGHAN. We don't, and that's the problem. I don't think we really know what happens to those who do answer the phone.

Mr. MCCLINTOCK. Ms. Rodas, what kind of vetting is actually done to assure somebody claiming to be a relative actually is?

Ms. RODAS. Well, again—

Mr. MCCLINTOCK. Not a DNA test, for example?

Ms. RODAS. —as Mr. Carey mentioned, there are no investigative or law enforcement people involved in the vetting process. In my experience, with what I witnessed at the Pomona Fairplex emergency intake site, case managers were receiving photographs of documents. There is no way—there was a very small percentage that we were actually able to put through the consulate to verify. People are just going off the word of who is ever sending in the documentation.

The vetting process is, practically, nonexistent. They like to talk about a vetting process, but there's no law enforcement involved in the vetting. So, how can there be a vetting process?

There's lots of talk about the post-release services. Post-release services, 25 percent of the children who we released got it.

Mr. MCCLINTOCK. Do we visit—

Ms. RODAS. It's not enforceable.

Mr. MCCLINTOCK. Do we send somebody to visit these homes before these children are deposited in them?

Ms. RODAS. No, absolutely not. The history is about—six percent of homes are ever seen. So, we're talking about taking a child—

Mr. MCCLINTOCK. We've got pet shelters that offer more vetting than that.

Ms. RODAS. Yes, exactly.

Mr. MCCLINTOCK. What kind of follow-up is done to assure the welfare of the child?

Ms. RODAS. Well, a phone call—that we don't know who's answering the call? We cannot verify that—

Mr. MCCLINTOCK. So, first, when we do make contact, we don't know if we're actually talking to the so-called sponsor?

Ms. RODAS. Exactly.

Mr. MCCLINTOCK. For 85,000 of them, they're not even answering? They've just completely fallen off the radar?

Ms. RODAS. Yes, Chair, yes.

Mr. MCCLINTOCK. Ms. Rodas, it's been reported that the cartels charge thousands of dollars to traffic these children. How are these debts repaid?

Ms. RODAS. How many debts actually get repaid?

Mr. MCCLINTOCK. No, no, how are the debts repaid?

Ms. RODAS. By working and sometimes enslaved labor. There was an example, when Project Veritas went and knocked on doors in some of the hot spots that I gave them, a 16-year-old girl said she's being pimped by her sponsor, who claims to be her aunt, but the little girl says, "I don't know. I've never met her."

Mr. MCCLINTOCK. Ms. Rodriguez, you heard similar stories in Texas, is that correct?

Ms. RODAS. Yes.

Ms. RODRIGUEZ. Yes, sir, that is correct, with a lot of the, especially the younger children that I personally met along the border, again, they come with these small, little pieces of paper with handwritten numbers on them. They're told, from what they tell me, of who their sponsors are going to be, that this is a lot of them, it's

their tío, like their uncle, their mother, or their father that they've never met, and they don't know who they are until—they've never met them.

Mr. MCCLINTOCK. The Florida grand jury did a five-month study of this issue in their State and discovered exactly the same thing. So, we're seeing that in California. We're seeing it in Texas. We're seeing it in Florida.

When we're told these placements are carefully vetted, are we being gaslighted?

Ms. RODAS. Yes, Chair.

Mr. MCCLINTOCK. Ms. Vaughan?

Ms. VAUGHAN. Yes, and that's why the State of Florida, for example, the grand jury there is recommending that the State pass a law requiring these sponsors to come forward, so that the State can do the vetting, because they know that the Federal government is not doing it. It's simply not happening.

Mr. MCCLINTOCK. Now, if these children were safely returned to their homes, what would that do to the cartels' business model?

Ms. VAUGHAN. It would dry up. This would be—

Mr. MCCLINTOCK. That's what Border Patrol Officers have told me when I'm down there—is, if you get them safely home, they said they don't offer refunds. Word will spread very fast that's a bad investment, and the perilous journey won't be attempted. Indeed, give us just a little bit of insight into that journey.

Ms. VAUGHAN. Well, we know from reports of NGO's that a very large percentage of the kids who come are abused. Something like at least 60 percent of the female migrants are abused physically, often sexually.

It's a difficult journey. The cartels and the smugglers treat them like commodities. They don't care about whether they get enough food, shelter. It's terribly traumatic, and it has to be dealt with by the places where they end up.

Mr. MCCLINTOCK. Thank you.

Ms. Jackson Lee?

Ms. JACKSON LEE. I thank the Chair and I thank the Ranking Member, and, of course, acknowledge all the witnesses.

There are many of us who have lived through this in real time. I have been in the Congress since a number of legislative changes and, as well, the lawsuits that resulted in the settlement, the Flores settlement agreement from 1997, and the Homeland Security Act of 2002, and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008. So, we've seen the effort to be responsible to the children.

I do want to set the record straight. It's that, during the entire four years of the Trump Administration, when they abusively took children and separated them from families. It has taken the Biden Administration until this time, and continuing, trying to reunite those families. There was no effort by the past administration to reunite the children.

So, though it is not attributable to the witnesses, this is a misstatement of this hearing. I would prefer that we had appropriately named hearings, because I don't think anyone can document the "Biden Border Crisis: Exploitation of Unaccompanied Alien Children." I'm not sure if they're trying to suggest the Presi-

dent is exploiting them or innocent workers are trying to exploit them. I'm not sure what that phraseology means, but I think we need to be precise in what we are speaking of about the abuse of children.

I abhor the abuse of children. I have been at the border, and I have held unaccompanied children—desperately sent, because they come from desperate circumstances. The whole question of reuniting, or if they'll safely, if they can just safely return—some of these children leave places that no longer exist. Family members are dead. They've been taken over by violence, gangs, and there's nothing there. So, I do think it is important that we stand up a system that respects, coddles, nurtures, and protects these children.

So, I'm going to start off, Mr. Carey, discussing the 85,000 lost children. I know that you're not in government now, but you served before. You know that *The New York Times* wrote a detailed article with some very concerning allegations related to unaccompanied children unlawfully working in some very dangerous conditions. The article also talked about how the Office of Refugee Resettlement did not know the whereabouts of about 85,000 unaccompanied children who have been released to sponsors since the Biden Administration began.

Many outlets'—and some of my colleagues have latched onto this—headlines say that the Biden Administration has lost 85,000 children. Let's start with the most important question. I do want to say this: You were in the Obama Administration. We have been—children have been unaccompanied. We saw processes being utilized—not perfect, because in trying to settle children, I know for sure, being at sites where you wanted to make sure that children were going to loving relatives to someone that was going to care for them.

In the course of securing sponsors, the sponsors showing up, and some of these sponsors were the ones that were on the little notes that the children had with a phone number. So, those who were dealing with these children were only trying to get them where they needed to be.

Again, I reiterate the fact that the children under Trump were snatched away from their families, purposely, to discourage them from coming.

Can you explain why they're not, in fact, lost? My time is short, so I'm just going to—and did this same issue, also, occur during the previous administration? Would you answer that, please?

Mr. CAREY. Yes. Thank you.

I would contend that every child receives a call, a follow-up call. Many do not answer. So, not answering a phone call, particularly if you're with your parents, I do not believe constitutes being lost.

In many cases, they are known to other bodies, to the legal system which they're going through to hear their claim; to determine if they have a—go through, if they are, as they're going through that legal process, whether they have an asylum claim. So—

Ms. JACKSON LEE. They could be in school? They could be under teenagers, children?

Mr. CAREY. Right, yes. Many other entities may well be aware of their location, but, especially, their parents to whom they've been released.

Mr. MCCLINTOCK. The gentlelady's time has expired.

Ms. Spartz?

Ms. SPARTZ. Thank you, Mr. Chair.

I, actually, went to the border many times in the last Congress, and recently did. It's unfortunate that it's not a bipartisan issue. Because, I'm a mother of two teenaged girls, and if I would do what is done to some of these children, I would be in jail for child neglect. These kids deserve the same level of protection as everyone else, and we're creating perverse incentives.

Unfortunately, I think the pendulum has swung too far with this administration, because they really wanted to quickly push kids out of care; that they don't have overwhelmed shelter versus worrying about safety.

Because when I went several years ago to Texas to some of the shelters, I think people who worked there was very disturbed that proper background checks were not used, and COVID was used as a pretense to do that.

I don't know, Ms. Rodriguez, if you are aware or not—or any of you—that they did stop because we don't have a COVID pandemic now. Is it still the background check—it was inexcusable to use COVID, not really to worry about the safety of these children. Do you know if this guidance, and this field guidance, is still in place? Or now, they're doing better checks? Are you aware, any of you?

Ms. RODAS. Thank you, Congresswoman.

To my knowledge, all the field guidance that was put in place is still in place, which means that background checks for household members are no longer required. So, in instances where a person is sponsoring, and there's five other adult males in the room, or in the dwelling, none of them need to go through any type of background check at all.

So, it is a system that is easily abused. Because there are situations where, when reporters go knocking on the doors, they're finding a child, unrelated female, and male as well, living with five or six adults to whom they are not related.

Ms. SPARTZ. Yes, and it's unfortunate because now we have traumatized kids with massive debts to a cartel. I guess cartels don't sue them, but some very creative attorneys do. So, no one is really dealing with that issue.

We have a situation in Indiana, actually, the judges are shocked to see what's happened in some meat packing plants with child labor. I think no one even realized until these kids had some violations that they had to go into a court system. It has become a huge, a huge problem.

I think that shouldn't be a partisan issue. We created child slavery here in this country. We're talking about China having slaves. What are we doing in the United States of America with government money? That's inexcusable and is a humanitarian crisis, in addition to a security crisis.

I also wanted to see, as I understand, they have these post-release services. I hear from some people on the ground that, actually, a sponsor can deny these services. Is that correct? Have you heard that?

Ms. RODAS. Yes. Yes, Congressman, that's absolutely correct. That, actually, is what contributed to the Marion, Ohio situation, is that a call was made, and then, the case was just simply closed.

So, today, post-release services are absolutely not enforceable. It would also mean that you have a case manager who's trained enough to know to even activate the post-release services.

So, just because there's post-release services, it's not required. It is not mandatory, and the sponsor can say, "Thank you very much. Do not call me again. Bye." Because there is no authority that HHS has, or Office of Refugee Resettlement has, to hold the sponsor accountable.

This is what's most baffling. It is a simple fix. The sponsor needs to be held accountable. Why is this a difficult thing? I do not understand. It's the simple, simple fix. Sponsors are accountable. Sponsors are accountable to put the children in school. The sponsor should be accountable to take the child to the immigration hearing. That is what the sponsor signs up for, but that is not what the sponsor is held accountable for. There's no legal mechanism to make them accountable. If that changed, then children would not be trafficked.

Ms. SPARTZ. Well, I appreciate for doing the hearing. Mr. Chair, hopefully, we will actually be able to have the discussions. The discretions from the administration went awry, and HHS has to respond to us.

Because this is inhumane. This is irresponsible, and it only benefits cartels with making a lot of money on desperate people that come from very poor conditions, and the American government shouldn't be subsidizing. Otherwise, we're hypocrites when we criticize other countries for doing things like that. I think this shouldn't be a partisan issue.

I appreciate you being here today, and I hope we can, actually, find solutions to stand with these children and stop this incentivizing, this insanity on the border for national security.

So, thank you. I yield back.

Mr. MCCLINTOCK. Thank you.

Ms. Escobar?

Ms. ESCOBAR. Well, I would like to thank the witnesses for being here today.

I would like to express my frustration. I wish this were a real hearing that would result in real solutions and real improvements that would benefit children. Unfortunately, this is not a serious hearing. This is a hearing that is intended to completely distort the record, and really, it's strictly for political purposes.

I do agree with my colleague, the gentlelady from Indiana. We do need bipartisan solutions, and we do need a bipartisan effort, if we are going to truly address this. So, what would that look like?

First, I would like to preface my comments by sharing with you all. I represent El Paso, Texas. Fort Bliss, which is in El Paso, is home to one of the largest emergency intake facilities.

I have spent a lot of time at the emergency intake facilities. I have spent a lot of time talking to children. I am bilingual. So, I speak to the kids in their native language. I have spoken to enumerable staff—former/current staff. I, myself, have pushed on the administration at times when I've had to.

What I have found is, unfortunately, here in the House of Representatives, there is an absolute unwillingness by my Republican colleagues to participate in real solutions.

So, what would some of those solutions look like?

First, legal pathways: True legal pathways for children to reunify them with their family members would absolutely circumvent the horrific journey that many of them take. We can't get them to work with us on more legal pathways.

Another solution: Investing in programs to make sure that there is robust support. We can't get that, either. In fact, the President's budget, the amount of funding that he requested was actually ratcheted down by Republican colleagues. Then, when we had the omnibus vote, the vote for the budget that would fund HHS and the Department of Homeland Security, and a number of other agencies, the chairman voted against it last December.

So, when you starve a system, and you do everything possible to create legal pathways, you're not serious about solving these issues. In fact, when you call for the reinstatement of horrific policies by the previous administration, including deliberate family separation, you're not interested in solutions that help kids.

Last week, when we were here trying to create protections for children, so that they could have access to legal counsel—or, so that they would not be deported, even infants by themselves—my Republican colleagues all voted against those protections.

So, let's not pretend this is a serious hearing wanting to truly help children. There is nothing further from that fact.

Mr. Chair, I would like to enter into the record a fact sheet by HHS, the Administration for Children and Families. One of the witnesses claimed that there is no home study. The fact sheet disputes that, and the facts are that ORR requires a home study for children who are 12 years and under before unification with a non-relative sponsor. May I have unanimous consent to enter this into the record?

Mr. MCCLINTOCK. Without objection.

Ms. ESCOBAR. Every time I visited the emergency intake facility at Fort Bliss, and I spoke to kids, their complaint was that the background system was taking too long, and that they were not being reunited quickly enough with their families because it was so stringent.

Mr. Carey, in the remaining 40 seconds, is there any other misinformation that you would like to clarify?

Mr. CAREY. Yes. I think it's important to recognize that the ORR vetting system is rigorous. Any system is imperfect, but it is balancing the need of children to be reunited with their families—with their mothers, with their fathers—versus staying in care.

The resources to do so, I believe should be increased. I believe there should be more interagency cooperation and clear lines of authority and leadership, such that the lines of communication between ORR and other entities that are coming in touch with these children are perhaps improved.

Ms. ESCOBAR. Thank you for those real solutions. That is what we should focus on, and it should be bipartisan.

I yield back.

Mr. MCCLINTOCK. All right. Thank you.

Seeing no other Members seeking recognition, that concludes today's hearing.

I want to thank our witnesses for appearing before the Subcommittee today.

Without objection, all Members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record.

Without objection, the hearing is adjourned.

[Whereupon, at 5 p.m., the Subcommittee was adjourned.]

All materials submitted for the record by Members of the Subcommittee on Immigration Integrity, Security, and Enforcement can be found at the following links: *https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=115798*.

○

4000

CHINA IN OUR BACKYARD: HOW CHINESE MONEY LAUNDERING ORGANIZATIONS ENRICH THE CARTELS

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH CARE AND FINANCIAL SERVICES

OF THE

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

APRIL 26, 2023

Serial No. 118–25

Printed for the use of the Committee on Oversight and Accountability

Available on: *govinfo.gov*
oversight.house.gov or
docs.house.gov

U.S. GOVERNMENT PUBLISHING OFFICE
52–120 PDF WASHINGTON : 2023

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

JAMES COMER, Kentucky, Chairman

JIM JORDAN, Ohio
MIKE TURNER, Ohio
PAUL GOSAR, Arizona
VIRGINIA FOXX, North Carolina
GLENN GROTHMAN, Wisconsin
GARY PALMER, Alabama
CLAY HIGGINS, Louisiana
PETE SESSIONS, Texas
ANDY BIGGS, Arizona
NANCY MACE, South Carolina
JAKE LATURNER, Kansas
PAT FALLON, Texas
BYRON DONALDS, Florida
KELLY ARMSTRONG, North Dakota
SCOTT PERRY, Pennsylvania
WILLIAM TIMMONS, South Carolina
TIM BURCHETT, Tennessee
MARJORIE TAYLOR GREENE, Georgia
LISA MCCLAIN, Michigan
LAUREN BOEBERT, Colorado
RUSSELL FRY, South Carolina
ANNA PAULINA LUNA, Florida
CHUCK EDWARDS, North Carolina
NICK LANGWORTHY, New York
ERIC BURLISON, Missouri

JAMIE RASKIN, Maryland, *Ranking Minority Member*
ELEANOR HOLMES NORTON, District of Columbia
STEPHEN F. LYNCH, Massachusetts
GERALD E. CONNOLLY, Virginia
RAJA KRISHNAMOORTHI, Illinois
RO KHANNA, California
KWEISI MFUME, Maryland
ALEXANDRIA OCASIO-CORTEZ, New York
KATIE PORTER, California
CORI BUSH, Missouri
SHONTEL BROWN, Ohio
JIMMY GOMEZ, California
MELANIE STANSBURY, New Mexico
ROBERT GARCIA, California
MAXWELL FROST, Florida
BECCA BALINT, Vermont
SUMMER LEE, Pennsylvania
GREG CASAR, Texas
JASMINE CROCKETT, Texas
DAN GOLDMAN, New York
JARED MOSKOWITZ, Florida

MARK MARIN, Staff Director
JESSICA DONLON, Deputy Staff Director and General Counsel
TYLER SANDERSON, Senior Counsel
MALLORY COGAR, Deputy Director of Operations and Chief Clerk
CONTACT NUMBER: 202-225-5074

JULIE TAGEN, Minority Staff Director
CONTACT NUMBER: 202-225-5051

SUBCOMMITTEE ON HEALTH CARE AND FINANCIAL SERVICES

LISA MCCLAIN, Michigan, Chairwoman

PAUL GOSAR, Arizona
VIRGINIA FOXX, North Carolina
GLENN GROTHMAN, Wisconsin
RUSSELL FRY, South Carolina
ANNA PAULINA LUNA, Florida
NICK LANGWORTHY, New York
ERIC BURLISON, Missouri

KATIE PORTER, California *Ranking Minority Member*
ALEXANDRIA OCASIO-CORTEZ, New York
JIMMY GOMEZ, California
GREG CASAR, Texas
BECCA BALINT, Vermont
SUMMER LEE, Pennsylvania
JASMINE CROCKETT, Texas

C O N T E N T S

Page
Hearing held on April 26, 2023 1

WITNESSES

Mr. Anthony Ruggiero, Senior Director and Senior Fellow, Foundation for Defense of Democracies; and Former Deputy Assistant to the President, Senior Director for Counterproliferation and Biodefense, National Security Council
Oral Statement 5
Mr. Christopher Urben, Former Assistant Special Agent in Charge, Special Operations Division, U.S. Drug Enforcement Administration
Oral Statement 7
Ms. Channing Mavrellis, Illicit Trade Director, Global Financial Integrity
Oral Statement 8

Written opening statements and statements for the witnesses are available on the U.S. House of Representatives Document Repository at: docs.house.gov.

INDEX OF DOCUMENTS

* Questions for the Record: to Mr. Ruggiero; submitted by Rep. Gosar.
* Questions for the Record: to Mr. Urben; submitted by Rep. Gosar.

CHINA IN OUR BACKYARD: HOW CHINESE MONEY LAUNDERING ORGANIZATIONS ENRICH THE CARTELS

Wednesday, April 26, 2023

HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY
SUBCOMMITTEE ON HEALTH CARE AND FINANCIAL SERVICES
Washington, D.C.

The Subcommittee met, pursuant to notice, at 2:30 p.m., in room 2247, Rayburn House Office Building, Hon. Lisa C. McClain [Chairwoman of the Subcommittee] presiding.

Present: Representatives McClain, Gosar, Grothman, Fry, Luna, Langworthy, Burlison, Porter, Casar, Balint, Lee, and Crockett.

Mrs. MCCLAIN. The Subcommittee on Health Care and Financial Services will come to order.

Welcome. Thank you for coming. Appreciate it.

Without objection, the Chair declares a recess at any time. I recognize myself for the purpose of making an opening statement.

Welcome to the Subcommittee on Health Care and Financial Services. Today's oversight hearing focuses on the role that Chinese money laundering organizations are playing to enrich the cartels. We will hear from former Federal law enforcement and foreign policy experts to better understand how these criminal organizations came to dominate the money laundering industry. We will also learn about the different tools Congress and the Administration can use to cutoff these networks, which is critical.

Illicit fentanyl presents one of the biggest, if not the biggest, threat to public safety that the United States, in my opinion, has ever seen. Fentanyl is now the leading cause of death for Americans aged 18 to 45, unfortunately claiming more American lives in that group than suicide, COVID–19, and automobile accidents. In 2020 alone, 2,759 Michiganders lost their life to drug overdose poisoning, with approximately 75 percent of those drug overdose deaths involving synthetic opioids like fentanyl.

President Biden's open border policies have exacerbated the fentanyl crisis. Cartels have taken advantage of the open border and overwhelmed officials, smuggling deadly narcotics across our borders and into American communities all over our great country. And it only takes a tiny amount to kill.

Looking into the profits from this dangerous enterprise, criminal organizations based in the People's Republic of China have captured the money laundering business of the cartels and for the car-

tels. These Chinese money laundering organizations have developed an incredibly efficient system that is increasingly difficult for our law enforcement to detect. Quite frankly, they are really smart on how they do it.

Prior to the rise of Chinese money laundering organizations, cartels laundered their own profits on the Black-Market Peso Exchange and had to wait at least 6 weeks before they received their "clean" funds. Disturbingly, now Chinese money laundering organizations have a system that ensures that cartels receive their profits within hours of handing over illicit drugs to a courier.

Not only are these Chinese money laundering organizations able to do this quickly and with incredible efficiency, they do it at a fraction of the cost that the cartels were previously forced to pay.

Altogether, the efficiency and cost effectiveness of the Chinese money laundering organization has significantly increased the cartels' bottom line and allowed their illicit business to grow and expand. And it is kind of like that common phrase "follow the money," right?

As a result, more and more Americans are losing their lives to synthetic opioid addiction and fentanyl poisoning, and Chinese money laundering organizations have a nearly foolproof system in place that does not require placing illicit funds into the United States banking system. And I think that is a really key point for us to understand.

Using Chinese banking apps and other popular Chinese encrypted communications technologies, like WeChat, Chinese money laundering organizations are able to launder cartel drug money all while evading detection by U.S. law enforcement.

It is no secret that China has become a global hub of money laundering activity. The State Department estimated that $154 billion in illicit funds pass through China each and every year. It is imperative that Congress work to understand the extent of the Chinese Communist Party's complicity in these money laundering schemes. Wealthy Chinese Party elites are turning a blind eye to these laundering networks and China's role in this illicit drug manufacturing.

Americans are tired of seeing their friends and loved ones fall prey to fentanyl and opioid addiction. And as a Members of Congress, we owe it to our constituents to do everything that we can to eradicate this dangerous drug from our communities. We must hold these bad actors accountable.

I want to thank the witnesses, and we look forward to your testimony.

I now yield to Ranking Member Porter for her opening statement. With that, the floor is yours, ma'am.

Ms. PORTER. Thank you very much, Madam Chairwoman.

If there is one number that I want us to remember today, it is 97. That is how many times more Americans died from synthetic opioids in 2021 than 1999. This is a five-alarm fire, but the fire has been burning for years. And it really started raging during the last decade, and China-based money laundering organizations have fueled it.

Plain and simple, these organizations are making it easier for drug cartels to do business. They are processing illegal money flows

quicker and cheaper for the cartels, and the cartels are getting richer and richer selling deadly synthetic opioids.

And let us not forget, it is not just money launderers. China-based suppliers have been providing the raw materials for synthetic opioids for years.

Republican or Democrat, there should be no question that China-based suppliers and money launderers are a big part of the opioid crisis and that more must be done to stop them. But if there is one thing I have learned about tackling the issues that matter here in Congress, you rarely get to boil it down to one problem, one attack line, or one easy fix, and that is especially true when it comes to issues involving multiple countries.

You think it is hard to get Democrats and Republicans to agree on regulations? Try getting the Chinese Communist Party to come to the table with the U.S. to regulate China-based fentanyl suppliers and money laundering organizations.

It is especially hard when we are still resetting the relationship with China after the last Administration. This Administration has the task of undoing the tension with China just enough to get China to work jointly on this problem.

However difficult, this task could not be more important. At the end of the day, the Chinese Communist Party needs to recognize and own its role in failing to stop a crisis that is claiming too many lives.

The best tools the United States and China have to address these issues are the ones that we unlock cooperatively, but we also need to be prepared to act alone, especially if the Chinese Communist Party does not or will not do its part. And that means sanctions.

On April 14, the Treasury Department imposed sanctions on two entities and five individuals based in China who are responsible for supplying chemicals to produce fentanyl for U.S. markets. I am all about holding powerful people accountable, and penalizing big fentanyl suppliers is certainly a step in the right direction. But just like any problem that builds over the course of decades, one set of sanctions is not going to fix the problem. Not even one type of solution is going to fix the problem.

To end the opioid epidemic, we have to be just as serious about expanding access to drug treatment resources as we are about cracking down on drug traffickers. The opioid crisis is a complex, multifaceted problem, and it is going to require collaboration across Government agencies and across party lines.

With that challenging road ahead, we simply cannot afford distractions. Unfortunately, at the same time that Republicans announced this very important hearing, they also tossed in a big distraction that they like to call the "Biden border crisis."

As badly as we need immigration reform and have for years, this issue is not about immigration. At the end of the day, cracking down on an illegal drug market is primarily an economic issue. That is why we are talking about it in the Health Care and Financial Services Subcommittee.

Believe me, I will be at the front of the line anytime we need to tell our government to do more on an issue, but let us not misidentify the problem. This issue has been decades in the mak-

ing, and the buck does not stop with any one person for years and years of increasing fentanyl deaths.

We all have to commit to doing more. If we avoid political finger pointing—and I am proud that the Chairwoman and I have a history of doing exactly that—I am hopeful that this hearing will be a step toward finding solutions.

I yield back.

Mrs. MCCLAIN. Thank you. And I could not agree more. This issue is not a Democrat-Republican issue, socioeconomic. This issue affects each and every American, and we have to work together to find solutions to fight against the CCP. So, I am pleased to work with my colleague.

I am also pleased to introduce our witnesses today, who are here to discuss the rise of Chinese money laundering organizations and their work for the cartels.

Mr. Chris Urben is the managing director at Nardello and Company. And prior to joining Nardello and Company, Mr. Urben was responsible for developing and leading sensitive global undercover DEA operations that dismantled several of the most significant transnational criminal organizations.

Mr. Urben has spent several decades with the DEA, where he has developed an extensive global network in various fields of law, finance, and international investigations. Welcome.

Next, Mr. Anthony Ruggiero. Did I say that correctly?

Mr. RUGGIERO. Ruggiero.

Mrs. MCCLAIN. Ruggiero? OK. Is a Senior Fellow at the Foundation for Defense of Democracies and the Senior Director of FDD's Nonproliferation and Biodefense Program. Mr. Ruggiero's broad experience in the field of counterproliferation, nonproliferation, and sanctions spans more than 20 years, including more than 19 years in the U.S. Government in both Republican and Democrat Administrations.

Most recently, Mr. Ruggiero—OK, say it again.

Mr. RUGGIERO. Ruggiero.

Mrs. MCCLAIN. Ruggiero?

Mr. RUGGIERO. Yes.

Mrs. MCCLAIN. Ruggiero. Am I saying that right? Mr. Ruggiero served as Deputy Assistant to the President for National Security Affairs and National Security Council's Senior Director for Counterproliferation and Biodefense.

Ms. Channing—OK, you got to help me—Morales?

Ms. MAVRELLIS. Mavrellis.

Mrs. MCCLAIN. Mavrellis?

Ms. MAVRELLIS. Mm-hmm.

Mrs. MCCLAIN. Mavrellis, thank you. Is the Illicit Trade Director for Global Financial Integrity, a Washington, DC, based think tank, and Ms. Mavrellis has over a decade of experience working on issues related to anti-money laundering and countering terrorism financing.

Thank you all for coming to testify on this very important issue today.

And pursuant to the Committee Rule 9, the witnesses will please stand and raise their right hand.

Do you solemnly swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

[A chorus of ayes.]

Mrs. MCCLAIN. Let the record show that the witnesses all answered in the affirmative.

We appreciate all of you being here today and look forward to your testimony. Let me remind the witnesses that we have read your written statements, and they will appear in full in the hearing record.

Please limit your oral arguments to 5 minutes. And as a reminder, please press the button on the microphone in front of you so that you—so that we know it is on and Members can hear you.

When you begin to speak, the light in front of you will turn green. After 4 minutes, it will turn yellow. When the red light comes on, your 5 minutes has expired, and we would ask you to wrap up as soon as possible.

So, with that, I recognize the first witness. Please begin with your testimony, and our first witness is Mr. Ruggiero.

Thank you.

STATEMENT OF ANTHONY RUGGIERO
SENIOR DIRECTOR AND SENIOR FELLOW
FOUNDATION FOR DEFENSE OF DEMOCRACIES
FORMER DEPUTY ASSISTANT TO THE PRESIDENT
SENIOR DIRECTOR FOR COUNTERPROLIFERATION AND BIODEFENSE
NATIONAL SECURITY COUNCIL

Mr. RUGGIERO. Thank you. Chairwoman McClain, Ranking Member Porter, and distinguished Members of the Subcommittee, thank you for the opportunity to address you today on this important issue.

More than 100,000 Americans died from drug overdoses in a 12-month period ending in November 2022. This is both a national security and a public health crisis that requires bipartisanship to meet the challenge.

Narcotraffickers have a problem. They run a cash business inside the United States without an easy way to repatriate profits back to Mexico. At some level, the financial measures to combat money laundering have worked and made it more difficult for the cartels to simply drive bulk U.S. dollars over the border. That is where Chinese money launderers come in. They see an opportunity for profit and have exploited it.

The scheme, as we know it, involves some of the largest banks in China, which are also the largest banks in the world. While the Biden administration has focused on combatting U.S. demand for drugs and the export of fentanyl precursors from China, it has not tackled the problem of the Chinese financial sector's role in laundering the proceeds from drug sales.

While Chinese banks fear losing access to the U.S. financial system, the current Administration and its successors may avoid strong actions against Chinese banks because they fear the impact on the global economy. In my written testimony, I provided exam-

ples of how governments in the United States and Europe have and can target these banks without causing broader disruptions.

I also provided four recommendations for Congress and four recommendations for the Biden Administration. Specifically, Congress should revise and update the Fentanyl Sanctions Act, including increasing sanctions on foreign persons that engage in or facilitate opioid trafficking, and revise it to target individuals or entities that are grossly negligent with respect to financial transactions, precursor exports, or other such actions that facilitate narcotics traffickers.

Congress can also develop persistent oversight measures, including require a Presidential certification prior to lifting any fentanyl-related sanctions and also borrow from the Global Magnitsky sanctions regime and insert an authority that requires the Administration to review and respond to any congressional nominations for sanctions imposition.

This Committee can also task Government Accountability Office with examining whether narcotics-related anti-money laundering sanctions and export control measures are being effectively enforced by the interagency.

For the Administration, I recommend issuing a new advisory to financial institutions on illicit financial schemes and methods related to the trafficking of fentanyl and other synthetic opioids, and I recommend that they surge capacity to Treasury, Justice, and other departments to address the narcotrafficking issue.

When we see things like yesterday, with regard to North Korea, which is a separate subject, fines and large fines, those usually take years in the making. So, surging capacity hopefully can shorten that.

The Administration also should not shy away from specifically naming China's role in money laundering. Every public statement on the issue should remind the American public that China is essential to the operations of the drug cartels. In private, the message to Chinese banks should be even more blunt. Chinese banks are processing tens of millions of dollars in transactions for narcotraffickers, and the U.S. Government is prepared to use all available tools to stop it.

The Administration should increase cooperation with Mexico and Canada, using the senior-level Trilateral Fentanyl Committee as a launching point for actions on illicit finance and identifying the transfer of illicit cargo across all three countries.

The Chinese financial sector must be incentivized to cooperate on the fight against narco money laundering. While the Chinese Communist Party and Chinese President Xi Jinping restrict U.S.-China diplomatic engagement, the Chinese financial sector values its access to the U.S. financial system. But that access should come with conditions. Chinese banks, individuals, and companies cannot finance the drug trade that is killing Americans.

Thank you for inviting me to testify, and I look forward to addressing your questions.

Mrs. MCCLAIN. Thank you.

And now, Mr. Urben, for your opening testimony or your statement?

STATEMENT OF CHRISTOPHER URBEN
FORMER ASSISTANT SPECIAL AGENT IN CHARGE
SPECIAL OPERATIONS DIVISION
U.S. DRUG ENFORCEMENT ADMINISTRATION

Mr. URBEN. Good afternoon, Chairwoman McClain, Ranking Member Porter, and distinguished Members of this Subcommittee. Thank you for this opportunity to address you today on this important issue.

I saw Chinese organized crime increased involvement in money laundering firsthand as I served as a group supervisor with the Drug Enforcement Administration. I spent 24 years working for DEA, where I helped dismantle significant international and drug trafficking money laundering organizations around the world.

In 2018, I was assigned to DEA's Special Operations Divisions, where I supervised a team that focused on this new and evolving threat. We were receiving reports from the field that drug cartels were using Chinese organized crime networks to launder the cash. This was a dramatic change from business operations that have been going in the past.

Chinese organized crime would charge only 1 to 2 percent to launder the funds that they were laundering, and they could deliver the funds to the traffickers in their home countries immediately and could guarantee payment of the laundered funds. I knew from my prior experience that the most predominant laundering method that had been employed by the cartels was known as the Black-Market Peso Exchange. It was complex and dangerous, resulting in transaction costs of between 7 and 10 percent and delays of at least a week or more.

Because the Black-Market Peso was connected to the cartels, laundering involved a constant risk of violence, theft, and law enforcement intervention. My team focused on understanding and combatting this new threat. Money is the lifeblood of the cartels, and the methods that Chinese organized crime was using enriched and enabled them to traffic even more fentanyl and other deadly drugs into the United States.

This was also adversely affecting the integrity of our Nation's financial system. The DEA seized hundreds of millions of dollars in criminal proceeds that Chinese organized crime was generating, arrested and debriefed participants, and persuaded some of them to cooperate. We also seized and searched numerous phones and other records reflecting how Chinese organized crime was transforming money laundering.

These enforcement actions provided the insight that allows me to explain how the network operates. As reflected by the graphic in Exhibit 1 in my testimony, the current Chinese money laundering model involves at least three participant countries—the United States, China, and Mexico.

Here is how it works. Every day in the United States, Chinese money brokers pick up narcotic proceeds from the sales of fentanyl, methamphetamine, heroin, cocaine in the form of bulk U.S. cash. A drug distribution, for example, gang in New York that owes payment to the Mexican cartel delivers to the Chinese broker, proceeds.

That Chinese broker then sells the U.S. dollars to Chinese customers who want to spend the money in the U.S. acquiring real estate, paying for college tuition, gambling, or making other investments.

The Chinese customers pay in China for the cash they received in the U.S. The proceeds in China are used to buy goods for export to Mexico or South America, where the goods are sold by the Chinese brokers in Mexico to recoup their funds. The Chinese brokers accomplish all of this with a trusted electronic encrypted communications network that allows this to happen instantly.

What makes this so effective and hard to detect? First, it minimizes the movement of funds. Dollars stay in the U.S., pesos stay in Mexico, and RMB stays in China.

Second, it takes advantage of the huge and increasing volume of trade with China and the existence of capital flight controls, ensuring a constant stream of customers for this cash.

Third, it uses technology to its advantage. Advertising the sale of the dollars on Internet chat rooms and then communicating, again, primarily via WeChat, which is an encrypted network that is resistant to surveillance by U.S. law enforcement and that facilitates speed and trust within the Chinese organized crime network. It is a key component to that.

While the threat of Chinese organized crime is real and growing, much more can be done to combat it. More investigative resources, such as translators, data scientists, and experienced targeting analysts, would enable law enforcement to have the tools needed to detect and investigate these networks where they operate.

In the private sector, where I work now for Nardello and Company, the global investigative firm, I am also seeing greater awareness by the business community that it needs to understand this emerging threat and develop the tools to address it. More investments in training and detection will facilitate private sector organizations' compliance with anti-money laundering laws and help protect the integrity of our financial system.

Congress also can play a vital role in providing resources, incentives, and the authority for the Government and the private sector to work together to combat this threat.

Thank you again for this opportunity to be here today.

Mrs. MCCLAIN. Thank you very much.

Next, Ms. Mavrellis, for your opening statement.

STATEMENT OF CHANNING MAVRELLIS
ILLICIT TRADE DIRECTOR
GLOBAL FINANCIAL INTEGRITY

Ms. MAVRELLIS. Thank you. Chairwoman McClain, Ranking Member Porter, and distinguished Members of the Subcommittee, it is an honor and a privilege to testify before you today about Chinese money laundering organizations, or CMLOs.

In the last few years, reporting has increased on the involvement of CMLOs with the laundering of narcotics proceeds in the Western Hemisphere. However, this is not a new phenomenon, having been documented by the Drug Enforcement Administration since at least 2016. More importantly, the drivers behind the involvement of

CMLOs are solidly linked to other countries' domestic policies, not U.S. immigration or border policies.

Specifically, China's economic policy in regard to foreign exchange controls prevents money from freely moving into or out of the country unless it abides by strict rules. Those Chinese citizens seeking to exchange or transfer in excess of $50,000 frequently turn to informal means.

Additionally, Mexico adopted a stricter AML/CFT policy in 2010 by placing stringent restrictions on the deposit of U.S. dollars into Mexican bank accounts, combatting narcotics-related bulk cash, and pushing cartels to search for new money laundering strategies such as the use of CMLOs. At the same time, Colombia has taken steps to develop one of Latin America's most rigorous AML regimes, causing some cartels to look outwards for help in laundering or moving narcotics proceeds.

CMLOs and transnational criminal organizations, TCOs, operating in the U.S. have a symbiotic relationship. TCOs face the age-old problem of laundering and repatriating the proceeds of crime from one jurisdiction to another and from one currency to another. This is particularly difficult with large volumes of cash proceeds, which is a common thing for drug trafficking organizations, or DTOs.

On the other hand, CMLOs are looking to access large volumes of U.S. currency by informal means. They each have what the other wants.

While other professional money laundering organizations profit from the purchase of criminal proceeds, CMLOs' primary objective is to gain access to U.S. dollars outside of formal channels in order to evade China's currency controls. Therefore, while other professional money laundering organizations and brokers may charge a 10 to 15 percent commission, CMLO brokers can undercut the competition by only charging up to 6 percent or nothing at all. They make their profit by reselling the U.S. currency to Chinese nationals.

Once a commission is agreed upon and the cash collected in the U.S., CMLO brokers are able to provide DTOs with near instant access to a corresponding amount of funds. For example, Mexican pesos in Mexico.

CMLOs have several options on how to handle the U.S. currency. They frequently use money laundering mechanisms that are unique to the Chinese context. They can make the funds available to the Chinese citizens via an informal value transfer system, specifically through flying money—also known as fei ch'ien—or through a mirror exchange via the Chinese underground banking system.

According to a former DEA senior supervisory agent, the CMLO will typically use WeChat, a Chinese instant messaging system, to offer the currency on message boards. A CMLO associate and the Chinese buyer will meet in person to exchange the cash, and then the buyer transfers an agreed-upon amount of renminbi from their Chinese bank account to the CMLO's Chinese bank account.

Another tried and true method that has been frequently used by CMLOs and narcotics traffickers is the Black-Market Peso Exchange, BMPE, a type of trade-based money laundering scheme

that is particularly difficult to detect since the value of commodities, rather than the money itself, is shifted.

BMPE schemes have often been conducted as a two-country transaction involving the destination and source countries, for example, the U.S. and Colombia. With the involvement of CMLOs, the schemes have now become three-country transactions with renminbi made available in China that can be used to purchase Chinese goods, which are exported to the TCO's country of choice and then sold, with the profits going to the TCO.

As long as CMLOs can provide low commission rates, near real-time mirror exchanges, and handle large volumes of cash, they will remain a preferred money laundering service for DTOs. Correspondingly, and looking to the future, the drivers behind CMLO success are unlikely to abate. With the government's authoritarian nature and crackdowns a constant, an ever-expanding middle class, and President Xi publicly vowing to adjust excessive incomes of China's super rich, the demand for U.S. dollars will be sustained, if not grow.

The U.S., as well as the international community, need to take the threat presented by CMLOs very seriously. My recommendations include the following.

Study the role of Chinese professional money laundering networks to gain greater insight on how they operate.

Target the individuals, entities, and countries facilitating financial crimes and money laundering by applying economic and other targeted financial sanctions, as well as exploring policies to hold accountable countries that fail to sufficiently investigate financial crimes.

Continue to make combatting corruption a high priority in the U.S. national security strategy.

And finally, provide sufficient resources to FinCEN to ensure that it can appropriately take on existing as well as emerging challenges from financial crime risks.

Thank you, and I look forward to your questions.

Mrs. MCCLAIN. Thank you all for your testimony.

It is very enlightening, and I think if I have it in a nutshell—and please correct me if I am wrong—but the Chinese money laundering plan/scheme does it more efficiently, right, in hours instead of weeks, charges less of an interest rate—two percent as opposed to seven or eight.

The money actually does not hit our banking systems at all. And with the money laundering, they never touch the drugs. It is literally just the money changing hands. Do I have it in a nutshell?

Mr. URBEN. In a general sense, yes. I mean, it eventually hits our banking system because once it is sold to Chinese nationals here——

Mrs. MCCLAIN. Can you talk a little bit more about that, please?

Mr. URBEN. Sure, sure. So, I think the easiest way to do it is once—let us stay within the United States. Once a Chinese broker picks up those narco dollars, which were the day before they were the proceeds of fentanyl, heroin, cocaine, and all that.

Mrs. MCCLAIN. They have a bag of cash.

Mr. URBEN. They have a bag of cash. So, the Chinese broker receives that from the distribution gang. Let us say, let us just keep it with New York, right?

Mrs. MCCLAIN. OK.

Mr. URBEN. They then go out on the Internet chat room or WeChat and advertise those dollars. Chinese nationals, whether back in Mainland China or here in the United States, buy those dollars. So, you would have a transaction similar in nature where a bag of cash would be delivered in this example or maybe a cashier's check, depending on what that——

Mrs. MCCLAIN. Is your mic on, sir? OK. Can you just speak into the mic a little closer?

Mr. URBEN. Sure, sure. Once that cash is received by the Chinese national, right, back in China there is a bank-to-bank transaction that happens with RMB for the equivalent amount.

Mrs. MCCLAIN. So, stop right there for a second. That is happening in China?

Mr. URBEN. That bank-to-bank transaction for the equivalent amount is in Mainland China, correct.

Mrs. MCCLAIN. OK.

Mr. URBEN. It does not—the cash does not—the RMB does not exit China. It stays within China. That Chinese national receives the $100,000 in cash and then uses it to acquire real estate, pay college tuition, gamble, buy other investments.

Mrs. MCCLAIN. And they do that with cash here in the United States, or do they use our banking system?

Mr. URBEN. So, eventually, it will go into the banking system most likely, to purchase——

Mrs. MCCLAIN. But not necessarily by the Chinese national. I am the Chinese national. I have purchased $100,000 just of cash, right? I paid a premium for it. I have $100,000 of cash.

I now, as the Chinese national, can use that. Either I deposit that in my bank account here in the United States?

Mr. URBEN. Yes, you would deposit it in your bank account or pay for whatever services or asset you were buying.

Mrs. MCCLAIN. But talk to me how we can do that in the banking system? Because I have to have a trail of where that money came from, unless I do it several deposits under, I think it is $10,000, right?

Mr. URBEN. Yes. I mean, they would file the correct CTR or suspicious activity report with it. But the Chinese national depositing has a story or can legitimately say, at least to the banking official, why they are depositing, let us say a cashier's check that they have gotten as part of that money laundering process, what appears to be maybe a relative or some way they were involved with the renminbi.

Mrs. MCCLAIN. And how are we tracking that? Probably no different than we track any other funds that come?

Mr. URBEN. It is very difficult to track because it is disconnected from the actual events of the drug money laundering, right? So, it is difficult for the bank to detect that under the current selectors that they are looking at.

So, they need to be trained. There need to be additional guidance, and there needs to be——

Mrs. MCCLAIN. And that is what you are recommending is perhaps additional training, resources for additional training on that. Because unless we choke their money supply off, we are not fixing this problem.

Mr. URBEN. No.

Mrs. MCCLAIN. Maybe it is sanctions. I mean, maybe there is not just one lever that we pull.

Mr. URBEN. I think all the levers need to be pulled to impose costs on the Chinese money laundering organizations, right, to make it more difficult for them. So, the financial institutions can certainly do this with enhanced due diligence, but it is going to take an increased effort and cooperation with the Government to share intelligence, and then additional enhanced reporting and compliance.

Ms. MAVRELLIS. I will add that one of the challenges is that so much of the current anti-money laundering countering the financing of terrorism or AML/CFT system is very much focused on the financial system in terms of instilling safeguards in formal financial institutions' formal channels.

The challenge is that either the Chinese money laundering organizations are using informal channels, so they do not touch the system, or a lot of times, these Chinese nationals that are purchasing the cash are, as Mr. Urben said, they are using those cash in making deposits in, for example, real estate, which——

Mrs. MCCLAIN. But it would be a cash deposit, right?

Ms. MAVRELLIS. It would be, but it is still an exempted, you know, sector, as well as college tuition, making a cash payment for college tuition.

Mrs. MCCLAIN. Thank you. And I am all out of time. Do you want—OK, all right.

The Chair now recognizes Ms. Lee.

Ms. LEE. Thank you so much, Madam Chair.

Thank you so much to the panel. I appreciate the seriousness and the urgency of this topic, but I do question sometimes the way that we use our time and our resources in this Committee.

We spent all morning talking about waste and fraud and abuse in our Government programs, yet this hearing feels like we are not always getting to the heart of the matter. And it feels like sometimes we spend more time looking to create a bogeyman or for a bogeyman than we do looking for humane and proven solutions, and this is not a laughing matter.

The opioid crisis facing this country is a real, legitimate threat. Since 1999, drug overdoses have killed over 1 million Americans. That is far higher than the 58,220 American troops killed during the Vietnam War.

In my home city of Pittsburgh, more than 1,590 people have died from drug overdoses since January 2021, and we are in this Subcommittee chasing our tails and listening to another hearing on China. What are we really going to do about this?

Former President Trump had discussed sending special forces to target cartel leaders and was apparently seeking battle plans to strike Mexico. Republican Congressmen have introduced a bill to authorize the use of military force to put us at war with cartels,

and Senators have indicated that they are open to sending U.S. troops to Mexico even without that nation's permission.

Republicans would rather invade sovereign nations and line the pockets of war-profiteering friends than spend a single penny actually helping Americans suffering from addiction. The only other effort we seem willing to do are trying to lock up more Black and Brown folks for possession and shutting down all immigration from the Southern border. We can do better, and we can do more.

Our neighborhoods and cities need help to expand treatment programs, especially in rural and low-income communities. People need to know about the risk of fentanyl being laced into other substances. And first responders need to understand things like synthetic opioids decreasing the effectiveness of Narcan in helping people who are overdosing.

I have seen firsthand how communities can come together to tackle this problem head on. Pennsylvania recently decriminalized fentanyl testing strips, and a study by the University of Pittsburgh found that the overdose rate fell by 30 percent in Pennsylvania in counties that implemented a community-focused strategy.

We have got to look outside the box that is our failed prison system and fund the programs that work. I have been here in Congress just over 100 days, and I am already sick and tired of kangaroo court hearings. And I imagine the regular folks whose hard-working tax dollars are wasted here are sick of it, too.

We have a duty to our constituents and the American people. I ask the Committee to stop putting our politics over people's lives.

I have no questions, and I yield back.

Mrs. MCCLAIN. The Chair now recognizes the gentlelady from Florida, Mrs. Luna.

Mrs. LUNA. Thank you so much for being here.

To just correct my colleague from across the aisle, China is a bogeyman. And as we see moving forwards toward 2023, they are not here to be our friend. They are coming to eat our lunch. But furthermore, the reason why we focus on China is if you have read any of the materials presented before this Committee, you will see that China is, indeed, working with cartels and the government of Mexico in order to bring fentanyl into this country.

As someone who has had many of my family members impacted by that, it is not just a Black and Brown issue, and I say that as a Hispanic American woman. This is an issue affecting all communities, regardless of socioeconomic status or race.

And, so, to say that we are sitting here wasting people's time because we are addressing the very real threat of China is actually something that is a slap in the face to every single American that has actually ever had a family member that struggled with drug addiction. So, save me the pearl-clutching.

To ask some questions of you, Ms. Mavrellis, do you know if any BRICS countries are currently aiding in some of these CMLOs that are currently engaged with this illegal black-market exchange?

Ms. MAVRELLIS. I am unaware of any BRICS countries. There are definitely issues—you have issues in terms of Brazil and synthetics being produced there. It also serves as an exit country for narcotics going to Europe.

India has similar issues with currency control. So, there can be challenges there in terms of accessing U.S. capital or other capital. But another issue is definitely Russia in terms of not necessarily involving narcotics money laundering here, but accessing the U.S. financial system or trying to evade sanctions.

But by far, it is definitely China that is responsible for—and I say China, I am kind of using it as both the government as well as illicit state and non-state actors. They are responsible for a lot of the transnational crime as well as illicit financial flows that are occurring.

Mrs. LUNA. Thank you. Mr. Urben, can you tell me what the policy is in China for if you are caught selling drugs?

Mr. URBEN. It is severe, you know, criminal penalties and a prison sentence if you are caught selling drugs. I do not know the exact——

Mrs. LUNA. To my understanding, it is execution.

Mr. URBEN. OK.

Mrs. LUNA. So, the reason I bring that up is because there seems to be this notion and idea that if you want border security because you want to protect people from actually consuming and bringing drugs into this country, that somehow it is considered inhumane. But I would ask anyone on this panel if they have ever had a family member that has been strung out, to see the long-term impacts of that.

In my opinion, if you are selling drugs to someone, if you are responsible for their death, you do deserve the death penalty because you are ruining a life, and you are ruining a family.

Mr. Ruggiero, could you tell me what can we do as part of Congress to ensure that we are obviously functioning in a nonpartisan fashion in an effort to really protect the United States from this continued issue with China?

Mr. RUGGIERO. Well, thank you.

You know, in my written testimony, I talk about different ways to improve the Fentanyl Sanctions Act, which was a bipartisan effort several years ago. I think there is ways to increase oversight measures to make sure that the administration is actually tackling the role of Chinese banks. As I noted in my opening and in my written testimony, there is this fear of going after Chinese banks.

And as Mr. Urben showed, you know, the other thing, if I could use his graphic, the dark lines there, the black lines ensure that there are sort of three separate financial systems having those transactions. And so, what we really need, as I said in my written and my oral testimony, is we need the Chinese banks. We need them incentivized to look for these types of transactions.

And part of that comes from us not being afraid to use the tools—the United States, that is—that we have. And if the Administration does not have those tools, to come to Congress and ask them for it.

Mrs. LUNA. Thank you so much for your time. Obviously, we are here to get answers.

Chairwoman, I yield my time.

Mrs. MCCLAIN. Thank you. The Chair now recognizes Ranking Member Porter.

Ms. PORTER. Thank you very much.

Republicans and Democrats both should, and I believe do, want to address the devastating fentanyl problem. But to do that, we have to correctly define the problem, and I appreciate your educational approach from across the panel to this hearing.

I want to take a minute, though, to just kind of press on this statement that Republicans made when they announced this hearing. "President Biden's border crisis is enriching China and the cartels as they partner together to traffic deadly fentanyl to the United States."

So, I want to evaluate this theory a little bit. Do you think this sums up the problem? Raise your hand.

[No response.]

Ms. PORTER. OK. So, if this a Biden border crisis, we should see it in the data. So, I brought a chart, and I hope it is big enough that you can read.

This shows CDC data on drug-related overdose deaths from 1999 to 2021, and the gray line here shows the trend in overdose deaths from synthetic opioids like fentanyl.

So, Mr. Ruggiero, the worse fentanyl trafficking gets, we are going to see the impact in the fatality data. If the Biden border crisis was the driver of all of this, when would it have started on this graph?

Mr. RUGGIERO. January 2021.

Ms. PORTER. Correct. Because that is when President Biden was sworn into office. But the problem pre-dates that, as you can see. The gray line started spiking in 2013, but it really took off in 2017.

So, fentanyl——

Mrs. LUNA. Will the gentlewoman yield for a question real quick?

Ms. PORTER. No, I want to finish——

Mrs. LUNA. I just want to point out that Biden was the Vice President under the Obama——

Ms. PORTER. I did not yield yet.

Mrs. LUNA. Sorry. I just wanted to point that out.

Thank you.

Ms. PORTER. OK. I did not yield. So, you cannot talk. And now we have a little issue here.

So, President Trump restricted immigration starting back in 2020 with the onset of the pandemic. So, did fentanyl deaths go down in 2020, Mr. Ruggiero?

Mr. RUGGIERO. No.

Ms. PORTER. No. They actually went up. So, if pandemic migration restrictions did not cutoff the fentanyl supply that is killing Americans, I think we can safely stop blaming immigration for what is a cartel problem.

So, let us focus on the other part of Republicans' statement. China-based suppliers and money launderers and the cartels are to blame for this issue.

Ms. Mavrellis, what policy solutions are available to Congress and the President to address this specific policy issue?

Ms. MAVRELLIS. Well, I definitely support Mr. Ruggiero's statement in terms of targeting the Chinese financial system. If you look at China as an actor in itself and its response to different challenges, it moves swiftly toward internal threat, so things like internal narcotics trafficking.

If you look at issues in terms of like the wildlife trafficking within the country, how it impacted or was related to COVID–19, they swiftly moved to close down wet markets. However, if you look at overall wildlife trafficking, they are the number-one illegal consumer of wildlife goods. You have issues with ivory trafficking.

So, they are only going to make strong movements if it impacts them internally. So, it is trying to hold them—or trying to find a way for them to see how this relates to them or makes an impact.

They have been cracking down on Chinese underground banking systems. Every time they do, they seize tens of billions of dollars' worth of funds. The challenges there, they are doing it because of potential losses they are facing internally from evasion, things like that. It is not just because of— it is related to illicit proceeds or illicit financial flows, things like that.

So, definitely putting pressure on the financial system. I would say also looking at ways to have better ways to address informal mechanisms. So, the flying money, the Chinese underground banking systems, the trade-based money laundering, those are all very difficult to address because so much of the current AML/CFT policy and system—and not just the U.S., but globally—is faced toward the formal financial system.

So, we are kind of leaving our backdoor open.

Ms. PORTER. Yes. I thought that was really interesting in your testimony the quote you gave from somebody who said we have done a pretty good job of closing the front door, which is the financial system, but we left the backdoor of international trade wide open.

In my remaining time, I just wanted to ask you about, in your written testimony, you talk about trade transparency units, and I was intrigued and wanted to hear why can't we get that? These are voluntary, right, agreements to exchange trade data. Why can't we have the data flow more frequently?

Because getting it a month after the transaction means that, essentially, you are losing sight of the flows of those trade-based transactions.

Ms. MAVRELLIS. I think part of it was just it was not designed for the idea of catching things in real time. It is more kind of an auditing system. The way that things like SARs and CTRs, they are used kind of to look at what has happened versus being able to stop something necessarily in real time.

So that is why GFI, Global Financial Integrity, really pushes for the free and public exchange of trade data and also pushes for greater exchange of trade data between TTUs, which are heavily located within Latin America.

Ms. PORTER. Thank you.

Mrs. MCCLAIN. Thank you. The Chair now recognizes the gentleman from South Carolina, Mr. Fry.

Mr. FRY. Thank you, Madam Chair. I really appreciate you having this hearing. I was just in district yesterday visiting a recovery center, actually, and talking to them about some of their plans to expand access to people in the Pee Dee region of South Carolina and what they were doing.

And when I was in the state legislature just last year, and even before, I led an effort, it was a bipartisan effort to address some

of the challenges related to the opioid epidemic in the state. We passed 18 bills, had a record investment.

And I look at the numbers, and they just frustrate me, quite frankly, because you see the numbers of overdose deaths continually climb. And of course, we know that it is fentanyl. It is fentanyl that is coming across, predominantly, our Southern border, that is coming into this country, that is laced into multiple drugs and is killing everybody, really, quite frankly. It does not matter what demographic you are, what race, what gender or sex, age brackets. You name it, it is killing everybody in this country.

And there is a lot of, I think, things that we can do in Congress to address it. There are a lot of things that states and local governments can do to address it. But this is really interesting to me because I look at this, and of course, fentanyl—you know, you look at the headlines every single day. "Three found dead in downtown L.A. after possible fentanyl overdoses."

Headline, "Texas School District on third fentanyl overdose as police make fourth arrest connected with drug deals." Headline, "35 fentanyl-related overdose deaths in King County in less than 1 month." Headline, "Fentanyl deaths in young children on the rise in accidental deaths."

We cannot continue to allow this to happen. I am actually really intrigued by all of your testimony on things that we can do and the problem, as you see it, as it pertains to the cash-flow.

So, Mr. Urben, in an article from August 2022, you stated that, "One reason Chinese MLOs were successful is because they are trusted." Can you explain this further, and what can Congress do to break up that trust between China and the cartels?

Mr. URBEN. Yes, and thank you. Thank you, sir.

In regard to trusted, right, it is a trusted network. So, there are a couple of components to that. One is historically going back decades, the Chinese underground banking system, right? So, where they facilitated payment of workers that were abroad back to China.

So, this network had already existed in the Chinese diaspora around the globe, right? So, you could have whether it be Mexico or the U.S. So, that is the initial trust within the culture of China when it comes to finances.

The encrypted app, WhatsApp, allows them a trusted network to communicate across that network, right? So, the person that they are communicating with, they are essentially ensured that they know to some degree who that person is because they have WeChat handles that stay consistent over time.

Now if you compare that to, as I described, the old Black-Market Peso Exchange, which cost the Mexican cartels and the Colombian cartels dramatically more in terms of cost and manpower, right, because it was not a trusted network, right, and that is why violence was imposed if moneys went missing or they were seized by law enforcement.

So, that is how I describe trust in that it allows the Chinese network to move the cash quickly, right, and then I think it has not been detailed yet. They absorb all the risk, right? So, I think that is a tremendous point that the Chinese money launderers offer to

the Mexican cartel, which was not there before. So, they are absorbing the risk.

So, if it gets seized by law enforcement or it goes missing, there is—violence is not part of the equation because they have taken the loss, essentially. So——

Mr. FRY. Thank you. And we have heard from the other two witnesses, but for you specifically, what policy suggestions would you recommend to make money coming in from China clearer and to prevent that criminality?

Mr. URBEN. So, whether it was money coming in from China or funds that I detailed in that diagram, you know, it is enhanced due diligence, right? There has to be enhanced due diligence so there is a track record of where those funds came from so investigations can followup on that in the future.

I think there is a couple components that I think that would help with this. One is scaling up, like I mentioned before, specific subject matter experts and expertise that can leverage data, whether it is in the financial system or it is judicially acquired data by law enforcement.

So, there is vast amount of data that exist that we can leverage now. It is difficult to do that because we need specific data scientists. I want to say data targeters, analysts that can take that data and give snapshots of insights to provide that to law enforcement for action.

So, I think that is the first component. The other one is dedicating resources to sufficient authority to deal with these encrypted apps. That has been going on in terms of law enforcement and dealing with the encrypted apps for a number of years. But specifically, with this one, we need to negate the ability of Chinese money laundering organizations to leverage WeChat, as I have described before.

Mr. FRY. Thank you, Madam Chair. I yield my time.

Mrs. MCCLAIN. Thank you. The Chair now recognizes the gentleman from Arizona, Mr. Gosar.

Mr. GOSAR. Thank you, first to the witnesses, for coming here. This is very, very important.

So, the capturing by the Chinese of the illegal drug trade is self-inflicted to a large degree, thanks to the U.S.'s fiat money system. Because the dollar dominates all other currencies currently, foreign nationals cannot afford expensive U.S. goods priced in dollars.

Conversely, U.S. consumers have access to cheap foreign goods priced in a comparatively weak currency like the yuan, currently. This leaves Chinese nationals flush with U.S. dollars, but unable to use the money in the U.S. due to protectionist Chinese laws, giving the U.S.-based Chinese criminals an opening to work with the cartels.

Chinese criminals agree to take U.S. dollars from the cartels earned from the drug and trafficking trade and exchange them for a Latin American currency. That leaves the U.S.-based Chinese criminals with ready-to-invest cash in the United States, exactly what these rich Mainland Chinese need in order to circumvent Chinese protectionist law that prevents them from directly investing in the United States without a middleman. The U.S.-based Chinese

criminals then take the cash and invest in United States securities, stocks, real estate on behalf of Mainland China.

So, status quo U.S. monetary policy enriches Chinese nationals, who utilize U.S.-based Chinese criminal middlemen to divert—to invest dirty money obtained from the cartels whose drug trafficking is killing our young folks.

A return to the gold standard would be a great step to halt the enrichment of the Chinese by ending the flow of cheap goods to the United States, a one-way dumping that has destroyed the U.S. manufacturing base there over the past 40 years. Jobs will flow back, and there might be even more—there would be no more rich Chinese who would need to have help from criminals to invest their money in the United States.

Mr. Ruggiero and Mr. Urben, is the Chinese Communist Party complicit in the trafficking of illegal drugs like fentanyl in the United States?

Mr. RUGGIERO. Well, I am not—thank you. I am not sure if they are complicit, but I think the Chinese Communist Party and the Chinese financial system, as was mentioned by another panelist earlier, when they want to crack down within the financial sector, they have the tools to do that. And so——

Mr. GOSAR. But where are the chemicals coming from?

Mr. RUGGIERO. Currently, in China. Many instances, China.

Mr. GOSAR. Yes. Thank you.

Mr. RUGGIERO. If you are talking about the precursors.

Mr. GOSAR. Yes, yep. How about you, Mr. Urben? Do you agree?

Mr. URBEN. Well, I mean, in terms of the investigative efforts that I was behind when I was with DEA, I did not have visibility on these things within Mainland China.

Mr. GOSAR. OK. But we definitely know the chemicals are a plethora on China, right?

Mr. URBEN. Absolutely. They are the primary source of precursor chemicals for the manufacture of fentanyl.

Mr. GOSAR. What evidence in the public record exists to back up the assertion that the Chinese Communist Party is involved in money laundering and drug trafficking from narcotics flowing across our Southern border in the United States?

Mr. URBEN. I am not aware of it being in the public record in terms of that specifically, sir.

Mr. GOSAR. OK. Mr. Urben, in your experience investigating money laundering from China, would you consider another situation where the rapid creation of several corporations or LLCs, for example, with no discernible legitimate business indicative of a potential money laundering scheme?

Mr. URBEN. To answer your question based on the details that you told me, a number of LLCs created with—with no background to it that would legitimize why it was created is customarily used to launder funds, especially if there are numerous ones created, and you do not know who the beneficial owners are.

Mr. GOSAR. So, what does it signal to you when there are multiple LLCs layered on top of each other with no unique or distinguishable services attributed to them?

Mr. URBEN. The end of your question, what should be? I would view it as a potential money laundering set-up to——

Mr. GOSAR. That is where I am going. So now either witness, have you seen instances where Chinese nationals use different companies to hide money originating from China or the fact that there is Chinese ownership involved?

Yes, ma'am?

Ms. MAVRELLIS. So, there was a very infamous case that came out a couple of years ago of Xizhi Li, and he was laundering tens of millions of narcotics proceeds. He is—correct me if I am wrong—either a U.S. citizen—or sorry, U.S. national or a permanent resident. But he is a Chinese national, and he was in the U.S.

And he used several different methods. He used a U.S. seafood company. He used a Guatemalan casino. And he used U.S. and Chinese banking accounts to conduct these transactions.

Mr. GOSAR. Thank you very much. You have been very enlightening. We need to spend a little more time understanding this.

So, thank you, and I yield back.

Mrs. MCCLAIN. Thank you. The Chair now recognizes Ms. Balint.

Ms. BALINT. Thank you so much.

Excuse me. Thank you all for being here. I really appreciate it.

Windham County, Vermont, where I live, has the highest rate of opioid deaths in my state. And according to the Vermont Department of Health, most opioid-related accidental and undetermined deaths right now among Vermonters involve fentanyl.

And combatting the opioid epidemic and ensuring that Americans have access to recovery and treatment is extremely important to me. I literally am here representing families who have lost children to fentanyl.

I am grateful, I am grateful for President Biden's leadership on this issue. In 2021, President Biden imposed sanctions on foreign nationals involved in the illicit drug trade. The Departments of State and Treasury have sanctioned roughly 40 individuals and entities involved in the illicit drug trade since 2021, including individuals who traffic and cartels that traffic mostly in fentanyl in the United States.

Ms. Mavrellis, can you explain how imposing sanctions like these help to tackle drug trafficking in the United States? I think Vermonters would like to understand this better.

Ms. MAVRELLIS. Sure. Well, as a fellow Vermonter or, rather, a flatlander, I should say, it is definitely—imposing sanctions makes it harder or raises the cost of doing business for cartels or for any other individual that is involved. And when it comes down to it, they are focused on the bottom line, and that is why we always talk about following the money and being able to not just detect, but seize narcotics proceeds.

When it comes to our success, I think the global estimate is less than 1 percent of illicit proceeds are detected. As GFI's founding president, Raymond Baker, says, we are a decimal point away from failure.

And, so, no matter how much you stop in terms of the actual products going over the border, if you are not stopping the flows of money coming back, that is just going to keep getting reinvested more and more into the scheme. So, it is incredibly important to shut down the financial flows and raise the cost of doing business.

Ms. BALINT. Thank you. I appreciate that.

The other thing I wanted to ask you about is the Biden-Harris Administration has been working closely with global partners to eliminate the North American-wide threat of fentanyl. We have got Mexican President Obrador and Prime Minister Trudeau of Canada working together on a Trilateral Fentanyl Committee.

And again, I think Vermonters would be very much—obviously, Canada is our neighbor to the north. We would be very interested to know how this multinational committee can combat the fentanyl problem that we are seeing in Vermont.

Ms. MAVRELLIS. I am not aware of this committee, but I would say being able to have the three countries align their policies is extremely important. When it comes to how TCOs operate or they are going to look for jurisdictional arbitrage. So, they are going to try to use jurisdictions that have weaker controls, that have weaker policies and regulations, and exploit those in order to conduct business more easily.

Ms. BALINT. It feels like working with global partners is really the only way that we are going to be able to attack this problem. It is massive. Is that fair to say?

Ms. MAVRELLIS. Yes. I mean, it is not an easy solution, particularly when it comes to how do you solve a problem like China? A lot of other times, like I have said before, many countries will generally actively try to combat transnational crime, even if it is maybe not having a huge impact on them. China is one of those countries that really does not always participate. It is looking very inward to its inward impact.

So, for example, we talk about, you know, the production of precursors and other chemicals. They have thousands of pharmaceutical companies. They have tens of thousands of chemical companies. This is a large part or at least a good contributor to their economy, and they are not going to necessarily crack down on these industries and sectors if it is going to have an important repercussion.

The same way China is responsible for about 80 percent of counterfeit items globally. That means it has probably a very significant amount of citizens employed in that. So, they are not necessarily going to cut down or crack down on counterfeiting maybe as directly as necessary because it is going to have serious repercussions internally in terms of unemployment and impacts to the country as GDP.

Ms. BALINT. Thank you.

In closing, I just want to say we cannot do this alone. We have to be working in partnership with any willing partners that will help us to deal with this, and this is what Vermonters, the people I represent, need from us. We have to do whatever it takes to save lives.

So, thank you.

Mrs. MCCLAIN. Thank you. The Chair now recognizes Mr. Burlison.

Mr. BURLISON. This is new territory for me. This is wild. It is like watching the show Ozark, right?

So, what is remarkable is how they are laundering the money. So can you elaborate what kind of—are they—what is the pattern

where they purchase goods from China, and how is that able to—then they sell them in Mexico. Is that what is happening?

Mr. URBEN. Yes. So that is—that is the third component to complete the money laundering cycle, right? So just going back, the Mexican cartel has already been made whole. They have already moved the funds within the United States. And once that bank-to-bank transaction happens in China, right, it goes from the Chinese broker to a Chinese manufacturer.

The Chinese manufacturer manufactures goods and ships those to a Mexican business that sells those goods. The funds from the sale of those goods may complete the Chinese broker who initially provided the funds to make the Mexican drug cartel whole. So that happens on an ongoing basis.

And this was a very simplistic chart up there, obviously. You have to think of when I said the dollars stay in the U.S., pesos in Mexico, and RMB in China. There are giant pots of funds there, right? There is billions of dollars that are flowing through this whole process over the course of the year.

So, it is not a one-for-one transaction in terms of that $100,000, for example, that was a bank-to-bank transaction in RMB or $100,000 worth of goods were produced and sent to Mexico. It is vast components of this that are put together to ship the goods and then sell them in Mexico.

So that is happening on an ongoing basis, and it undermines, you know, the integrity of their markets as well because those businesses most likely are trying to avoid taxes and regulation related to those goods. They do not have to spend money or wire money to China for the purchase of those goods. They are providing funds in Mexico for the goods they are going to receive and sell.

So, there is a multitude of players in this, and that is, again, a very simplistic detailed mapping of how the money moves. But those goods are being produced on an ongoing basis and sent and sold, whether it be in Mexico, Central America, or South America.

Mr. BURLISON. To what extent has China acknowledged—do they acknowledge any of this? Have they helped or aided the United States in any of the previous transactions or events that occurred that were known criminal activities?

Mr. URBEN. I mean, again, my visibility with Chinese assistance on the investigations that I was involved in, again, I coordinated with our office in Beijing and the embassy. We provided the information.

My visibility was limited, at best, of what was happening in China or the assistance that we were given in terms of the investigative efforts. We mostly focused our investigative efforts outside of China to deliver judicial endgames.

Ms. MAVRELLIS. I will add that they have not—they do not have the reputation of responding quickly or being a collaborative player when it comes to providing information, investigative information. And that is why we suggest that the U.S. Government looks for opportunities to have policies to hold accountable countries that are failing to sufficiently investigate financial crimes or share information. There is definitely challenges in cooperation with China and receiving that information in terms of financial intelligence.

Mr. BURLISON. So, within this, there has got to be someone who is keeping ledgers or some books, right? Someone, one of these brokers has got to somehow in their communications be keeping track of a ledger. Would that not be true?

Mr. URBEN. In a general sense, it is true, right? So, for the visibility that we did have, whether it be on a Chinese broker in Mexico or a Chinese broker within the U.S., the law enforcement actions that we were able to participate in, there was data there. And that is when I was describing earlier, there is the data to leverage.

I do not want to get into the specifics of what there is to leverage because it might affect an ongoing operation. But in each place, there are very sophisticated detailed records and ongoing transactions that they have to keep track of. So, it all balances out in the end.

And again, just our visibility in China was very, very limited.

Mr. BURLISON. There has got to be—so because the money moved, because everything was received, they have built up a trust factor, right, and then that machine continues?

Ms. MAVRELLIS. I mean, the systems that are being used, so the flying money. When we talk about flying money or fei ch'ien, that is just basically the Chinese system of hawala. So, you have that, you have the underground banking that is conducting these mirror exchanges where funds in one location are made available or they are received, and then they are made available in another location.

These transactions have been around, or these types of methods have been around for hundreds of years. They have traced it back to like Tang Dynasty. So, they are very, very long—very, very well-established. They are often used for legitimate reasons like sending remittances. That is how they historically have been. But they also are perverted to engage in this type of illicit activity.

But as Mr. Urben said, because these systems are so much based on trust, because you are going back and forth with these shipments, with the movement of value, and you are kind of expecting them to balance each other out, it is based on trust. So that when a Mexican cartel engages with a Chinese money laundering organization, they know that the systems are in place and that they have been there for a very long time.

These systems are also very much reliant on family connections. A lot of times, they are inside the Chinese—they are, No. 1, definitely inside the Chinese community, and there is largely between family connections.

Mrs. MCCLAIN. Thank you. The Chair now recognizes the gentleman from Wisconsin, Mr. Grothman.

Mr. GROTHMAN. Thank you.

Just in general for you folks, do we have a fentanyl problem in China? Do you know how many people die every year of fentanyl overdose in China?

Ms. MAVRELLIS. I can tell you there is not a fentanyl problem in terms of what we are seeing here. I have no figures about how many people die from it. It is difficult. The numbers that are released by the Chinese government are not necessarily absolutely realistic or reflect the current situation, but I would say not at the same level.

Mr. GROTHMAN. Why is that? Why is that?

Ms. MAVRELLIS. They have very draconian measures in terms of cracking down on those individuals who use or traffic the goods or traffic narcotics. You know, they were successfully able to get rid of opium within a few—short period after the country opened up because they did not want to have that kind of activity within their country.

Mr. GROTHMAN. OK. Well, you said draconian. Give me an example of draconian.

Ms. MAVRELLIS. So, technically, they do not exist anymore, but they are putting individuals like drug users, they go around and actually try to count the number of drug users within society, and those that are considered drug users are put into kind of rehabilitation programs, which involves forced labor. And, as noted earlier, there can be extreme cases such as the death penalty.

Mr. GROTHMAN. OK. I will ask you, Mr. Urben, would you describe China as being complicit in America's drug overdose epidemic?

Mr. URBEN. China, in terms of the government or the country?

Mr. GROTHMAN. Yes.

Mr. URBEN. Again, the insight in terms of the investigative efforts we had, was not in Mainland China. It was outside of China. So, those efforts——

Mr. GROTHMAN. OK.

Mr. URBEN [continuing]. Clearly indicated——

Mr. GROTHMAN. Well, the money in winding up back in China. Correct?

Mr. URBEN. Absolutely.

Mr. GROTHMAN. And the ingredients in the fentanyl is produced in China, isn't it?

Mr. URBEN. Precursors are the ones—precursor suppliers supply the Mexican cartel; they are in China.

Mr. GROTHMAN. Right. Do you think China would be capable of—given that they have seen that they have a fentanyl problem in their own country, do you think China would be capable of stopping the flow of fentanyl to this country?

Mr. URBEN. I think they should be, yes.

Mr. GROTHMAN. OK. Do you think they could be?

Mr. URBEN. Yes. I think—I think we talked about draconian measures——

Mr. GROTHMAN. So, it is the will. It is the will. Does China know that over 100,000 Americans are dying every year of illegal drug overdoses?

Mr. URBEN. Yes.

Mr. GROTHMAN. OK. Does this bother them? Does anybody—has the Administration brought this up?

Ms. MAVRELLIS. I mean, I do not know if they have brought it up with them, but like with any country, their priority, first and foremost, is domestic. So, they are going to focus on——

Mr. GROTHMAN. I would think that if we had an illegal drug and it was being shipped across the border, and every year, 20,000 Canadians were dying, I think we would feel we had an obligation to do something about that.

Ms. MAVRELLIS. That is correct. It is what makes China relatively unique in how they handle issues like this.

Mr. GROTHMAN. Then, in other words, they do not handle issues like this, right?

Ms. MAVRELLIS. Correct.

Mr. GROTHMAN. That is what is unique. And I would think, given the relationship that we have with China, being a major trading partner, I would think that China over time likes to become more and more part of the developed world. I would think the Biden Administration should be doing the things or encouraging China to do the things that are necessary to save 100,000 American lives a year.

Now I know, you know, I have been down on the border. I know people are streaming across the border. I know if you just look at the border you feel the Biden Administration does not care that 100,000 people are dying. But I just wondered, what specific actions is the Biden Administration taking, if any, to make it clear to the Chinese how upset we are that 100,000 of our citizens are dying every year?

Mr. Ruggiero, we will start with you.

Mr. RUGGIERO. Well, I think it has been mentioned before that the Biden Administration is using their sanctions authorities against——

Mr. GROTHMAN. Individual people. But I am saying with the government, with the government.

Mr. RUGGIERO. Sure. Yes, I think they have to incentivize the Chinese——

Mr. GROTHMAN. And they are not doing that right now, though, right?

Mr. RUGGIERO. They are not doing that. There—it is not a priority. I mean, your question about——

Mr. GROTHMAN. Only a 100,000 lives. Not a priority.

Mr. RUGGIERO. Right. Your question about whether China is complicit, I would just say they are clearly making a choice to not stop the precursors coming here and on the money.

Mr. GROTHMAN. OK. We will give you another quick question here. Does the Chinese Communist Party perceive a benefit from helping Americans become dependent on potentially fatal and addictive drugs like fentanyl? I mean, when they report this to the Chinese government, 107,000 Americans died last year, most from a drug the ingredients produced in China, do they do anything, or does the Biden Administration ask them to do anything?

Mr. RUGGIERO. Well, I would say that if there are no consequences for that action, I think for them, for the Chinese government, they would probably say that they have changed the rules——

Mr. GROTHMAN. Why do we care? It is just 100,000 American lives. They are kind of like why they do not enforce the border.

OK, thank you.

Mrs. MCCLAIN. Thank you. The Chair now recognizes Ms. Crockett.

Ms. CROCKETT. Thank you so much, Madam Chair.

And good afternoon to each of you. Thank you so much for being here.

The issue of today's hearing is not simply a domestic problem. It is a global one. We need international cooperation with countries

like China and Mexico to combat drugs and fentanyl coming into our country.

Unfortunately, testimony provided at the House Financial Services Subcommittee hearing late last month showed that China's willingness to cooperate on drug enforcement efforts sharply declined following a period of short-lived collaboration with the last Administration, bringing bilateral relations to a standstill.

It is no surprise then that China has tried every which way to get out of working with our country to address the fentanyl drug crisis that we are experiencing. Just last August, Speaker Pelosi visited Taiwan to applaud the island's governmental democracy. Yet following the visit, China retaliated by formally suspending its agreement with the United States that bans the export of fentanyl.

But as Dr. Gupta, Director of the Office of National Drug Control Policy, explained, China used this visit to "as a pretext to step back from its cooperation in an effort to counter crime and narcotics."

Ms. M—because I am not going to slaughter your name today. No, no, no. I do not want to do that to you, and yes, so I am not going to do that to you.

How has China leveraged its geopolitical interests, including its interest in Taiwan, to no longer work in good faith to combat cross-border drug trafficking?

Ms. MAVRELLIS. I cannot speak specifically to Taiwan, but I think it gives them a reason to say that they will pull back. They know that the U.S. does care about this issue of fentanyl trafficking, illicit financial flows, as evidenced by this hearing and other hearings that have been held. So, you know, if they want to have the U.S. take notice, that is one way to do so.

Ms. CROCKETT. All right. Let me ask you then, in your opinion, what could the U.S. do to secure greater cooperation from China, if anything? I put the "if" for you.

Ms. MAVRELLIS. I know. It is a big question. I am not saying that this cannot be achieved, but as I think a lot of us have said, China, first and foremost, focuses on the impact internally. Most other countries obviously do the same. They are going to put their internal domestic policy priorities first, but they are also going to try and if there is something internally that is happening that is impacting another country, they do make those efforts to address it. That is not happening as much from China.

The collaboration, it can be hit or miss. Sometimes you get lucky. I will point to ivory trafficking. For a very, very long time, there was no advancement on getting China to stop ivory trafficking. And it was not until President Xi actually himself came in and kind of said this is ending, was the trade kind of shut down to a relatively good degree.

Ms. CROCKETT. So, in short, we need a willingness on the part of China, obviously, right?

Ms. MAVRELLIS. Yes.

Ms. CROCKETT. And typically, we cannot necessarily make people wake up 1 day and decide to be willing. And, so, I know that there has been some conversations as it relates to sanctions, but there literally has to be a will. And sometimes that will come with force, and sometimes it comes with just because you happen to actually care.

And unfortunately, we are not really seeing either one right now. But we are seeing good signs of cooperation from other international partners. About 2 weeks ago, members of the Mexican Security Cabinet visited D.C. and renewed Mexico's commitment under the U.S.-Mexico Bicentennial Framework to counter fentanyl trafficking.

But we need to also fight these drugs here at home. You talked about kind of usually most people focus on the domestic side of things. And, so, President Biden's 2022 National Drug Control Strategy has bolstered international and domestic law enforcement operations to disrupt the international fentanyl supply chain and provided $275 million to dismantle illicit financial operations in high-intensity drug trafficking areas.

The administration is also building cooperative frameworks between Federal and local law enforcement agencies and public health departments to ensure that people have access to treatment for opioid disorders, which obviously would hopefully decrease some of the demand.

And you know, once again, I do want to thank all of you for being here. I am about out of time, but I want to be clear that right now I want to point out that rather than investing, helping to invest in these efforts such as the ones that I have mentioned, my colleagues on the right, through the debt ceiling fight that we are about to endure in 2 seconds, they have decided that they want to cut DEA funding by 22 percent.

This would effectively undermine border management and drug interdiction efforts, and that would be a travesty. So, I hope that we can get somewhere on the debt ceiling and make sure that we do a good budget that funds everything to make sure that we can fight all the wars that we need to, domestically and internationally, especially when it comes to drugs.

Thank you so much.

Mrs. MCCLAIN. Thank you. The Chair now recognizes Mr. Langworthy.

Mr. LANGWORTHY. Thank you, Madam Chair.

The opioid crisis is the leading cause of death of Americans age 18 to 45. Now just last Thursday, in my district, in my hometown of Jamestown, New York, law enforcement made an arrest and seized 40 grams of fentanyl. This has been something that has happened in this community time after time.

But that is enough to kill 40,000 people. A single fentanyl overdose is absolutely one too many, and I have sat with the families and the victims of this terrible drug and have seen its impact firsthand. And it is a real scourge throughout upstate New York.

But that seizure alone could have killed the entire population of two of the counties of the seven in my district. It is just unthinkable.

And now extrapolate that across the context of the estimated 11,000 pounds of fentanyl that has come across the border since January of this year. We cannot afford to delay action in addressing this crisis. We have to get real about it. And as we continue to hear today, it is clear that the Chinese are a huge part of this crisis and contributing to the deaths in our country every single

day, and we must find a solution to stop the spread of this scourge and the addiction and the death that it has brought our country.

Mr. Urben, is China complicit in America's drug overdose epidemic?

Mr. URBEN. Again, you are talking about the country and the CCP? I did not have insight during the investigative efforts that I supervised up to a year and half ago.

Mr. LANGWORTHY. OK. So, there is not—is there evidence of the Chinese Communist Party being involved in money laundering operations around that?

Mr. URBEN. I did not have insight into that specific question in terms of the CCP or Mainland China.

Mr. LANGWORTHY. OK. Is there evidence that China is weaponizing or capitalizing the fentanyl crisis by supplying necessary precursor chemicals to produce the drugs?

Mr. URBEN. Again, insight within Mainland China we did not have. We have already discussed precursors come from China into Mexico for the cartels, and the moneys are laundered back.

Mr. LANGWORTHY. OK. Well, switching gears then.

Mr. URBEN. Yes, sir.

Mr. LANGWORTHY. Is there evidence that China is carrying out operations like this all over the world, or is this really targeting the United States?

Mr. URBEN. That is a very broad question. In terms of the investigative efforts that I was involved in, the Chinese money laundering model is around the world.

Now, it is much different here in the United States because essentially the Mexican cartel funds, as we were discussing earlier, essentially put on steroids the funds and the moneys that were being laundered here. But in terms of the Chinese diaspora, the Chinese underground banking system, WeChat, whether it be in Africa or in other parts of the world—the Far East, obviously—that Chinese money laundering model exists there, too.

Mr. LANGWORTHY. OK. Is the United States currently working with any of these other affected countries to tackle China's threat in this same regard?

Mr. URBEN. So, again, this was an evolving threat, right? It was new intelligence that you had to fuse in terms of insight to action, but we are always working with our partners overseas and in countries that we could align with, whether it, again, be Africa, the Far East.

You could take the Five Eyes. You could take Australia, for example, Canada, the UK, certainly partners that we have established relationships with in Europe. Always trying to synchronize their intelligence with ours and in investigative enforcement efforts.

So, yes, that was happening while I was at DEA in terms of what we were trying to achieve.

Mr. LANGWORTHY. OK. And last, have we seen—you have talked a lot about the money laundering. Have we seen cryptocurrencies or other digital assets used in these Chinese operations?

Mr. URBEN. So that is a very good question. During my time at DEA, the crypto was a very limited component of the money laundering cycle or scheme that I described there. It was more used on

an individual basis for whether it be a trafficker or a criminal network of some nature where they would use that as an asset that they can move from point A to point B.

However, over the last year, there is new intelligence that crypto and digital money laundering is a greater component of, let us say, that it is offered as—whether it be cash, a cashier's check, or crypto.

So that it is a greater involvement over the last 18 months, whereas previous to 18 months, it really had a limited component of the money laundering cycle.

Mr. LANGWORTHY. Very good. Thank you very much for your testimony.

And I yield back.

Mrs. MCCLAIN. Thank you. I now recognize Ranking Member Porter for her closing statement.

Ms. PORTER. Thank you very much, Madam Chairwoman.

Earlier, I showed everyone a graph with the trend line of deaths from synthetic opioids over the last couple of decades. But it is important to remember that that line represents people, real lives, too many people whose lives were lost too soon.

We owe them and their families not only a careful examination of the true causes of the opioid crisis, but the action that addresses the roots of the problem. The United States needs to continue to address the opioid crisis from every possible angle. We need to cut-off the supply of fentanyl, including by sanctioning China-based suppliers and money launderers.

To do that, though, we have to be able to engage with China and impose sanctions. I am confident that the Administration will continue to do that.

At the same time, we also need to help those harmed by fentanyl by expanding drug treatment resources. There are Republicans and Democrats on record willing to work across the aisle to do those things, and count me as one of them.

In fact, Madam Chairwoman, a few weeks ago, I sat down with my copy of the Director of National Intelligence 2023 Annual Threat Assessment. You know, just a little joyful reading. I later called my staff into my office to tell them which of the issues in that report most concerned me. And Madam Chairwoman, the topic of this hearing was one of them.

So, I want to thank you for continuing to tackle issues of pressing importance to our country in this Subcommittee. I could not have picked a better topic myself.

Now we are not going to agree on everything, but I think we have done a good job today of avoiding making this topic unnecessarily partisan, and I hope that this hearing is the beginning of some incredible progress.

Thank you again to our witnesses for sharing your expertise. I know you are all technical experts on an incredibly complicated area of finance. I appreciate your patience as you explained, sometimes again and again, the flow of funds and the process for this harmful activity.

Thank you again, and I yield back.

Mrs. MCCLAIN. Thank you, Ranking Member Porter.

And I, too, appreciate working with you on these issues. At some point in time, we have to figure out solutions to the issues, and these are very complicated, very complex issues, and if we truly care about the American people and a way to move our country forward is let us find something that we can agree on that we can move forward on.

So, I appreciate you all being here, again, and taking the time out of your busy schedules to talk about this important issue. And really, starting with me, give me a better understanding of what the issue is because we have to understand, and we have to spend some time on problem identification before we can jump right to solutions.

Republicans and Democrats both agree that our communities should be free from fentanyl and other illegal narcotics. As Members of Congress, we have an obligation, an obligation to do everything we can to ensure that our communities are safe.

We know that Mexican cartels are responsible for smuggling fentanyl across our Southern border in record numbers. In 2020 alone, over 107,000 Americans lost their lives to a drug overdose, and 67 percent of those Americans' drug overdoses were a result of fentanyl.

The cartels cannot operate efficiently without the money laundering networks that they set up by these Chinese criminal organizations. The efficiencies and cost effectiveness of Chinese money laundering organizations have enriched the cartels and allowed their dangerous businesses to thrive.

The Biden Administration and Congress must take action to cutoff these financial networks that these Chinese criminal organizations rely on to launder their money. Follow the money and choke the money off. I think we will get their attention.

Today, we have heard from experts on the current obstacles to detecting these money laundering networks and possible policy actions that Congress and the Administration can take to crack down on the illicit businesses, and I look forward to talking to you more in depth about what some of those ideas and policies and actions, what we can do to correct this problem.

We cannot continue to stay idle while more and more Americans are killed by fentanyl. I look forward to working with Ranking Member Porter as we search for bipartisan solutions to this issue.

And without objection, the Members will have five legislative days to submit materials and to submit additional written questions for the witnesses, which will be forwarded to the witnesses for their response.

If there is no further business, without objection, I want to thank you, again, for your time.

The Subcommittee stands adjourned.

[Whereupon, at 4 p.m., the Subcommittee was adjourned.]

PROTECTING THE HOMELAND: AN EXAMINATION OF FEDERAL EFFORTS TO SUPPORT STATE AND LOCAL LAW ENFORCEMENT

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON COUNTERTERRORISM, LAW ENFORCEMENT, AND INTELLIGENCE

AND THE

SUBCOMMITTEE ON EMERGENCY MANAGEMENT AND TECHNOLOGY

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

MAY 16, 2023

Serial No. 118–12

Printed for the use of the Committee on Homeland Security

Available via the World Wide Web: http://www.govinfo.gov/

U.S. GOVERNMENT PUBLISHING OFFICE

54–104 PDF WASHINGTON : 2023

COMMITTEE ON HOMELAND SECURITY

MARK E. GREEN, MD, Tennessee, *Chairman*

MICHAEL T. MCCAUL, Texas
CLAY HIGGINS, Louisiana
MICHAEL GUEST, Mississippi
DAN BISHOP, North Carolina
CARLOS A. GIMENEZ, Florida
AUGUST PFLUGER, Texas
ANDREW R. GARBARINO, New York
MARJORIE TAYLOR GREENE, Georgia
TONY GONZALES, Texas
NICK LALOTA, New York
MIKE EZELL, Mississippi
ANTHONY D'ESPOSITO, New York
LAUREL M. LEE, Florida
MORGAN LUTTRELL, Texas
DALE W. STRONG, Alabama
JOSH BRECHEEN, Oklahoma
ELIJAH CRANE, Arizona

BENNIE G. THOMPSON, Mississippi, *Ranking Member*
SHEILA JACKSON LEE, Texas
DONALD M. PAYNE, JR., New Jersey
ERIC SWALWELL, California
J. LUIS CORREA, California
TROY A. CARTER, Louisiana
SHRI THANEDAR, Michigan
SETH MAGAZINER, Rhode Island
GLENN IVEY, Maryland
DANIEL S. GOLDMAN, New York
ROBERT GARCIA, California
DELIA C. RAMIREZ, Illinois
ROBERT MENENDEZ, New Jersey
YVETTE D. CLARKE, New York
DINA TITUS, Nevada

STEPHEN SIAO, *Staff Director*
HOPE GOINS, *Minority Staff Director*
NATALIE NIXON, *Chief Clerk*
SEAN JONES, *Legislative Clerk*

SUBCOMMITTEE ON COUNTERTERRORISM, LAW ENFORCEMENT, AND INTELLIGENCE

AUGUST PFLUGER, Texas, *Chairman*

DAN BISHOP, North Carolina
TONY GONZALES, Texas
ANTHONY D'ESPOSITO, New York
ELIJAH CRANE, Arizona
MARK E. GREEN, MD, Tennessee *(ex officio)*

SETH MAGAZINER, Rhode Island, *Ranking Member*
J. LUIS CORREA, California
DANIEL S. GOLDMAN, New York
DINA TITUS, Nevada
BENNIE G. THOMPSON, Mississippi *(ex officio)*

MICHAEL KOREN, *Subcommittee Staff Director*
BRITTANY CARR, *Minority Subcommittee Staff Director*
ALICE HAYES, *Subcommittee Clerk*

SUBCOMMITTEE ON EMERGENCY MANAGEMENT AND TECHNOLOGY

ANTHONY D'ESPOSITO, New York, *Chairman*

NICK LALOTA, New York
DALE W. STRONG, Alabama
JOSH BRECHEEN, Oklahoma
MARK E. GREEN, MD, Tennessee *(ex officio)*

TROY A. CARTER, Louisiana, *Ranking Member*
DONALD M. PAYNE, JR., New Jersey
DANIEL S. GOLDMAN, New York
BENNIE G. THOMPSON, Mississippi *(ex officio)*

DIANA BERGWIN, *Subcommittee Staff Director*
LAUREN MCCLAIN, *Minority Subcommittee Staff Director*
LUKE JENNETTE, *Subcommittee Clerk*

CONTENTS

Page

STATEMENTS

The Honorable August Pfluger, a Representative in Congress From the State of Texas, and Chairman, Subcommittee on Counterterrorism, Law Enforcement, and Intelligence:
Oral Statement 1
Prepared Statement 3
The Honorable Seth Magaziner, a Representative in Congress From the State of Rhode Island, and Ranking Member, Subcommittee on Counterterrorism, Law Enforcement, and Intelligence:
Oral Statement 5
Prepared Statement 6
The Honorable Anthony D'Esposito, a Representative in Congress From the State of New York, and Chairman, Subcommittee on Emergency Management and Technology:
Oral Statement 17
Prepared Statement 19
The Honorable Troy A. Carter, a Representative in Congress From the State of Louisiana, and Ranking Member, Subcommittee on Emergency Management and Technology:
Oral Statement 21
Prepared Statement 23
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security:
Oral Statement 24
Prepared Statement 25

WITNESSES

Chief Michael Gerke, Chief of Police, Odessa Police Department:
Oral Statement 28
Prepared Statement 30
Sheriff Don Barnes, Sheriff, Orange County, California:
Oral Statement 31
Prepared Statement 32
Mr. Michael Cox, Commissioner, Boston Police Department:
Oral Statement 38
Prepared Statement 40
Mr. Rafael Mangual, Senior Fellow and Head of Research Policing and Public Safety Initiative, Manhattan Institute for Policy Research:
Oral Statement 43
Prepared Statement 45

FOR THE RECORD

The Honorable Seth Magaziner, a Representative in Congress From the State of Rhode Island, and Ranking Member, Subcommittee on Counterterrorism, Law Enforcement, and Intelligence:
Letter From Brady 7
Statement of Giffords Law Center to Prevent Gun Violence 9

Page

The Honorable J. Luis Correa, a Representative in Congress From the State of California:
Letter From Chicago CRED Founder Arne Duncan 57
Article, *Trace* 72
The Honorable Daniel S. Goldman, a Representative in Congress From the State of New York:
Article, *New York Times* 62

APPENDIX

Questions From Honorable Laurel M. Lee for Michael Gerke 77
Question From Honorable Laurel M. Lee for Don Barnes 77
Questions From Honorable Donald M. Payne, Jr., for Michael A. Cox 78

PROTECTING THE HOMELAND: AN EXAMINATION OF FEDERAL EFFORTS TO SUPPORT STATE AND LOCAL LAW ENFORCEMENT

Tuesday, May 16, 2023

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON COUNTERTERRORISM, LAW ENFORCEMENT, AND INTELLIGENCE, AND THE
SUBCOMMITTEE ON EMERGENCY MANAGEMENT AND TECHNOLOGY,
Washington, DC.

The subcommittee met, pursuant to notice, at 9 a.m., at Room 310, Cannon House Office Building, Hon. August Pfluger [Chairman of the Subcommittee on Counterterrorism, Law Enforcement, and Intelligence] presiding.

Present from the Subcommittee on Counterterrorism, Law Enforcement, and Intelligence: Representatives Pfluger, D'Esposito, Crane, Brecheen, Magaziner, Carter, Correa, and Goldman.

Present from the Subcommittee on Counterterrorism, Law Enforcement, and Intelligence: Representatives D'Esposito, LaLota, Strong, Brecheen, Carter, and Goldman.

Also present: Representative Thompson, Higgins, Lee, Steel, Ivey, Titus, and Jackson Lee.

Chairman PFLUGER. The Committee on Homeland Security, Subcommittee on Counterterrorism, Law Enforcement and Intelligence, and Subcommittee on Emergency Management and Technology will come to order. The purpose of this hearing is to examine the state of U.S. law enforcement and how the Department of Homeland Security is engaged with State and local authorities across America to fight crime, as well as prepare for disaster response. Without objection, the gentlewoman from California, Mrs. Michelle Steel, the gentleman from Louisiana, Mr. Clay Higgins, and the gentlewoman from Florida, Ms. Laurel Lee, are permitted to sit on the dais and ask questions of the witnesses.

I now recognize myself for an opening statement. Good morning. We are holding an important hearing during National Police Week, a time when we recognize and honor the sacrifices and service of our men and women in law enforcement from across the country. I am pleased to have some of my own constituents here that are joining us today. I would first like to recognize Odessa Police Chief Michael Gerke as a witness today. In addition, I am pleased to have Midland County Sheriff David Criner and his wife Judy in the audience with us.

I have had the luxury of getting to know both of these gentlemen as well over the last 2 years, and I know that Chief Gerke will provide some valuable insight as to what issues rural police departments are facing throughout the country. Unfortunately, I think we have forgotten what it means to support our men and women in law enforcement who serve our communities every day, many of whom, well, let me strike that. All of whom are real-life heroes.

Last year, 246 law enforcement officers were tragically killed in the line of duty. This year, there have already been 41 officers killed in the line of duty serving their communities. Just this past Thursday, on May 11, Sergeant Joshua Clouse of the Cameron Police Department in Texas was shot and killed by a subject who was wanted for shooting his wife during a domestic violence incident earlier in the night as he and other officers executed a search warrant. Sergeant Clouse was an army veteran and had a wife and two children. He is a hero, and I pray for his family and friends.

We have also forgotten the importance of holding people accountable for engaging in criminal activities and preying on law-abiding citizens. From increases in aggravated assaults, robberies, and retail theft to dealing illicit fentanyl, I think many Americans no longer feel safe in their communities. Some cities are even releasing criminals back into their communities due to zero bail policies and downgrading the sentencing for felonies, allowing these bad actors to continue committing crimes. What message is this sending to career criminals? It is not one of law and order, but instead encourages lawlessness across the homeland and is unacceptable.

While criminals are not being held accountable for their actions, our law enforcement officers face extremely low morale in many places. Unfortunately, in some places that is due to anti-police sentiment. Extreme budget cuts, rogue legal reforms, and the media bias against law enforcement have resulted in significant recruitment and retention challenges for State and local law enforcement agencies across the country. These factors are not only preventing law enforcement from carrying out their duties to protect Americans, but they are also impeding police agencies across the homeland from having the resources to further train officers and prevent other mishaps.

If we continue down the path of cutting law enforcement budgets, police departments will be left with a difficult choice between lowering recruitment standards or being unable to meet their hiring needs. This committee has an important role to play as we oversee the Department of Homeland Security, which looks to support, let me say that again, support State and local, Tribal, territorial law enforcement agencies in their efforts to keep our communities safe, secure, and resilient.

From a Homeland Security standpoint, it has been over 20 years since 9/11 happened, yet we still have challenges for the timely sharing of information between the Federal Government and State and local agencies. While we have made significant progress, I worry that there continue to be gaps in how we share information in a consistent and timely manner. We have to work together to overcome these barriers, as information sharing is critical to combat the wide variety of threats that we face today. In particular, when it comes to fusion centers, which are primarily State-funded

facilities established with the purpose of information sharing between those levels, there is a common saying that says if you have seen one fusion center, you have seen one fusion center.

It is important that we ensure DHS is properly supporting fusion centers as they serve as focal points in State and urban areas for the receipt, analysis, gathering, and sharing of threat-related information. States like Texas have many different threats impacting their communities. I have seen first-hand how metropolitan areas like the one I visited in San Antonio can coordinate seamlessly between Federal, State, and local levels.

Furthermore, DHS provides various Federal grants to assist State, local, and territorial partners. We need to ensure that these grant programs continue and that they are effective in doing out what their mission says that they should be doing. Unfortunately, rural areas like my district do not experience that luxury and must rely on fusion centers that are located in other areas. There have been numerous times in the last month where Texas, DPS, or CBP were pursuing human smugglers, drug traffickers, or other malign actors through small towns in West Texas along the border that have led to catastrophic loss of life. Had a fusion center been established that caters to the unique needs of those rural areas, maybe it could have been easier for local and State law enforcement agencies to better coordinate with CBP and DPS. Today, I hope that we can examine this issue. I hope that we can find ways to highlight the information sharing and where it can be more readily available and more effective.

Last, it is important that our Nation must restore a sense of appreciation for the men and women who wear the uniform, who protect our communities, and who have been willing to sacrifice their own lives for the betterment of their communities. We have a very distinguished panel of witnesses to testify about the challenges between State and local law enforcement agencies, both in rural and in urban areas. I would like to thank all of our witnesses, not just for being here today, but more importantly, for you and your family's sacrifices in being willing to serve our Nation.

[The statement of Chairman Pfluger follows:]

STATEMENT OF CHAIRMAN AUGUST PFLUGER

MAY 16, 2023

Good morning, we are holding this important hearing during National Police Week, a time when we recognize and honor the sacrifices and service of our men and women in law enforcement from across the country.

I am pleased to have some of my constituents join us today. First, I would like to recognize Odessa Police Chief Michael Gerke as a witness today. In addition, I am pleased to have Midland County Sherrif David Criner and his wife, Judy, in the audience. I have had the luxury of getting to know both of these gentlemen well over the last 2 years and I know that Chief Gerke will provide some valuable insight as to what issues rural police departments are facing.

Unfortunately, we've forgotten what it means to support our men and women in law enforcement who serve our communities every day—many of whom are real-life heroes.

Last year, 246 law enforcement officers were tragically killed in the line of duty. This year, there have already been 41 officers killed in the line of duty serving their communities.[1]

[1] Officer Down Memorial Page, *https://www.odmp.org/*.

Just this past Thursday, on May 11, Sergeant Joshua Clouse of the Cameron Police Department in Texas, was shot and killed by a subject, who was wanted for shooting his wife during a domestic violence incident earlier in the night, as he and other officers executed a search warrant.[2] Sergeant Clouse was an Army veteran, had a wife, and two children.

Sergeant Clouse is a hero. I sincerely pray for his family and friends.

We've also forgotten the importance of holding people accountable for engaging in criminal activities and preying on law-abiding citizens—from increases in aggravated assaults, robberies, and retail theft to dealing illicit fentanyl, Americans no longer feel safe in their communities.

Some cities are even releasing criminals back into their communities due to zero bail policies and downgrading the sentencing for felonies, allowing these bad actors to continue committing crimes.

What message is this sending to career criminals?

It is not one of law and order but instead encourages lawlessness across the homeland—this is unacceptable.

While criminals are not being held accountable for their actions, our law enforcement officers face extremely low morale due to anti-police sentiments.

Extreme budget cuts, rogue legal reforms, and the media bias against law enforcement have resulted in significant recruitment and retention challenges for State and local law enforcement agencies across the country.

These factors are not only preventing law enforcement from carrying out their duties to protect Americans, but they are also impeding police agencies across the homeland from having the resources to further train their officers and prevent any police misconduct.

If we continue down the path of cutting law enforcement budgets, police departments will be left with the difficult choice between lowering their recruitment standards or being unable to meet their hiring needs.

This committee has an important role to play as we oversee the Department of Homeland Security, which looks to support State, local, Tribal, territorial law enforcement agencies in their efforts to keep our communities safe, secure, and resilient.

From a homeland security perspective, it has been over 20 years since 9/11, and we still have challenges for the timely sharing of information between the Federal Government and State and local law enforcement agencies.

While we've made some significant progress, I worry that there continues to be gaps in how we share information in a consistent, timely, and effective manner.

We must work together to overcome these barriers as information sharing is critical to combat the wide variety of threats from criminals and terrorists.

In particular, when it comes to Fusion Centers, which are primarily State-funded facilities established with the purpose of information sharing between State, local, Tribal, territorial, and Federal agencies, there is a common saying, "If you've seen one Fusion Center, you've seen one Fusion Center."

It is important that we ensure DHS is properly supporting Fusion Centers as they serve as focal points in States and urban areas for the receipt, analysis, gathering, and sharing of threat-related information.

States, like Texas, have many different threats impacting their communities. I have seen first-hand how metropolitan areas, like the one I visited in San Antonio, can coordinate seamlessly between Federal, State, and local law enforcement agencies.

Furthermore, DHS provides various Federal grants to assist State, local, Tribal, and territorial partners. We need to ensure these grant programs are effectively assisting law enforcement as they work to carry out their important mission.

Unfortunately, rural areas, like my district, do not experience that luxury and must rely on Fusion Centers hundreds of miles away. There have been numerous times in the last month where Texas DPS or CBP were pursuing human smugglers and drug traffickers through small towns in west Texas along the border that have led to catastrophic loss of life. Had a Fusion Center been established that caters to the unique needs of rural areas, local law enforcement agencies could have better coordinated with CBP and DPS.

I hope we can examine this issue today and find ways to better share information to our rural communities.

Last, it is important that our Nation must restore a sense of appreciation and respect for our men and women in law enforcement who serve our communities.

---

[2] Officer Down Memorial Page, Sergeant Joshua I. Clouse, *https://www.odmp.org/officer/26723-sergeant-joshua-i-clouse.*

We have a distinguished panel of witnesses to testify about the challenges State and local law enforcement agencies in both rural and urban areas face in responding to crimes in their communities.

Thank you to all our witnesses for being with us this morning, and I look forward to our discussion on this critical topic.

Chairman PFLUGER. I now recognize the Ranking Minority Member on this committee, Mr. Magaziner, for his opening statement.

Mr. MAGAZINER. Thank you, Chairman. I want to thank all of our witnesses for being here, and particularly our law enforcement witnesses. Thank you for your selfless service. Every day, you and the men and women you serve alongside put your lives at risk to protect and serve this Nation. While this is National Police Week, we honor your service every day. We are grateful for the sacrifices you and your families make, and we particularly honor those officers who have made the ultimate sacrifice and have died in the line of duty. I know I speak for everyone on both of our committees when I express my gratitude to you in our commitment to supporting the funding, the staffing, and the technology that you need to do your jobs safely and effectively.

We also want to highlight the importance of strong relationships between law enforcement agencies and the communities they serve. Community policing models based upon respect and collaboration between law enforcement and civilians have consistently been shown to be effective in reducing crime and improving safety of both officers and civilians. Police officers are often the first responders on the scene of overdoses, and we must ensure that officers have the support and the training to respond effectively in the midst of this epidemic. In order for us to reduce crime and make police work safer for those who put on the uniform, we must continue to fight for common-sense gun safety laws so that neighborhoods are safe from gun violence and police officers are never outgunned.

In the last several years, 504 police officers were killed on duty in the United States, and of those, 456 officers were fatally shot with a gun, meaning that 90 percent of line-of-duty deaths were perpetrated with a gun. This gun violence epidemic has only become worse in recent years. From 2020 to 2021, the number of police officers fatally shot rose 35 percent. It should be no surprise that these increasing occurrences of preventable officer deaths are three times more likely to occur in States with weak gun laws.

States like mine that have passed common-sense gun safety laws like background checks, red-flag laws, and ghost gun and high-capacity magazine bans generally see lower levels of gun violence and officers killed on duty than States with weaker gun safety laws.

Another factor in preventing violence is strong collaboration and information sharing between Federal and local law enforcement agencies. I share the Chairman's concern and our focus on this area because it is particularly important in preventing acts of terrorism, which is a key focus of our subcommittee. We must build on the lessons learned from the fusion center model and ensure that collaboration between State and local law enforcement in anticipating and neutralizing threats, both foreign and domestic, is as seamless as possible. Information sharing between Federal and local agencies is vital in neutralizing terror threats and preventing mass casualty events.

I find it disturbing that some of our colleagues have taken to calling for Federal law enforcement agencies like the FBI and the ATF to be defunded. I know that they do not speak for all in their party, and they certainly do not speak for all Americans, but this rhetoric is dangerous for many reasons, including the fact that these agencies play a vital role in supporting local law enforcement in preventing and responding to mass casualty events.

My hope is that this hearing will provide an insight to us as legislators on the best practices from around the country, as we work together in our shared goal to improve the safety of our homeland and all of its citizens. In addition to having an earnest conversation about gun safety laws and fusion centers, I hope to hear from today's witnesses about ways that the Federal Government can support your efforts to keep communities safe, including through improved information sharing. I want to thank the Ranking Member—I am sorry—I want to thank the Chairman for calling this hearing. I ask unanimous consent to insert into the record two statements from the Brady: United Against Gun Violence and Gifford Law Center detailing how weak gun laws endanger law enforcement. I also ask for unanimous consent that Congresswoman Jackson Lee and Congressman Ivey be allowed to sit in on today's hearing and question the witnesses. With that, I yield back.

[The statement of Ranking Member Magaziner follows:]

STATEMENT OF RANKING MEMBER SETH MAGAZINER

MAY 16, 2023

To our law enforcement witnesses, thank you for your selfless service. Every day, you, and the men and women you serve alongside in uniform put your lives at risk to protect and serve this Nation. This may be Police Week, but we honor your service every day, we are grateful for the sacrifices you and your families make, and we particularly honor those officers who have made the ultimate sacrifice and have died in the line of duty.

I speak for all of the Democrats on our subcommittees when I express my gratitude to you, and our commitment to supporting the funding, the staffing, and the technology you need to do your jobs safely and effectively. We also want to highlight the importance of strong relationships between law enforcement agencies and the communities they serve. Community policing models based upon respect and collaboration between law enforcement and civilians have consistently been shown to be effective in reducing crime and improving safety for both officers and civilians.

Police officers are often the first responders on the scene of overdoses, and we must ensure that officers have the support and training to respond effectively in the midst of this epidemic. And in order for us to reduce crime and make police work safer for those who put on the uniform, we must continue to fight for common-sense gun safety laws so that neighborhoods are safe from gun violence and police officers are never outgunned.

From 2012 to 2021, 504 police officers were killed in the United States. Out of those, 456 officers were fatally shot with a gun—meaning that 90 percent of line-of-duty deaths were perpetrated with a gun. This gun violence epidemic has only become worse in recent years. From 2020 to 2021, the number of police officers fatally shot rose 35 percent—and it should be no surprise that these increasing occurrences of preventable officer deaths are three times more likely to occur in places with weak gun laws. States like mine that have passed common-sense gun safety laws like background checks, red flag laws, and ghost gun and high-capacity magazine bans, generally see lower levels of gun violence and officers killed on duty than States with weaker gun safety laws.

Another factor in preventing violence is strong collaboration and information sharing between Federal and local law enforcement agencies. This is particularly important in preventing acts of terrorism, a key focus of our subcommittee. We must build on the strength of the fusion center model and ensure that collaboration between State and local law enforcement in anticipating and neutralizing terror threats, both

foreign and domestic, is as seamless as possible. Information sharing between Federal and local agencies is vital in neutralizing terror threats and preventing mass casualty events.

I find it disturbing that some of our colleagues on the far right have taken to calling for Federal law enforcement agencies like the FBI and ATF to be defunded. I know they do not speak for all in their party, and they certainly do not speak for all Americans. But this rhetoric is dangerous for many reasons, including the fact that these agencies play a vital role in supporting local law enforcement in preventing and responding to terror events.

My hope is that this hearing will provide insight to us as legislators, and best practices for those watching around the country, as we work together in our shared goal to improve the safety of our homeland and all of its citizens. In addition to having an earnest conversation about common-sense gun laws, I hope to hear from today's witnesses about other ways the Federal Government can support your efforts to keep our communities safe, including through improved information sharing.

Chairman PFLUGER. Thank you, Mr. Ranking Member. So ordered on the request.

[The information follows:]

LETTER FROM BRADY SUBMITTED BY RANKING MEMBER SETH MAGAZINER

The Honorable AUGUST PFLUGER,
Chairman, Subcommittee on Counterterrorism, Law Enforcement, and Intelligence, House Committee on Homeland Security, 1124 Longworth House Office Building, Washington, DC 20515.

The Honorable ANTHONY D'ESPOSITO,
Chairman, Subcommittee on Emergency Management and Technology, House Committee on Homeland Security, 1508 Longworth House Office Building, Washington, DC 20515.

The Honorable SETH MAGAZINER,
Ranking Member, Subcommittee on Counterterrorism, Law Enforcement, and Intelligence, House Committee on Homeland Security, 1218 Longworth House Office Building, Washington, DC 20515.

The Honorable TROY CARTER,
Ranking Member, Subcommittee on Emergency Management and Technology, House Committee on Homeland Security, 1442 Cannon House Office Building, Washington, DC 20515.

May 15, 2023.

DEAR CHAIRMEN PFLUGER AND D'ESPOSITO AND RANKING MEMBERS MAGAZINER AND CARTER: Founded in 1974, Brady works across Congress, courts, and communities, uniting gun owners and non-gun owners alike, to take action, not sides, and end America's gun violence epidemic. Our organization today carries the name of Jim and Sarah Brady. As you know, Jim was shot and severely injured in the assassination attempt on President Ronald Reagan. As victims of gun violence and lifelong gun owners, Jim and Sarah dedicated the rest of their lives to passing Federal legislation requiring background checks for gun sales. Brady continues to uphold Jim and Sarah's legacy by uniting Americans from coast to coast, red and blue, young and old, liberal and conservative, to combat the epidemic of gun violence.

We are grateful to the committee for holding a hearing on the Federal efforts to support law enforcement throughout the country. We hope that this hearing will foster important discussions regarding Federal policies which affect the safety of the public and the law enforcement officers charged with protecting them.

Such a hearing would be remiss if it did not address perhaps the greatest danger to law enforcement officers in America: the flow of firearms to the illegal market. As you likely are aware, firearm injuries are the leading cause of death among police officers feloniously killed in the line of duty, responsible for 84 percent of all

such deaths in 2021.[1] Further, analysis has shown that felonious officer deaths by firearm have increased by 22 percent in the last decade.[2]

Guns do not simply appear out of thin air into cities like Oakland, Baltimore, Chicago, and Washington, DC—all cities with strong gun laws and high gun violence homicide rates year over year. Instead, tens of thousands of guns are trafficked across State lines every year,[3] often from States with weak laws to States with much stronger laws.[4] Most cities impacted the greatest by gun violence have few, if any, Federal firearms licensees (FFLs) within their city limits; rather, FFLs that are the sources of crime guns to these places typically sit outside the communities in less diverse and more affluent suburbs.

Crucially, just a small percentage of gun dealers are responsible for diverting the overwhelming majority of guns to the criminal market. According to the latest available data, about 90 percent of crime guns can be traced back to roughly 5 percent of licensed gun dealers.[5] Gun tracing—the method for identifying a gun's sequence of ownership from manufacture to first retail sale[6]—is used to link a suspect with a firearm in a criminal investigation, to identify potential traffickers, and to detect in-State and inter-State patterns in the sources and kinds of crime guns. Trace data used to be publicly accessible, pulling back the curtain on negligent and unlawful gun dealers, but the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has interpreted the Tiahrt Amendments as blocking it from releasing that data, shielding the industry from scrutiny.[7] Congress should eliminate this impediment to the disclosure of trace data, to ensure transparency and provide lawmakers, researchers, and law enforcement agencies with a thorough understanding of the flow of illegal guns.

Gun traffickers also obtain firearms through burglary and theft from FFLs that lack adequate physical security or recordkeeping. Nearly 175,000 firearms were reported "stolen or lost" by FFLs between 2004 and 2011,[8] and burglaries and robberies of FFLs increased 48 percent and 175 percent, respectively, between 2012 and 2016.[9] However, there are virtually no Federal security requirements required of gun dealers to prevent theft. Congress should impose security requirements for licensed gun dealers to prevent the theft and loss of firearms that further supply the criminal market and endanger the lives of law enforcement officers.

While ATF is the only agency with oversight of the gun industry, and additionally provides critical crime gun tracing services to Federal, State, and local law enforcement, it is woefully under-resourced. Despite having a goal of inspecting all FFLs every 5 years, the agency has consistently fallen well short of that,[10] inspecting only 12 percent to 13 percent of all dealers, pawnshops, and manufacturers on average.[11]

ATF consistently falls short enforcing the law against the gun industry, primarily because the gun lobby has tied the agency's hands behind its back by denying it

---

[1] Federal Bureau of Investigations, *Law Enforcement Officers Killed in the Line of Duty Statistics for 2021,* November 9, 2022. Available at *https://leb.fbi.gov/bulletin-highlights/additional-highlights/crime-data-law-enforcement-officers-killed-in-the-line-of-duty-statistics-for-2021.*

[2] Grace Hauck, *A 'disturbing trend': More police are dying from gun violence today than a decade ago,* USA Today, January 11, 2023. Available at *https://www.usatoday.com/story/news/nation/2023/01/11/police-officer-deaths-2022-report/11017969002/.*

[3] G. Aisch and J. Keller, *How Gun Traffickers Get Around State Gun Laws,* New York Times: 13 November 2015. Available at *https://www.nytimes.com/interactive/2015/11/12/us/gun-traffickers-smuggling-state-gun-laws.html.*

[4] Department of Justice, *Data & Statistics: U.S. Firearms Trace Data by State,* Bureau of Alcohol, Tobacco, Firearms, and Explosives: Accessed 12 December 2022. Available at *https://www.atf.gov/resource-center/data-statistics.*

[5] Department of Treasury, *Commerce in Firearms in the United States,* Bureau of Alcohol, Tobacco, and Firearms: February 2000. Available at *http://www.joebrower.com/RKBA/RKBA_FILES/GOV_DOCS/BATF_report_020400.pdf.*

[6] Department of Justice, *National Tracing Center,* Bureau of Alcohol, Tobacco, Firearms, and Explosives. Accessed 12 December 2022. Available at *https://www.atf.gov/firearms/national-tracing-center.*

[7] W. Stachelberg, A. Gerney, and C. Parsons, *Blindfolded, and with One Hand Tied Behind the Back,* Center for American Progress: 19 March 2013. Available at *https://www.americanprogress.org/article/blindfolded-and-with-one-hand-tied-behind-the-back/.*

[8] Department of Justice, *Review of ATF's Federal Firearms Licensee Inspection Program,* Evaluation and Inspections Division, Office of the Inspector General: April 2013. Available at *https://oig.justice.gov/reports/2013/e1305.pdf.*

[9] C. Parsons and E. Vargas, *Stolen Guns in America: A State by State Analysis,* Center for American Progress: 25 July 2017. Available at *https://www.americanprogress.org/article/stolen-guns-america/.*

[10] DOJ, *Review of ATF's Federal Firearms Licensee Inspection Program.*

[11] Department of Justice, *Fact Sheet—Facts and Figures for Fiscal Year 2021,* Bureau of Alcohol, Tobacco, Firearms, and Explosives: August 2022. Available at *https://www.atf.gov/resource-center/fact-sheet/fact-sheet-facts-and-figures-fiscal-year-2021.*

funding and hamstringing its leadership. Without a fully resourced ATF, the small portion of gun dealers who are diverting illegal weapons into communities will continue to go unchecked, driving up rates of violence and crime. Congress should provide adequate funding for ATF to ensure robust oversight of the firearms industry to prevent the illegal diversion of firearms which endanger law enforcement officers.

Brady has represented several law enforcement officers, and their families, when they have fallen victim to guns diverted to the illegal market due to the negligent and irresponsible behavior of gun industry actors. We will continue to work on their behalf, but implore Congress to work toward solutions that protect their safety.

Most Sincerely,

MARK A. COLLINS,
Director, Federal Policy, Brady.

STATEMENT OF GIFFORDS LAW CENTER TO PREVENT GUN VIOLENCE SUBMITTED BY RANKING MEMBER SETH MAGAZINER

MAY 16, 2023

HOW WEAK GUN LAWS ENDANGER LAW ENFORCEMENT

Giffords Law Center to Prevent Gun Violence was formed 30 years ago after a mass shooting at a San Francisco law firm and renamed for former Congresswoman Gabby Giffords after joining forces with the organization she leads. Giffords Law Center fights for laws, policies, and programs proven to save lives. We combine deep expertise with tenacity and fierce dedication to lasting systemic change, and arm advocates, legislators, and the media with the tools they need to understand the facts about the gun violence crisis and the solutions that will solve it. Giffords Law Center accomplishes this by filing amicus briefs in cases challenging lifesaving gun laws, by tracking and analyzing firearm legislation around the country, and by developing in-depth reports on various aspects of our country's gun violence crisis.

In a little over 1 week, the 1-year mark of the massacre at Robb Elementary in Uvalde, Texas, will be upon us. In the last month, countless lives have been lost and irrevocably changed by the presence of a gun: Less than 2 weeks ago 8 people, including several children, lost their lives in Allen, Texas; a few days before that one person lost their life and 4 others were injured in Atlanta, Georgia; a few days before that 5 people lost their lives, including a 9-year-old in Cleveland, Texas; almost a week before that, 9 teenagers were injured in Jasper, Texas; and in the span of less than a week, 3 shootings involving an innocent mistake by the victims resulted in their victimization—mistakenly ringing the wrong doorbell, mistakenly pulling into the wrong driveway, mistakenly entering the wrong car. This list does not even account for a quarter of the shootings or victims of gun violence in the last month.

This list also does not account for the innumerable law enforcement officers who are called to respond to these dangerous situations and so many more, putting their lives on the line to save the lives of countless individuals, often becoming a victim themselves—physically and mentally. In 2021, almost 73 percent of law enforcement officers who died from felonious assaults were killed by firearms. This is a 36 percent increase over the number of officers killed by firearms in 2020 and the second leading cause of line-of-duty deaths of law enforcement officers. One study found that the law enforcement officer homicide rate was 3 times higher in States with high firearm ownership compared with States with low firearm ownership.[1]

We cannot allow this violence to continue for the next generation. Proposed gun law reforms, many of which have been introduced this Congress, would make a difference, not just to keep the public safe but to also protect law enforcement. Gun safety laws can reduce the quantity of illegal firearms in circulation, make it difficult for individuals who are prohibited from possessing guns to possess them, and reduce the number of dangerous illegal modification devices proliferating in communities. In these ways, they also help prevent and reduce the myriad of incidents that lead to law enforcement officer firearm-related death and injury. Some of the biggest dangers to law enforcement involve firearms in the wrong hands. The life-saving proposals described below, which enjoy the support of overwhelming numbers of Americans and will protect our law enforcement officers, just require action by this legislature.

---

[1] David I. Swedler, et al., "Firearm Prevalence and Homicides of Law Enforcement Officers in the United States," American Journal of Public Health 105, no. 10 (October 2015): 2042–2048, doi:10.2105/AJPH.2015.302749.

ASSAULT WEAPONS

Besides enabling mass shootings, assault weapons pose a particular danger to law enforcement officers. From 2016 to 2018, 1 in 5 law enforcement officers were killed in the line of duty by an assault weapon. Assault weapons are extremely lethal and law enforcement, when faced with assault weapons, are outgunned and undertrained; body armor often does not protect them from these lethal weapons.

Assault weapons are designed to maximize the number of people shot in the shortest amount of time. The key feature of assault weapons is the ability to accept detachable large-capacity ammunition magazines, which are magazines with a capacity of more than 10 rounds of ammunition that allow a shooter to keep firing for longer periods of time, increasing casualties and reducing victims' ability to escape or intervene.

In July 2016, a gunman ambushed a group of police officers who were assigned to a protest in the streets of Dallas, Texas. Five officers were shot and killed, and 9 others were injured. The shooter used a semi-automatic variant of a Kalashnikov AK–74 rifle to murder these police officers. Although the shooter had received military training, Federal law still enables anyone to access the kind of rifle he used through legal channels. In addition to the rifle, the shooter carried a handgun with a high-capacity magazine. Because the shooter and his weapons were so dangerous, police initially thought there were multiple shooters who "planned to injure and kill as many law enforcement officers as they could," and police had to use a bomb attached to a remote control bomb disposal robot to stop the shooter.

This was a targeted attack on law enforcement that then-President Barack Obama called a "vicious, calculated, despicable attack" and a "tremendous tragedy." Dallas Police Chief David Brown said that police efforts to identify the shooter were complicated by the fact that up to 30 civilians were openly carrying rifles during the protest and was quoted as saying, "We're trying as best we can as a law enforcement community to make it work so that citizens can express their Second Amendment rights. But it's increasingly challenging when people have AR–15s slung over their shoulder and they're in a crowd. We don't know who the good guy is versus the bad guy when everyone starts shooting."

That same month (July 2016), in an unrelated incident, a man in Baton Rouge, Louisiana, shot 6 police officers, killing 3, with a semi-automatic assault rifle at a shopping complex near a convenience store close to the Baton Rouge Police Department's Headquarters. The weapon the shooter used to attack law enforcement was a variant of the weapon deemed standard for the Israeli infantry's combat units. The officers killed were Deputy Bradford Allen "Brad" Garafola, 45, who had been with the East Baton Rouge Parish Sheriff's Office since 1992, and had 4 children; Officer Matthew Lane Gerald, 41, a former Marine who had been with the BRPD for 4 months; and Corporal Montrell Lyle Jackson, 32, who had been with the BRPD since 2006, and who had a 4-month-old child.

These two attacks were premeditated ambushes, where the shooter chose assault weapons so they could outgun and kill as many police officers as possible.

Congress must do more to restrict access to these deadly weapons. We are glad Representative Cicilline introduced H.R. 698, the Assault Weapons Ban Act, which would ban the future manufacture and sale of assault weapons and large-capacity magazines. We are also glad Representative Ivey introduced his bill, H.R. 2870, to prohibit the sale of certain semiautomatic centerfire rifles and semiautomatic centerfire shotguns to persons under 21.

ARMOR-PIERCING HANDGUNS

Armor-piercing handguns, such as AK–47 pistols, are a kind of assault weapon designed specifically to get around the regulation of short-barreled rifles in the National Firearms Act. These handguns, which fire ammunition traditionally used in rifles, combine those weapons' armor-piercing capability with the concealability of a handgun. As a result, they can pierce the standard body armor worn by police but can be hidden under a coat or cloak. The National Firearms Act subjected short-barreled rifles to strict taxation and registration requirements to reduce the risk that concealable weapons firing rifle ammunition posed to police. But now the gun industry is evading those requirements through the development of armor-piercing handguns.

In February 2019, a 17-year veteran of the Milwaukee Police Department and a Marine who served in Iraq, Matthew Rittner was killed by an AK–47 pistol while he was executing a search warrant. An autopsy revealed that the bullet pierced both lungs and his aorta. Prosecutors said the other shots were fired through the door, nearly striking the other officers. Bullets were also recovered from a garage door across the alley from the home and from a chimney on top of the garage. "The de-

fendant did admit that he knew that AK–47 ammunition was 'devastating ammunition' and that hitting someone in the chest with that round would probably result in that person dying."

The Law Enforcement Protection Act, which was introduced by former Congresswoman Demings last Congress, would bring armor-piercing handguns within the ambit of the National Firearms Act, so they are regulated like short-barreled rifles. We urge Congress to take up and pass such a bill.

STABILIZING BRACES

Not content to simply evade the law through the development of armor-piercing handguns, the gun industry has also designed devices known as stabilizing braces to convert these handguns into true short-barreled rifles. As noted above, these firearms can penetrate the body armor commonly worn by law enforcement, meaning that they pose a serious threat to the safety of police officers. ATF has recently finalized a rule that formally classifies these weapons so that they are properly subject to the National Firearms Act's provisions regarding short-barreled rifles. However, a House Committee has approved a resolution that threatens to rescind that rule, once again putting officers in danger. We implore this Congress to vote against this resolution, as passage would leave not only the public but also law enforcement vulnerable to the threat of these concealable firearms that are able to fire with rifle-like accuracy and firepower.

TRAFFICKING/STRAW PURCHASED FIREARMS

Laws against gun trafficking reduce the ways in which people at risk of violence can obtain firearms. When people who should not have access to firearms are limited in their means for accessing firearms, public safety improves and lethal threats toward law enforcement decline.

Gun traffickers take advantage of weaknesses in the law to obtain large numbers of difficult-to-trace guns that are often used in crimes without undergoing background checks.[2] Gun trafficking can undermine a State's strong gun safety laws,[3] especially if a neighboring State has weaker gun laws. For example, 74 percent of guns used in crimes in New York State between 2010 and 2015 originated out-of-State. Nation-wide, the percentage of out-of-State guns used in crimes was 29 percent. In addition, straw purchasers often obtain guns from sellers who are known to openly collude with gun traffickers or to sell guns without asking too many questions.[4]

Straw purchases (in which one person falsely claims to be the gun purchaser on behalf of another, who is usually ineligible to purchase the firearm) are the most common channel identified in trafficking investigations. One man in Indiana completed the proper paperwork to purchase a firearm for his friend who lived in Chicago and was ineligible to purchase firearms, which the man knew. In August 2021, the friend and his brother killed 29-year-old Officer Ella French in Chicago, Illinois, and critically wounded her partner using the straw purchased firearm. Both men involved in the shooting were prohibited from purchasing and possessing firearms because of their criminal records. Because of this straw purchase, one cop is dead, and another was injured.

On January 26, 2015, 31 members of the New Hope Police Department, their relatives, and city employees were gathered at the New Hope City Hall near Minneapolis for a swearing-in and awards ceremony. Officer Beau Schoenhard, whose wife and 15-month-old son were nearby, was the first officer to notice a man with a shotgun approach the crowd. The man lifted the gun and began shooting. The attack landed Schoenhard and fellow officer Joshua Eernisse in the hospital, and the man with the gun was killed by police. The New Hope Police Chief later said the scene resembled "a war zone." The shooter had been formally committed to a mental institution twice before and had been found incompetent to stand trial for a previous crime. He was nevertheless able to obtain the shotgun he used in the shooting and two other shotguns that the police later found in his car through an on-line auction. Although he was the highest bidder for these guns, the auction house required the

---

[2] Philip J. Cook, et al., "Some Sources Of Crime Guns In Chicago: Dirty Dealers, Straw Purchasers, And Traffickers," *Journal of Criminal Law & Criminology* 104, (October 2015): 717–760.

[3] Daniel W. Webster, et al. "Relationship between licensing, registration, and other gun sales laws and the source State of crime guns," *Injury Prevention* 7: no. 3 (September 2001): 184–189.

[4] Garen Wintemute, "Firearm Retailers' Willingness to Participate in an Illegal Gun Purchase," *Journal of Urban Health* 87, no. 5 (September 2010): 865–878, doi:10.1007/s11524–010–9489–6.

transactions to be processed at a gun store. He knew that he could not pass a background check, so he asked his friend to go to the gun store and buy the guns on his behalf (a straw purchase).

Milwaukee police officer Matthew Rittner was hit by one of four shots fired from an AK–47 semi-automatic pistol by a suspected gun trafficker in 2019. The charging document says the "no knock" warrant was obtained through Milwaukee County Court Commissioner J.C. Moore after a confidential informant told police that the shooter was involved with the straw purchase of 13 to 15 weapons in recent months. The complaint paints a picture of the shooter, meanwhile, as someone heavily involved in straw purchases of firearms that he and a friend later would resell at a profit. The shooter said he assembled rifles and sold them at gun shows.

The Bipartisan Safer Communities Act, enacted in June 2022, created new Federal firearms trafficking and straw purchasing laws, providing a way to protect law enforcement and the public from illegal guns. Proper utilization of this law, however, requires unprecedented cooperation and effort by Federal, State, and local law enforcement agencies. Department of Justice (DOJ) and Congressional leaders must continue to provide a way forward to ensure that gun traffickers are held accountable.

PREVENTABLE COMMUNITY VIOLENCE

In many of the Nation's most disadvantaged, low-income neighborhoods, gun violence is a tragic fact of everyday life, including for the law enforcement officers who work or live in those communities. However, when there is investment in community violence intervention (CVI) programs, everyone is safer. Fewer shootings and homicides lead to increased public safety for all members of the community, including law enforcement officers who have to respond to violent incidents.

Community violence is defined by the CDC as violence between "unrelated individuals, who may or may not know each other, generally outside the home." This includes homicides, shootings, stabbings, and physical assaults. Community violence is highly concentrated geographically and disproportionately impacts communities of color. Seventy-four percent of gun homicide victims in the United States are Black or Latinx, despite being 31 percent of the U.S. population. In 2020, more than 24,500 Americans lost their lives to homicide—nearly 80 percent of which were committed with a firearm—and tens of thousands more were injured severely enough to require hospitalization. American rates of community violence are many times higher than other developed nations.

Despite the severity of this crisis, we know that significant reductions in community violence are possible with the implementation of holistic, public health-informed strategies focused on addressing the root causes of violence. In any given city, a small number of high-risk individuals commit the majority of acts of community violence. Evidence-based community violence intervention and prevention programs identify and effectively intervene with this population, interrupting cycles of violence and retaliation, and have been proven to be highly effective at reducing rates of community violence:

- Hospital-Based Violence Intervention Programs address the fact that experiencing violence is a significant risk factor for future exposure to violence.
- Street Outreach and Violence Interruption are proactive approaches that employ trained outreach workers to identify and mediate conflicts in their community.
- Group Violence Intervention calls for a local partnership of law enforcement, service providers, and community members to work together to identify potential offenders and bring them together to intervene with a message that the violence must stop.

Since 2007, Richmond, California, has invested in CVI efforts, including through the Advance Peace model and a hospital-based violence intervention program. The city saw a 70 percent reduction in homicides and shootings between 2007 and 2019.

Too many police officers have died as a result of community violence. Community violence intervention programs could have prevented these deaths and other shootings of law enforcement officers. For example, in October 2021, a DEA agent was killed and two other officers were injured during what was supposed to be a routine check for illegal money, weapons, and drugs on an Amtrak train when a man began firing a handgun as officers were detaining another man. The shooter had a lengthy criminal history. In October 2021, a 14-year-old boy shot a Los Angeles police officer with a ghost gun. The boy had ties to a local gang that was producing ghost guns. In March 2022, two Chicago police officers were shot when a gunman accidentally dropped his firearm in front of them while waiting in line to get food and then picked up the firearm and started shooting the officer in line behind him and an

officer waiting in their squad car. In July 2016, a man shot at 4 Baltimore police officers after they arrived at an apartment complex from which they'd heard shots fired. The shooter had an extensive criminal history.

Last Congress, Representative Horsford introduced his bill, H.R. 4118, the Break the Cycle of Violence Act, which would authorize community-based violence intervention programs, like those previously discussed. Congress should take up and pass this important bill.

PENSACOLA LOOPHOLE

In December 2019, an aviation student from Saudi Arabia killed 3 U.S. Navy sailors and injured 8 others in a terrorist attack facilitated by one the most egregious loopholes in our gun laws. The 3 victims who died from their injuries were a 19-year-old airman from St. Petersburg, Florida; a 23-year-old ensign and recent graduate of the United States Naval Academy from Coffee, Alabama; and a 21-year-old airman apprentice from Richmond Hill, Georgia.

While foreign nationals, including individuals admitted under nonimmigrant visas, are generally prohibited from purchasing or possessing guns, it is far too easy for a person with bad intentions to get around this law by obtaining a hunting license from a State. Many States issue hunting licenses liberally, without any serious investigation about the person. This is how the Pensacola shooter obtained a firearm.

Federal law should ensure that ATF (or whoever the Attorney General chooses to fulfill this role) has approved a foreign national to obtain or possess a gun before he or she can do so. That way, dangerous people cannot once again take advantage of this loophole. Specifically, Federal law should require a foreign national who has been admitted to the United States under a nonimmigrant visa to obtain a waiver from the Attorney General before purchasing and possessing a firearm. This waiver should only be available if the person has resided in the United States for 180 days, has approval from the person's embassy or consulate, and the Attorney General finds it would not jeopardize public safety and is in the interests of justice.

Notably, the background check system contains criminal history information from all 50 States, but does not include data from foreign countries, so foreign nationals with extensive criminal backgrounds might be approved by the system. Federal law should therefore give DOJ the opportunity to do a more thorough assessment before the individual purchases a firearm.

In the 117th Congress, former Representative Crist introduced his bill, H.R. 2971, the Foreign National Firearms Background Check Enhancement Act, which would close this loophole by ensuring a foreign national obtains a waiver from the Attorney General before purchasing a gun.

SAFE STORAGE

Too often, firearms that are not stored safely end up in the hands of people who are not legally eligible to possess them (because of age, criminal history, or for another reason). Whether a child or other unauthorized individual gains access to a firearm or a firearm is stolen from a home or car, that firearm is a threat to law enforcement. Eliminating a person's ability to gain unauthorized access to firearms decreases the danger to law enforcement and the whole community.

For example, in January 2022, a man used a stolen gun to murder two New York City police officers. The firearm was stolen from a woman's safe in Baltimore in 2017 allegedly by her 13-year-old son who then sold the firearm. Whether the two officers would've been murdered if the firearm was stored and inaccessible to the 13-year-old is unknown, but that firearm would likely not have been the one used in the murders. And, in February 2013, a man used an unsecured gun stolen from a vehicle earlier in the month to kill a retired ATF special agent.

Safe storage laws promote responsible gun ownership by requiring gun owners to store their firearms securely. These laws can reduce gun suicides, unintentional shootings, and gun theft.

Gun owners who do not store their firearms securely are at greater risk of having their firearms stolen and diverted into underground firearms markets and used in crime.[5] Annually, roughly 380,000 guns are stolen from individual gun owners each year, with the majority of stolen firearms recovered by police between 2010 and 2016 being recovered in connection with crimes.

[5] David Hemenway, et al., "Whose guns are stolen? The epidemiology of Gun theft victims," *Injury Epidemiology* 4, no. 11 (December 2017), doi:10.1186/s40621–017–0109–8.

We are grateful to Representative DeLauro for reintroducing her bill this Congress, H.R. 660, Ethan's Law, which would incentivize States to pass child access prevention laws and require gun owners to safely store firearms in their home.

ACCESSORIES/MODIFICATION DEVICES

The gun industry has developed a wide variety of devices that increase the rate of fire of semiautomatic firearms, often causing them to approximate the speed of fire of a machine gun. Sometimes these devices do, in fact, convert these weapons into machine guns; in these cases, these devices are already illegal but too easy for criminals to obtain. All of these devices increase the danger to law enforcement officers.

More than 200 California police officers were present at the Las Vegas mass shooting where bump stocks were used. ATF has now amended its regulations to include bump stocks within the definition of "machine gun," making these devices illegal, although the ban on these weapons is still subject to court challenge and other similar devices are still available.

"Auto sears," also known as switches, are accessories that convert semiautomatic firearms into fully automatic machine guns. Regulating auto sears and similar modification devices that turn lethal weapons even more destructive helps ensure law enforcement is not placed at extreme risk. A risk that is insurmountable in some cases.

Auto sears are becoming more prevalent in cities around the country and law enforcement are finding increasing numbers of auto sears at crime scenes. In 2021, ATF seized 1,500 weapons modified with auto sears, 1,200 more than were recovered in 2020. In Houston, Texas, an auto sear was used on a handgun to kill senior police officer William "Bill" Jeffrey and injure another officer. The officers were executing an arrest warrant at the time. Soon after the apartment door opened, rapid gunfire came at them from inside the apartment.

Too often auto sears are smuggled into the country or produced at home. As a result, auto sears are an accessible modification device available to the masses at an inexpensive price. Anyone can illegally purchase an auto sear on-line, without a background check, for less than $20. And installation of an auto sear can take seconds, not requiring special tools or skills. Like ghost guns, which auto sears are also being used in combination with, auto sears can be created using a 3D printer.

Auto sears inflict severe damage and are technically illegal because on their own they are considered a machine gun. Criminal gangs view auto sears as an advantageous new accessory, especially when joined with high-capacity magazines, because they can inflict incredible damage and intimidate enemies.

Representative Spanberger introduced her bill this Congress, H.R. 2909, Preventing Illegal Weapons Trafficking Act, which would require Federal law enforcement to coordinate efforts to prevent the importation and trafficking of conversion devices. Representative Titus also introduced her bill, H.R. 396, Closing the Bump Stock Loophole Act, which would explicitly add bump stock to the list of firearms subject to regulation under the National Firearms Act and under the Gun Control Act of 1968. These are common-sense steps to protecting the lives of law enforcement officers this Congress must act on.

GHOST GUNS

Ghost guns are untraceable, "do-it-yourself" firearms manufactured in the home. When gun parts are easily accessible, these firearms can be assembled by unlicensed persons, obtained without a background check, lack serial numbers, and are therefore untraceable by law enforcement if used in a crime. The alarming proliferation of these weapons is a threat to public safety, including law enforcement. Ghost guns evade all the regulations which apply to the regulated firearms industry and are thus an attractive option for firearm traffickers and people who would otherwise be unable to pass a background check and purchase a firearm, and they have been appearing more frequently in crime. Ghost guns are also an attractive option for people interested in illegal guns, like assault weapons in the 9 States that ban them.

Ghost guns have been used to target law enforcement. In 2021, a man used a ghost gun to shoot at a United States Secret Service agent and 3 security guards. United State Park Police officers responded to the scene where law enforcement recovered three 9mm ammunition shell casings and located a bullet fragment within a wall. The shooter was prohibited from possessing firearms because of a felony record but was able to use the gaps in our laws to obtain an unserialized, untraceable firearm. In Los Angeles, a 14-year-old boy was arrested after shooting at a detective with a ghost gun. He was tied to a local gang that was producing

ghost guns. Even though the boy was ineligible to possess firearms because of his age, he had access to ghost guns that were allegedly being produced using various tools, including a 3D printer and a drill press. In 2019, gunmen firing assault-type ghost guns fatally shot law enforcement officers in an ambush attack in Sacramento and a deadly shoot-out in Riverside, California. The shooters in these incidents would have been unable to purchase a serialized gun, either because the gun they used was illegal in that State or because the shooters were prohibited from purchasing guns.

On April 11, 2022, President Biden announced the finalization of the "ghost gun" rule that will define the unfinished parts used to make ghost guns as firearms, which means that those who sell them will have to be licensed, will have to serialize them and retain records, and will have to conduct a background check before every sale, closing a major loophole on how firearms enter civilian hands without any oversight. This rule will help make it more difficult for people prohibited from purchasing firearms or interested in illegal firearms to access a firearm, potentially decreasing some interactions law enforcement will have in these dangerous situations. Ghost guns, however, still litter our streets with nearly 24,000 ghost guns recovered at crime scenes between 2016 and 2020.

Comprehensive legislation such as Representative Cicilline's Untraceable Firearms Act, H.R. 3088, which he introduced last Congress, would address this problem. Congress must act on this legislation to ensure that all firearms carry a serial number that makes them traceable by law enforcement and that 3D printing technology is not used to create firearms that end up in the hands of people prohibited from possessing them.

PRETRIAL RELEASE

A loophole in current law enables people to pass a National Instant Criminal Background Check System (NICS) background check even when they are prohibited from possessing guns by a pretrial release court order. Due to this loophole, State, local, and Tribal authorities are unable to rely on the background check system to enforce the pretrial condition of persons who were specifically ordered by a court not to purchase firearms. In fact, January 6th defendant Thomas Robertson was able to purchase 34 guns despite a release order that barred him from possessing firearms.

While bail reform is controversial, we can all agree that too many police officers have been shot or killed by people who were out on bail. The issue of whether a defendant subject to an explicit court order not to possess guns can pass a background check to buy a gun is simple. Last session, former Representative Carolyn Maloney introduced the Preventing Pretrial Gun Purchases Act, H.R. 6717, which would close this loophole, enabling the background check system to deny guns to a person subject to a condition of release of this kind.

DOMESTIC VIOLENCE

Domestic violence calls are some of the most dangerous for police officers. In December 2021, 4 people were killed in Georgia, including a police officer, after officers responded to a domestic disturbance call in Clayton County. When officers arrived, they encountered an armed man who shot and killed Officer Henry Laxson and wounded another officer, according to the Georgia Bureau of Investigation.

Just a few weeks before, Jackson County Deputy Lena Nicole Marshall was also shot responding to a separate domestic violence 9–1–1 call. She died from her wounds 3 days later. Authorities say deputies were called to Highway 124 West for a domestic incident. One deputy was shot after arriving at the location. Other deputies, authorities say, returned fire eventually striking and killing the alleged suspect. The Georgia Bureau of Investigation said the homeowners sought to remove a woman from their home who didn't live there. The sheriff's office said when deputies arrived, the woman pulled out a gun, fired at the deputies and struck Marshall. The second deputy returned fire and killed the shooter, the sheriff's office said. The shooter had been in a custody dispute with her ex-husband, who cited her erratic behavior and said she had not enrolled the children in school. The shooter had also previously voiced hatred toward local judges and law enforcement officers.

While Federal law prohibits certain domestic abusers from possessing guns, those laws have been hard to implement, and many abusers continue to possess guns even though they have been convicted of domestic abuse or become subject to a restraining order, losing their eligibility to possess guns legally. Requiring people subject to domestic violence-related protective orders to provide proof that they actually relinquished their firearms (relinquishment laws) is one way States have acted to implement the Federal gun laws. These State laws are linked to a 16 percent reduction

in intimate partner gun homicides. They also protect police who must often respond to domestic violence situations by removing the presence of a gun. That is why it is imperative that this Congress provide funding to State efforts to remove guns from domestic abusers who are prohibited from possessing them, as called for in Representative Jackson-Lee's Lori Jackson-Nicolette Elias Domestic Violence Survivor Protection Act.

THE THREAT OF ARMED FAR-RIGHT EXTREMISTS TO LAW ENFORCEMENT OFFICERS

In recent years, extremist groups have become emboldened to expand beyond their private meetings, chat rooms, and message boards, recruiting new members through mainstream social media and gathering openly in public. This upswell of hateful ideology has also been accompanied by an escalation of public intimidation with firearms.

Law enforcement officers are not immune to the violence of armed far-right extremists. In fact, far-right extremists' anti-Government and anti-law enforcement ideologies place them at odds with law enforcement, which shows up in the purposeful targeting of law enforcement for ideologically-motivated violence and when there are opportunities to commit violence against law enforcement while law enforcement officers conduct routine activities (e.g., during patrol).

Far-right extremists also find themselves at odds with law enforcement where law enforcement officers must respond to the criminal activities of extremists.

One study of the sovereign citizens movement, a movement within the right-wing anti-Government extremist movement, found that, in the 75 instances in which sovereign citizens attempted or did harm law enforcement officers between 1983 and 2020, 27 law enforcement officers were killed, and 65 officers were injured. Of those officers killed, 30 percent died during traffic stops, 30 percent died during ambushes, 22 percent died during stand-off situations, 15 percent died during routine check or serving a warrant, and 3 percent died in a gun battle in a store parking lot.[6]

In the last few years, amid COVID–19 pandemic restrictions, law enforcement officers have been attacked by far-right extremists. Fueled by anger about pandemic restrictions, a Federal protection officer was shot and killed by two members of the anti-Government boogaloo movement and later a sheriff's deputy was killed while attempting to arrest one of the suspects.

The January 6 insurrection demonstrated for the world the steps these far-right extremists will take. The violent riot and breach on the U.S. Capitol, guarded by law enforcement, contributed to the death of multiple law enforcement officers and the injury—physical and mental—to countless officers.

Last session Representative Schneider introduced his bill, H.R. 350, the Domestic Terrorism Prevention Act, which would help ensure that existing laws are enforced against domestic terrorists and white supremacists and improve law enforcement efforts to intercede in these situations before they become even more violent. Given the easy access to firearms in this country, it is imperative that Congress take action to reduce the danger posed by armed extremists.

CONCLUSION

Law enforcement officers are placed in dangerous situations on a daily basis. One way to protect these officers is to strengthen our gun laws, so that our officers, who we depend on to protect us, are able to do so. The only thing standing in the way of progress on gun safety is the lack of political will. We urge Congress to find the courage to strengthen these laws, to show leadership on this life-and-death issue, and to act, now.

Our gun violence crisis is a uniquely American problem. It's a problem that plagues our country in countless different ways and exacts a devastating toll on our communities, including our law enforcement officers. But it's a problem with solutions. While one single law will never stop all gun violence, we know strong gun laws save lives. We know that taking proven steps to decrease the danger law enforcement is forced to face daily is not a partisan issue, or at least it shouldn't be.

We have seen progress in recent years, particularly with the passing of the Bipartisan Safer Communities Act last Congress. That progress must be the expectation, not the exception. So today, we ask all Members of this committee and Congress as a whole to recommit themselves to making progress and taking action to reduce

[6] Christine M. Sarteschi, "Sovereign citizens: A narrative review with implications of violence toward law enforcement," *Aggression and Violent Behavior* 60, (September 2021), doi:10.1016/j.avb.2020.101509.

gun violence in this country and in turn aiding in law enforcement's ability to carry out their mission and ensure the safety of our communities.

Chairman PFLUGER. I would now like to recognize the Chairman for the Subcommittee on Emergency Management and Technology, the gentleman from New York, Mr. D'Esposito. Before he speaks, know that he is also a former detective for the New York Police Department and has also spent time being willing to sacrifice his own, his own life for the betterment of his community. Mr. D'Esposito.

Chairman D'ESPOSITO. Thank you, Mr. Chairman, and good morning, everyone. I want to first, on this Police Week, I want to thank you for your service and your commitment to keeping this Nation and our community safe. I want to thank Chairman Pfluger, Ranking Member Magaziner, and Ranking Member Carter for joining me to convene this hearing today, where we will examine the critically important topic of the state of crime in the United States of America and the Federal Government's role in supporting State and local law enforcement efforts throughout the country.

As we mentioned, it is Police Week. I do want to thank our Nation's police officers for putting their lives on the line each and every day to protect our neighborhoods and keep our families safe. As a retired New York City Police Department detective, I know first-hand how challenging a career in law enforcement can be. Regardless of the risk, police officers show up every day to put the needs of their communities first. They truly stand the line between good and evil.

To our police officers and law enforcement serving throughout the Nation, thank you for your bravery and for your service. We commend all of you for your unwavering commitment to keeping us all safe. To those who we have honored over the last few days in the line of duty, we honor you. When we all take an oath to protect and serve, we also make a promise in our hearts to never forget. I promise that I will do everything in my power to make sure that we never forget them.

As we will hear in your testimonies, the challenges facing our law enforcement community are increasingly complex and every day seem to evolve. Americans can't turn on the news without hearing stories of carjackings, robberies, increased acts of senseless violence across this country, not to mention the continued threat of terrorism. The sad fact is, many Americans no longer feel safe in their communities. As Members of the Homeland Security Committee, we must ensure that our Nation's law enforcement personnel have the resources and necessary tools to keep our communities safe and protect this great homeland. That is why we are dedicating this time to evaluate how the Federal Government can continue to support our State and local agencies.

The Federal Emergency Management Agency, or FEMA, suite of preparedness grants assist State, local, Tribal, and territorial governments to prepare for, protect against, respond to, and recover from terrorist attacks, major disasters, and other emergencies. From lessons learned after the terrorist attacks of September 11, these grant programs provide local law enforcement with the vital training and equipment they need to prepare for new challenges as they arise in our communities. In fact, over the last 10 years, the New York City urban area has received over $2 billion in grant

funding to prevent, prepare for, and protect against terrorist attacks in New York City.

My home State has benefited immensely from the Urban Area Security Initiative, the State Homeland Security Grant Program, and the Transportation Security Grant Program, to only name a few. For example, Federal grant funding supports the Counterterrorism Officer Program that provides NYPD patrol officers with specialized counterterrorism training to enable officers to conduct counterterrorism operations at specific intelligence-driven locations throughout the city. Grant funds have been used to purchase concrete barriers to save pedestrians and cyclists from vehicular terrorism, a necessary tool following the 2017 vehicle ramming in Lower Manhattan. Grant funds have supported the Vapor Wake Detection Canine Program, which trains canines to trail explosive or chemical odors.

With New York remaining a top terror target, the importance of grant funding, not only in New York City, but throughout this country, is paramount. As the Chairman of the Emergency Management and Technology Subcommittee, I will continue to advocate for robust investment in these security grant programs. However, when examining these grant programs, it is also important to ensure that smaller or more rural enforcement agencies across the country have the resources that they need to adapt to the changing threat landscape in their respective States.

In the past decade, the threats against our homeland have changed. Domestic and small-scale acts of terrorism now threaten our communities, and hate-filled attacks have become more frequent. According to a recent FBI report, hate crime incidents increased by 11.6 percent in 2021 from 8,210 incidents in 2020 to over 9,000 in 2021. More than half of all religious hate crimes were motivated by antisemitism, further highlighting the importance of the nonprofit Security Grant Program, which provides our faith-based communities with the means to harden their defenses, acquire security equipment, and provide training to better safeguard their congregants.

The rise in crime across the country points to the importance of FEMA's preparedness grant programs and the need for strengthening local law enforcement efforts, many departments like you represent. Today, the national homicide rate is 34 percent higher than it was in 2019. Major crimes in New York rose by 22 percent in 2022. Burglaries and robberies increased by 37 percent. However, instead of supporting law enforcement, we have heard calls for slashing police budgets and defunding police, which have promoted soft-on-crime policies that allow repeat offenders to roam the streets.

At a time when crime is increasing, we should be strengthening law enforcement, not making our communities more vulnerable. I want to take a minute to focus on New York, where Democrats impose cashless bail in criminal justice reform. As someone who has lived and seen the criminal justice system at work, I understand all well that reforms do need to be made. But those reforms can't be done with a broad brush. They also can't be done without having conversations with people from law enforcement. We have seen that now in places like New York, criminals are free to roam the

streets and once again commit more crimes after committing their first.

We want to talk about gun violence, we should focus on gun violence and removing illegal guns off the street first. That is where our focus should be. Our focus should be on providing law enforcement with the resources that they need to take illegal firearms off the street. It is interesting when we hear individuals talk about gun violence and talk about different weapons used, kind of weapon, or know the difference between weapons, but they do know that it looks, "scary." But what is scary is being in the middle of a street in some of the most violent neighborhoods in the communities that you represent, or the ones that I used to patrol, and actually wrestling an illegal gun off the street with your life in your hands.

So, instead of focusing on where we are failing, we should focus and make sure that rogue DAs throughout this country who like to rewrite laws are actually putting bad people behind bars. Every day our Nation's police officers are on the front lines, responding to threats against our homeland. They are our heroes. Right now, they need our support. Whether they serve in big cities like Los Angeles or where I came from in the NYPD, or in smaller towns like Island Park, where I grew up, or Nassau County, or where you represent, we owe law enforcement community a huge debt of gratitude.

I also want to talk about accountability, because it's a two-way street, and we must hold our police departments to a higher standard. Small and mid-size departments need to be targeted investments to address on-going challenges with recruitment, retention, and PTSD. We must ensure that police departments across this country, no matter how large or how small, are working effectively to serve the people. It is our job to make sure that they have the resources they need to do that.

I want to thank you for upholding the rule of law and thank you for putting yourselves in harm's way to protect our freedom. I have mentioned it throughout this week that Police Week always makes me reflect back on the inscription at the memorial. Right under the lion it says, it is not how these individuals died that made them heroes, it is how they lived. So, let's make sure that we can do all we can to give the resources to the men and women that live every day protecting and serving. I look forward to hearing from our witnesses today to learn how we can strengthen local law enforcement efforts. Now more than ever, we must work together to protect our homeland. I think you would all agree with me that the thousands upon thousands of 9–1–1 calls we have responded to, there has never once been a question asked whether you are a Democrat or Republican. So, let's work together, not as parties in politics, but as Americans, to keep this great Nation safe. Mr. Chairman, thank you. I yield back.

[The statement of Chairman D'Esposito follows:]

STATEMENT OF CHAIRMAN ANTHONY D'ESPOSITO

MAY 16, 2023

I would like to thank Chairman Pfluger, Ranking Member Magaziner, and Ranking Member Carter for joining me to convene this hearing today where we will examine the critically important topic of the state of crime in the United States and

the Federal Government's role in supporting State and local law enforcement efforts throughout the country.

In honor of National Police Week, I first want to thank our Nation's police officers for putting their lives on the line every day to protect our neighborhoods and keep our families safe. As a former NYPD detective, I know first-hand how challenging a career in law enforcement can be. Regardless of the risk, police officers show up every day to put the needs of their community first.

To our police officers and law enforcement serving throughout the Nation, thank you for your bravery and your service. We commend you for your unwavering commitment to keeping us all safe. And to those who lost their lives in the line of duty, we honor you and we will never forget the sacrifice you made. To our witnesses, thank you for your participation today in this important hearing. We look forward to hearing from each of you.

As we will hear in your testimonies, the challenges facing our law enforcement community are increasingly complex and ever-evolving. Americans can't turn on the news without hearing stories of carjackings, robberies, and increased acts of senseless violence across the Nation, not to mention the continued threat of terrorism. The sad fact is, many Americans no longer feel safe in their communities.

As Members of the Homeland Security Committee, we must ensure that our Nation's law enforcement personnel have the resources and necessary tools to keep our communities safe and to protect our homeland. That is why we are dedicating this time to evaluate how the Federal Government can continue to support our State and local law enforcement.

The Federal Emergency Management Agency's (FEMA) suite of preparedness grants assist State, local, Tribal, and territorial governments to prepare for, protect against, respond to, and recover from terrorist attacks, major disasters, and other emergencies.

From lessons learned after the terrorist attacks of 9/11, these grant programs provide local law enforcement with the vital training and equipment they need to prepare for new challenges as they arise in their communities.

In fact, over the past 10 years, the New York City Urban Area has received over $2 billion in grant funding to prevent, prepare for, and protect against terrorist attacks in the city.[1] My home State has benefited immensely from the Urban Area Security Initiative, the State Homeland Security Grant Program, and the Transportation Security Grant Program—to name only a few. For example, Federal grant funding supports the Counterterrorism Officer Program that provides NYPD patrol officers with specialized counterterrorism training to enable officers to conduct counterterrorism operations at specific intelligence-driven locations throughout the city. Grant funds have been used to purchased concrete barriers to save pedestrians and cyclists from vehicular terrorism—a necessary tool following the 2017 vehicle ramming in lower Manhattan.[2] And grant funds have supported the Vapor Wake Detection Canine Program, which trains canines to trail explosive or chemical odors.[3] With New York remaining a top terror target, the importance of grant funding cannot be overstated.

As the Chairman of the Emergency Management and Technology Subcommittee, I will continue to advocate for robust investment in these security grant programs. However, when examining these grant programs, it is also important to ensure that smaller, or more rural law enforcement agencies across the country have the resources they need to adapt to the changing threat landscape in their respective States.

In the past decade, the threats against our homeland have changed; domestic and smaller-scale acts of terrorism now threaten our communities, and hate-filled attacks have become more frequent. According to a recent FBI report, hate crime incidents increased by 11.6 percent in 2021—from 8,210 incidents in 2020 to 9,065 in 2021. More than half of all religious hate crimes were motivated by antisemitism, further highlighting the importance of the Non-profit Security Grant Program, which provides our faith-based communities with the means to harden their defenses, acquire security equipment, and provide training to better safeguard their congregants.[4] [5]

---

[1] "Preparedness Grant Effectiveness Case Study: New York City." FEMA. March 2021. *https://www.fema.gov/sites/default/files/documents/fema_nyc-case-study_2019.pdf.*

[2] Id.

[3] Id.

[4] "FBI Releases Supplement to the 2021 Hate Crime Statistics." U.S. Department of Justice. *https://www.justice.gov/crs/highlights/2021-hate-crime-statistics.*

[5] Krystina Shveda. "U.S. antisemitic incidents at highest level since group started recording them in 1970's." ABC 7 New York. March 23, 2023. *https://abc7ny.com/antisemitic-incidents-*

The rise in crime across the country points to the importance of FEMA's preparedness grant programs and the need for strengthening local law enforcement efforts. Today, the national homicide rate is 34 percent higher than it was in 2019.[6] Major crimes in New York rose by 22 percent in 2022. Burglaries and robberies increased by 37 percent.[7] However, instead of supporting law enforcement, calls for slashing police budgets and defunding the police have promoted soft-on-crime policies that allow repeat offenders to roam the streets. At a time when crime is increasing, we should be strengthening our law enforcement, not making our communities more vulnerable.

However, accountability is a two-way-street, and we must also hold our police departments to a higher standard. Small and mid-size police departments need targeted investments to address on-going challenges with recruitment, retention, and PTSD burn-out. We must ensure that police departments across the country are working effectively to serve the people they swore to protect.

Every day, our Nation's police officers are on the front lines, responding to threats against our homeland. They are our heroes; and right now, they need our support. Whether they serve in big cities like Los Angeles or New York, or in smaller towns like my hometown of Island Park, we owe our law enforcement community a huge debt of gratitude.

Thank you for upholding the rule of law. Thank you for putting yourselves in harm's way to protect our freedom.

I look forward to hearing from our witnesses today to learn how we can strengthen local law enforcment efforts. Now more than ever, we must work together to protect our homeland.

And with that, I yield back.

Chairman PFLUGER. Thank you, Chairman D'Esposito. I now recognize the Ranking Member for the Subcommittee on Emergency Management and Technology, the gentleman from Louisiana, Mr. Carter, for his opening statement.

Mr. CARTER. Thank you, Mr. Chairman, and Ranking Members, and to our guests, thank you for being here. We look forward to hearing your testimony.

I want to take a moment to reflect on the tragic shootings in Allen, Texas. My condolences go out to the families of the victims. The video that circulated of this man jumping out of an SUV, wielding an AR–15, and wearing a tactical vest as he mercilessly killed people until an officer who just happened to be at the mall took him out. It was horrible. But the video is a visual testimony. It is testimony of the depravity of weak gun laws in our country. It is a testimony to the risk of our communities and our police officers face because Republicans refuse to pass meaningful gun violence prevention laws.

Many of you know that I am a gun owner and an avid hunter. But I am a responsible gun owner who firmly believes in stronger gun laws, one who believes in the Second Amendment, but also recognizes that we can do better in making sure that we are protecting our communities without infringing upon one's Constitutional right to bear arms. Weak gun laws are killing our children. They are killing our parents, our grandparents. These are not Black or white, Republican or Democrat, rich or poor. They are Americans. They are people. They are human beings. They deserve better. We, as a committee and as a Congress, have a responsibility to do better. As my colleague said moments ago, it is not Repub-

---

rising-jewish-americans/12999377/, https://abc7ny.com/anti-defamation-league-antisemitism-antisemitic-incidents-new-york/12999468/.

[6] Major Cities Chiefs Association, *Violent Crime Survey—National Totals Year End Comparison,* 2022, *https://majorcitieschiefs.com/wp-content/uploads/2023/02/MCCA-Violent-Crime-Report-2022-and-2021-Year-End.pdf.*

[7] Chelsia Rose Marcius and Ed Shanahan, *Major Crimes Rose 22 Percent in New York City, Even as Shootings Fell,* New York Times (January 5, 2023).

lican or Democrat, and we should be able to come together. But heretofore we have not, and we have got to do better.

I am hopeful through the testimony today that we are able to keep it in focus of why we are here and what our true task is. Not to over-politicize, not to self-aggrandize, not to create theater, but to create policy that will save lives. I am glad that we are holding this hearing and protecting the homeland and supporting law enforcement because we want to talk about protecting the homeland, and supporting law enforcement, we must talk about weapons of war that are on our streets and making our homeland less safe and putting law enforcement in the line of fire.

Over the years, we have seen dramatic increases in gun violence against civilians and law enforcement. My district has struggled with gun violence in New Orleans, accounting for nearly 5 percent of all mass shootings across the country this year, far outpacing any other city in the country. Gun violence isn't isolated to one space. We have seen gun violence in our schools, malls, houses of worship, and public areas. Our country has a problem.

We need strong, common-sense gun law in every State, not only to protect children, but also to protect you, our law enforcement. Officers often find themselves in dangerous situations while performing their duties. In States with weak gun regulations, the dangers officers face is substantially greater. To the Gifford's Law Center, which grades States based on the strength of their gun laws, States that receive an F in their gun laws saw higher rates of police fatalities from 2017 to 2021. These are real statistics. These are real numbers. These are real lives. These are real people.

The virtually unregulated guns circulating in our communities are threats to homeland security and to law enforcement lives. The data is clear. In 2021, almost 73 percent of law enforcement officers who died from felonious assaults were killed by firearms. These firearms have only risen in recent years, making guns one of the leading causes of death in the line of duty for law enforcements in America. We must do more to protect our homeland, our communities, and our officers. That means we need to work across the aisle to pass common-sense gun laws and continue to work together to strengthen and fund the Department of Homeland Security's grant programs, which are critical to protecting our communities and law enforcement personnel from these threats.

Programs like the Urban Area Security Initiative, UASI, and the United States Security Grant Program, SHSP, assist in assuring that local law enforcement have the resources they need to defend our communities against threats. The Nonprofit Security Grant Program provides nonprofits with funding to help with their security, which is critical given the surge in right-wing violence against nonprofits, including religious organizations. While we work to address gun violence, we must continue to do our part to provide the Department of Homeland Security with funding for its grants programs to ensure that nonprofits and law enforcements have the resources they need to protect our communities.

To our witnesses, thank you for being here today. The law enforcement witnesses, I want to thank you and all those who stand beside you for your service. We appreciate your being here today during National Police Week. I look forward to hearing from you.

I look forward to us having a meaningful exchange, one that I hope can stay within the boundaries and stay within the lines. I compel my colleagues, likewise, that we make this a clear opportunity to make a difference and not to make a statement for the press. That we use this as an opportunity to find resolve and solutions, not to further divide a country that is sickened with the bloodshed that we see in our communities. Each day it gets a little closer. I hope and pray that we collectively can find a way to have resolutions that don't have Rs or Ds behind them but have American lives that are being saved. I yield back.

[The statement of Ranking Member Carter follows:]

STATEMENT OF RANKING MEMBER TROY A. CARTER

MAY 16, 2023

I want to take a moment to reflect on the tragic shooting in Allen, Texas. My condolences go out to the families of the victims. The video that circulated of this man jumping out of his SUV wielding an AR–15 and wearing a tactical vest as he mercilessly killed people until an officer, who just happened to be at the mall, took him out, was harrowing. But that video is visual testimony. It is testimony to the depravity of weak gun laws in this country. It is a testimony to the risk our communities and our police face because Republicans refuse to pass meaningful gun violence prevention laws.

Many of you know that I am a gun owner and avid hunter, but I am a responsible gun owner who firmly believes in stronger gun laws. Weak gun laws are killing children. They're killing parents and grandparents. They are killing law enforcement officers. And they are making our homeland less safe.

So, I am glad we are holding this hearing on protecting the homeland and supporting law enforcement. Because if we want to talk about protecting the homeland and supporting law enforcement, we must talk about the weapons of war that are on our streets making our homeland less safe and putting law enforcement in the line of fire.

Over the years, we have seen a dramatic increase in gun violence against civilians and law enforcement. My district has struggled with gun violence with New Orleans accounting for nearly 5 percent of all the mass shootings across the country this year, far outpacing any other city in the country. Gun violence isn't isolated to one space; we have seen gun violence at our schools, malls, houses of worship, and other public areas. Our country has a problem. We need strong and common-sense gun safety laws in every State not only to protect children but also to protect law enforcement.

Officers often find themselves in dangerous situations while performing their duties. In States with weak gun regulations, the dangers officers face is substantially greater according to the Giffords Law Center, which graded States based on the strength of their gun laws. States that received an "F" for their gun laws saw higher rates of police fatalities from 2017 to 2021. The virtually unregulated guns circulating in our communities are threats to homeland security and to law enforcement lives. The data is clear—in 2021, almost 73 percent of law enforcement officers who died from felonious assaults were killed by firearms. This figure has only risen in recent years, making guns one of the leading causes of death in the line of duty for law enforcement officers.

We must do more to protect our homeland, our communities, and our officers. That means we need to work across the aisle to pass common-sense gun laws and continue to work together to strengthen and fund the Department of Homeland Security's grant programs, which are critical to protecting our communities and law enforcement personnel from threats.

Programs like the Urban Areas Security Initiative (UASI) and State Homeland Security Grant Program (SHSP) assist in ensuring that local law enforcement have the resources they need to defend our communities against threats.

The Nonprofit Security Grant Program provides nonprofits with funding to help with their security, which is critical given the surge in right-wing violence against nonprofits, including religious institutions. While we work to address gun violence, we must continue to do our part and provide the Department of Homeland Security with funding for its grant programs to ensure that nonprofits and law enforcement have the resources they need to protect our communities.

To our witnesses, thank you for being here today. To the law enforcement witnesses, I want to thank you, and all those who stand beside you, for your service. We appreciate you being here during National Police Week.

Chairman PFLUGER. I thank the Ranking Member, and I now recognize the Ranking Member of the full committee, the gentleman from Mississippi, Mr. Thompson, for his opening statement.

Mr. THOMPSON. Thank you very much, Mr. Chairman. Mr. Chairman, I appreciate the witnesses being here at today's hearing on "Protecting the Homeland: An Examination of Federal Efforts to Support State and Local Law Enforcement." Before I begin, I want to condemn the hateful violence we saw yesterday when two Congressional staffers, one of them an intern on her first day at work, were beaten with a baseball bat while at work in Virginia for Congressman Gerald Connolly. I pray for their recovery quickly.

Protecting the homeland ultimately means protecting the people who live here, which is what the brave men and women who serve in law enforcement do every day. We thank them for their service as we commemorate National Police Week. I welcome today's discussion about how the Federal Government can support State and local law enforcement in their efforts to protect our communities. Tragically, in the days and weeks leading up to this hearing, there have been a series of mass killings inspired by those who hold extremist views. My heart goes out to the victims and families of those murdered in an apparent right-wing extremist shooting in Allen, Texas. My heart also goes out to the victims and families of those killed after a driver rammed his SUV into people waiting outside near a shelter in Brownsville, Texas, after he reportedly shouted anti-immigrant rhetoric.

When we talk about protecting the homeland and supporting State and local law enforcement, we must acknowledge that extremist views, coupled with weak gun laws, is driving violence across the United States. Moreover, weak gun laws are making our law enforcement officers less safe. The United States is facing a crisis of epic proportion when it comes to gun violence. Children are not safe at school. Shoppers are not safe at stores. Worshippers are not safe at church. Journalists are not safe in the newsroom. Gun massacres are happening more often, and they are deadlier than ever.

If we want to protect the homeland and support law enforcement, we must reform the laws that let dangerous people obtain weapons and turn them on our communities and those who are sworn to serve and protect. When we talk about protecting the homeland, we must acknowledge the very real threat from heavily-weaponized domestic terrorists, including white supremacists and anti-Government extremists have. As FBI Director Christopher Wray has said, domestic terrorism, particularly white supremacist extremism, is the most persistent and lethal threat to this country.

It is unfortunate that my colleagues across the aisle refuse to include domestic terrorism as a part of this committee's oversight plan, as we cannot properly examine how to protect the homeland and support law enforcement without acknowledging the most persistent terrorism threat we face as a country. It is my hope that moving forward, the Members of this committee can find common ground on combating violence and protecting the homeland.

When it comes to protecting our communities from violence, the Department of Homeland Security's grant programs are key. For example, the Urban Area Security Initiative, commonly called UASI, and State Homeland Security grant help ensure that local law enforcement have the training and equipment they need to protect against terrorist threat. As the Chairman from New York so eloquently put, that $2 billion that New York has gotten from UASI is a Homeland Security grant. It's a wonderful program. I wish we had more money. The Department struggles because we can only do so many cities across the country, and those who fall off the list are the ones who come and complain that we need the money to do it. So, I am sure some of our colleagues will hear from those communities with the next round of eligible communities.

The Nonprofit Security Grant Program provides nonprofit organizations at high risk of a terrorist attack with funding to help bolster their security, which is especially important given the rise of right-wing extremist attack against nonprofits such as faith-based communities. Even though Congress has increased funding for the program, there is a growing need for organizations to access the funding. The Nonprofit Security Grant Program Improvement Act, which I authored, make improvements to the program, and will provide support to nonprofits with particular attention to nonprofits in underserved communities.

As we work to ensure that law enforcement has the resources to protect our communities, we must remain steadfast and provide DHS with full and robust funding for the critical grants program. I hope to hear from our witnesses on how we can better support our law enforcement and public safety by passing common-sense gun reform, combating domestic terrorism, and supporting DHS grant funding, including UASI and Nonprofit Security Grant Program. I look forward to hearing from our witnesses and I yield back, Mr. Chairman.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

MAY 16, 2023

Before I begin, I want to condemn the hateful violence we saw yesterday when two Congressional staffers, one of them an intern on her first day at work, were beaten with a baseball bat while at work in Virginia for Congressman Gerry Connolly. I pray they recover quickly.

Protecting the homeland ultimately means protecting the people who live here, which is what the brave men and women who serve in law enforcement do every day. We thank them for their service as we commemorate National Police Week.

I welcome today's discussion about how the Federal Government can support State and local law enforcement in their efforts to protect our communities. Tragically, in the days and weeks leading up to this hearing, there has been a series of mass killings inspired by those who hold extremist views. My heart goes out to the victims and families of those murdered in an apparent right-wing extremist shooting in Allen, Texas. My heart also goes out to the victims and families of those killed after a driver rammed his SUV into people waiting outside near a shelter in Brownsville, Texas, after he reportedly shouted anti-immigrant rhetoric.

When we talk about protecting the homeland and supporting State and local law enforcement, we must acknowledge that extremist views coupled with weak gun laws is driving violence across the United States. Moreover, weak gun laws are making our law enforcement officers less safe. The United States is facing a crisis of epic proportions when it comes to gun violence. Children are not safe at school. Shoppers are not safe at stores. Worshippers are not safe at church. Journalists are not safe in the newsroom.

Gun massacres are happening more often, and they are deadlier than ever before. If we want to protect the homeland and support law enforcement, we must reform the laws that let dangerous people obtain weapons and turn them on our communities and those who are sworn to serve and protect. And when we talk about protecting the homeland, we must acknowledge the very real threat from heavily-weaponized domestic terrorists, including white supremacists and anti-Government extremists. As FBI Director Christopher Wray has said, domestic terrorism, particularly white supremacist extremism, is the "most persistent and lethal threat" to the country.

It is unfortunate that my colleagues across the aisle refused to include domestic terrorism as part of this Committee's Oversight Plan, as we cannot properly examine how to protect the homeland and support law enforcement without acknowledging the most persistent terrorism threat we face as a country. It is my hope that, moving forward, the Members of this committee can find common ground on combating violence and protecting the homeland.

When it comes to protecting our communities from violence, the Department of Homeland Security's grant programs are key. For example, the Urban Areas Security Initiative (UASI) and State Homeland Security Grant Program (SHSP) help ensure that local law enforcement have the training and equipment they need to protect against terrorist threats.

The Nonprofit Security Grant Program (NSGP) provides nonprofit organizations at high risk of a terrorist attack with funding to help bolster their security, which is especially important, given the rise in right-wing extremist attacks against nonprofits such as faith-based communities. Even though Congress has increased funding for the program, there is a growing need for organizations to access this funding.

The Nonprofit Security Grant Program Improvement Act, which I authored, makes improvements to the program and will provide support to nonprofits, with particular attention to nonprofits in underserved communities. As we work to ensure that law enforcement has the resources to protect our communities, we must remain steadfast and provide DHS with full and robust funding for critical grants programs.

I hope to hear from our witnesses on how we can better support our law enforcement and public safety by passing common-sense gun reform, combating domestic terrorism, and supporting DHS grant funding, including UASI and the Nonprofit Security Grant Program.

Chairman PFLUGER. Thank you, Mr. Ranking Member. Other Members of the committee are reminded that opening statements may be submitted for the record. I am pleased to have a distinguished panel of witnesses before us today on this very important topic, and I ask that our witnesses please rise and raise your right hand.

[Witnesses sworn.]

Chairman PFLUGER. Thank you. Let the record reflect that the witnesses have answered in the affirmative. You may be seated. I would like to now formally introduce our witnesses. Michael Gerke serves as chief of police for the Odessa, Texas Police Department. In this role, he serves as the chief administrator of the Odessa Police Department and is responsible for the policy, development, control, supervision, and program implementation of this department and is accountable for the effective delivery of police service to the community. The chief's office is the command center of the department and administrates the department's annual budget.

Chief Gerke has proudly served Odessa, Texas and that department for more than 26 years. He received an associate degree in criminal justice in police science from Odessa College, a Bachelor of Applied Arts and Science and Criminal Justice in Law Enforcement from Midwestern State University, and a Master of Science from Tarleton State University.

I would like to now—and, Chief, thank you for being here. I would like to now recognize the gentlewoman from California, Mrs. Michelle Steel, to introduce Sheriff Don Barnes.

Mrs. STEEL. Thank you very much for inviting me here today. It is my honor to introduce Sheriff Don Barnes of Orange County, California. With over 30 years of service, Sheriff Barnes is well-versed in the public safety needs of Orange County residents. Sheriff Barnes leads the 4,000 sworn professional men and women who provide a variety of vital public safety service to our community, our residents, over 3.2 million people.

Involvement in both State and national law enforcement organizations that advocate common-sense public safety policy is a priority for Sheriff Barnes. When I was the chair of the Orange County Board of Supervisors, Sheriff Barnes and I worked closely to respond to emergencies like COVID–19, civil unrest, and wildfires. We also fought back together against California's sanctuary State policies that would have prohibited the county from working with ICE to apprehend dangerous criminals.

It is not just serious work only, but we had fun too. I wanted to show my appreciation to the sheriff's department and sheriff. I brought the In-N-Out truck so we shared the burger together during the lunch. So, it is not just serious work relationship, but we are building our relationship together, and I really love Sheriff Barnes.

I am proud to be here with Sheriff Barnes and look forward to our continued work together to keep the people of Orange County safe. The sheriff also serves as an executive officer with the California State Sheriff's Association and serves as the chair of California State Sheriff's Association's Technology Committee. At the national level, he is chair of Major County Sheriffs of America Intelligence Commander Committee.

Sheriff Barnes strongly believes that members of law enforcement must be engaged with the community they serve. He is everywhere in Orange County. He serves as the board chairman for Orange County Crime Stoppers. Because of our sheriff in Orange County, his men and women, Orange County is one of the safest cities in the United States, especially California, that our crime rates are very high.

I can truly say from my personal experience that he is one of the most exceptional law enforcement officers in the country. I think he is the best and we are fortunate to have him before this committee. I really want to thank him for being here and it is very nice to see him in Washington, DC, not just in Orange County. Thank you.

Chairman PFLUGER. I thank the gentlelady from California for that very nice introduction. I now recognize the Ranking Member from Rhode Island, Mr. Magaziner, to introduce Commissioner Cox.

Mr. MAGAZINER. Thank you, Chairman. While there are parts of the country where crime has increased in recent years, it is also important to note that there are parts of the country that have bucked that trend. For example, in my home city of Providence in 2022, we had our lowest number of homicides in 50 years last year. Right up the road from us in Boston, the city of Boston has had stable record levels of violent crime in recent years that are near historic lows. So, in order to share the lessons learned and the best practices from the historically low rates of violent crime in Boston in recent years, I am pleased to introduce Commissioner Michael

Cox of the Boston Police Department, a department of which he is a 30-year veteran.

Prior to his appointment as commissioner in the Boston Police Department, Commissioner Cox served as a bureau chief and a sergeant detective in the Intelligence Unit, where he performed dignitary protection duties, served as a liaison to the U.S. Secret Service, and as a supervisor assigned to the Joint Terrorism Task Force. Commissioner Cox also served as chief of police for the Ann Arbor Police Department in Ann Arbor, Michigan from 2019 to 2022. Welcome, Commissioner Cox, and thank you.

Chairman PFLUGER. I thank the Ranking Member. I would now like to introduce our final witness on the panel. Mr. Rafael Mangual is a fellow and head of research for the Policing and Public Safety Initiative at the Manhattan Institute, a contributing editor of City Journal, and a member of the Council on Criminal Justice. Mr. Mangual's work has been featured and mentioned in numerous publications, including the *Wall Street Journal,* the *Atlantic,* the *New York Post,* and other outlets. In 2020, he was appointed to serve a 4-year term as a member of the New York State Advisory Committee on the U.S. Commission on Civil Rights. Mr. Mangual has also testified multiple times before Congress on policing topics. He holds degrees from City University of New York and DePaul University in Chicago, including a law degree.

Thank you for being here, and I would like to thank all of our witnesses for being here. Now for the part that we actually came for, the witness testimony. I would ask each of you, you have submitted your written testimony, so please summarize, and do try to stay within 5 minutes, because we do have lots of Members who want to ask you questions. I now recognize from Odessa, Texas, Chief Michael Gerke for your opening statement.

STATEMENT OF MICHAEL GERKE, CHIEF OF POLICE, ODESSA POLICE DEPARTMENT

Chief GERKE. Well, good morning, distinguished Members of the committee. The reason for the existence of law enforcement agencies is to make the lives of the citizens that they serve better. It's my belief that the main way that we do that is to reduce violent crime. Violent crime has the most significant effect on the victims. To this end, as an example of effective policing, about 2½ years ago, we partnered with the United States Attorney's Office in the Western District of Texas for the priority prosecution of those individuals apprehended in our community who were convicted felons, narcotic dealers, and gang members who were in possession of firearms. This led not only to a reduction of violent crime in the area, but also a reduction in property crimes such as auto thefts and burglaries. This is a shining example of what partnerships between local and Federal authorities can accomplish.

We continue to have a very strong relationship with the Assistant United States Attorney in our area, and she is one of the most trusted and valued members of our team. It's very important to have these relationships as we move into the future and face the coming challenges.

The most persistent challenge that we feel at this point in my community is the use and abuse of fentanyl. The use of fentanyl

has led to numerous overdoses and numerous deaths in our community. We all know that that route, that trade route for fentanyl starts in China, comes through Mexico, and crosses the border, and ends up in our community. Particularly in West Texas, it's harming predominantly our children, our young adults. We've seen 12-year-olds to 19-year-olds to 60-year-olds who have overdosed on fentanyl.

We're at the point in law enforcement that we have issued Narcan or other types of antidotes to every one of our officers, not just to help to relieve the overdoses with the victims, but also to help each other, because, unfortunately officers do come in contact with fentanyl when we find it illegally on the street, unknowingly get contaminated, and we have to apply those antidotes to each other.

But I also want to talk about another challenge that we face. That challenge is staffing levels, pure and simple. Odessa, as you look across this panel, I am the small guy on the panel, so I have 181 sworn positions. Of those 181 positions, I'm about 38 short as we as we speak today. You know, I live in Odessa, which is the Permian Basin, which is one of the world's leading oil and gas producing areas, right?

So, high school graduates often don't see the value of education. They don't see the value of waiting, and they move into employment in the petroleum industry. Quite honestly, those careers pay more than a career in law enforcement. You can take an 18-year-old young man that graduates from Permian High School, and that young man in a matter of a few months, can be making six figures in the oil field. Our starting salary is $69,000. Also, in Texas, you know, individuals cannot be employed as police officers until they're 21 years of age. Many times, that 3-year gap leads individuals to different career paths and down paths that no longer allow them to be in law enforcement.

Going back to violent crime and fighting that and other issues such as narcotics in our community, I want to take a moment to just talk about the importance of technology because when you look at smaller departments like mine, sometimes the funding is not there, but there's grants. But sometimes those smaller departments, even smaller than mine, have a very small knowledge of those grants. So, I think there needs to be a push, a help for those smaller departments to understand those grants. Because I tell you, automatic license plate readers, and video cameras, and advanced analytical software, and forensic equipment are game-changers. They're absolute game-changers.

Finally, I'd just like to say it's essential that more and better cooperation between all levels of law enforcement happen and that proper outcomes be identified. Please understand, numbers of arrests and the numbers of seizures don't really matter as much as lowering the number of crime victims. It's what we should be worried about is our victims. We can only accomplish these reductions if we all work together. Remember, and this is what we say around the office all the time, egos and attitudes are the enemy of progress. Thank you.

[The prepared statement of Chief Gerke follows:]

PREPARED STATEMENT OF MICHAEL GERKE

Distinguished Members of the committee, the reason for the existence of law enforcement agencies is to make the lives of the citizens that they serve better. It is my belief that the main goal of local law enforcement to accomplish this endeavor is the reduction of violent crime. These crimes have the most significant effect on their victims. To this end approximately 2½ years ago the Odessa Police Department entered a partnership with the United States Attorney's Office for the Western District of Texas for the priority prosecution of those individuals apprehended in our community who were convicted felons, narcotics dealers, and criminal gang members. This led not only to a reduction of violent crime in the area, but also to the reduction of property crimes such as auto thefts and burglaries.

This is a shining example of what partnerships between the local and Federal authorities can accomplish. We continue to have a very strong relationship with the Assistant United States Attorney assigned to our area and view her as one of the most trusted and valued members of our team. It is very important to have these relationships as we move into the future with the challenges that we currently face.

The most persistent challenge does not involve crime per se. It involves the resources needed to fight crime, namely personnel. Like many law enforcement agencies across America, the Odessa Police Department is significantly short of police officers. We have an authorized strength of 181 and are currently 38 officers short. In Odessa, which is in the Permian Basin, which is one of the world's leading oil- and gas-producing areas, high school graduates often do not see the value of education after the high school level. This is because they can move to employment in the petroleum industry that pays more than a career in law enforcement. In Texas, individuals cannot be employed as police officers until they are 21 years of age and many times the 3 years after high school leads them to different career paths or down paths that no longer allow them to be in law enforcement.

The social harm perspective looks at those issues in a community that cause the greatest social harm. Undoubtedly the cause of the greatest social harm in Odessa and the surrounding area currently is sale and ingestion of Fentanyl by our citizens. This has led to countless overdoses and many deaths. Officers and paramedics routinely respond to these calls and many times administer an antidote such as Narcan. While this product and others like it are effective, it is getting more difficult to acquire an adequate supply for the needs of first responders.

As we all know, the difference in Fentanyl and other abused narcotics such as cocaine or methamphetamines is the drastically higher lethality rate for Fentanyl. Also, Fentanyl has been introduced to much of the population in a surreptitious manner. Many times, individuals believe that they are ingesting one substance and unwittingly ingesting Fentanyl as it has been added to the original substance or been made to look like a substance that it is not. In Odessa, the predominate form of Fentanyl that we see is in the form of counterfeit M–30 pills (oxycodone). Because of the lethality of Fentanyl, we treat the selling of it as a violent crime. When we identify a supplier, removing that individual and their supply of illegal narcotics from our community becomes a very high priority.

With this being said, the most predominate illegal narcotic used in Odessa and the surrounding area is methamphetamine. Large quantities of this substance are seized each year. Users commit crimes ranging from robbery to theft to procure property or cash that can be traded for the substance.

In the fight against violent crime and illegal narcotics as with most endeavors, information is power and is essential. To this point it is necessary to share information amongst all levels of law enforcement. This allows for efficiencies which has become much more necessary due to the shortage of law enforcement personnel. This sharing of information requires two things. First that it be collected and second that relationships exist between agencies that facilitate the passage of information.

The collection of important information is made more difficult by the reduced number of law enforcement officers. However, this gap can be filled to some extent with technology. Many larger agencies have had automatic license plate readers (ALPR), video cameras, advanced analytical software, and forensic equipment for some time. The acquisition of these technologies has been difficult for smaller departments because of the lack of funding. These departments must educate themselves with knowledge about Federal and State grant opportunities and other funding avenues. The Odessa Police Department has found ALPRs particularly effective in helping to identify vehicles driven by suspects of crime. We have also found that purchasing the equipment necessary to join the National Integrated Ballistic Imaging Network and joining the network with the coordination of the Bureau of Alcohol Tobacco and Firearms to be essential in solving and linking firearms-related crime.

Creating relationships that facilitate the sharing of information is accomplished easiest at the local level. The Odessa Police Department and the Midland Police Department (our nearest neighbor) have created the ability for the officers of each respective department to view on demand, the report information from the other. These departments have also created a local task force that focuses on removing violent criminals and narcotics from both communities. We have created a radio network in Ector County (the county in which Odessa resides) that every agency in the county uses. Most Federal and State agencies also have access to this network. Soon, this network will expand to encompass a new radio network in Midland County.

Relationship building is most difficult when dealing with Federal agencies. This difficulty, at least in our area, is caused by the almost constant turnover of personnel in these agencies. In the past this would not be as big of an issue because most departments had officers stationed with the Federal agencies as task force officers. The number of task force officers has declined because many departments are recalling their officers to fill vacancies.

It is essential that more and better cooperation between all levels of law enforcement happen and that proper outcomes be identified. Numbers of arrests and amounts of seizures do not matter nearly as much as lowering the number of crime victims. We can only accomplish these reductions if we all work together. Remember, egos and attitudes are the enemy of progress.

Chairman PFLUGER. Thank you, Chief Gerke. I now recognize Sheriff Barnes for your opening statement of 5 minutes.

STATEMENT OF DON BARNES, SHERIFF, ORANGE COUNTY, CALIFORNIA

Sheriff BARNES. Thank you, Chairman Pfluger and D'Esposito. I want to also thank Ranking Members Magaziner, Carter, and Thompson for allowing us to provide a local perspective on policing in America. My testimony will focus on the challenges, some of which are the result of misguided policies, and I will share some what I believe solutions to these issues.

Before discussing broad threats, it is important for the committee to know the environment law enforcement faces as a result of policies that have boosted criminal activity and made our jobs much more difficult. Over the last decade, California has incrementally enacted laws reducing penalties for crime while also removing tools from law enforcement. The results of the decriminalization efforts are clear. Since 2011, we've seen an almost 32 percent increase in homicides in the State. Aggravated assaults have increased by almost 35 percent. Drug-related deaths have more than doubled from 4,118 to 10,898 in a 10-year period, and the years following that have gone up substantially more.

The National Retail Federation reported an estimated $94.5 billion in losses to retail theft Nation-wide in 2021, with the largest losses occurring in the State of California metropolitan areas. This number for comparison was $44 billion in 2014.

As we address the policy-created lawlessness, we deal with the local impacts of external threats facing our country. The border crisis, the rapidly emerging cyber threat, and an on-going wave of foreign malign influence, a fentanyl crisis of epic proportions, and the proliferation of active-shooting incidents across our country.

Regarding the border, most relevant to this committee is a lack of an effective strategy to secure our Southern Border. One thing this has meant for my community is an influx of fentanyl. In 2021, just the Orange County Sheriff's Department investigation seized 132 pounds of fentanyl and 16,000 clandestine-produced fentanyl pills. One year later, this increased to 450 pounds of pure fentanyl

and over 400,000 clandestine-produced fentanyl pills. What we're seeing at the border today in the wake of Title 42 ending, will manifest into security challenges for local communities.

The challenges faced by the men and women of law enforcement are daunting, but there is hope. There are solutions. Today, I will highlight one of those solutions, our Fusion Center in Orange County, the Orange County Intelligence Assessment Center, known as the OCIAC, created in 2007, has evolved into addressing all crimes and all hazards, not just counterterrorism. Recognizing the fact that sharing information is key to addressing challenges of the day, we have integrated OCIAC into facing many facets of our operations.

To meet the increased cyber threat, OCIAC developed a Cyber Liaison Officer Program. To date, over 700 personnel have been trained. We participate in active shooter and school safety, over 300 assessments done in just the last calendar school year. We created a house of worship training. In 2016, launched the Faith Liaison Ops Program, and more than 500 houses of worship have partnered in this program and training.

We participate in human trafficking. Last year during the Super Bowl, the OCIAC led one of the Nation's most successful human trafficking operations known as Operation Red Zone, partnering with 11 local agencies, resulting in the arrest of 56 suspects, and 16 victims being recovered, including two juveniles as part of that operation.

Finally, I'd like to highlight a few ways the Federal Government can better support local law enforcement. The security at the border is paramount. Congress must pass legislation to secure our border once and for all. Major County Sheriffs of America documented this in their border security priorities and has been included in my written testimony. I want to recognize and appreciate the fact that this committee's recently-passed Border Reinforcement Act incorporates several of those priorities.

Sustained investment in personnel and resources for our fusion centers are paramount. Increased Homeland Security grant funding and embedded personnel in our fusion centers will strengthen our operations. More interagency communication among partners would assist in addressing the cyber threat and local tools to address technologies like unmanned aircraft.

California's example should be a warning for others minimizing the consequences for law-breaking results in a breakdown of society. Congress must be watchful of the destabilizing impacts of policies that empower criminals and victimize law-abiding residents.

Thank you again for the opportunity to share my perspective. I'm happy to help and answer any questions you may have of me. Thank you.

[The prepared statement of Sheriff Barnes follows:]

PREPARED STATEMENT OF DON BARNES

MAY 16, 2023

Thank you Chairmen Pfluger and D'Esposito and Ranking Members Magaziner and Carter for holding this hearing and seeking local law enforcement's perspective on the security challenges facing the American homeland.

We gather here today in the midst of National Police Week, an annual time to honor the fallen peace officers of our communities. This week is also a moment for our national leaders to focus on policies that help law enforcement accomplish our public safety mission.

Today, law enforcement and the communities we serve face challenges on multiple fronts. The risks are great, but there is also no greater opportunity to take action. My testimony will focus on those challenges, some of which are the result of misguided polices, and share solutions that will ultimately secure our homeland.

POLICY-DRIVEN CRIME WAVE

I will start with a focus on crime. The 50 States have been called laboratories of democracy. If that's the case, California's lab was blown up by our experiment with decriminalization.

Over the last decade, consequences for crime have eroded and certain tools used by law enforcement to keep our communities safe have been removed. This has made our job harder and put the safety of law-abiding residents at risk.

In 2011, the California State legislature passed Criminal Justice Realignment (Assembly Bill 109), which shifted a substantial portion of the State prison population to county facilities. In 2014, a deceptively-titled ballot initiative, the "Safe Neighborhoods and Schools Act (Proposition 47)," was approved. This bill turned the two most prominent categories of crime, property theft and narcotics violations, from felonies to misdemeanors. Two years later another deceptive initiative was approved, Proposition 57, which resulted in additional releases of people from State prison earlier than their original sentence length.[1]

At the same time, we have seen legislation that either removed effective tools from law enforcement or placed burdensome requirements on our agencies. Overly burdensome and unnecessary requirements on law enforcement divert our resources away from front-line services and into administrative bureaucracy. Even today, there are proposals being considered to prevent the use of apprehension K9s, prohibit certain investigative techniques, and eliminate the enforcement of certain traffic violations.

The results of these policies speak for themselves:

- Our State prison population has declined from 165,000 in 2010 to 90,934 as of March 2023. The Legislative Analyst Office in California estimates that the State has nearly 20,000 empty prison beds, comprising 20 percent of the State's total prison capacity. Unfortunately this decline in the prison population and empty bed space is not a reflection of a lack of need in California. Rather, the State simply shifted a large number of people from State custody to local communities.
- In 2011 there were 1,794 homicides in California; this number increased by 31.6 percent to 2,361 in 2021, compared to our overall population increase of less than 10 percent over that same period.
- Aggravated assaults increased by 34.6 percent from 91,483 to 123,122 in 2021.
- A lack of true consequences for illegal behavior has put law enforcement in greater danger. The five most recent California officers killed in the line of duty were murdered by individuals with extensive criminal histories. The majority of these individuals were released early due to lenient criminal justice policies.
- Drug-related deaths have skyrocketed in our State. According to the California Department of Public Health there were 4,113 California drug-related deaths in 2011. A decade later, in 2021, that total more than doubled to 10,898.
- While we see property crime still going unreported to law enforcement, retail losses help tell the story of increased theft. The National Retail Federation reported that, in 2021, there was an estimated $94.5 billion in losses to retail theft Nation-wide, with largest losses occurring in California metropolitan areas. In a similar survey conducted in 2014 this number was estimated to be $44 billion.
- Although our proactive posture has kept crime rates in Orange County—which is proudly home to more than 3.1 million residents—relatively low, we are beginning to see the impact of decisions made by the district attorney in the largest county within the Southern California region—Los Angeles. The DA's failure to prosecute on a variety of offenses has emboldened career criminals. Just last

[1] Proposition 57 was approved with the intention of showing leniency to offenders who are truly non-violent. Unfortunately, many voters were not aware that the State's definition of "non-violent" included rape of an unconscious victim, solicitation to commit murder, and assault with a deadly weapon on a peace officer amongst many other crimes.

week our deputies arrested a burglary crew of four individuals from Los Angeles attempting to burglarize a residence in Yorba Linda.

EXTERNAL SECURITY PRESSURES

We cannot successfully bring down crime rates without violators facing real consequences. In addition, our challenges are exacerbated by external threats around our country. These threats include: the border crisis, the rapidly emerging cyber threat, an on-going wave of foreign malign influence, a fentanyl crisis of epic proportions, and the proliferation of active-shooter incidents.

Border Challenges.—Most relevant to this committee is the lack of an effective strategy to secure our Southern Border. One thing this has meant for my community is an influx of fentanyl. In 2021, Orange County Sheriff's Department investigators seized 132.9 pounds of fentanyl, which equates to approximately 30 million potential lethal doses, and 16,278 pills. In 2022, this increased to 449.9 pounds of fentanyl and 405,283 pills suspected of containing fentanyl seized.

The lack of border enforcement has also extended to local communities in part because U.S. Immigration and Customs Enforcement (ICE) has virtually ceased picking up inmates who are released with a detainer.

In calendar year 2021, the Orange County Sheriff's Department notified ICE of 143 individuals who had detainers and were due to be released from our jail. Of the 143 individuals referred, only 73—or 51 percent—were taken into ICE custody. Those not taken into custody by ICE were released back into the community. A total of 24 of those released individuals were re-arrested for new offenses in Orange County.

In calendar year 2022, my department notified ICE of 155 individuals who had detainers and were due to be released. Of those 155 individuals, only 17—or 10.9 percent—were transferred to ICE's custody. With respect to the other 138 individuals who, under State law, were eligible for transfer to ICE, ICE took no action and these individuals were released back into the community. A total of 20 of these individuals were re-arrested for new offenses in Orange County.

Failure to remove these individuals jeopardizes the safety of all Orange County residents. California law limits notifications to inmates who have committed serious crimes and/or have a criminal history. In effect, this State law results in my department only notifying ICE of those individuals with detainers who pose the greatest risk to our community. We only notify ICE when the individuals have aggravating factors and therefore merit being taken into ICE custody.

What we are seeing at the border today in the wake of Title 42's end, will manifest into additional security challenges for local communities.

LOCAL SOLUTIONS—FUSION CENTERS

I know this is a bleak picture. The challenges faced by the men and women of law enforcement are daunting. But there is hope. There are plausible solutions. As the inscription on the Nation's peace officer memorial over at Judiciary Square states, "in valor there is hope." There is much valor amongst the individuals working in law enforcement today. There is a commitment to do the work necessary to meet those challenges and to use innovative measures to overcome obstacles.

Today I will highlight how we use our fusion center in Orange County to address threats before they materialize and support efforts to address current crime trends.

The Orange County Intelligence Assessment Center (OCIAC) was created in 2007 by the Orange County Sheriff's Department and our municipal agency partners. It started as a Terrorism Early Warning group pre-9/11. Operated by my department, OCIAC includes multiple municipal, State, and Federal agencies working alongside each other every day to make sure information stovepipes are minimized and relevant threat information is shared routinely. While initially designed to address threats of terrorism, it has evolved into a tool to address all crimes and all hazards.

While some people criticize the expansion of fusion centers' mission from terrorism-only to all crimes and all hazards, they ignore the reality that information sharing among local, State, and Federal agencies and the private sector is fundamental to countering all types of threats, whether they are terrorism, cyber, or criminal. My agency is responsible for preventing and investigating all of those types of crimes, and we will continue to do all we can to ensure our people and our partner agencies throughout Orange County, southern California, our State, and our Nation get the benefit of that institutionalized information sharing.

Recognizing the fact that the sharing information is key to addressing challenges of the day, we have integrated OCIAC into many facets of our operations. A few examples:

- *Cyber Threat.*—According to the FBI, California residents lost over $2 billion to cyber criminals in 2022. This number is an increase from the $1.2 billion in 2021 and the $621 million in 2020. Ransomware attacks are one of the most prevalent threats. We have recently seen this kind of attack on public-sector agencies like the San Bernardino Sheriff's Department and the city of Dallas, Texas.

  To meet the increased cyber threat OCIAC developed a Cyber Liaison Officer (CLO) Program. Through this program we train our staff to recognize cyber threats and take appropriate action. We teach the CLO program at our academy. To date, approximately 700 personnel have been trained county-wide.

  Last May, OCIAC led a multi-agency tabletop exercise regarding cyber attacks with municipal agencies, Federal agencies to include DHS, and private-sector partners. This preparation and education of staff is critical to staying ahead of virtual cyber criminals including terrorists.

  An example of how OCIAC assists in addressing a cyber attack occurred in 2021 when emergency call centers in Orange County experienced a Telephone Denial of Service to our Public Safety Answering Point, or 9–1–1 system. The incident caused by malicious actors overwhelmed our incoming 9–1–1 lines with illegitimate 9–1–1 calls delaying critical calls for service to our community. The Orange County Cyber Crime Task Force (OCCTF) and the Orange County Intelligence Center (OCIAC) Cyber Unit were activated. OCIAC specifically helped with the investigation and restoration of service by identifying similar issues in other jurisdictions and best practices to resolve this kind of attack.
- *Active Shooter and School Safety.*—OCIAC is integrated with our School Mobile Resource and Assessment Team (SMART). SMART is utilized in school situations and incidents related to violence, threats, possession and/or use of weapons, unstable behaviors, and suicidal actions or tendencies. The team responds at the request of law enforcement personnel or school administration to provide services and resources, including threat assessments, criminal investigation, case management and referrals to mandatory counseling, where deemed appropriate. The goal of SMART is to evaluate and assess each incident individually, to effectively resolve the matter through the least intrusive means available (while still maintaining safety and security to the school), and ultimately return the staff and students to their daily routine. For the 2021–22 school SMART, in consultation with OCIAC, conducted over 300. As an example, earlier this month OCIAC worked with public safety agencies and school personnel to determine the veracity of a viral social media posts circulating on-line threatening a school shooting causing a pivot of law enforcement resources while creating panic and anxiety to school districts, parents, and our communities.

  When an active-shooter incident occurred on May 15, 2022 at the Geneva Presbyterian Church in Laguna Woods in Orange County, OCIAC coordinated with the Las Vegas fusion center (the suspect's home town) to provide vital information on the suspect. This is an example of the type of information sharing and collaboration that is uniquely enabled through the National Network of Fusion Centers every day around the country.

  OCIAC assisted in intelligence analysis that led to the arrest of a 40-year-old man who threatened a "killing spree" in YouTube videos. The arrest stemmed from reports of bizarre email exchanges and threats to a staff member of a large 4-year university in Orange County. The suspect had 9 firearms in his possession.
- *House of Worship Security.*—In 2016, OCIAC launched its Faith Liaison program. More than 500 houses of worship have partnered in the faith outreach program. This program engages the faith community in trainings for critical infrastructure safety, active-shooter awareness, and security briefings. Program staff fields 70–100 calls per week with 10–15 meetings per week with faith communities. This effort was highlighted as a "best practice" in the 2019 U.S. Homeland Security Advisory Council Report, "Preventing Targeted Violence Against Faith-Based Communities."
- *Foreign Malign Influence.*—OCIAC has taken a lead in educating local businesses and public officials about malicious attempts by foreign actors to steal intellectual property and influence elected officials. OCIAC is coordinating closely with DHS's Office of Intelligence and Analysis and FBI's Foreign Malign Influence Task Force. This includes vetting all requests from foreign entities received by our county government.
- *Integration with High Intensity Drug Trafficking Area (HIDTA) Program.*—Fusion Centers have become an important component of HIDTA operations. Fusion center can provide tactical support during on-going investigations, analytical products, subject workups, takedown packages, communications charts, as-

sessments, mapping products, organizational profiles, and intelligence bulletins. This information provides our narcotics information with tools to identify suspects and make both seizures and arrests. OCIACs relationship with FBI and DHS is critical to identify individuals and organizations involved in transnational organized crime.

- *Human Trafficking.*—OCIAC plays a critical role in efforts to address human trafficking through their information sharing amongst multiple agencies. As an example, In February 2022, OCIAC coordinated Operation Red Zone in partnership with 11 local law enforcement agencies, the Orange County District Attorney's Office and the U.S. Department of Homeland Security to identify victims of human trafficking and hold their perpetrators accountable. Fifty-six suspects were arrested and 16 victims were recovered, including two juveniles under the age of 16.

FEDERAL SOLUTIONS

In closing, I would like to highlight a few ways the Federal Government can better support local law enforcement efforts. This support will ultimately translate to a safer homeland.

Secure the border.—The crisis and the border and ensuing chaos that has occurred since the expiration of Title 42 remains a significant threat to the security of local communities. Congress must pass legislation to secure our border once and for all. The Major County Sheriffs of America's "Border Security and Immigration Principles" document outlines necessary actions that should be taken (attached). Key priorities include:

- Gain and maintain operational control of all United States borders.
- Fully implement a biometric entry/exit system.
- Use all available American power, including sanctions, to eradicate murderous Mexico-based cartels.
- Ensure access to information and intelligence for all State and local law enforcement.
- Support State and local law enforcement with proper training and updated technologies.
- Require reimbursement to locals for housing of illegal immigrants.
- Continue to work with local law enforcement to develop a strategy to ensure proper procedure is followed regarding ICE detainers.
- The legal immigration process should be reformed and align with enacted Congressional priorities.
- In order to accomplish the above articulated goals, it is imperative these efforts be fully budgeted, authorized, and appropriated. Increased funding for Federal grants like Operation Stonegarden would further help local law enforcement mitigate security risks associated with the border.

I want to recognize and appreciate the fact that this committee's recently-passed Border Reinforcement Act incorporates several of those priorities.

Support fusion centers.—The way we utilize our fusion center in Orange County is a model that jurisdictions across the Nation could follow. To maximize our effectiveness, fusion centers require sustained investment in personnel and resources. Increased FEMA grant funding through the State Homeland Security Grant Program and the Urban Area Security Initiative are important. An enhanced and sustained commitment by Federal agencies to embed personnel in local and State fusion centers will strengthen their abilities Nation-wide.

Cybersecurity and emerging technology.—More interagency communication among Federal partners and with local partners would assist in addressing the cyber threat. The current uncoordinated approach of addressing the cyber threat creates a challenge. Multiple Federal law enforcement agencies appear to be addressing the cyber threat independent of one another with disparate approaches. Additionally, we must redouble efforts to obtain lawful access to encrypted devices and platforms when they are concealing evidence of a crime. Finally, local law enforcement must be given the tools to address emerging technologies like unmanned aircraft systems.

Guard against decriminalization.—Let California's example be a warning for other jurisdictions. When consequences for law-breaking are minimized, it results in less safety for our communities and ultimately a breakdown of our society at the local level. Congress must be watchful of the destabilizing impact of policies that empower criminals and victimize law-abiding residents.

Thank you again for the opportunity to share my perspective and I am happy to help this committee address the critical issues it continues to address.

ATTACHMENT.—MAJOR COUNTY SHERIFFS OF AMERICA BORDER SECURITY AND IMMIGRATION PRINCIPLES

FEBRUARY 2023

The Major County Sheriffs of America (MCSA) appreciates the on-going national conversation about immigration and border security. Policy solutions are long overdue. Our member sheriffs represent over 130 million Americans, and we cover regions on or near the Southern, Northern, and Maritime Borders where the effects of illegal immigration and inadequate border security are felt most acutely. From narcotics and gangs to human trafficking and labor exploitation, this crisis impacts our communities on a daily basis. As elected sheriffs who are sworn and entrusted to protect the public, we have a duty to enforce the law and an obligation to work with our Federal, State, and local law enforcement partners to reduce the threat.

We recognize that the creation and enforcement of immigration policy is fundamentally a Federal responsibility. The administration and Congress must deal with many millions of illegally present individuals in the United States while also modernizing our immigration system into one that is functional and efficient. To date, America's border security and immigration policy failures have created significant State and local law enforcement challenges. MCSA is encouraged that a bipartisan group of senators has renewed efforts in the 118th Congress to explore workable immigration and border security legislative solutions. Any solution must include tangible improvements that front-line of law enforcement officials have been urging for years.

MAJOR COUNTY SHERIFFS OF AMERICA PRINCIPLES

Gain and maintain operational control of all United States borders.

The first step is to ensure that advanced technology, physical infrastructure, and adequate Federal agency staffing levels are deployed to secure all of America's borders—Northern, Southern, and Maritime.

Fully implement a biometric entry/exit system.

Knowing who enters our country and if or when they leave the country is basic yet vital information. The 9/11 Commission recommended implementation of this system two decades ago, and still gaps remain.

Use all available American power, including sanctions, to eradicate murderous Mexico-based cartels.

Violent crime and record-setting overdose deaths in our communities are being fueled by the Mexican cartels—specifically the Sinaloa and Jalisco New Generation cartels. Despite abundant evidence that these foreign organizations are directly responsible for killing more American citizens than any other entity on the globe—more than 100,000 in 2021 alone—U.S. foreign policy has been weak and utterly ineffective at addressing the threat. Despite heroic efforts by our underfunded Federal law enforcement partners, these transnational criminal organizations operate with near impunity, and overdose deaths continue to shatter records. Other foreign criminal organizations—especially those based in China—that supply these cartels with precursors to make fentanyl and other deadly narcotics need to be held accountable as well. It is time for Congress and the administration to implement a tougher, more comprehensive array of foreign policy tools with Mexico, China, and other countries to isolate and neutralize the cartels.

Ensure access to information and intelligence for all State and local law enforcement.

Information sharing among Federal, State, local, and Tribal law enforcement is critical to maintaining public safety and combatting a wide variety of interstate and international threats. State and local law enforcement must have access to all pertinent background information about individuals we encounter in our jurisdictions, whether in our correctional facilities or in our communities. When an individual comes into police contact, a routine query should return information from all relevant databases so that front-line officers and deputies have comprehensive situational awareness. Officer safety and public safety depend on timely and actionable information from multiple sources. Local law enforcement has a need to know, and the Federal Government has a need to share, as the 9/11 Commission recognized 20 years ago. In correctional facilities, complete and timely information is vital for the classification process to ensure an individual is placed at the proper security level, for their protection and that of our correctional staff and other inmates.

Support State and local law enforcement with proper training and updated technologies.

While immigration enforcement is and should be the Federal Government's responsibility, many State and local law enforcement agencies support their Federal partners through task forces and joint operations. These agencies must be properly trained, equipped, and informed to ensure their officers can provide critical support. Protecting the homeland is a shared responsibility, and focused Federal support of these efforts will help State and local law enforcement be capable of doing its part.

Require reimbursement to locals for housing of illegal immigrants.

Locals should not be required to bear the cost associated with housing any person that is in this country illegally. Federal reimbursement must cover the stay of an illegal immigrant from the moment they enter a detention facility until they are released. Just as immigration enforcement is the Federal Government's responsibility, the financial burden should be as well.

Continue to work with local law enforcement to develop a strategy to ensure proper procedure is followed regarding ICE detainers.

Numerous Federal courts have determined ICE detainers are unconstitutional and that arresting aliens based on immigration status exceeds sheriffs' arrest authority. Without proper arrest authority, sheriffs cannot disregard an individual's Fourth Amendment rights. No law enforcement official wants to release an individual charged with heinous crimes back into the community and ICE has the responsibility to ensure the process for detaining an individual meets the legal standards.

MCSA seeks continued support from the administration, Congress, and specifically ICE to afford sheriffs an additional legal basis to defend themselves when they are sued for faithfully executing their public safety duties by detaining individuals at ICE's request.

The legal immigration process should be reformed and align with enacted Congressional priorities.

The immigration system should ensure everyone who enters America is fully vetted, the process is timely and efficient, and that the latest technology including biometric verification is utilized. The process should allow for temporary workers as long as they pay taxes and are fully compliant with Federal, State, and local laws. Compliance with Federal, State, and local laws by all visitors should be enforced. The system should also be timely for those seeking permanent admission and citizenship in line with Congressionally-established immigration goals. It should also enable expedited due process so that people who violate our laws are quickly removed from the country.

In order to accomplish the above articulated goals, it is imperative these efforts be fully budgeted, authorized, and appropriated.

Sheriffs are the highest law enforcement officials in our counties. Immigration policy and enforcement are Federal Government responsibilities, and as such, a lawful, efficient, responsible, and compassionate Federal system should be fully funded to reflect those priorities.

The member sheriffs of the Major County Sheriffs of America are available to discuss these issues and appreciate the opportunity to work collaboratively with both the administration and Congress to secure our Nation.

Chairman PFLUGER. Thank you, Sheriff Barnes. I now recognize Commissioner Cox for his opening statement of 5 minutes.

STATEMENT OF MICHAEL COX, COMMISSIONER, BOSTON POLICE DEPARTMENT

Mr. COX. Thank you, Chairman Pfluger, Ranking Member Magaziner, Chairman D'Esposito, and Ranking Member Carter, and Ranking Member Thompson for the invitation to testify alongside my fellow law enforcement leaders.

It's my honor to represent the men and women of the Boston Police Department and the city of Boston. I welcome the opportunity to be with you today and share the impact of the partnerships with the Federal Government that we're having in Boston.

The Boston Police Department has a long history of proactive community policing, combined with strategic deployment, and focused interventions based on analysis and crime data intelligence. A substantial portion of our analytic capabilities are funded by our partnership with the Federal Government through grants that are critical to public safety in the Boston metro region.

First and foremost, we are a strong proponent of community policing in our department. To keep our city safe, the police must build trust with residents in all the neighborhoods we serve through deliberate and consistent relationship building. These efforts are critical to preventing crime and terrorism. Indeed, community members will not report criminal or suspicious behavior if they don't trust the local police to act appropriately with the information. The Boston Police Department prioritizes partnering with stakeholders to address issues and solve problems. In addition, the BPD partners with mental health and social service programs to connect those at risk with services and support.

Our department has strengthened our on-going engagement efforts and started community CompStat meetings in each of our 11 police districts. The goal is to take a sense of empowerment and problem solving we get from the internal CompStat meetings and push it out into the community. Our Intelligence-Led Policing Model complements our community policing. It provides real-time intelligence and analysis to inform strategic decision making and deployment of resources with a focus on individuals driving crime and violence.

This model is paying dividends in Boston. Overall, serious crime, Part I crime, have been going in a downward trend, declining more than 50 percent since 2005, which correlates with the establishment of our Boston Regional Intelligence Center, better known as the BRIC, that same year. Year to date, Part I offenses have declined 6 percent compared to 2022 and 6 percent below a 5-year average.

Annual shooting victim totals have fluctuated over the past 10 years. In 2018, 2019, and 2021, our number has been historically low then. Then, like many other cities, total shooting victims reached a 10-year high in Boston in 2020. However, unlike other major cities, Boston saw a 28 percent decrease in 2021. In 2022, shooting victims totals declined an additional 8 percent to the lowest level since the 1950's.

Despite the decline in crimes, firearm violence continues to be a concern. Aftermarket enhancement, like large-capacity magazines and sear switches, as well as the emergence of privately-manufactured firearms, better known as ghost guns, have exasperated the issues. Last year, with the assistance from our Federal partners, we investigated individuals manufacturing ghost guns and yielded firearm parts, 3D printers, and ammunition. The number of ghost guns recovered in 2022 increased 79 percent from 2021.

Overall, there was 24 percent increase in recovered crime guns between 2019 and 2022 in Boston. In 2022, approximately 10 percent of crime guns recovered were reported stolen. Thirty-three percent of those were from Massachusetts. The rest were from elsewhere. Repeat offenders account for a large portion of violence in our city. In 2022, 564 individuals were arrested on firearm charges.

Forty-two percent had prior firearm arrests, with 102 of those arrested having 3 or more.

The BRIC was established in 2005 to coordinate efforts with public safety participants in the Boston Urban Area Security Initiative, better known as UASI grant. It was created to reduce criminal activity and prevent and respond to terrorism in all its forms. DHS and the intelligence analyst personnel are instrumental to the intelligence-sharing and risk mitigations. DHS cybersecurity expertise has provided effective support in investigating ransomware attacks and other financially-motivated cyber crimes.

I and many of our counterparts are concerned that level funding or decreasing grants is the potential here, and we are deeply concerned about that. Congress could assist law enforcement by increasing funding across Homeland Security Grant Program to include the UASI and consider broadening its applicability beyond terrorism to include threats traditionally mitigated by U.S. Department of Defense and the intelligence community.

Federal investments in grant programs are vital, as are the assignments of DHS and the personnel assigned to its fusion centers. Without these resources, cities and towns are vulnerable, and I encourage Congress to continue to invest in these programs. Thank you for giving me this opportunity.

[The prepared statement of Mr. Cox follows:]

PREPARED STATEMENT OF MICHAEL A. COX

MAY 16, 2023

Thank you Chairman Pfluger, Ranking Member Magaziner, Chairman D'Esposito, and Ranking Member Carter for the invitation to testify at this hearing alongside my fellow leaders in law enforcement. The Federal Government is a critical partner in public safety for local police departments, and I welcome the opportunity to be with you today to share the impact these partnerships are having in the city of Boston.

The Boston Police Department (BPD) has a long history of proactive Community Policing combined with strategic deployment and focused interventions based on real-time analysis of crime data and intelligence. A substantial portion of our analytic capabilities are funded by the Federal Government through grants that are critical not only to public safety in Boston but to the entire Metro Boston region.

First and foremost, I am a strong proponent of Community Policing and believe that in order to have a truly safe city, we must have the trust of the communities that we serve. Trust is achieved through deliberate and consistent relationship building over time between police and residents in all of our neighborhoods. The community is crucially important to preventing crime and terrorism. Indeed, community members will not report criminal activity or suspicious behavior if they don't trust the local police department to act appropriately with that information.

BPD prioritizes building relationships with the community and partnering with stakeholders to address issues and solve problems. In addition, BPD partners with mental health and social service programs to connect those at risk with services and supports.

Recently, one way the Department has sought to further strengthen our on-going efforts to engage directly with the community is by beginning to implement "Community CompStat Meetings" in each of the 11 police districts. The goal of Community CompStat is to take the same sense of empowerment and problem solving from the Department's internal CompStat meetings out into the community. Rather than incorporating CompStat into any existing community meetings—which tend to focus on a variety of issues—the Department engages at the neighborhood level to address the unique issues facing each specific community. Additionally, these meetings provide an opportunity to familiarize the public with the good work done by the Department and to provide transparency and accountability through sharing data and analysis.

The Boston Police Department's Intelligence-Led Policing Model complements Community Policing. Intelligence-Led Policing provides commanders with real-time synthesized intelligence and analysis to inform strategic decision making and deployment of resources to focus on the individuals and/or groups that are driving crime (or fear of crime) and violence in the city, while also targeting locations of concern.

The combination of Community Policing and Intelligence-Led Policing is paying dividends in the city of Boston. Overall, serious crimes (i.e., "Part I Offenses" as defined by the FBI Uniform Crime Reporting Program) have followed a consistent downward trend in recent decades in our city, declining more than 50 percent since 2005—which correlates with the establishment of the Boston Regional Intelligence Center that same year. Year to date, Part I Offenses have declined 6 percent compared to 2022 and are 6 percent below the 5-year average.

Despite the decline in overall serious crimes, firearm violence continues to be a persistent concern in our city. Annual shooting victim totals have fluctuated significantly over the past 10 years, often spiking and dropping every other year. In 2018, 2019, and 2021, the number of total shooting victims were historically low. Following a pattern seen in other major cities, total shooting victims reached a 10-year high in Boston in 2020; however, unlike other major cities, totals decreased 28 percent in Boston the following year. Last year, in 2022, shooting victim totals declined an additional 8 percent, the lowest levels experienced since the 1950's.

Violent crime in Boston continues to be largely driven by gang-related retaliatory activity and by the continued availability of out-of-State firearms. These issues have been exacerbated by increasing recoveries of firearms with aftermarket enhancements, like large-capacity magazines and sear switches, and the emergence of privately-manufactured firearms (PMFs). BPD officers recovered 695 crime guns from the streets of Boston in 2022, a 9 percent increase compared to the prior year and a 24 percent increase compared to 2019. Approximately 10 percent of crime guns recovered in 2022 had been reported stolen. Of those reported stolen, 33 percent were reported stolen from Massachusetts, 18 percent from Maine and 11 percent from Georgia.

In 2022, BPD conducted several investigations into individuals manufacturing PMFs in Boston. Multiple firearm parts, 3D printers, and ammunition were recovered from these investigations. Privately-manufactured firearm recoveries increased 79 percent from 2021, with a total of 104 recovered in 2022, accounting for 15 percent of the overall guns recovered in that time period.

We continue to experience problems with firearm arrests for repeat offenders, which we know make up a very small percentage of our overall residents, but account for a large proportion of violence in our city. In 2022, 564 individuals were arrested on firearms charges; 42 percent had prior firearm arrests in Boston, with 102 of those arrested having 3 or more prior firearm arrests.

Another major trend we are experiencing in the city is an increase in juvenile offender involvement in firearm violence. Increasing numbers of firearms have been recovered from juvenile offenders in recent years, including 88 juveniles arrested in possession of a firearm in 2022. Firearm arrests of those under 17 increased by more than two-thirds in 2022 compared to 2021 and more than doubled 2020 totals. Juvenile offenders also appear to be escalating from less serious property crime offenses to robbery and firearm violence over increasingly shorter time periods.

The Boston Regional Intelligence Center (BRIC) is responsible for maintaining and preparing these statistics and analysis and drives BPD's Intelligence-Led Policing efforts. The BRIC is the cornerstone of BPD's data and intelligence analysis, information sharing, and counterterrorism efforts, and serves as a critical resource for the Metro Boston region.

The BRIC was established in 2005 to coordinate efforts of the 9 cities and towns in the Metro Boston region who receive Boston Urban Area Security Initiative (UASI) grant funding to reduce criminal activity and prevent terrorism. Since its inception, the BRIC has become a hub for public and private stakeholders in and around Boston for the collection and analysis of intelligence information and the investigation of homeland security-related criminal activities.

Within the Boston Police Department, the BRIC plays an important role in aligning Intelligence-Led Policing with Community Policing. For several years, the BRIC has provided information on high-risk individuals for intervention and services through the State's Safe and Successful Youth Initiative. The BRIC also develops relationships with the networks of colleges and universities in Boston, as well as hospitals and faith-based organizations, for information sharing regarding public safety topics. Recently, the BRIC provided threat briefings to LGBTQIA+ groups and worked with Boston Children's Hospital, Catholic Churches, historically Black Churches, and Jewish community organizations to share information, mitigate

threats, and complete investigations. The BRIC works to build trust with the community by providing important information to keep individuals informed and safe.

The BRIC's analytical and investigative staff are co-located in a shared workspace within the Boston Police Department. Critical liaison personnel such as representatives from Boston Emergency Medical Services, Boston Fire Department, Department of Homeland Security Office of Intelligence & Analysis (DHS I&A), and Federal Bureau of Investigation's Boston Field Office are also assigned within the BRIC. The BRIC further partners with local law enforcement agencies, other first responders and the private sector operating throughout the Metro Boston region; Federal law enforcement and intelligence partners; and other State and major urban area fusion centers to prioritize, collect, analyze, produce, and disseminate actionable intelligence—often in real time.

The importance of information sharing between Federal, State, and local law enforcement partners cannot be overstated, as this has proven critical to staying ahead of the threat environment. The national network of fusion centers, along with the network of intelligence commanders in major cities and counties, has established a critical foundation for information sharing about emerging threats to protect our communities. BPD's participation in the FBI's Joint Terrorism Task Force has been instrumental for assessing threats and collaborating on terrorism investigations to protect the city of Boston, the Metro Boston region, and the Nation.

DHS I&A personnel assigned to the BRIC and the region have also proven instrumental in intelligence sharing and risk mitigation. These personnel have provided unique access to valuable resources, including trainings, threat briefings, classified systems, specialized expertise in areas such as cybersecurity and intelligence community reach-back for unique insights regarding threats that may impact our jurisdiction. The DHS Intel Officer assigned to the BRIC has provided cybersecurity expertise that enabled effective intelligence support to several incidents to include ransomware attacks targeting State and local government and critical infrastructure partner IT systems, business email compromises and other financially-motivated cyber crimes. The Intel Officer has also provided situational awareness of nation-state and advanced persistent threat actor campaigns targeting elections and helped us prepare accordingly to the heightened tensions during the early days following Russia's invasion of Ukraine. Furthermore, DHS I&A personnel have contributed to joint analytic production on topics and events of concern such as last year's U.S. Open Golf Championship, Boston Marathon, and countless other special events that occur in the Metro Boston region each year.

Additionally, the BRIC and the Boston Police Department work closely with several DHS component Federal agencies to fulfill our public safety responsibilities. These agencies include: United States Coast Guard, United States Secret Service, Cybersecurity and Infrastructure Security Agency, Customs and Border Protection, Homeland Security Investigations, Transportation Security Administration, Science and Technology Directorate, Countering Weapons of Mass Destruction Office, and Federal Emergency Management Agency.

Federal investment in local law enforcement through grants is crucial to crime prevention and terrorism prevention throughout the country.

One significant investment that the city of Boston has made, in partnership with the U.S. Department of Homeland Security's (DHS) Countering Weapons of Mass Destruction Office (CWMD), regional law enforcement agencies and first responder agencies, is actively participating in the Securing the Cities (STC) program. The goal of STC–Boston is to build local capacity to find and intercept radiological or nuclear material before it can be used in a terrorist attack. This program augments local resources with Federal funding with the goal of detecting, deterring, and defending against terror attacks that use radioactive material. Working with public safety agencies throughout the Metro Boston region, STC–Boston will help build an enduring radiological detection network that integrates with other counter-terrorism initiatives already in place, such as the Boston Urban Area Security Initiative, Massachusetts State Police, Massport Police Department, Massport Fire Dept, and several other State and local first responder partners.

Since joining the STC Program in 2020, Boston has received a total of $4,450,000 in funding. The most recent grant will provide the Metro Boston region with additional funding to provide equipment, training, and support in the detection and interdiction of illicit radioactive material.

A second critical source of Federal funding is provided through UASI grants. These resources are indispensable to the city of Boston's capability to prepare, prevent, respond to, and recover from an act of terrorism in all of its forms. The investments received to date are utilized daily, whether it be personnel, equipment, software, or expertise gleaned through training, exercise, or networking events. UASI funding has allowed the BRIC to increase its human capital and technology capabili-

ties to identify and mitigate both domestic and international threats to Boston's communities. The expertise and analysis provided by the BRIC is utilized to inform decision making by BPD and the Metro Boston region's public safety agencies each and every day.

Perhaps most notable, UASI provided resources to purchase tactical equipment and training that literally saved the lives of police officers in BPD's Special Operations Division. For example, in November 2021, an armed barricaded subject, who had threatened the lives of family members, shot several BPD officers through a door. These officers sustained serious, but thankfully not life-threatening, injuries. Ballistic shields, ballistic vests, ballistic helmets, and an under-door camera system purchased with UASI funding protected the officers and ultimately saved their lives. This is just one example of how these capabilities protect BPD personnel and allow officers to respond safely and effectively to the dangers presented by the current threat landscape.

Historically, Metro Boston has ranked within the 15 highest-risk UASI regions. For UASI 2023, Boston's risk ranking increased from No. 12 to No. 11, yet the region is eligible to receive $200,000 less in the total allocation compared to last year. This decrease in funding is problematic because the Boston region has maximized its annual expenditure and has remained largely in a capability sustainment mode, despite increasing expectations for homeland security-related responsibilities. I and my counterparts are concerned that this may be indicative of the beginning of a trend of declining homeland security funding, while homeland security demands are rapidly increasing.

The terrorism threat landscape has grown substantially broader through various forms of violent extremism. Additionally, national security threats from nation-state actors and their proxies managing aggressive campaigns to sow seeds of discord in our communities through mis/dis/mal information, cyber attacks, and counterintelligence threats require more from our intelligence professionals, investigators and front-line officers to protect our communities. These are issues that our Nation's first responders have not traditionally dealt with and, as a result, we require more training, more personnel, more embedded analytical experts, and more technical capabilities to mitigate these threats.

A significant way that Congress could assist law enforcement would be to increase funding across the Homeland Security Grant Program—to include UASI—and consider broadening its applicability beyond just "terrorism" to include other threats traditionally mitigated by the U.S. Department of Defense and intelligence community.

Federal investments in the UASI and STC grant programs are vital to local efforts to prevent and mitigate potential threats, as are the assignment of DHS I&A personnel to fusion centers. Without these important resources cities and towns are vulnerable to individuals and groups intent on inflicting harm. I encourage Congress to continue to invest in these important programs.

I want to thank the committee again for the opportunity to share what we are doing in Boston. I believe our model of community policing combined with intelligence-led policing is working as evidenced by the data. This successful model would not be possible without the significant and important Federal investments that have been made in the Boston Police Department by the Department of Homeland Security. Federal partnerships with, and investments in, local and State police departments are vital to the safety and security of the United States.

Chairman PFLUGER. Thank you, Commissioner Cox. I now recognize Mr. Mangual for his opening statement of 5 minutes.

STATEMENT OF RAFAEL MANGUAL, SENIOR FELLOW AND HEAD OF RESEARCH POLICING AND PUBLIC SAFETY INITIATIVE, MANHATTAN INSTITUTE FOR POLICY RESEARCH

Mr. MANGUAL. Thank you, Chairman Pfluger, Chairman D'Esposito, distinguished Members of the committee. I want to thank you all for the opportunity to testify in a matter of great importance. The law enforcement community is facing many challenges, but two that stand out the most, particularly in and around major cities, are the challenges of responding to a real increase in crime at a time in which many agencies are struggling with officer recruitment and retention. In other words, in many parts of the country, police are being asked to shoulder a much bigger burden

with respect to crime and disorder, and they're being asked to do so with fewer and/or less experienced officers.

In 2019, the Police Executive Research Forum, PERF, surveyed its member agencies on this issue. Only 12 percent reported not facing a shortage of full-time sworn personnel, while a plurality, 41 percent of respondents, reported that their shortages had increased over the prior 5 years. A 2021 follow-up survey reported a 5 percent decline in the hiring rate and an 18 percent increase in the resignation rate, as well as a 45 percent spike in the retirement rate relative to the prior year. The largest agencies in that set bore the brunt of these trends.

In between these 2 years, the United States saw a 30 percent spike in homicides, the largest ever 1-year increase in at least a century. While a more recent PERF survey showed an increase in police hiring rates in 2022, the increase was outpaced by resignations and retirements, driving a continued overall decline in total staffing. Even if hiring kept up in departments, they would nevertheless have to contend with the decline in the median experience levels of their officers as retirees and resignees take their institutional and practical knowledge with them.

Add to this mix the understandably heightened level of scrutiny police now face, as well as the often-indefensible vitriol hurled at police as an institution, and you exacerbate all of the issues that flow from these challenges by sapping the morale of the officers that remain to face this all-important task. This is not a recipe for success. Addressing these issues by helping to reinforce American police departments should be considered a top priority by Congress because it will reduce crime. But it may also help send a message to an embattled institution, one that says, we are behind you, at a time in which cops need to hear that probably more than ever.

Now, the body of evidence that can be marshalled in support of a large-scale effort to add to the ranks of America's police departments is overwhelmingly strong and robust. Indeed, one of the most consistent findings in the criminological literature is that more police means less crime and vice versa. Moreover, the police recruitment and retention crises are ones that the Federal Government is actually well-positioned to address by funding the hiring of new recruits, as well as funding incentive programs aimed at retaining senior officers and investigators.

Now, because the impact of such expenditures will turn on how well police perform, which in turn depends in significant part on how well they understand the problems that they face in their respective jurisdictions, the need for more and better data on crime and enforcement trends is particularly pronounced, especially in light of the very poor transition from the Uniform Crime Reports to the National Incident Based Reporting System. This need for data to inform how police can put their limited resources to their highest end uses highlights other opportunities for meaningful Federal interventions aimed at funding and incentivizing more granular data collection.

Now, Congressional efforts to boost police hiring to accelerate the growth of the body of research that will be essential to deepening our collective understanding of what works with respect to crime control and related outcomes are two of just five important rec-

ommendations laid out in a recent Manhattan Institute report authored by my colleague Charles Fain Lehman. Rounding out his list of recommendations are the following: using money to rehabilitate failing prisons and jails with a carrot-and-stick approach; creating and propagating national standards for criminal case processing, which often takes far too long; and upgrading our national data infrastructure, especially by creating a national sentinel cities program.

Now, these ideas have enormous potential to do good by improving the quality of the services that our Nation's criminal justice systems were established to provide, thereby enhancing the most precious public commodity that we have, public safety. With respect to implementation, recent Federal initiatives can offer some meaningful insight into how such efforts might be structured. Examples include Operation Stonegarden, which directed Federal funds toward State and local law enforcement agencies participating in a joint effort with the Department of Homeland Security to help secure our borders. The Community Oriented Policing Services Program, which helped fund State and local law enforcement agency hiring, among other initiatives.

I'll close by noting that I'm encouraged by these committees' interest in assisting State and local law enforcement agencies facing one of the more challenging outlooks in a generation. As Thomas Payne noted in his famous pamphlet, *Common Sense,* security is the true design and end of government. The provision of public safety is therefore the most important of governmental functions that this body can help serve. I hope that you will consider the recommendations that I have made with respect to how Congress might go about that important mission, and I look forward to your questions. Thank you.

[The prepared statement of Mr. Mangual follows:]

PREPARED STATEMENT OF RAFAEL A. MANGUAL

TUESDAY, MAY 16, 2023

Chairmen Pfluger and D'Esposito, distinguished Members of the committees, I want to thank you for the opportunity to testify on a matter of great importance.

The law enforcement community is facing many challenges, the most significant of which—particularly in and around major cities—involve responding to a real increase in crime at a time in which many agencies are struggling with officer recruitment and retention. In many parts of the country, police are being asked to shoulder a much bigger burden with respect to crime and disorder, and they're being asked to do so with fewer and/or less-experienced officers.

In 2019, the Police Executive Research Forum (PERF) surveyed its member agencies on this issue. Only 12 percent reported not facing a shortage of full-time sworn personnel; a plurality of respondents reported that their shortages had increased over the prior 5 years.[1] A 2021 follow-up survey reported a 5 percent decline in the hiring rate, an 18 percent increase in the resignation rate, and a 45 percent spike in the retirement rate, relative to the prior year.[2] The largest agencies bore the brunt of these trends. And while a more recent PERF survey showed an increase in police hiring in 2022, the increase was outpaced by resignations and retirements, driving a continued overall decline in total staffing. Even if hiring kept up, departments would nevertheless have to contend with the decline in the median experience levels of their officers, as retirees take their institutional and practical knowledge with them.

[1] *https://www.policeforum.org/assets/WorkforceCrisis.pdf.*
[2] *https://www.policeforum.org/workforcesurveyjune2021.*

Add to this mix the understandably heightened level of scrutiny police now face, as well as the (often-indefensible) vitriol hurled at police as an institution, and you exacerbate all of the issues that flow from these challenges by sapping the morale of the officers facing this all-important task. This is not a recipe for success.

Congress should consider addressing these issues a top priority because reinforcing American police departments will reduce crime. But it may also help send a message to an embattled institution, saying "we're behind you," at a time in which cops need to hear that more than ever.

The body of evidence that can be marshalled in support of a large-scale effort to add to the ranks of America's police departments is overwhelmingly robust. Indeed, one of the most consistent findings in the criminological literature is that more policing means less crime (and vice versa).[3]

Moreover, the police recruitment and retention crises are ones that the Federal Government is well-positioned to address by funding the hiring of new recruits, as well as incentive programs aimed at retaining senior officers and investigators. The example of the police funding component of the 1994 Crime Bill is one that this body can build on, with one important modification: Resources for hiring should be allocated to the agencies facing the largest deficits and/or the highest levels of serious crime. A comprehensive effort to use the spending power to help fill the police staffing gap should reflect an assessment of how to maximize the impact such expenditures will have on crime. Moreover, as I recommended in two 2021 Manhattan Institute Issue Briefs, such an effort would also present an opportunity to experiment with efforts to incentivize the hiring of police recruits with higher levels of educational attainment.[4]

Because the impact of such expenditures will turn on how well police perform—which depends in part on how well they understand the problems they face in their respective jurisdictions—the need for more and better data on crime and enforcement trends is particularly pronounced. This is especially true in light of the poorly-executed transition from the Uniform Crime Reports (UCR) to the National Incident-Based Reporting System (NIBRS). This need for data to inform how police can put their limited resources to their highest end uses highlights other opportunities for meaningful Federal interventions aimed at funding and incentivizing more and more-granular data collection, as well as at funding additional criminal justice-related research. Congressional efforts to boost police hiring and to accelerate criminological research are two of five important recommendations laid out in a recent Manhattan Institute report authored by my colleague, Charles Fain Lehman. Rounding out that list are:

- Rehabilitate failing prisons and jails with a carrot-and-stick approach;

---

[3] See this small sampling of studies (including high-quality randomized control trials) illustrating the benefits of hiring additional police, spending more on policing, and expanding police presence and proactivity (especially in crime hot-spots): *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=461280* (showing significant crime declines in Washington, DC, caused by boosts in police presence in response to changes in the terror threat level); *https://www.law.upenn.edu/live/files/8949179jrss831pdf* (showing that expanding police patrols outside the University of Pennsylvania led to an estimated crime decline of 43 percent–73 percent); *https://eml.berkeley.edu/?jmccrary/chalfin_mccrary2018.pdf* (documenting a return of $1.63 on every additional dollar spent on policing in 2010); *https://www.researchgate.net/publication/283878402_Do_Stop_Question_and_Frisk_Practices_Deter_Crime_Evidence_at_Microunits_of_Space_and_Time* (finding significant crime declines resulting from discretionary stops conducted in crime hotspots in New York); *https://www.nber.org/papers/w27324* (showing significant increase in crime in the wake of abrupt declines in the volume of police activity in five cities (declines driven by pattern and practice investigations initiated by the Federal Government)); *https://media4.manhattan-institute.org/pdf/cr_22.pdf* (a causal analysis finding that police in New York City prevented more than 60,000 violent crimes between 1989–1998); *https://www.princeton.edu/?smello/papers/cops.pdf* (finding significant crime reduction effects resulting from COPS hiring grants); *https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0157223* (finding sharp declines in crimes resulting from police surges in New York City); *https://www.aeaweb.org/articles?id=10.1257/aeri.20200792* (finding that "Each additional police officer abates approximately 0.1 homicides."); *https://www.aeaweb.org/articles?id=10.1257/aeri.20200792* (finding a strong effect of reductions in response times on crime, such that "hiring an additional response officer would generate a benefit, in terms of future crime prevented, equivalent to 170 percent of her payroll cost."); *https://www.nber.org/system/files/working_papers/w12202/w12202.pdf* (finding that police arrest and stop activity (as well as sentence lengths) decline in the wake of arbitration losses, driving crime increases relative to instances in which the arbitration fights are won by the police unions studies); *https://www.researchgate.net/publication/233374127_The_Effects_of_Hot_-Spots_Policing_on_Crime_An_Updated_Systematic_Review_and_Meta-Analysis* (a meta analysis finding that both hot spots and problem-oriented policing strategies reduce crime).

[4] See, *https://manhattan.institute/article/ideas-for-the-new-administration-criminal-justice* and *https://manhattan.institute/article/a-public-safety-and-policing-plan-for-nycs-next-mayor.*

- Create and propagate national standards for criminal case processing; and
- Upgrade our data infrastructure, including by creating a national "sentinel cities" program.[5]

These are ideas that have enormous potential to do good by improving the quality of the services our Nation's criminal justice systems were established to provide, thereby enhancing the most precious public commodity: public safety.

With respect to implementation, recent Federal initiatives can offer some meaningful insight into how such efforts might be structured. Examples include:

- Operation Stonegarden, which directed Federal funds toward State and local law enforcement agencies participating in a joint effort with the Department of Homeland Security to help secure our borders;[6]
- Community Oriented Policing Services (COPS) Program, which helped fund State and local law enforcement agency hiring (among other initiatives);[7]
- Urban Area Security Initiative, which helped fund terrorism preparedness efforts in major cities;[8]
- "1033 Program", which provided State and local law enforcement agencies with surplus military equipment that ranged from rifles and body armor to vehicles and night-vision goggles.[9]

I will close by noting that I am encouraged by these committees' interest in assisting State and local law enforcement agencies facing one of the more challenging outlooks in a generation. As Thomas Paine noted in his famous pamphlet, *Common Sense*, "security" is "the true design and end of government."[10] The provision of public safety is therefore one of the most important governmental functions this body can help serve. I hope that you will consider the recommendations I have made with respect to how Congress might go about that important mission, and I look forward to your questions.

Thank you.

Chairman PFLUGER. Thank you, Mr. Mangual. Members will now be recognized by order of seniority for their 5 minutes of questioning. An additional round of questioning may be called after all Members have had the opportunity to be recognized. I now recognize myself for 5 minutes of questioning.

I would like to thank all of you for your service, for being here, for telling us your own community's needs, experiences, and how we can better come together. I want to push back on something that we just heard from some of our opening statements. We had 26,031 homicides in 2021, and this is on the CDC's website. The rate of hate crimes in those homicides was .0008 percent.

So, Commissioner Cox, congratulations on, you know, bringing the crime rate down. I think what you have done is remarkable in Boston. You know, I have got the data here this year looking at 588 aggravated assaults. You compare that to New York City, 8,901 in New York City. Eight thousand nine hundred one in a soft-on-crime locality where aggravated assaults are there. So, would you say that most of the 588 aggravated assaults are white supremacy-related?

Mr. COX. I would say that there's no correlation. Well, you know what? I don't know without the data on that, but——

Chairman PFLUGER. But, I mean, is that consistent with the homicide rate, the aggravated assault rate that it is extremely low?

Mr. COX. There's no correlation I know of right now between white supremacist and the data.

---

[5] *https://manhattan.institute/article/modernize-the-criminal-justice-system-an-agenda-for-the-new-congress.*

[6] *https://www.congress.gov/congressional-report/116th-congress/senate-report/212/1.*

[7] *https://crsreports.congress.gov/product/pdf/IF/IF10922.*

[8] *https://uscode.house.gov/view.xhtml?req=(title:6%20section:604%20edition:prelim).*

[9] *https://www.dla.mil/Disposition-Services/Offers/Law-Enforcement/Program-FAQs/.*

[10] *https://billofrightsinstitute.org/primary-sources/common-sense.*

Chairman PFLUGER. This notion that we hear, let's focus on violent crime and the violent crime offenders. Let's focus on making sure that we actually take care of business. So, I needed to push back on that because what we have just heard is that the numbers aren't matching up.

Chief Gerke, I want to talk about fentanyl a little bit. You know, you have identified that fentanyl is one of the greatest harms in Odessa, Texas, and the surrounding area. Since 2019, fentanyl-related deaths among Texans have increased 500 percent. What is the greatest challenge you face in preventing fentanyl deaths and trafficking of fentanyl?

Chief GERKE. Really that's easy. It's keeping them from my community. You know, once they get into the community, it's very difficult to root them out. Again, it's heartbreaking to see that a lot of these, the fentanyl overdoses and deaths are concentrated on young people.

Chairman PFLUGER. How difficult is it, the open border policies that we have, how difficult is that on Odessa, Texas?

Chief GERKE. Well, you know, as far as I'm concerned, it seems like there's just a sieve, those narcotics. We're not just talking about fentanyl. We're talking about all narcotics. Particularly in Odessa, I think our most predominant narcotic is probably methamphetamine use.

Chairman PFLUGER. Can you talk to us about human trafficking and the effect that that has had on your community?

Chief GERKE. Absolutely. Well, you know, you get calls about safe houses constantly. You respond to those things you see constantly, get calls. I know just over some time last week, we worked a prostitution sting and actually recovered two Chinese nationals who were trafficked. So, yes, it's an on-going problem I would think in Odessa, but I would also think all over the State of Texas and probably all over the Southern Border.

Chairman PFLUGER. Thank you for your service to Odessa, Texas, you know, for the shining example of what you've done over the last 26 years and now leading that department.

Sheriff Barnes, thank you for your testimony. You know, I took a couple of notes, and you talked about how California is an example and a warning of how not to be. What I would like to focus on is you described how the consequences for crime have eroded over the last decade while law enforcement authorities, you know, are struggling to keep communities safe. Could you kind-of tell the community or the committee here specific examples of when policy changes have tied your department's hands and not allowed you to have those consequences?

Sheriff BARNES. Sure, and I'll try to go fast. So, over the course of the last decade, starting in 2011, was Assembly Bill 109, the State prison realignment. Anybody sentenced to prison for non-violent, non-serious, non-sex acts are now being housed for their time in county jails, not designed for long-term incarceration. That resulted in a large impact on my facility because our staff is not designed to house people for years and they're very non-compliant. Two-thousand-fourteen, we had a bill passed, Prop 46, that resulted in the largest decriminalization of crime in the State, drug crime and property crime. Those people are now not serving sen-

tences as they would before. Then we have Prop 57—I'm sorry—Prop 47, Prop 57, mass decarcerations at the Federal prison—State prison system that with SB54 prohibiting us acting with ICE on immigration holds, except for very high-level offenders. Oftentimes them not getting picked up by ICE because they don't have the resources to do that.

All of these have manifested into a large decarceration effort. I'll add that the last 5 peace officers killed in California were killed by violent felons who should have been in custody and were early released or pending sentencing on crimes that they accessed to guns that they should not have had. It's not the guns. It's the people getting possession of guns, the criminals getting possession of guns that create the greatest threat to our country.

Chairman PFLUGER. Sheriff, thank you. We support you. We love everything that all of you do to keep our community safe. My time has expired. I recognize the Ranking Member for his 5 minutes of questioning.

Mr. MAGAZINER. Thank you, Chairman. I thank all of our witnesses as well. This is a serious topic, and I think we owe it to our constituents back home to focus on solutions and not partisan mudslinging. With solutions in mind, I want to focus on the experience in Boston because the data is clear. Crime of all categories down more than 50 percent since 2005. Violent crime down by a similar number. As was stated during Commissioner Cox's opening statement, shootings last year, the lowest they've been since the 1950's. So, I want to learn from you, Commissioner Cox, because you've been in Boston for 30 years as a sworn officer. What has worked? What would you attribute those successes to? What can other parts of the country learn from your example?

Mr. COX. Thank you. Well, as I started off as saying that Boston police has operated within a community policing model for a long period of time. You know, not only do we practice that around building trust with our community, but we partner with everyone, including the Federal Government, including Homeland Security. We've gotten a lot of grant funds and things of that nature to actually give us the data and technology to maybe, you know, to build it further from maybe 20 years ago around data and technology.

So, partnership and actually acknowledging that we can't solve it alone from a law enforcement perspective. There needs to be certainly a component where partnership with the community and the public and actually a place and role for our partners to do things that we can't to address the issues that might be driving the violence around us. You know, whether it's helping people find jobs, helping them with substance abuse, things of that nature, helping those families that have traditionally been maybe involved in some of this, helping them get out of that cycle of poverty and things of that nature.

So, I mean, we've done a lot over a long period of time, but, you know, we're constantly working to make sure we continue to do that. By also making sure that we're not alone. I think we've understood the fact is that law enforcement is not the total cure for this. We need others to partner. Everyone from the judicial, to, you know, probation, to, you know, the schools, everyone in our community needs to partner around taking public safety seriously. We are

just more or less the educator of if you're going to do it, this is how we're going to do it together.

Mr. MAGAZINER. Well, thank you for sharing that. I think this emphasis on community policing, which you are right, Boston has been doing for decades, is a lesson well-learned. It also so happens that Massachusetts has some of the toughest gun safety laws in the country. So, can you speak to the relationship there? Do you feel that the gun safety laws that have been passed in Massachusetts to keep firearms out of the hands of dangerous individuals, have made your job easier and have protected the lives of the men and women who you lead?

Mr. COX. Thank you for that. Yes, we do have some of the toughest laws in the country in that way. However, you know, our experiences, you know, and I think I put out some stats that for the most part, most of the guns are coming from elsewhere throughout the United States around that. Then obviously, the ghost gun phenomenon that's occurring. So, you know, certainly the violent crime that we do have and the gun arrests and things that we have are usually driven by guns elsewhere around that. So, it doesn't seem to be any shortage of them. No matter how many arrests that we have, we continue to have more. Seeing younger and younger people with guns, you know, which is a little disturbing.

Mr. MAGAZINER. I would argue that that speaks to the need for a Federal approach when it comes to gun safety legislation and not just a patchwork approach as we have had since the expiration of the assault weapons ban.

We only have a minute left in my questioning. It's now the 10-year anniversary of the Boston Marathon bombing. As our subcommittee is charged with counterterrorism, can you speak to the lessons learned from that experience, and particularly the importance of Federal and local information sharing through fusion centers?

Mr. COX. Absolutely. First of all, we're very appreciative of all our Federal partners in the sense that from a local perspective, you know, in Boston, at least, we can't have, you know, have all the knowledge it takes, the work it takes, and intel it takes to understand what's going on elsewhere throughout the country, never mind outside the United States. So, the partnerships and the intel that we have from particularly Homeland Security and FBI are very, very important. So, we can actually help our community stay safe internally here, you know, since there is a bit more of a trend around, you know, domestic terrorism, if you want to use that term. Just having information on who people are coming into our city before they get there, that is very valuable. So, we can share it with our, you know, faith leaders and groups that might be impacted by those.

This helps us build trust so we keep those ties with the community we serve, so we can get people to see something and say something, because we're providing some information about what's going on so they can feel safe. Part of our job is not only to deal with crime, but fear of crime. The partnerships that we have, particularly with the Federal Government and the grants that you do give us the ability to actually provide that education to keep the trust.

Mr. MAGAZINER. Thank you, Chairman. Thank you, Commissioner.

Chairman PFLUGER. Thank you. The gentlemen's time has expired. I now recognize Chairman D'Esposito for his 5 minutes questioning.

Chairman D'ESPOSITO. Well, thank you, Mr. Chairman, and to the witnesses, thank you again for being here and for your service. I am going to start with Sheriff Barnes. I am a firm believer in community policing. I am a firm believer as well in the broken windows theory, where you focus on minor crimes and it will reduce major crime. It was a policy of New York City during Commissioner Kelly's tenure, and it is something that I think truly and dramatically changed the face of New York City.

When I talk about violent crime and we talk about violent crime, I think we know the issues that are plaguing the communities. But I think what we need to focus on is that when we want to talk about community policing and we want to talk about the fact that that has helped in reducing crime in cities and counties and towns throughout this country, community policing is a buy-in. It is a buy-in between law enforcement. It is a buy-in between prosecutors. It is a buy-in between stakeholders. When one of those parts aren't bought in, the community, policing falls apart.

So, I believe that small business is, well, really all business, but definitely small business is the lifeblood of our communities. One of the things that you talked about in your testimony has nothing to do with violent crime, but I think it tells such a story. You said that there was $94.5 billion in retail theft throughout this country, the largest in California. I am sure New York is probably right behind. When we talk about community policing and we talk about failed policies, the failure to prosecute, we have literally allowed minor crimes, right? People often roll their eyes and say, you are fear-mongering. This is petty theft. Well, I don't believe that anybody who owns one of those stores that were victims of that $94.5 billion thinks that this is petty.

So, I guess my question to you is I think I know the answer, but it seems that we have some differing opinions up here. How do you think that this needs to change? How do we help solve this problem? Because $94.5 billion is a huge sum of money. I guarantee you that there are business owners throughout this country who have literally shut their doors, Main Streets that are shuttered because of the crime that we have allowed to occur in communities throughout this Nation.

Sheriff BARNES. Thank you, Chairman, for that question. You're absolutely right. Unfortunately, in California, going back to Prop 47 that decriminalized property crime from felonies to misdemeanors resulted in exactly theft holidays. I believe I agree with you that the small family-owned stores suffered the most initially. Now what we're seeing are large businesses, the Walmarts, the Targets, the CVS, they have the biggest voices. All these other mom-and-pop shops as reporting, they are a single voice. But now that these larger corporations are being impacted, we're seeing the outcome of these bad policies in very urban areas. In San Francisco recently, we had Nordstrom's leave. CVS has left. Others have vacated that city. I think we're starting to see a trend of, these are

corporations, they're for profit. If they don't make money, they will leave. When we're seeing that happen in major urban areas that have enacted bad public policy over the last several years.

Chairman D'ESPOSITO. Going back home where Mr. Mangual and I live, I mean, there are CVSs and other stores, big stores that have removed the shopping, you know, the things that you carry out to put stuff in, because they don't want people just filling them up and walking out the door with them. That's not the America that we once created.

Commissioner Cox, I just want to go to guns for a minute. You may not have this information. We were told that your State has some of the strictest gun laws in the country. How many guns were recovered by the Boston Police Department in 2022?

Mr. COX. I can't say precisely, but I would say goodness gracious, around 700 or 800.

Chairman D'ESPOSITO. OK. Out of those 700 or 800 firearms that were recovered, how many of them were assault weapons?

Mr. COX. I couldn't give it to you with the, you know, with——

Chairman D'ESPOSITO. If you had to say, is it 10 percent, is it 50 percent, is it 80 percent, is it 0 percent?

Mr. COX. I would definitely not say it was 80 percent, but I would say, you know, there were a number of them.

Chairman D'ESPOSITO. Was it half?

Mr. COX. I would have to look at the——

Chairman D'ESPOSITO. The amount of shootings that you had in Boston, how many of those shootings, how many shootings did you have in Boston?

Mr. COX. For 2022, non-fatal shootings.

Chairman D'ESPOSITO. No shootings in general, non-fatal and homicides?

Mr. COX. So, let's see 2022, we had, this chart only gives me year-to-date for a time period. It's not the whole year.

Chairman D'ESPOSITO. OK. So, just real quick, because my time has expired. Non-fatal shootings and homicides, how many do you think of those non-fatal shootings and homicides were occurred with the use of an assault weapon?

Mr. COX. Yes, that I couldn't tell you because those are the ballistics.

Chairman D'ESPOSITO. Is it minimal? Is it half? Is it 80 percent? Or is it zero?

Mr. COX. I would say it would be on the lower end of it, but——

Chairman D'ESPOSITO. OK. It is on the lower end of it?

Mr. COX. I would say, but I can't——

Chairman D'ESPOSITO. Right. So, illegal handguns are the majority of the violence that is occurring in our communities.

Mr. COX. Illegal handguns, but the fact is there are quite different kinds. So, you have to match up ballistics evidence in that and I don't want to do those——

Chairman D'ESPOSITO. I understand that. But my point is that illegal handguns are what is killing people in this country.

Mr. COX. Yes.

Chairman D'ESPOSITO. Mr. Chairman, I yield back.

Chairman PFLUGER. The gentleman's time has expired. The Chairman now recognizes the gentleman from Louisiana, Mr. Carter for 5 minutes of questions.

Mr. CARTER. Mr. Chairman, thank you very much. Ranking Member Thompson mentioned in his opening statement about domestic violence and the—domestic terrorism, rather, and the issue with racially-motivated threats and white supremacy. Chairman Pfluger suggested or challenged that assertion. I want to turn your attention to this report that was done January 2020 by the Texas Department of Public Safety, which says, domestic terrorism poses a persistent and varied threat to the State of Texas. It further goes on to say that based on the prevalence of recently-conducted attacks Nation-wide, white racially-motivated, or WRM, is currently the most violent active domestic terrorism type.

Mr. Chairman, I would like unanimous consent to add this to the record for the purposes of having everyone the opportunity to review these statistics, to know that just because we don't like it, because we don't want to talk about it, doesn't make it go away. We see the rise of white supremacy and the violence that's acted out on the streets of America every day. I'd like to——

Chairman D'ESPOSITO. So ordered, Mr. Ranking Member.*

Mr. CARTER. Thank you very much. I want to reiterate something I mentioned in my opening remarks. I am grateful for law enforcement the great work that you do, for the great officers. We know that there are good ones, and we know that there are bad. We want to make sure that we protect and provide resources so our good police officers are able to protect and serve all communities. But we know that there are things that make it difficult for you to work.

We talk about and during particularly during this week of Police Week, we talk about things that we are asking you to do better. Yet, we aren't doing anything that would make your lives safer when you go out to apprehend a villain. We know that in many States we see the repeal of carry permits so people can get firearms without carry. We know that in many States, the duty to inform has been removed from the process of those who are having concealed carries without permit. Can you talk about common gun, common-sense gun safety reform, and what it means, and what it would mean to you and your colleagues, Commissioner Cox? We know that if we had more common-sense gun measures, it will make a difference. Can you share with me your view?

Mr. COX. So, I mean, I can only speak for Boston——

Mr. CARTER. I only asked you about Boston.

Mr. COX [continuing]. In that way. Our gun laws are fairly strong. So, you can't get a firearm if you, you know, certainly have a record of that sort or certainly an open domestic violence case, or any type of conviction for the most part, or we have any other information that would indicate, and I have the discretion that, you know, you would potentially put people in harm's way around that stuff. From our perspective, I think that the gun laws that I have certainly in the city of Boston, you know, are fairly strong and ad-

*The information has been retained in committee files and is also available at *https://www.dps.texas.gov/sites/default/files/documents/director_staff/media_and_communications/2020/txterrorthreatassessment.pdf.*

dresses the issues. The issues that we have is guns from other places that come in and the fact that youth have these guns and the easy access of guns. That's the issue that, you know, certainly that we see and face of how, you know, the flow of them and the easy access of them.

For the most part. We're not having an issue, certainly locally where people are applying for license and doing things. So, our region might be a little different. So, it is hard for me to speak about another region on that one.

Mr. CARTER. Let me shift gears for a second. The mass shooting at Covenant Schools in Nashville, Tennessee took the lives of 6, including 3 children, on March 27 brought this year's school shooting count to 89, with 75 total victims injured or killed. Next week, we will mark 1 year since the massacre at Robb Elementary in Uvalde, Texas, which left 19 children and 2 teachers dead. I am outraged by the lack of will of my colleagues on the other side to do more to protect their children. Unfortunately, victims, their families, and law enforcement directly feel the impact of these shootings. Since Republicans refuse to support common-sense laws to protect children, and their families, law enforcement, can you talk about how local law enforcement has adjusted to the threats posed by military-style weapons being used to target our children in our Nation's schools, Commissioner Cox?

Mr. COX. So, again, certainly making sure that people that struggle with mental health issues don't have, you know, access to guns or permits and things of that nature. You know, we locally are partnering with schools in general to make sure schools are prepared around active-shooter situations, the faculty, and things of that nature. But, you know, certainly looking out as a citizen, looking out in the big world, and seeing that these, you know, mass shootings in general, the increase of them, and then looking at the profile of some of the people from a reporting perspective because I don't have first-hand knowledge of it, you know, it does seem, you know, bewildering like how some of these people got firearms in the first half of the time. More importantly, it seems as though a lot of the people who do these things showed signs of potentially maybe doing these things, and yet no one reported it.

Mr. CARTER. OK, thank you. My time has expired. I will perhaps come back on the next round. I yield.

Chairman D'ESPOSITO. The gentleman's time has expired. I now recognize my fellow New Yorker, Mr. LaLota, for 5 minutes.

Mr. LALOTA. I want to thank my good friends Chairman Pfluger and Chairman D'Esposito for putting this important hearing together during National Police Week and especially to my fellow Long Islander Chairman D'Esposito who is a former NYPD detective and chief of the Island Park Fire Department. Thank you, Mr. Chairman, for your dedicated service to our community, but selfishly for bringing your experience to our committee today. I also want to thank our witnesses for being here. Chief, Sheriff, Commissioner, thank you especially for your service to your communities and to our country. You keep our children, our families, and our communities safe every day, and this committee appreciates that.

I have the privilege of representing New York's First Congressional District, or the east end of Long Island, Suffolk County. The

Suffolk County Police Department is home to 2,700 sworn police officers, 600 civilian members, and 400 school crossing guards. We also have the Riverhead Southold, Shelter Island, East Hampton, and Southampton police departments in my district as well. They, like you, serve every day to protect their communities, and we appreciate them as well.

As this is National Police Week, I want to discuss the ways the Federal Government can be helpful to local law enforcement. As my colleague from Rhode Island said, we want to be solutions-oriented. So, Chief, Sheriff, and Commissioner, my first question is for you, gentlemen. In my home State of New York, we have unfortunately seen some of our elected leaders choosing to support criminals more than our law enforcement officers. In particular, cashless bail has been a disaster from the very beginning. My question is, what would morale look like for your departments, for your officers, for your deputies, if they knew a criminal they had just taken in would be released nearly hours later with no incentives to show back to court? Sheriff, you want to give it a shot first?

Sheriff BARNES. That's exactly the environment we are operating in in California. I'm fortunate, my roster is almost full. I'm on the other end. I have a great retention in my organization and we are attracting people. It's not because we are the highest paid. I think we have a highly supportive community and that's probably the first, most paramount thing is having great community support. The media rhetoric is not accurate. The vast majority of Americans do support policing. So, I'd start with that.

I think one of the biggest issues probably beyond what this board can do is get us out of social work. That solves probably one of the biggest issues. If we didn't have to deal with the mental illness, the substance use that we proliferate. Right now, 1,000 people in my jail are on medication-assisted treatment. I have, half of my people entrusted in my care, have a daily nexus to mental health treatment. People I have run the largest detox facility in our county, the Orange County jail. So, those are probably the real issues that I think are the most challenging.

Violent crime, of course. Criminals have to be there. But when you look at resources and how tasked we are, getting us out of social work and let us do the job we got into to do in policing would probably be the biggest morale boost for our team.

Mr. LALOTA. Thanks, Sheriff. Commissioner or Chief, do you guys want to add something?

Chief GERKE. Yes, sir. Thank you. I think in my neck of the woods, which is West Texas, so, you know, we measure distance in time not in miles. So, I would have to second what the sheriff says in reference to mental health. If we encounter someone in crisis, we will absolutely—that officer that is assisting that person in crisis will be tied up their entire shift. So, that includes a trip to a medical facility. But then they will have to transport that person in crisis to a mental health facility, which many times is 2–2½ hours away. That does nothing for the officer and it absolutely does nothing for that person in crisis. Could you imagine being in crisis and having to ride in a police car for 2½ hours before you could get help? So that's an issue for us and that's an issue that needs to be fixed and we've been asking for it to be fixed for forever.

Mr. LALOTA. Thank you. Commissioner.

Mr. COX. Certainly, in my area, you know, we have dangerousness hearings, which we still do. So, you know, if someone actually were to do a heinous crime, you know, we don't have that trend right now of them being released. But we do have issues around juveniles and the fact is that, you know, they might be involved in, you know, certainly multiple gun arrests and things of that nature where they're not held at all. I'm not saying that they should be, but, you know, around juvenile crime, that's a different issue that we're facing.

Really, you know, that has issues. You know, as far as morale concerning around the mental health challenges, I think that we all face in every jurisdiction, we'd love to be out of the business of dealing with folks that have mental illness. But the reality is I don't know how we can because virtually every call we go to in some way, shape, or form, it seems like it pops up. So, if our officers aren't informed in some way, you know, I'm really afraid of what the outcome might be. So, we're always going to have the challenge of making sure that they're trained around some of these issues.

Mr. LALOTA. Thank you. My time has expired. Mr. Mangual, I apologize. I had another question for you, but maybe we'll get you on a future round. I yield back, Mr. Chairman.

Chairman D'ESPOSITO. Thank you, Mr. LaLota. I now recognize Mr. Correa of California for 5 minutes.

Mr. CORREA. Thanks, Chairman. Before we begin, I would like to ask unanimous consent to enter into the record a letter——

Chairman D'ESPOSITO. Without objection.

[The information follows:]

LETTER FROM CHICAGO CRED FOUNDER ARNE DUNCAN

TUESDAY, MAY 16, 2023

To Members of the CTI Subcommittee of the Homeland Security Committee: Thank you for the opportunity to testify today during police week about the work Chicago CRED is doing in Chicago to reduce gun violence. This work began in 2016, shortly after I stepped down as U.S. Secretary of Education. At the time, gun violence in Chicago was spiking sharply and the traditional approach to fighting crime—primarily arrest and incarceration—was broadly seen as insufficient.

We built Chicago CRED around the simple belief that the best way to reduce gun violence is to engage directly with those most at risk of shooting or being shot. We serve participants through five core pillars of activity: outreach, life coaching, therapy, education, and job training. More than 1,000 people have gone through our program and studies from Northwestern University show that they are significantly less likely to be shot or rearrested compared to individuals with similar characteristics. Many of the participants are now working in the legal economy, supporting themselves and their families and living safely.

Since 2016, a network of community violence intervention (CVI) organizations have come into existence and are now serving more than 20 Chicago neighborhoods with some form of violence prevention. Initially, these CVI organizations were mostly funded by private philanthropy but, since 2019, local, county, and State governments have begun investing in violence prevention. While Chicago CRED takes no public funding, many other CVI programs in Chicago have received a share of Federal COVID relief funds. We are hopeful that, as COVID-relief funds expire, new Federal funds become available to support this work. An analysis by a leading consultant firm shows a 19–1 return on investment for CVI programs. We believe that violence prevention should be a permanent feature of Chicago's public safety strategy.

We are not alone in this belief. Our law enforcement community is increasingly convinced that CVI, in partnership with data-driven, Constitutional policing, is the path to a safer Chicago. As former interim superintendent of the Chicago Police Department and former Los Angeles police chief Charlie Beck said about CVI, "Your job is to stop the next shooting. Our job is to investigate the last one."

Respectfully, we invite the Members of the committee to visit Chicago and see the work we are doing with young men and women at risk. Spend time with them, listen to their stories, and see the transitions under way in their lives. We are confident you will not only be moved by their journey and impressed by their resilience but convinced that, rather than them being the problem, they are, in fact, the solution and that CVI is critical to a comprehensive public safety strategy.

We also hope you will recognize the profound need for gun safety laws that limit the flood of guns into cities like Chicago. Today, Chicago recovers more guns than any other city in America and roughly 60 percent of the guns recovered come from other States with weaker gun safety laws. With easier and easier access to guns with large magazines and easy conversion to automatic weapons, we are seeing more and more mass shootings. These kinds of guns have no place in our society and we implore you to pass laws that prohibit them.

There is much more we can say and show you. Thank you again for the opportunity to testify and I hope to hear from some of you and introduce you to some of the men and women who are making Chicago safer.

Sincerely,

ARNE DUNCAN,
Founder, Chicago CRED and managing partner, Emerson Collective.

Mr. CORREA. I live in the city of Santa Anna, my daughter was at home all alone. I was in El Paso, Texas. I got the phone call. I called Santa Anna PD. They were there quickly. Thank you very much to all the men and women in uniform for what you do.

I just want to say that back home I like to think in my district, other parts, that we take care of our men and women in uniform. We give you collective bargaining, which justifies make sure that you have a good salary, have good pensions, and we have Workers Compensation presentives, which means when you get hurt, we make sure that you are taking care of. A lot of those bills I authored when I was in Sacramento.

Sheriff Barnes, if I can, I want to welcome you here today and want to talk to you a little bit about it sounds like the biggest issue we have back home, which is fentanyl. I agree with you. In my district, not a week goes by that I don't hear about a death, a young person overdosing on fentanyl. Supply side, 90 percent of the fentanyl that is interrupted is intercepted through our ports of entry. San Ysidro probably accounts for 67 percent of all the fentanyl that is seized coming into this country.

Operation Blue Lotus, we just talked to the port director on Sunday. I was there visiting their operation. From March to May, 6,900 kilos of narco, 900 kilos of meth, 1,400 of fentanyl, just in those few months. Yet at the ports of entry, only 2 percent of the vehicles coming through the port, through our ports are actually scanned. Can you imagine if we scanned 4 percent, 5 percent, 6 percent of those vehicles? Sadly, I voted against that border bill that was passed last week. Not a cent goes toward those ports of entry. Not a new cent goes to hiring new people there, hiring new technology, or I should say bring in new technology, and more police dogs to scan, to help the scanners. Again, can you imagine if we inspected more than 2 percent of those vehicles, the success we would have?

Sheriff, you said something in your testimony that caught my interest, which is we have a situation. We have the environment of

California laws that prohibits you from reporting certain individuals communicating with immigration officials upon the release of certain inmates. Yet, you said there are many inmates that you do talk to immigration officials about, but they fail to actually come by and pick those individuals up. Can you describe what kind of individuals those people would be convicted of?

Sheriff BARNES. Sure, that's a result of a Senate bill in California, SB 54. It only allows me to communicate with ICE officials on high-level offenders or repeat offenders of certain offenses.

Mr. CORREA. Describe those high-level offenders.

Sheriff BARNES. These would be murderers, child molesters, drug dealers, violent crimes.

Mr. CORREA. If I may, I only have a minute left. Those are the people I don't want in my community. My district, we have a lot of undocumented workers that have been in the country 20–30 years. Hard workers who also don't want these individuals in their neighborhood. So, I would offer to work with you on this issue. I want to make sure, if there are people who are supposed to be picked up after they rape in our communities, that they are taken care of appropriately. They don't come back to our communities. To hear from you that a lot of those individuals are just that ICE fails to pick them up is unacceptable to me.

So, you are my sheriff. We work together. We hang out together, have lunch. I look forward to working with you on this issue as we go forward.

Sheriff BARNES. Thank you, Congressman.

Mr. CORREA. Thank you very much. Mr. Chair, I yield.

Chairman D'ESPOSITO. Thank you, Mr. Correa. I now recognize Mr. Strong from Alabama for 5 minutes.

Mr. STRONG. Thank you, Mr. Chairman, Ranking Member, distinguished Members of the committee, it's an honor to serve with each of you. I join my colleagues in recognizing our Nation's law enforcement officers, and particularly the individuals in my district that wear the badge and those that have given all in the line of duty. To mention a few, Billy Clardy was killed on December 6, 2019, by a drug dealer that should have been in jail. Garrett Crumby, March 28, 2023, just 50 days ago, was killed on a domestic violence call. Mr. Gerke, Mr. Barnes, and Mr. Cox, I would like to thank you for your service and joining us here today and also those in law enforcement that are seated behind you.

This hearing is particularly timely as we commemorate National Police Week and the officers that have given their lives. In the last 2 years, our country has become less safe, both for the average American and for our law enforcement officers. This year's FBI data regarding line-of-duty deaths paint the picture. The number of ambush attacks on law enforcement officers in 2022 reflects a 50 percent increase from the previous year.

We may disagree on how we got here, but we should all agree that we need to do more to support law enforcement and to ensure that they can safely carry out their mission. With that, I would like to start with a question for our law enforcement officers today. Chief Gerke, how has the current climate impacted your ability to do your job?

Chief GERKE. You know, things just get busier and busier, and the current climate is I think that is one of the reason that we see the numbers of sworn individuals in a lot of municipalities have gone down. Everyone has open positions because of they see the danger involved in policing. It's broadcast constantly, those negative things, those bad things. Law enforcement has done—law enforcement officials have done some very bad things in the recent past. But those things get attributed to every police officer, every sheriff's deputy the United States, which is absolutely a false statement, right? I will absolutely say that no one wants to get rid of a bad police officer, a bad deputy, more than a good police officer or a good deputy. That is an absolute fact.

Mr. STRONG. Absolutely.

Chief GERKE. So, I think that those things absolutely impact us numbers-wise. When you don't have numbers, it affects your ability to do your job.

Mr. STRONG. Thank you, Chief. In my previous service, I was the chairman of the third-largest county in the State of Alabama, and the largest city in Alabama, where in less than 10 years, our county almost doubled the size of its law enforcement. Where greater than 50 percent of the general fund is directed to the sheriff's department and in law enforcement, which led to about a 59 percent increase in less than 10 years for law enforcement. It worked. Your studies that we have seen, research indicates less policing leads to less crime. Sheriff, is that what you found?

Sheriff BARNES. I believe that it's the right policing leads to less crime. So, it's not a saturation, it's an engagement. It's partnering with the community. It's having great multifaceted programs, juvenile-based, school-based, response-based, faith community-based. It's all based on relationships. So, what I found, and I believe the officers working for me love the aspect of community engagement, many of them live in these communities. So, it's the relationship and the support that helps that. That's where this committee's influence comes in so vital, because it's those resources that allow us to build upon successful programs, emulate them, and share them across a larger spectrum of our agencies to do what we know works best. We have many examples of those in Orange County.

Mr. STRONG. That shows that more policing is better for our communities. Mr. Mangual, would you agree that you have said that defunding or diverting funds away from policing is not the best way to stop rising crime in the United States. Is that correct?

Mr. MANGUAL. That's absolutely correct. I mean, again, you know, the overwhelming conclusion that you can draw from the body of research on the effect of policing on crime is that the more policing and the quality matters that you have, the less crime that you're going to have. So, when you divert funds away from the sort-of tip of the spear in your core law enforcement institutions that is going to make streets less safe. I think the data bears that out, and every analysis that actually tests that question.

Mr. STRONG. Would you say that by adding more law enforcement in the field, would that reduce crime?

Mr. MANGUAL. Say that one more time, sir?

Mr. STRONG. Would you believe that adding more law enforcement officers, would that increase or decrease crime?

Mr. MANGUAL. It would absolutely decrease crime. It would absolutely decrease crime. Every study that's ever been done to assess the impact of either additional police, additional police spending, or expansions of police patrols have found significant reductions in crime of all sorts within those jurisdictions.

Mr. STRONG. Thank you. Mr. Chairman, I yield back.

Chairman D'ESPOSITO. The gentleman's time has expired. I now recognize fellow New Yorker, Mr. Goldman, for 5 minutes.

Mr. GOLDMAN. Thank you, Mr. Chairman. Thank you all for being here. I was a Federal prosecutor working with task forces, NYPD, and an assortment of Federal law enforcement agents for 10 years. Chief Gerke, what you just said is exactly what every law enforcement officer I ever worked with said, which is we got to root out the bad apples because the vast, vast majority are really good apples, working really hard to defend our communities and promote public safety.

It is interesting as I sit here, because what I am hearing from the witnesses on the ground about what the needs are and what effective policing is, is very different from what I am hearing from my colleagues up here. Sheriff Barnes, I think you made an important distinction just now in the questioning you received from my colleague from Alabama when he said more policing would be better. You said, right policing is more effective. I think that is incredibly important. More, in terms of quantity, does not necessarily make the difference.

I want to focus a little bit on what several of you have talked about in terms of community-based policing and especially community-based violence intervention programs. Commissioner Cox, can I start with you? Can you just explain what you mean when you say you engage and utilize community-based violence intervention programs?

Mr. COX. Sure, thank you. So, you know, community policing really is about building trust. How do you go about doing that? You can do it multiple ways, from engaging youth in games, and things of that nature, to mentoring kids in school, to actually working with residents to address whatever the issue of the day. The more you work with people and they get to understand, you know, our officers and see that they're people, too, the more trust they have, the more we are able to, you know, provide education tips on how to stay safe.

The more they're able to tell us about where we should be, right? Data is one thing, but having on-the-ground information and intel from the people that live there around the problems that go on, that is how we can put officers in the right place to help prevent these things from happening in the first place. So, understanding what the issues are in these communities through dialog, through actually building relationships, we're able to also bring in partners to address their other issues and problems that might be the root of some of the, you know, reasons why people choose to go down the life of crime.

Mr. GOLDMAN. So, is it fair to say that if your officers had more time to spend in the communities that they would be able to prevent more crime from happening before it happens?

Mr. COX. I believe so. Working in conjunction with the residents there, yes, absolutely.

Mr. GOLDMAN. One of the things that several of you have touched upon is, and Chief Gerke, you just mentioned this and I think this is important, is the prevalence of mental health issues in the calls, the 9–1–1 calls, and other requests that are made from—made to all of your offices. I guess I have a basic question, which is, would it be helpful to you if you had support from mental health professionals who could help to either diffuse a situation or handle a mental health issue once it had been diffused? Is that something that support would be helpful to your staff?

Chief GERKE. I think that support would be helpful to any law enforcement agency, absolutely. That is because mental health issues are so prevalent in our communities.

Mr. GOLDMAN. Your officers—am I right?—are not trained mental health professionals.

Chief GERKE. They have some training in helping those folks in crisis that we encounter, but no, they are not trained, qualified mental health professionals.

Mr. GOLDMAN. One of the things that the Chairman has talked about here today several times is the notion of illegal firearms. One of the issues, I think, Chief Gerke, that you may be able to touch on is there was a significant and deadly mass shooting in your county in 2019. It was an individual who couldn't pass a background check, had been adjudicated by a judge to be mentally incompetent. So, he wasn't able to buy a gun legally, and he went and bought a gun illegally and then used it for a mass shooting. If there were universal background checks that would apply to private sales as well, that would have caught that shooter, wouldn't it have?

Chairman D'ESPOSITO. The gentleman's time has expired. The witness, you can answer the question.

Chief GERKE. So, absolutely. That mass shooting was perpetrated by an individual that could not pass a background check because of his mental health status. He did go and purchase a firearm from an individual that was making these on a personal basis, although I believe he was making about 60 a year on a personal basis. So, he was absolutely he was a manufacturer. So, if he was required to do a background check, I think that, yes, that would have been caught.

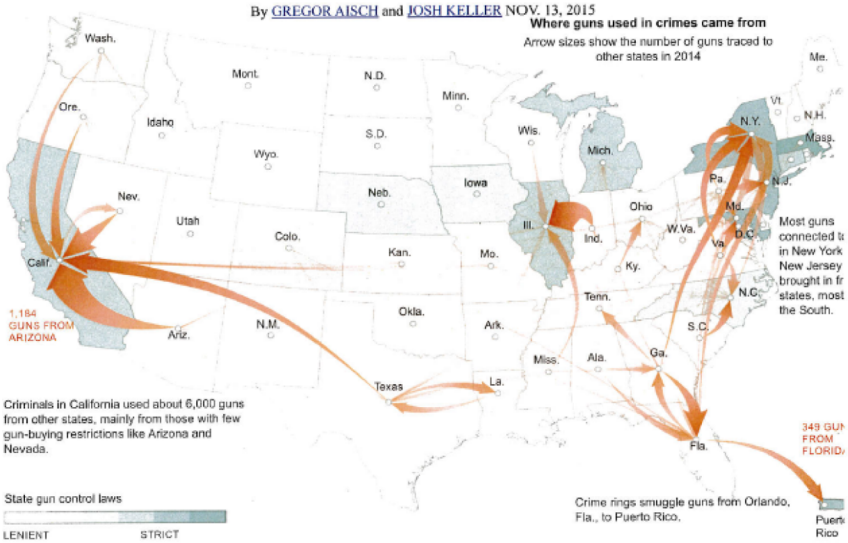
Mr. GOLDMAN. Mr. Chairman, if I could just ask for unanimous consent to enter into the record a *New York Times* article titled, "How Gun Traffickers Get Around State Gun Laws," which shows that in New York and New Jersey, more than two-thirds of guns used in crimes come from out of State, mostly from States in the south with much more lax gun laws—and that 6,000 guns used in crimes in California came from other States with lax gun laws, such as Texas.

Chairman D'ESPOSITO. Without objection.

[The information follows:]

How Gun Traffickers Get Around State Gun Laws

By GREGOR AISCH and JOSH KELLER NOV. 13, 2015

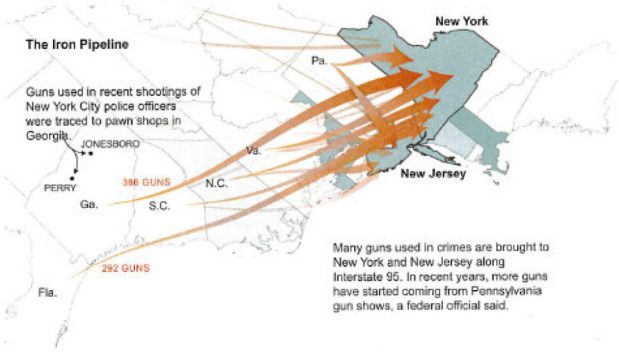


In California, some gun smugglers use FedEx. In Chicago, smugglers drive just across the state line into Indiana, buy a gun and drive back. In Orlando, Fla., smugglers have been known to fill a $500 car with guns and send it on a ship to crime rings in Puerto Rico.

In response to mass shootings in the last few years, more than 20 states, including some of the nation's biggest, have passed new laws restricting how people can buy and carry guns. Yet the effect of those laws has been significantly diluted by a thriving underground market for firearms brought from states with few restrictions.

About 50,000 guns are found to be diverted to criminals across state lines every year, federal data shows, and many more are likely to cross state lines undetected.

In New York and New Jersey, which have some of the strictest laws in the country, more than two-thirds of guns tied to criminal activity were traced to out-of-state purchases in 2014. Many were brought in via the so-called Iron Pipeline, made up of Interstate 95 and its tributary highways, from Southern states with weaker gun laws, like Virginia, Georgia and Florida.



Many guns used in crimes are brought to New York and New Jersey along Interstate 95. In recent years, more guns have started coming from Pennsylvania gun shows, a federal official said.

A handgun used in the killing of two Brooklyn officers last year was traced to a pawnshop just south of Atlanta. A revolver used in a fatal shooting of an officer in Queens in May was traced to a roadside pawnshop, also in Georgia, about 100 miles from Atlanta. And a handgun used to kill an officer in East Harlem last month was traced to South Carolina.

"We're trying to deal with it, but we have a spigot that's wide open down there and we don't have a national or local ability to shut that spigot down at the moment," said the New York City police commissioner, William J. Bratton, as he announced an indictment against gun traffickers last week.



New York Police Department, via Getty Images

Two guns used in killings of New York City police officers were traced to pawnshops in Georgia.

The economics are straightforward: A low-quality handgun that sells for $100 in an Atlanta store might sell for $500 or $600 in New York City, researchers say — and it can be transported cheaply. By contrast, the majority of guns used in crimes in Texas, Georgia and other states with more lenient gun laws are purchased in-state.

The New York Times examined gun trafficking by analyzing nine years of data compiled by the Bureau of Alcohol, Tobacco, Firearms and Explosives, as well as an index of state gun laws developed by researchers at Johns Hopkins University.

Law enforcement officials express frequent frustration that they are not able to track every gun that crosses state lines, which means the estimates here are conservative. When the police do recover a gun tied to criminal activity, typically after an arrest, they can trace the gun to where it was last sold through a federally licensed dealer.

Chicago offers perhaps the starkest example of trafficking. There are no retail gun dealers within city limits, because Chicago has some of the tightest municipal gun regulations. Yet bringing a gun into Chicago can be as simple as driving less than an hour to a gun show in Indiana, where private sales are not recorded and do not require a background check.

"If you're in the city of Chicago on the South Side, you may be closer to Indiana than you are to the Magnificent Mile," said Roseanna Ander, executive director of the University of Chicago Crime Lab, referring to a well-known part of Chicago's downtown.



Many guns follow a complex path from the original sale to the underground market. Most guns are originally bought from retail stores, but people who can't pass a background check typically obtain guns from friends, family or illegal dealers.

According to an anonymous survey of inmates in Cook County, Ill., covering 135 guns they had access to, only two had been purchased directly from a gun store. Many inmates reported obtaining guns from friends who had bought them legally and then reported them stolen, or from locals who had brought the guns from out of state.

One inmate said, "Some people get on a train and bring them back, can be up to five or six guns, depending on how much risk they want to take."

Some larger traffickers use more elaborate techniques. Buying a gun in Puerto Rico requires an expensive permit and a lengthy application process, but Florida has no such restrictions. Traffickers in Orlando tied to organized gangs in Puerto Rico send guns in the mail, through FedEx, or even encased in cars that travel by ship to the island.

"They'll buy a $500 car and stuff it with as many guns as possible," said Carlos Gonzalez, an agent with the Miami division of the Bureau of Alcohol, Tobacco, Firearms and Explosives.

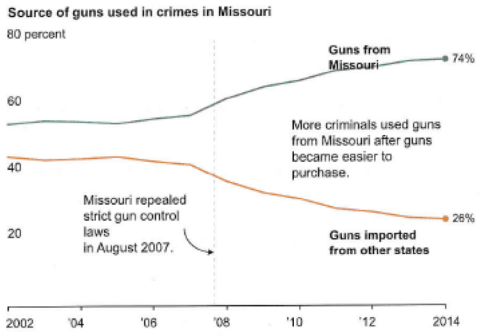


Federal agents and postal inspectors have caught some traffickers, leading to modified techniques, such as shipping guns in newer, more expensive cars or mailing guns from Jacksonville, Fla., instead of Orlando. Stopping such smuggling is logistically hard. "If the U.S. Postal Service were to screen every single package that entered into Puerto Rico, it would bring the economy to a halt," Mr. Gonzalez said.

Most gun trafficking patterns have remained remarkably constant over time. But some researchers point to a significant shift in Missouri as evidence that changes to one state's laws can have broad implications.

Before 2007, Missouri required gun buyers to get a state permit and to undergo background checks on private sales, two restrictions strongly associated with states that provide fewer guns to interstate traffickers, according to research by Daniel Webster, director of the Johns Hopkins Center for Gun Policy and Research. At the time, nearly half of the guns used in crimes and recovered in Missouri were traced to other states, largely from neighboring Kansas and Illinois.

But when Missouri relaxed its gun control laws in 2007, the flow started to change. The number of guns traced to other states decreased, while the number of guns from within Missouri increased to nearly three-quarters.



Note: State gun strictness shown in maps is based on work by researchers at Johns Hopkins University that examined whether states require licenses to purchase handguns, regulate private handgun sales, require gun owners to report theft or loss, strongly regulate gun dealers and ban junk guns that do not meet certain design and safety standards. Guns shown include those illegally possessed, used in a crime or suspected to have been used in a crime.

Sources: Bureau of Alcohol, Tobacco, Firearms and Explosives (gun traces); Daniel Webster, Johns Hopkins Center for Gun Policy and Research (gun laws); "Sources of guns to dangerous people: What we learn by asking them," Philip J. Cook, Susan T. Parker and Harold A. Pollack (underground gun sources).

Chairman D'ESPOSITO. The gentleman's time has expired. I now recognize Mr. Crane of Arizona for 5 minutes.

Mr. CRANE. Thank you guys for coming here today. I really appreciate it. It is an honor to have so many police up in the Capitol this week. Thank you for what you do and please let your families know that we appreciate what they do as well.

I want to go ahead and read the Second Amendment real quick because I think that it is something that probably doesn't get read or mentioned enough up here. I think often some of the politicians that have taken an oath to, you know, protect the Constitution of the United States often forget what it says. A well-regulated militia be necessary to the security of a free state. The right of the people to keep and bear arms shall not be infringed. Chief, what do you think of the Second Amendment? Do you think that we should hold to it? Do you think we should honor it, yes or no?

Chief GERKE. Absolutely honor it, no question.

Mr. CRANE. Sheriff Barnes, what do you think?

Sheriff BARNES. I can guarantee you that I absolutely do honor it.

Mr. CRANE. Commissioner Cox, what do you think, sir?

Mr. COX. We honor it.

Mr. CRANE. I am sorry, let me get the name. Mr. Mangual, what do you think, sir?

Mr. MANGUAL. I absolutely think it should be honored.

Mr. CRANE. Well, I appreciate that you guys said that because I know that there are plenty of people in this country that would love to see it go away. Many of them don't want to take it in one fell swoop. It is death by a thousand cuts. Do you guys know that Mexico has some of the most violent gun crimes in the world? Do

you guys know what their gun laws are? Do you guys know is it can people just own guns in Mexico like we can here, Sheriff Barnes?

Sheriff BARNES. Their gun laws are very prohibitive.

Mr. CRANE. Yes, they are. That's weird, isn't it, Sheriff? Why is that? That doesn't add up. I don't understand, if their gun laws are so strict, how is it often ranked in the top five globally for gun violence? Maybe you can help me with that one.

Sheriff BARNES. Because they don't enforce their gun laws.

Mr. CRANE. Yes. Is it true, Sheriff, Chief, Commissioner, that criminals often don't care about laws?

Sheriff BARNES. I can tell you that what we've seen in some of the lawlessness that those who are committing violent crimes with guns are those who are prohibited from possessing them because of their criminal acts. That's been my experience.

Mr. CRANE. Yes. Thank you. Sheriff, you know, I was listening to your opening testimony and one of the words, one of the phrases that you chose struck me. You said policy created lawlessness. Can you expound on that, Sheriff?

Sheriff BARNES. Certainly. So, I think that we have had over the course in California and probably other parts of this Nation policies that are passed for political extremist positions rather than focused on keeping our public and our constituents safe. We've seen that manifest over the last 10 years-plus in California. We've seen a tax on some of our—the Second Amendment, for example, there's a bill in California to make it so prohibitive, but on its face, it's believed to be absolutely unconstitutional. So, why——

Mr. CRANE. Thank you.

Sheriff BARNES [continuing]. We'd pass something like that is beyond my.

Mr. CRANE. Yes, thank you. Chief, what did defund the police, what did you think of that whole movement? What did that do to your department?

Chief GERKE. Well, the area that I police in, I mean, that wasn't even an option. That was never something that was brought up or even considered, so——

Mr. CRANE. Was it good? Was it good for you guys, Chief, or bad?

Chief GERKE. Oh, it was bad because, you know, you look around and you say those poor guys, wherever defunding was happening, and you would say, those poor guys in that department. You know, you'd hear our rank-and-file say, I'd hate to work for that department. I'd hate to work for that city——

Mr. CRANE. Yes.

Chief GERKE [continuing]. Because they don't appreciate us like they do in West Texas.

Mr. CRANE. Commissioner Cox, what about you, sir? Defund the police, was that good or bad for your department, for your city?

Mr. COX. I mean, defund the police, you know, philosophy, as well as, you know, several other things, has probably made it a lot more challenging to certainly retain officers and more access to attract young people to our profession.

Mr. CRANE. I thought so. The last thing I want to do is I want to read bits of an article that a friend of mine wrote about some of the gun data being thrown around. Activists seeking restrictions

on the Second Amendment are fond of citing, "homicide rate", instead of raw homicide numbers. They do this because it allows them to skirt any admission of gun control failures in blue States. California's pro-gun control Governor, Gavin Newsom, provides a good example of the left's propensity to use rates to avoid the use of raw numbers. On May 13, 2023, he tweeted, it has to be the humidity. Why else would California's gun violence rate be 57 percent lower than Florida's? That tweet, coupled with Newsom's on-going push for more gun control, alongside criticism of Florida laws like constitutional carry, concealed carry, et cetera, appears designed to give readers the impression that California's gun control keeps people safe while Florida's pro-2A costs more lives. But here's the raw statistics. The number of homicides in California during 2021 was 2,495 according to the CDC homicide mortality map. The CDC's homicide mortality map shows the number of homicides in Florida in 2021 was 1,468.

So, there's a lot of misdirection, more misinformation about gun data and violence in the United States. It is the same old thing——

Chairman D'ESPOSITO. The gentleman's time has expired.

Mr. CRANE [continuing]. Just shift, shift, fire. Thank you, I yield back.

Chairman D'ESPOSITO. Thank you, Mr. Crane. Before we get to our next, I just have to comment, Chief Gerke, to Mr. Crane's questioning. I think it is one of the reasons why we are having this hearing today, and one of the reasons, one of the biggest detriments that we see to law enforcement. When you discuss the defund the police movement, you said that you heard over and over again, not just from your department, from throughout other people in law enforcement, "I would hate to work for that department." I think that sums up why we are here today. We need to make sure that our law enforcement professionals throughout this country never think that and never say that. With that, I now recognize Ms. Titus of Nevada for 5 minutes.

Ms. TITUS. Thank you, Mr. Chairman. Thank you all for being here. We have heard a lot about community policing. I would argue, and I think statistics show this, that part of that is having police officers look like the people they serve, having more diverse police departments because that way they can build trust in the community. They can serve as role models for a community. They can get more information from the community. There is better communication. A Spanish-speaking officer, for example, in an area that is largely Hispanic, would be able to build that trust. So, I would just add that to the notion of community policing.

You all also talked about the need for better cooperation or collaboration between the Federal Government and the local governments. You have mentioned grants. So, it is about money, but also information. So, I would like to ask you about the information that you are trying to get from the ATF about gun tracing. We have tried to set up a national searchable, centralized gun transaction database, but largely due to the efforts of the gun lobby, that has not happened. So, the ATF's hands are really tied and it takes, the statistics shows an ATF employee would have to sift through about 1,800 documents per day, absent a digital system, to determine the history of a crime gun. We hear a lot about these illegal guns. Com-

missioner, could you talk about the need for better information to be able to better trace these guns?

Mr. COX. I mean, we could always want more and better, so there's no doubt about that. But we work well with the ATF locally. As a matter of fact, we have them embedded in our office, and we have officers embedded with them as well. So, I mean, there's always a backlog of, you know, guns and, you know, tracing and things of that nature. But I can't sit here today and criticize ATF in any way because their partnership has been fairly strong in Boston. But it's a matter of resources, and so, you know, more would be better.

Ms. TITUS. Are they part of your fusion center? I know most large cities and States have fusion centers.

Mr. COX. So, we have our Boston Regional Intelligence Center, and they are not a part of that. But the fact is we have a ballistics unit, and they actually have personnel assigned to our unit and task force. We have multiple task force, part of the JTTF, and we actually have one with ATF that we have an actual body, actually two bodies assigned with them.

Ms. TITUS. Well, I am glad to hear that is the case in Boston, because it doesn't seem to be the case in a lot of cities where we hear that ATF takes too long to provide information.

Let me ask you another question about this cooperation between State or Federal and local governments, and that is with red flag laws. We haven't gotten much passed through the Congress about gun violence regulation, but the bipartisan Safer Communities Act did set aside $750 million in funding for States to pursue, implement, improve what they called extreme risk protection orders or red flag laws. I think 19 States have done that, including Nevada has a red flag law. Could you tell us, Chief or anybody, how these laws help you or hurt your efforts in stopping violence with guns?

Sheriff BARNES. I can tell you that I'm a believer in red flag laws, and we have several provisions in California to take guns away from people who are prohibited from possessing firearms. My agency not only has issued the most CCWs in California, but also has investigative teams that go out and take guns away from people who are prohibited from possessing them.

To your previous question real quick, one of the big issues on querying for databases on guns is the fact that you have to go to I think it's 20 different databases to search for ownership, guns, other things. If they could narrow that query down to one query that searches all those databases would make not only ATF, but agencies working with ATF much more successful and utilize resources much more efficiently if that were to be employed.

Ms. TITUS. Thank you. I appreciate that. So, anybody else have an opinion on red flag laws?

Chief GERKE. I'll say in Texas that, you know, particularly victims of family violence, those are of great concern to us. Those are issued emergency protective orders almost immediately. When that happens, those people are prohibited from carrying guns right at that point. My department we take a very proactive approach to those. When we know that there's been a protective order issued, we will go by that residence sometimes twice a shift to check on those protected individuals to make sure they're OK.

Also, going back to the ATF question, you know, we do follow-up. Any time there is a gun crime, we want to know where that gun came from. Many times, that gun is stolen. So, that answers one question. But if that gun is not stolen and it's in the hand of a 16-year-old gang member, how did that 16-year-old gang member come to own that gun or possess that gun? So, we do trace that back. We find those owners and we find out, you know, particularly you want to know if that one owner has bought 17, 20, 30 guns in the last 5 months, right? Those are things that are important to know.

Chairman D'ESPOSITO. The gentlewoman's time has expired.

Ms. TITUS. Thank you.

Chairman PFLUGER. I now recognize Mr. Brecheen of Oklahoma for 5 minutes.

Mr. BRECHEEN. Thank you to the Chairman. Thank you all for being here. You are heroes to people that you protect and I am grateful to you. As my colleague said a while ago, also the thanks to not only your families, but all the families who, when they say goodbye in the morning, they know the danger that their loved ones encounter throughout the day. So, what an amazing testament of courage to our men and women in the policing service.

I want to recognize in Oklahoma last year, we had three officers lost in the line of duty. I just want to just pay honor to them and their families. Deputy Sheriff Jeremy McCain of Oklahoma County, Patrolman Joseph Barlow of McAlester, and Detention Officer Kenneth Fowler of Pontotoc County.

I found it astounding this morning, Mr. Gerke and Mr. Barnes, you both alluded to fentanyl being one of your priority issues and which absolutely, as we know, is a result of lack of enforcement, lack of capture at our Southern Border, given the flow. So, in 2021, we know that 70,000 deaths occurred. It is the leading cause of death, fentanyl poisoning. Many times, people are thinking they are taking some other substance, they are taking fentanyl, and it leads to their demise. That 70,000 would be as if a jetliner every day was crashing to get to that annual number. It is the leading cause of death, 18 to 45 in America today. In Oklahoma in 2022, there were 326 Oklahomans who died from fentanyl. Just in the first 5 months of this year, there's already 300. So, it is just a number that continues to grow.

The deadly mixture of tranq that keeps Narcan from being able to revive someone. My question to anyone at the panel. What are you seeing with this? What is your experience? What are your suggestions as it pertains to what the Federal Government can be doing with this dangerous mixture concoction of the fentanyl being laced with xylazine?

Sheriff BARNES. So, I'm also the county coroner in Orange County, and we look at all that data. We've seen the presence of xylazine increase over the last 4 years to become much more dominant. So, we know that that is a causal factor in the synergy created with fentanyl. So, it is an on-going issue.

The rise of the 70,000, in our analysis of the fentanyl addiction, the vast majority of those deaths are people not taking one pill, are people who are addicted to fentanyl, who are seeking out fentanyl as an addiction that is causing their demise. My analysis was 96

percent of those who died in my area as a result of fentanyl had an addiction or prior arrest for drug offenses that weren't first-time users. That does happen. The clandestine-produced pills are often being sold as Xanax, OxyContin, oxycodone, and other things. You do have xylazine sometimes mixed. But it's mostly the addicts and they're seeking out the pure fentanyl for an addictive high.

Mr. BRECHEEN. Sheriff Barnes, since I have got you on the mic already, I want to kind-of pivot to something I found really interesting. You talked about the lawlessness that policies as a laboratory of experimentation that your State has been seeing. You quoted some numbers that your prison population as of 2010 was 165,000, and that dropped to 90,000 almost in half in a 10-year time period. To date, you are about 90,000 prison population. But what you talked about in your opening remarks was that that decriminalization element where State law has been changed, it has led to a 31 percent increase of homicides in that same time period. A 31 percent increase in homicides, and the population only rose 10 percent. It is astounding. Also, in that 30-percentile range was aggravated assaults had grown 30 percent.

You then talked about that those that are killed, officers that are killed in the line of duty come from those with extensive criminal records. You, a moment ago told a member of this panel that it is not the gun, it is those that are getting the gun. So, we see in America today, the gun is looked at as the target for our focus. Yet I appreciate you talking about the human factor. Would you expound upon that?

Sheriff BARNES. Sure. So just to put that in perspective, I've issued 20,000 CCWs and none of those individuals have gone out and committed a homicide. So, I think when you look at just guns being issued, it's the criminal element using guns in the commission of crimes, oftentimes when they should have been incarcerated for the previous crimes, that is driving the violence that we're seeing with these decarceration efforts.

Mr. BRECHEEN. So, just to follow and ending with this, Mr. Chairman, that if we would be more apt to go after the criminals and not bring about policy that decriminalizes them on lesser crimes, we could go to the heart of what leads to more aggressive, more violent behavior years later. It is ushered in by being lax on criminal behavior. With that, I yield.

Chairman D'ESPOSITO. The gentleman's time has expired. Before we get to the next speaker, I just want to, going back to my questioning before, Mr. Cox. So, in 2022 there were 563 people charged with unlawful possession in Boston. That was 93 percent of all firearm arrests. The overwhelming majority of shootings both with victims and not with victims, involved handguns. According to the complaints that were filed, there was not one that referred to any white supremacy-driven violent crime. With that, I now recognize Mr. Ivey of Maryland for 5 minutes.

Mr. IVEY. Thank you, Mr. Chairman. I want to yield to Mr. Correa to follow up on a point that was made earlier.

Mr. CORREA. Thank you, Mr. Ivey. I just want to ask for unanimous consent to enter into the record an article from the Trace titled *Guns Recovered in Mexico Come Mostly from U.S. Makers.* It shows that as much as 90 percent of all guns recovered in Mexican

soil originate from the United States. If I can admit this for the record, please?

Chairman D'ESPOSITO. Without objection, Mr. Correa.

[The information follows:]

ARTICLE SUBMITTED BY HONORABLE J. LUIS CORREA

GUNS RECOVERED BY MEXICO'S MILITARY COME MOSTLY FROM U.S. MAKERS

In the wake of a judge's decision to throw out the Mexican government's lawsuit against the gun industry, data shows American companies produce the weapons driving cartel violence.

By Champe Barton, Alain Stephens, and Steve Fisher

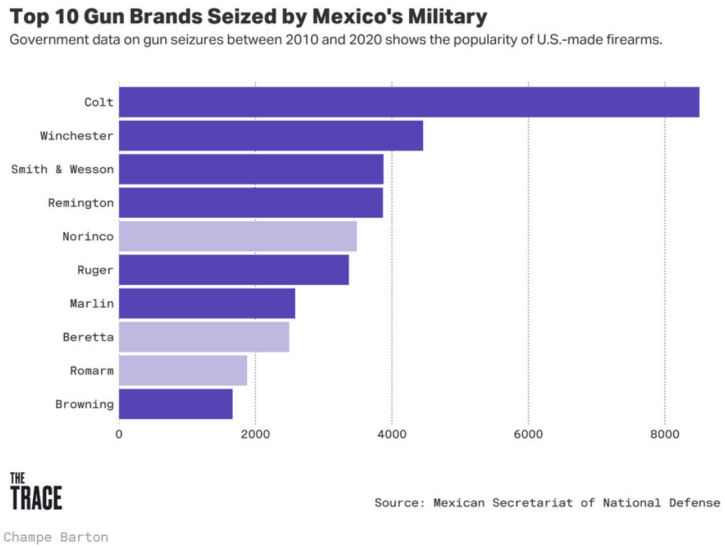
Oct 20, 2022

On September 30, a Federal judge dismissed a groundbreaking legal challenge to the gun industry filed by the government of Mexico. The suit laid out an argument that major U.S. gunmakers have knowingly facilitated more than a decade of deadly cartel violence across the southern border. They have done this, Mexico argued, by marketing weapons in a way that attracts criminals and turning a blind eye to those weapons' diversion into trafficking routes. The judge dismissed the claim on account of a special legal shield enjoyed by the gun industry.

To date, data underlying Mexico's dramatic pronouncements—that as much as 90 percent of all guns recovered on Mexican soil originated in the U.S.; that as many as 597,000 weapons slip over the border each year, most from American gun manufacturers—has only been shared in aggregate form by the Bureau of Alcohol, Tobacco, Firearms and Explosives.

But data obtained from Mexico's Secretariat of National Defense provides a detailed look at the specific manufacturers who produce weapons commonly used in cartel violence. The data details every firearm recovered by the Mexican military between 2010 and May 2020—almost 125,000 weapons, including machine guns, grenade launchers, and tens of thousands of pistols and rifles. Taken together, the numbers tell a damning story of iconic American gunmakers' involvement in a decade of Mexican bloodshed.

U.S. gun manufacturers make up seven out of the top 10 companies whose guns are most frequently seized by the Mexican military. Colt Manufacturing, based in Hartford, Connecticut, led the list, with more than 8,500 firearms—6.8 percent of all guns recovered in Mexico over the 10-year span. Winchester Repeating Arms, based in New Haven, Connecticut, followed in second place with over 4,000 weapons recovered. Major gunmakers including Smith & Wesson, Remington, Ruger, and Browning, also appear in the top 10.



Altogether, U.S. weapons manufacturers accounted for at least 30 percent of guns in the dataset, according to a Trace analysis. Another 61,000 guns—roughly half of all the weapons recovered—either had no identifiable manufacturing marks, or had their manufacturer information left out during data entry. It's possible many of these guns originated in the U.S., but had identifying characteristics scratched away by their owners in attempts to evade tracking by authorities. (Like U.S. police agencies, the Mexican government traces firearms with the ATF.)

It is also possible that many of the guns manufactured by foreign-based gun companies originated in the U.S. Glock, an Austrian company, has a separate operation headquartered in Georgia. Sig Sauer, a German company, has headquarters in New Hampshire. These companies, along with several others, manufacture and sell millions of guns domestically every year. The Mexican military's data shows that 970 Glock firearms were recovered in the country between 2010 and 2020. But because the data does not specify the country in which each gun was manufactured, guns produced by foreign companies were excluded from The Trace's estimates of U.S.-made guns. ATF trace data, which may include some subset of these firearms, as well as recoveries made by law enforcement authorities other than the Mexican military, shows that more than 70,000 guns made their way from the U.S. to Mexico between 2015 and 2020.

Mexico enforces extremely stringent gun laws. There is only one gun store in the entire country, and it's located behind fortified walls on a military base. Anybody interested in purchasing a gun from this store must undergo months of background scrutiny. Law enforcement and border security experts have long recognized that these restrictions—paired with a thriving array of cartels warring for regional power—make Mexico a hot destination for trafficked firearms. The country's proximity to the U.S. and the sheer abundance of guns in circulation here make the U.S. a natural source.

"We produce some of the best firearms in the world," said David Shirk, a professor of political science at the University of San Diego who specializes in U.S.-Mexico relations. "Some of the people who are most interested in obtaining firearms and with the most financial resources to do so are Mexican drug trafficking and criminal organizations."

The human cost of this black market transaction is extraordinary: The Mexican government claims that more than 180,000 people were killed in violent gun crimes between 2007 and 2019, spinning an unfathomable web of grief and forcing many to flee their homes. The violence in certain areas is so extreme that the U.S. Department of State has advised travelers to avoid them.

This death toll has become a political sticking point for the administration of Mexico's current president, Andrés Manuel López Obrador. Where previous administrations have tried to snuff out cartel activity by force, Obrador has tried to shift some of this focus to root causes: socioeconomic struggles that make cartel involvement appealing to young men, and arms trafficked over the country's northern border. It was in step with this strategy that Mexico launched its lawsuit against U.S. gun companies in 2021.

"[The manufacturers] should make necessary changes so they are not appealing to narcos," said Alejandro Celorio Alcántara, a legal advisor for Mexico's Foreign Ministry who was intimately involved with the country's lawsuit. "They have access to trace information."

Domestically, countering arms trafficked from the U.S. has been of second mind to policymakers, who have tended instead to focus on drugs and people being trafficked north. But some efforts to clamp down on southbound gun trafficking routes have picked up steam in Congress. Most recently, in June, the U.S. Congress passed the Bipartisan Safer Communities Act, which makes straw purchasing and gun trafficking Federal crimes.

Law enforcement experts say it's dangerous to underestimate the integral role firearms play in driving both drugs and people north.

"Tens of thousands of people are dying from fentanyl overdoses every year in the U.S., and most of that fentanyl these days is coming directly from Mexico, from the cartels," said Joseph Lestrange, a retired Homeland Security Investigations division chief, who is now a security consultant, adding that U.S. guns arm most of the cartels sending these drugs north. "[Gun trafficking] fuels and facilitates the continued expansion of criminal enterprises in Mexico that are feeding this demand."

Mr. CORREA. Thank you. Very quickly, if I can answer, respond to my colleague who is not here right now. I wish he would be here. About guns in Mexico. I don't make Mexican laws. I am a U.S. lawmaker. But we did meet, Democrats and Republicans met with the Mexican president about 2 or 3 months ago. This was one of the issues that was brought up by the Mexican president, which is he needs help from us addressing the gun smuggling issue. He was telling the story of the arrest of Chapo Guzman's son, 14 soldiers, Mexican soldiers died in that action. He said they had 50-caliber weapons. We can't compete with those. So, they need our help.

So, yes, Second Amendment, preserve it. But let's make sure, like my sheriff says, that we go after the criminal element as well. I yield.

Mr. IVEY. Thank you. To the Chairman's point, I appreciate the fact that assault weapons are not the vast majority of—are used in the vast majority of murders in the United States. I don't think that means that we don't try and control both because it is clear that assault weapons—we will have a hearing at 2 and we will talk a lot about that today—are driving the mass killings in the country by far.

This is Police Week. I want to take a moment and acknowledge police officers, especially in my jurisdiction of Prince George's County. I was a State prosecutor there for 8 years and worked with them closely. Prosecuted officers across the line, but the vast majority of our more than 2,000 officers did a hard job well.

I did want to say quickly with respect to the commissioner, when I ran for office in 2002, the basis for my campaign was to implement the Boston strategy in Prince George's County. The logic of that for me was, yes, we need tough enforcement. We want to have a carrot-and-stick approach. So, we want to make sure that we do everything we can for intervention prevention efforts. Chief, as you mentioned a minute ago, it is better to preempt the crime than to deal with arrests after the fact, because then you are saving victims from having to undergo the suffering, the death, and the loss,

and the like. Sheriff, you mentioned the thefts that take place. Trying to preempt that is a good way to go as well.

But I do want to preempt, or push back a little bit on the approach, or the suggestion that incarceration is the only way to deal with this problem. You know, I remember when we had 2.2 million people in jail here in the United States. I think there was a point where we surged ahead of China and had more people incarcerated than any other country in the world. Certainly, there is a place for enforcement, but, you know, I found that we had success with intervention prevention efforts that incorporated the faith community, outreach to our schools, we used coaches. Whatever strategy we could approach to try and reach young people in particular before they got into trouble or if they were in trouble, to pull them back out of trouble, if they were in gangs, for example, we thought that was an important way to go. I think that dovetailed well with the community policing strategy that was outlined a minute ago by the commissioner and also with respect to outreach to the citizens.

It is a team effort, and the most successful strategies, I think, are the ones that try and integrate law enforcement along with prosecutors, but also making sure that the community is brought in and is part of what is going on with respect to reducing the crimes, because they are the witnesses in these cases when they come to court. They are the ones that provide the tips to the police to make the arrests. Sometimes they are the ones that provide the tips to go get the gun before somebody gets shot with it, you know, or gets brought out of the car, or out of the police, or out of the school locker.

I did want to say this, too, just quickly with respect to your testimony. I appreciated the fact that you outlined your partnerships actually, both of you did, with Federal prosecutors and Federal law enforcement. We have got bills here in the House where one of my colleagues has offered, a Republican colleague, offered a bill to eliminate ATF. One has offered a bill to eliminate the FBI. There have been calls by, you know, certain national leaders to eliminate the Department of Justice and the FBI. But I know from my experience and just based on what I read from your testimony, that the Federal and State and local partnership can be very effective. In fact, sometimes the most effective in fighting crime.

So, I commend you for the work that you do, and I encourage you to keep it up. I thank you for coming here today.

Chairman D'ESPOSITO. Well, thank you. Thank you to all the witnesses for your valuable testimony, and obviously to my colleagues for their questions. Perhaps we don't often agree on everything, but I think during this week, especially whether you are a Republican or you are a Democrat, we can recognize and agree that we appreciate all of your hard work, your sacrifice, the work that you do to keep our community safe. So, thank you to all for being here, for making the trip here, and I think for really engaging in a conversation to move policing forward and keep police officers safe across this Nation for the future.

The Members of the subcommittees may have additional questions for the witnesses, and we ask the witnesses to respond to those in writing.

Pursuant to committee rule VII(D), the hearing record will be open for 10 days. Without objection, the subcommittees stand adjourned.

[Whereupon, at 11:18 a.m., the subcommittees were adjourned.]

APPENDIX

QUESTIONS FROM HONORABLE LAUREL M. LEE FOR MICHAEL GERKE

Question 1. When it comes to information sharing between Federal and State authorities, would you speak to some of the challenges Odessa faces when it comes to communication with the Federal Government and its partnership with the National Human Trafficking Hotline?

Answer. Response was not received at the time of publication.

Question 2. Would you walk us through what information sharing looks like when attempting to identify broader trafficking trends?

Answer. Response was not received at the time of publication.

Question 3. What other obstacles exist when attempting to stop criminals trafficking humans and illegal narcotics?

Answer. Response was not received at the time of publication.

QUESTION FROM HONORABLE LAUREL M. LEE FOR DON BARNES

Question. In your written testimony, you included reference to Operation Red Zone across a dozen or so law enforcement agencies. Would you speak to some of the efforts of the Orange County Intelligence Assessment Center in the fight against human trafficking?

Answer. With regard to Operation Red Zone, the Orange County Intelligence Assessment Center (OCIAC) coordinated Operation Red Zone in partnership with 11 local law enforcement agencies, the Orange County District Attorney's Office and the U.S. Department of Homeland Security to identify victims of human trafficking and hold their perpetrators accountable. This operation took place during the week leading up to the 2022 Super Bowl, which was held in Los Angeles.

The operation resulted in the arrest of 56 suspects and recovery of 16 victims. The more than 4 dozen arrests included men ages 20 to 55 from Orange and Los Angeles counties. Charges included human trafficking, pimping and pandering, solicitation for sex, and narcotics. In addition, one unregistered handgun was recovered.

Agencies conducted multiple operations utilizing investigative techniques most impactful for their specific city. This included undercover operations, investigation into online-based sex solicitation websites and investigations into known problematic businesses.

As Orange County's fusion center, OCIAC plays a critical role in addressing human trafficking. The analysts at OCIAC provide actionable information to our human trafficking task force, threat briefings, and assist in community awareness campaigns.

Another specific area where OCIAC has been instrumental is the identification of on-line sex ads that use or target juveniles. In 2022, the Orange County Intelligence Assessment Center identified more than 6,000 possible juveniles in commercial (on-line) sex ads in Orange County. OCIAC flags and shares these ads with the appropriate law enforcement agencies for further investigation.

During the pandemic, we saw a marked increase in the number of potential human trafficking incidents in the form of commercial (on-line) sex ads. This was attributed to an increase in the number of young people staying home and participating in unmonitored on-line activity.

- 2019: 5,293 commercial sex ads involving possible juveniles
- 2020: 20,456 commercial sex ads involving possible juveniles
- 2021: 10,000 commercial sex ads involving possible juveniles
- 2022: 6,232 commercial sex ads involving possible juveniles.

An increase in the number of commercial sex ads featuring possible juveniles tells us that there is an increased probability human trafficking is occurring. In many cases, participating in the sex trade is not a choice, but rather a product of being trafficked.

Venues for on-line trafficking solicitation include on-line gaming with direct messaging and voice messaging options and social media. Traffickers may mass message individuals with an innocuous type introduction message. The target is typically a young female but it happens to boys and men, too. They may also pose as a scout for a talent agency or something similar. The traffickers attempt to target individuals with noticeable vulnerabilities, i.e. someone with low self-esteem, someone who is lonely, or maybe a victim too young or naive to understand what is happening. Once the victim engages in conversation, the traffickers work to build trust. They may make false promises of a loving relationship or the promise of a well-paying job. Traffickers work to fulfill the victim's needs, whether that is something tangible like money or a place to stay, or something intangible like love or affection. Once they isolate these victims they begin to exploit them. OCIAC is critical in identifying these on-line sex ads and supporting law enforcement efforts to address and eliminate this threat.

Unrelated to your specific question, but important to note with regard to human trafficking is a new California law that has made law enforcement's work to combat trafficking more difficult. Senate Bill 357 took effect January 1, 2023. The legislation repeals a law that allows law enforcement to detain a person loitering with the intent to engage in prostitution. Essentially this law de-criminalizes those paying for services and those exploiting women. The former loitering law was a tool used by investigators to engage potential victims in a safe place and determine if they are a victim of human trafficking. It also helped us identify those who may be conducting the larger operation. The passage of SB 357 takes away an important tool and will prevent us from identifying and, ultimately, helping victims of trafficking. While this issue is currently specific to California, it is important to highlight this poor public policy so that it is not replicated in other jurisdictions.

QUESTIONS FROM HONORABLE DONALD M. PAYNE, JR., FOR MICHAEL A. COX

Question 1. In your testimony, you mention that UASI is a critical source for your Department and that Boston is receiving $200,000 less this year while going up in the UASI risk ranking. As you noted, the threat landscape has broadened. Do you have recommendations on how DHS grant programs can better address the growing threat landscape?

Answer. A significant way that Congress could assist law enforcement would be to increase funding across the Homeland Security Grant Program—to include UASI—and consider broadening its applicability beyond just "terrorism" to include other threats traditionally mitigated by the U.S. Department of Defense and intelligence community.

In addition, flexibility regarding time frames for expenditure of grant funds would better support long-term projects.

Question 2. Like many local government agencies, police departments have been hit hard by ransomware attacks in recent years. Such attacks risk exposing private information and sensitive details regarding criminal investigations and can interfere with a police department's ability to carry out its vital public safety mission. In just the past couple months, law enforcement agencies in Dallas, TX; Camden County, NJ; and San Bernardino County, CA have fallen victim to ransomware attacks. Can you describe the potential impact a similar ransomware attack could have on your agency and its ability to serve the public and what steps your agency has taken to strengthen your cyber defenses?

Answer. A successful ransomware attack launched by a skilled adversary against the Boston Police Department could hamper or cripple emergency services and public safety communications throughout the region. Law enforcement personnel could also lose access to case and operational data for weeks, impacting active investigations and prosecutions. Ransomware affiliates often steal data before encrypting it on target systems and the personally identifiable information of Boston area residents, sensitive criminal information and operational details could all be leaked on the internet or used for nefarious purposes. In addition to the impact on the Boston Police Department, disruptions to network traffic flow may impact other city systems and agencies.

A ransomware attack on our agency could also have far-reaching operational impacts. One of the most immediate and critical would be on the agency's Computer Aided Dispatch (CAD) system, which is essential for timely emergency response and coordination of law enforcement officers, firefighters, and emergency medical services. With CAD disrupted, response times could see significant delays, putting lives at risk.

In addition, the integrity of our telecommunications systems, including both phone and radio communications that we heavily rely on for internal communication

and public contact, could be undermined. A breach of this nature would not only obstruct our daily operations but also impede emergency responses.

On the investigative front, a ransomware attack could result in the encryption or total loss of essential data related to on-going investigations. This would cause substantial setbacks and could impair our ability to effectively solve crimes. A ransomware attack could also threaten the availability, integrity, and confidentiality of our case files and digital evidence. This could potentially undermine on-going and future prosecutions.

On the administrative side, the disruption of our financial systems could lead to substantial logistical issues. For example, systems used for payroll, purchasing, budgeting and accounts could all be targeted, preventing employees from being paid on time and vendors receiving timely payment, therefore creating confusion related to our finances.

Surveillance systems could also fall victim to ransomware, hindering our ability to monitor public areas and investigate crimes.

Last, public trust in our agency could be undermined, especially if personal information is exposed or critical services are disrupted.

To mitigate the risk of ransomware attacks, our agency has proactively undertaken several important measures. We conduct regular backups to protect critical data and keep all software and hardware updated to guard against known vulnerabilities. Our staff undergo on-going cybersecurity training to spot potential threats. We utilize incoming email filtering to block phishing attempts. Implementing next-generation antivirus solutions and multi-factor authentication bolsters our defenses further. Finally, we're in the process of upgrading our firewall to a next-generation system, enhancing our threat detection and prevention capabilities. These combined steps provide a multi-layered defense against ransomware, helping safeguard our agency's crucial services.

Question 3. How can the Federal Government better ensure law enforcement agencies have the resources to defend against and respond to these attacks?

Answer. Federal investments in the UASI and STC grant programs are vital to local efforts to prevent and mitigate potential attacks. Continued funding of these critical investments is necessary to defend against and respond to these attacks.

National security threats from nation-state actors and their proxies managing aggressive campaigns to sow seeds of discord in our communities through mis/dis/mal information, cyber attacks, and counterintelligence threats require more from our intelligence professionals, investigators, and front-line officers to protect our communities. Because these are issues that our Nation's first responders have not traditionally dealt with, we require more training, more personnel, more embedded analytical experts and more technical capabilities to mitigate these threats.

Specific to cyber attacks:

The role of the Federal Government is crucial in ensuring that law enforcement agencies like ours have the necessary resources to both prevent and respond to cyber threats effectively. An increase in Federal funding would significantly empower us to adopt advanced cybersecurity tools and technologies that are vital to safeguard our digital infrastructure. With the cyber threat landscape constantly evolving, staying up-to-date with the latest defenses is extremely important.

Additional financial support would assist us in attracting and retaining the highly-skilled cybersecurity professionals who are at the forefront of managing and improving our defenses.

In the unfortunate event of a cyber attack, Federal funding ensures that we can respond rapidly and effectively, minimizing operational disruption and swiftly restoring vital services. A proactive investment in our systems through regular updates and maintenance, facilitated by this funding, is another critical defense strategy.

Equally important are third-party security audits, which identify potential vulnerabilities and areas for improvement. Last, Federal funds could also support law enforcement agencies in covering the cost of cyber insurance premiums, providing an essential safety net.

4116

THE BIDEN BORDER CRISIS: PART III

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

TUESDAY, MAY 23, 2023

Serial No. 118–22

Printed for the use of the Committee on the Judiciary



Available via: *http://judiciary.house.gov*

U.S. GOVERNMENT PUBLISHING OFFICE

52–461 WASHINGTON : 2023

COMMITTEE ON THE JUDICIARY

JIM JORDAN, Ohio, *Chair*

DARRELL ISSA, California
KEN BUCK, Colorado
MATT GAETZ, Florida
MIKE JOHNSON, Louisiana
ANDY BIGGS, Arizona
TOM McCLINTOCK, California
TOM TIFFANY, Wisconsin
THOMAS MASSIE, Kentucky
CHIP ROY, Texas
DAN BISHOP, North Carolina
VICTORIA SPARTZ, Indiana
SCOTT FITZGERALD, Wisconsin
CLIFF BENTZ, Oregon
BEN CLINE, Virginia
LANCE GOODEN, Texas
JEFF VAN DREW, New Jersey
TROY NEHLS, Texas
BARRY MOORE, Alabama
KEVIN KILEY, California
HARRIET HAGEMAN, Wyoming
NATHANIEL MORAN, Texas
LAUREL LEE, Florida
WESLEY HUNT, Texas
RUSSELL FRY, South Carolina

JERROLD NADLER, New York, *Ranking Member*
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
STEVE COHEN, Tennessee
HENRY C. "HANK" JOHNSON, JR., Georgia
ADAM SCHIFF, California
DAVID N. CICILLINE, Rhode Island
ERIC SWALWELL, California
TED LIEU, California
PRAMILA JAYAPAL, Washington
J. LUIS CORREA, California
MARY GAY SCANLON, Pennsylvania
JOE NEGUSE, Colorado
LUCY McBATH, Georgia
MADELEINE DEAN, Pennsylvania
VERONICA ESCOBAR, Texas
DEBORAH ROSS, North Carolina
CORI BUSH, Missouri
GLENN IVEY, Maryland

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

TOM McCLINTOCK, California, *Chair*

KEN BUCK, Colorado
ANDY BIGGS, Arizona
TOM TIFFANY, Wisconsin
CHIP ROY, Texas
VICTORIA SPARTZ, Indiana
JEFF VAN DREW, New Jersey
TROY NEHLS, Texas
BARRY MOORE, Alabama
WESLEY HUNT, Texas

PRAMILA JAYAPAL, Washington, *Ranking Member*
ZOE LOFGREN, California
J. LUIS CORREA, California
VERONICA ESCOBAR, Texas
SHEILA JACKSON LEE, Texas
DEBORAH ROSS, North Carolina
DAVID N. CICILLINE, Rhode Island
ERIC SWALWELL, California

CHRISTOPHER HIXON, *Majority Staff Director*
AMY RUTKIN, *Minority Staff Director & Chief of Staff*

C O N T E N T S

TUESDAY, MAY 23, 2023

OPENING STATEMENTS

Page

The Honorable Tom McClintock, Chair of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of California 1
The Honorable Pramila Jayapal, Ranking Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Washington 3
The Honorable Jim Jordan, Chair of the Committee on the Judiciary from the State of Ohio 5
The Honorable Jerrold Nadler, Ranking Member of the Committee on the Judiciary from the State of New York 6

WITNESSES

Chief Rodney Scott, Distinguished Senior Fellow for Border Security, Texas Public Policy Foundation
Oral Testimony 9
Prepared Testimony 12
Mark Hetfield, CEO, HIAS
Oral Testimony 15
Prepared Testimony 17
Teresa Kenny, Supervisor, Town of Orangetown, New York
Oral Testimony 32
Prepared Testimony 35
Tammy Nobles, Realtor, Norfolk, Virginia
Oral Testimony 42
Prepared Testimony 44

LETTERS, STATEMENTS, ETC. SUBMITTED FOR THE HEARING

All materials submitted for the record by the Subcommittee on Immigration Integrity, Security, and Enforcement are listed below 72

Slides showing Tweets from different House Republicans, submitted by the Honorable Jerrold Nadler, Ranking Member of the Committee on the Judiciary from the State of New York, for the record
An article entitled, "What Everyone—Except the U.S.—Has Learned About Immigration. Washington remains divided over allowing more foreign workers while global rivals lower barriers to ease persistent labor shortages," May 16, 2023, Wall Street Journal, submitted by the Honorable J. Luis Correa, a Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of California, for the record
Materials submitted by the Honorable Pramila Jayapal, Ranking Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Washington, for the record
Statement from the Center for Gender & Refugee Studies (CGRS)
Statement from the Church World Service (CWS)
Statement from the National Immigration Forum
Materials submitted by the Honorable Andy Biggs, a Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Arizona, for the record
An article entitled, "Biden's back door bid to open the door to legalize migrants," Apr. 24, 2023, The New York Times

IV

Page

Materials submitted by the Honorable Andy Biggs, a Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Arizona, for the record—Continued
- An article entitled, "Border crossings down, but many migrants released to U.S. to ease crowding," May 19, 2023, Washington Post
- An article entitled, "WATCH: Human Smuggler Drops Preschool-Age Child Over California Border Wall," May 23, 2023, Breitbart
- An article entitled, "WATCH: Georgia Democrat Slams Party for Favoring Migrants Over Americans," May 23, 2023, Breitbart

Materials submitted by the Honorable Sheila Jackson Lee, a Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Texas, for the record
- An article entitled, "Biden admin to send 1,500 troops to southern border for support roles ahead of expected migrant surge," May, 2, 2023, CNN
- Statement from the Honorable Sheila Jackson Lee, a Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Texas

An email regarding HHS Case File, submitted by the Honorable Pramila Jayapal, Ranking Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Washington, for the record

APPENDIX

An article entitled, "How the Biden Administration Plans to Deal With the Looming Border Crisis," May 10, 2023, TIME, submitted by the Honorable Sheila Jackson Lee, a Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Texas, for the record

QUESTIONS AND RESPONSES FOR THE RECORD

Questions for Chief Rodney Scott, submitted by the Honorable Tom McClintock, Chair of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of California, for the record

Response from Chief Rodney Scott to the questions submitted by the Honorable Tom McClintock, Chair of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of California, for the record

THE BIDEN BORDER CRISIS: PART III

Tuesday, May 23, 2023

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

COMMITTEE ON THE JUDICIARY

Washington, DC

The Committee met, pursuant to notice, at 10:04 a.m., in Room 2141, Rayburn House Office Building, Hon. Tom McClintock [Chair of the Subcommittee] presiding.

Members present: Representatives McClintock, Jordan, Buck, Biggs, Tiffany, Roy, Van Drew, Nehls, Moore, Hunt, Jayapal, Nadler, Correa, Jackson Lee, Ross, and Swalwell.

Also present: Representative Lawler.

Mr. MCCLINTOCK. The Immigration Subcommittee of the House Judiciary Committee will come to order. A quorum is present. The Chair asks unanimous consent that Mr. Lawler of New York be seated on the Subcommittee for the Hearing. Is there any objection?

Hearing none, Mr. Lawler, welcome to this Subcommittee.

The Immigration Subcommittee meets today to hear testimony on the effect of the ongoing border crisis that began on Inauguration Day of 2021.

We have four witnesses with us today who are going to testify to the effects that this is having on the social services of our cities as well as the tragedies that it is causing for our citizens.

With that we will begin with—our first witness is Chief Rodney Scott, formerly the Chief of the Border Patrol of the United States.

Mr. Scott, we welcome you to the hearing today and recognize you.

Oh, I am sorry, we are going to do—start with—see that is what happens when I go script-less. I will actually begin with opening statements, and I will begin with myself.

When President Biden canceled construction of the border wall and ordered ICE not to enforce court-ordered deportations, we have seen 2.1 million illegal immigrants unlawfully admitted to the United States by this administration. That is a population larger than the entire State of Nebraska.

While that has been going on an additional 1.5 million known got-aways have entered while the Border Patrol has been overwhelmed. That is in additional illegal population larger than the

State of Hawaii. Combined that is 3.6 million illegal migrants admitted to our country. That is larger than the population of 20 of our States. That is just in 28 months.

The danger of this policy should be self-evident. When the President surrendered unconditionally to the Taliban and abandoned Bagram Air Base in the middle of the night, he released 5,000 of the most dangerous terrorists on the planet who were detained there. We know where one went. Ten days later he went to Abbey Gate at Kabul Airport and detonated the bomb that killed 13 U.S. Marines. We know that nearly 200 individuals on the Terrorist Watchlist were apprehended by the Border Patrol in 2022 and 2023, compared to just 14 in all four years of the Trump Administration combined. What we don't know is how many more are among the 1.5 million known got-aways.

Now, HHS Secretary Xavier Becerra told his staff that he demanded a rapid release of illegal migrants into the country. He compared it to an assembly line, and he warned subordinates that if they didn't move faster, he would find others who would. The lack of any serious vetting of those entering our country is producing tragic results for families like that of Kayla Hamilton whose grieving mother we will hear from today. In her case a 17-year-old MS–13 gang member was released into the United States as an unaccompanied alien child. Kayla Hamilton is dead as a result.

Police investigating her murder noticed her assailant had gang tattoos. One call to El Salvadoran authorities confirmed he was a known MS–13 gang member, something Federal officials never bothered to ask as they recklessly allowed him to enter the United States.

Drug trafficking now produces an average of 200 fentanyl deaths in the United States every day, the equivalent of a passenger jet crashing every day. Just a few days of such carnage would ground every aircraft in America.

We are told that human trafficking is now becoming an even more profitable business to the cartels than drugs. Illegal migrants arrive deeply in debt to the cartels whose violent gangs are proliferating in our cities to enforce these debts. In places like Tulare County, California, just outside of my district, we are starting to see cartel executions of entire families including in this case a mom shot through the head as she shielded her baby.

Every Border Patrol officer says the same thing: This is no longer a border problem. If it hasn't already come to your community, it soon will. I am afraid this culminate either in a terrorist attack by elements that have come in through our border or the kind of cartel gun battles breaking out in cities that have already become commonplace in Mexico.

Now, this is not to paint every illegal migrant as a gang member or terrorist, but the Biden open borders policy is clearly allowing many dangerous gang members, terrorists, and criminals into our country, and he doesn't seem to care about the resulting damage.

Meanwhile, the social safety net meant to help Americans in need is collapsing under the weight of millions of desperate, destitute, and dependent illegal migrants who are flooding our country.

New York City has now turned as many as 20 public school gymnasiums into hotels for illegal aliens. Recess is canceled because single adult men are sleeping on cots in gyms intended for school children.

We have heard from food pantries whose supplies are exhausted because of the explosion of illegal migrants. We have heard from hospital administrators at the border who have had to tell American citizens that they have no room for them because they are overwhelmed by migrants. We hear from law enforcement of the increasing presence of criminal cartels and foreign gangs in their communities.

Yet, the Democrats' witness is going to tell us a solution: Simply spend more money and process illegal migrants faster. This is lunacy.

It is a crime to illegally enter the United States. Federal law requires every asylum claimant to be detained until their case is heard and to be deported if it is rejected, but this administration simply ignores the law.

Now, these first hearings have examined the effect of these policies. Over the next few weeks, we will turn our attention to the cause: What laws are being violated and by whom?

With that I am pleased to recognize the Ranking Member of the Subcommittee, Ms. Jayapal, for five minutes.

Ms. JAYAPAL. Thank you, Mr. Chair.

I want to start just by taking a moment to express my deepest condolences to you, Ms. Nobles. You have experienced a profound loss and I appreciate your coming to share Kayla's story with us today.

Turning to today's hearing, it appears once again unfortunately that it is Groundhog Day in our Subcommittee. Today is Part 3 of our hearings on the Republicans' assault on immigrants and immigration, and I am sure we will have many more parts to come.

I worry that today will be more of the same with my Republican colleagues once again showing us that they are not serious about governing and finding solutions to the complex issue of immigration. After passing their extreme, cruel, and unworkable border bill, where the only bipartisan thing about it was the opposition, Republicans have spent the last few weeks fearmongering over the end of Title 42.

This fearmongering about the border, let me be clear, empowers the smugglers and cartels when our Republican colleagues claim that the border is open. That is the most important information that they use to continue their activities. Turns into disinformation and misinformation shared by smugglers, distributed by social media, and stoked by relentless right-wing media lies and shouts of open borders, all which fuel migration patterns.

Yet, what are the facts? The facts are that when Title 42, a public health policy, not an immigration enforcement policy, finally ended, what happened? Border encounters plummeted by 70 percent. Thus far, the increased migration narrative pushed in the right-wing media has not yet come.

The lower numbers are likely due, at least in part, to the Biden Administration's new policies announced in the lead-up to the end of Title 42. These announcements detailed how they plan to ad-

dress migration to the southwest border going forward. The administration showed that once again Democrats have real workable solutions to manage migration and expand legal pathways.

On top of the parole programs created by the Biden Administration earlier, this year the administration announced the creation of additional legal pathways that are intended to relieve pressure at the border. The administration announced that they are opening regional processing centers across the Western Hemisphere for the first time to facilitate access to legal pathways in the United States. This is an important step to allow migrants to get their protection and benefits claims assessed in a humane way without having to make the dangerous journey to the U.S.-Mexico border.

The administration is also creating new family reunification parole processes for El Salvador, Guatemala, Honduras, and Colombia. This is for people who already have an approved family petition modeled off the Cuban Family Reunification Program my colleagues attempted to codify in H.R. 2.

The administration is also increasing the number of appointments that will be available under the CBP One app, which while far from perfect, does increase CBP One's ability to process more migrants.

The administration also implemented new policies that I do have significant concerns about. This includes a new asylum regulation that limits access to asylum for those who cross between ports of entry as well as new expedited processing of single adults from Spanish-speaking countries where individuals will get an initial asylum screening in a Border Patrol facility.

Now, none of these solutions are perfect. Addressing the issue of migration is difficult, but Democrats have shown time and time again that we take this complex humanitarian crisis seriously. By creating a more human immigration system that recognizes the horrific conditions that cause migrants to flee as well as contributions of immigrants to America we can decrease unauthorized crossings, strengthen our economy, and protect migrants and citizens from harm.

Unfortunately, Republicans have shown us their priorities with their border bill and now with their Fiscal Year 2024 Department of Homeland Security appropriations bill. That bill would only create more disorder at the border. Budgets are moral documents that show what we value and prioritize.

Their bill, which was released last week, defunds the Emergency Food and Shelter Program which is helping migrants who are processed by CBP move away from the border to be with sponsors or family in the United States as they await their court hearing.

Their bill ends the use of the Family Case Management Program which had a nearly 100-percent success rate in helping families show up for their immigration court hearings. It disallows the use of alternatives to detention unless the secretary himself directly approves it, which would create a significant bottleneck for moving people out of CBP custody.

It defends the Asylum Officer Rule, which allows asylum officers to adjudicate asylum claims, helps alleviate the growing immigration court backlog, and it ends the use of the CBP app for people

who are coming through parole, which will severely hamper CBP's ability to process migrants in a safe and orderly way.

Now, all these policy choices give the game away. None of these policy choices are intended to help the agency. They will create more chaos and disorder at the border. That appears to be the point of my Republican colleagues' efforts. Create chaos and disorder and hope, hope to win the next election.

Now, if the Chair of the Subcommittee is so concerned about airplanes being grounded, I would just say that the Default on America Act and the attempts that Republicans are making right now to put forward serious cuts—that default would actually halt all the air traffic controllers across the country.

I look forward to hearing from all our witnesses today. The American people deserve better, and I hope that our witnesses can shed light on real solutions to address the situation at our border in a holistic way.

With that, I yield back, Mr. Chair.

Mr. MCCLINTOCK. Thank you.

The Chair now recognizes the Chair of the House Judiciary Committee, Mr. Jordan.

Chair JORDAN. I thank the Chair.

The Ranking Member started her statement by saying the border is secure. Really?

Ms. JAYAPAL. I did not.

Chair JORDAN. More than 52 million illegal aliens along the southwest border has been encountered since Joe Biden took office, two million of these illegal aliens have been released into American communities, and more than 12 million known illegal got-aways have successfully crossed the southwest border undetected. These include criminal gang members, drug dealers, and individuals on the Terrorist Watchlist. That is not a secure border. That is not a closed border.

Ms. JAYAPAL. I never said that—I never started my statement with a—

Chair JORDAN. That is—

Ms. JAYAPAL. —secure border, Mr. Chair.

Chair JORDAN. That has happened because on day one—

Ms. JAYAPAL. I am just—

Mr. MCCLINTOCK. The time—

Ms. JAYAPAL. I am correcting the record, because you stated something that was not true. Thank you, Mr.—

Mr. MCCLINTOCK. The gentlelady should know that interrupting a Member without making a valid point of order is against the rules of the Committee.

Ms. JAYAPAL. Not if they lie about what I said.

Chair JORDAN. The time belongs to the Chair. The Chair is recognized.

Chair JORDAN. I would just point out the gentlelady said Republicans say the border is open. She said that is not so. So, what does that mean if it is open? So, is it something that is not secure, not closed? I would just say what she referenced in her opening statement. Day one of this administration they stopped construction of the wall, they ended Remain in Mexico, and they put back in place

Catch and Release. Day one. That is why we have the situation we do.

In that same period, I just talked about 28 months of this administration over 43,000 pounds of fentanyl have been seized at the southwest border with an unknown amount making it into our communities. There has also been an uptick in the number of individuals on the FBI Terrorist Watchlist.

Just two weeks ago Border Patrol apprehended an Afghan who illegally crossed into San Diego Sector in California and days later news reports indicate that an additional five watchlisted illegal aliens were apprehended in Tucson, Arizona after attempting to avoid detection.

Our witnesses today understand the consequences of our borders being unprotected all too well, all of them, and I want to thank them for being here today.

I want to particularly thank Ms. Nobles for bravely agreeing to appear here today to talk about the unthinkable tragedy that affected her family. Her daughter Kayla was 20 years old when she was assaulted and murdered. The person charged with the crime was an MS–13 gang member who was allowed to enter the United States after crossing the border illegally as a so-called unaccompanied alien child.

Despite the UAC having a criminal history in El Salvador for MS–13 gang affiliation well before he even entered the United States, law enforcement only became aware of this fact after Kayla's murder. Why not until after Kayla's murder? Because prior to the murder no one in this administration bothered to check into the UAC's criminal history in his home country. The Hamilton family was not alone this year in experiencing such a horrific event.

In January suspected cartel members massacred six people, including a 10-month-old infant, assassination style in Goshen, California. In April of this year a nationwide manhunt ensued after a man who had been deported on four separate occasions killed five people including a nine-year-old boy.

It is well past time that we enforce the law, secure our border, and we should pass—the Senate should pass the bill that we passed in the House just a few weeks ago, so we can get our border under control and secure.

With that, Mr. Chair, I yield back.

Mr. MCCLINTOCK. The Chair now recognizes the Ranking Member of the House Judiciary Committee, Mr. Nadler.

Mr. NADLER. Thank you, Mr. Chair.

I first wish to express my most sincere condolences to Ms. Nobles. I am so sorry for your loss, and I thank you for coming to tell us Kayla's story. May her memory be a blessing.

Mr. Chair, the United States has a long history of welcoming asylum seekers to our shores. Our constituents in Manhattan are able to see a reminder of this history every day in the Statue of Liberty welcoming the tired, the poor, and huddled masses yearning to breathe free.

Throughout our history refugees from near and far have sought safety here. While our laws have never been perfect, they have always allowed at least some refugees to enter.

Our modern refugee program and the world's view about our collective responsibility for refugees were radically reshaped by the Holocaust. When the United States joined both Canada and Cuba in turning away the MS St. Louis and her than 900 Jewish passengers in 1939, we allowed asylum seekers to be returned to persecution in Europe. Nearly ⅓ of the boat's passengers perished at the hands of the Nazis.

Many other countries also turned away Jewish refugees during World War II. The horrors that followed led to the creation of the United Nations and ultimately to the international refugee framework that we still use today. It took a while for domestic laws to catch up to our international commitments, so when Congress moved too slowly presidents used their expansive immigration powers to help get people to safety.

In 1956, President Eisenhower oversaw the parole of over 30,000 Hungarian refugees into the United States. More parolees followed including more than 58,000 Cubans between 1961–1962, 15,000 Chinese refugees from Hong Kong between 1962–1966, and over 130,000 Southeast Asian refugees following the fall of Saigon in 1975.

We passed the Refugee Act of 1980 with overwhelming bipartisan support which established the domestic framework for refugee and asylee processing. The commitment by resident—by presidents and lawmakers of both parties to accept refugees solidifies—solidified our country's status as a symbol of hope for those trying to escape persecution.

Sadly, that came to a crashing halt under the Trump Administration. Former President Trump slashed our refugee program both at home and abroad, implemented discriminatory bans, demonized immigrants, separated families, and put all his focus into building a wall between ourselves and Mexico.

Still people came because the dangers they faced on their journeys here paled in comparison to the horrors from which they were fleeing. COVID exacerbated the problems and President Trump used authorities under Title 42, a policy to protect public health, to turn away asylum seekers arriving at the border.

When President Biden came into office, he reversed course on many of the prior administration's most heinous policies, but Title 42 remained, even while our Republican colleagues claimed that the border was open and that President Biden and Secretary Mayorkas were purposefully inviting an "invasion," in quotes, "of migrants to our shores."

These claims were used by smugglers to entice migrants to make the journey North and echoed by mass shooters in their manifestos.

The Biden Administration has been working to get our immigration system back on track, but Republicans have been fighting him every step of the way. They voted to end the COVID emergency declaration, but they said that the administration should not end its use of Title 42 even though that policy was tied to the pandemic. They passed a messaging bill over bipartisan opposition that would decimate our asylum system and send vulnerable people back into harm's way.

In the weeks leading up to Title 42's expiration they stoked fears that we would see chaos and massive numbers of migrants crossing

at the border. Yet, what happened? Thanks to the policies put in place by the Biden Administration the numbers at the border dropped by 70 percent following the expiration of Title 42, but the fearmongering continues.

Unfortunately, my colleagues are not ones to let facts get in the way of a good story. The latest example comes from my home State of New York where Orange County Republicans claimed that homeless veterans were being displaced by migrants. This was quickly echoed by the Speaker of the House and other Congressional Republicans, and even by one of our witnesses.

On the screen are tweet after tweet by my Republican colleagues amplifying this story to stoke fears about the border and to distract from their own failures to enact meaningful solutions, yet the claims contained in the story have turned out to be completely unfounded with even the *New York Post* running a retraction.

So, here we are again in another hearing about the, "Biden border crisis." I am sure that no matter what happens at the border we will continue to have hearings on this topic, and we will continue to see partisan messaging bills that have no chance of ever becoming law.

As one of my Republican colleagues said, there is a reason why we haven't gotten significant border security done and why we haven't seen significant immigration reform done. It is in the interests of many politicians to have this crisis continue to flare up.

Democrats are willing to work with serious Republicans to make changes to our immigration system that would allow people to come here lawfully while ensuring the safety and security of our citizens. We want to have the tough conversations about the best path forward and we have passed bipartisan legislation that has addressed some of the thorniest issues like the Farm Workforce Modernization Issues, but so long as this majority insists on its partisan blame games, we are just going to keep talking past each other and nothing will be solved.

I look forward to hearing from our witnesses today. Thank you for coming to speak about your experience and your expertise.

I yield back the balance of my time.

Mr. MCCLINTOCK. Without objection, all other opening statements will be included in the record.

Mr. MCCLINTOCK. I will now introduce the four witnesses we have today.

The first will be the Hon. Rodney Scott. Chief Scott served over 29 years in the United States Border Patrol before retiring as Chief of the Border Patrol in August 2021. During that time, he held numerous leadership positions at various stations and sectors along the South border, as well as several leadership and specialized assignments at U.S. Customs and Border Protection Headquarters.

Our second witness will be Mr. Mark Hetfield. Mr. Hetfield has been the President and CEO of the Hebrew Immigration Aid Society since 2013. Prior to that he held several other positions at the Society, worked as an immigration attorney, and worked for the Immigration and Naturalization Service. The Hebrew Immigration Aid Society is a nongovernmental organization that settles refugees and provides legal services to aliens.

I will now yield to the gentleman from New York, Mr. Lawler, to introduce the third witness.

Mr. LAWLER. Thank you, Mr. Chair. It is my distinct pleasure to introduce Orangetown Supervisor Teresa Kenny, a lifelong Rockland County resident, who cares deeply for her residents and their quality of life. Supervisor Kenny is an attorney and daughter of a retired New York City police officer. She has both a deep appreciation for the rule of law and a deep knowledge of our legal system. Prior to serving as Supervisor, she served as Deputy Town Attorney for the Town of Orangetown and practiced real State law in private practice for over 30 years. I can think of no one better to highlight the gross overreach by Mayor Eric Adams and other officials in New York attempting usurp local zoning laws than Teresa Kenny.

Any claim that our border is secure you need not look further than New York where New York City has taken in over 65,000 migrants since this crisis exacerbated last year. The Governor and the Mayor are asking for an emergency declaration. They have nowhere else to house these migrants.

So, the idea that we do not have open borders is laughable on its face. Couple that with New York's sanctuary city policy and you have a recipe for disaster in New York City and it is spilling out into communities across New York State. That is why Teresa Kenny's testimony here today is invaluable to this Committee.

Mr. MCCLINTOCK. Thank you. Then we will finally hear from Ms. Tammy Nobles. Ms. Nobles is a realtor from Norfolk, Virginia. She volunteers part-time as the President of the Downs Syndrome Association of Hampton Roads. She is the mother of Kayla Hamilton.

We welcome our witnesses. We thank them for appearing today and we will begin by swearing you in. Would you please rise and raise your right hand?

Do you swear or affirm under penalty of perjury that the testimony you are about to give is true and correct to the best of your knowledge, information, and belief so help you God?

Let the record reflect that the witnesses have answered in the affirmative. Thank you and you can be seated.

Please know that your written testimony will be entered in the record in its entirety. Accordingly, we ask that you summarize your testimony in five minutes, and we will begin with Chief Rodney Scott. You want to turn your mic on.

STATEMENT OF CHIEF RODNEY SCOTT

Chief SCOTT. Sorry, I thought it was on. I apologize. Chair McClintock, Ranking Member Jayapal, Chair Jordan, and Ranking Member Nadler, and Members of the Committee, thank you for having me here today.

I am currently a Senior Distinguished Fellow for Border Security and Immigration at the Texas Public Policy Foundation, but as stated, before joining Texas Public Policy, I served 29 years as a United States Border Patrol Agent. I started out as a GS–5 Border Patrol Agent Trainee and I was competitively promoted through the Civil Service ranks and was ultimately promoted to Chief. I served as President Biden's Chief of U.S. Border Patrol until I re-

tired in August 2021. I think it is important to know I was never a political appointee.

Over my career, I was honored to participate in the transformation of an uncontrolled chaotic southwest border to a border that was increasingly secure. Meaningful progress started in 1994 under the Clinton Administration when a strategy proposed by U.S. Border Patrol was adopted. That strategy used focused personnel deployments, barriers, technology, and consequences for violations of law to reduce the chaos of illegal immigration and free up agents to focus on public safety threats.

The basic principles of this successful strategy endured every Presidential Administration until January 2021. My first-hand experiences taught me that border security and immigration are two distinctly different, yet interrelated issues. Border security is simply knowing and controlling who and what is entering our homeland. Immigration and the customs laws are completely irrelevant if you cannot control the initial entry.

The terrorist attacks on 9/11 also had a profound impact on my understanding of border security. Prior to 9/11, terrorism was not part of the border patrol's discussions. This changed as our Nation realized that foreign terrorists that exploited vulnerabilities in our border security. Congress responded quickly by creating the Department of Homeland Security and I responded by accepting an opportunity to build the Office of Antiterrorism with Customs and Border Protection. I quickly found myself immersed in classified intelligence briefings and interagency planning to mitigate terrorist threats.

The terrorists that perpetrated 9/11 entered through our ports of entry and as such, our priority was improving the ports of entry. We knew that as we mitigated those vulnerabilities, terrorists would predictively shift to entering in between the ports of entry. We also had reason to believe that the terrorist organizations would increasingly seek operatives that were unknown to U.S. intelligence, so we could not rely solely on records checks. We would need skilled interviewers.

The border patrol strategy evolved with an increased focus on situational awareness through intelligence and physical surveillance. However, deterring illegal immigration through a certainty of arrests and application of consequences remained a fundamental pillar.

When I was selected as Chief, the capabilities of the border patrol to detect and interdict illegal entries was better than ever and it was rapidly improving. Fewer illegal entries combined with the construction of the new border wall system made every agent more effective. This equated to additional time that agents were spending on interviews to identify somebody positively as well as their intent and to glean intelligence on criminal networks that was used to improved investigations and operations.

In contrast, I also experienced the reverse of the border security and immigration policy that was initiated by the Biden Administration. From day one, political leadership ignored career professionals and increasingly made policy decisions that resulted in thousands of aliens being released into the United States. As predicted, the volume of illegal immigration rapidly increased. It overwhelmed

border patrol and effectively transferred control of the United States border with Mexico to the drug cartels.

I watched border security gains that have been made over three decades vanish and the safety of border communities spiral backward. Policy makers must understand this is not simply immigration issues. This is a national security threat. Cartels use illegal aliens to overwhelm law enforcement, create controllable gaps in border security that they then exploit to bring in anything they want. To think the well-resourced terrorist networks and hostile Nations are not exploiting this same vulnerability is naive.

Prioritizing immigration processing over enforcement also means that the agents are spread so thin when they are deployed that even when they detect an illegal entry, they are not always able to interdict it. These events are reported by the border patrol as known gotaways. It is also important to know that this does not encompass the total gotaways. The hundreds of miles of border that are left unpatrolled on a daily or weekly basis now and that lack persistent surveillance we have no idea what is crossed in those areas.

In my professional assessment, the U.S. Border Patrol has lost our ability to know who and what is entering our homeland. Please remember, the border is simply a transit location. It is not a destination. These people and these things are going to every city, town, and State across this Nation. I look forward to your questions.

[The prepared statement of Chief Scott follows:]

Testimony summary for Rodney Scott 05/23/2023

Chairman McClintock, Ranking Member Jayapal, Members of Congress, good morning and thank you for inviting me to testify before you today.

Before I talk about the national security threats associated with the current border crisis and take your questions, I believe it would be beneficial for you to understand the unique experience I gained over my career so you can put my concerns into the proper context.

My name is Rodney Scott. I am currently a Distinguished Senior Fellow for Border Security and Immigration at the Texas Public Policy Foundation (TPPF). Before joining TPPF, I served as a U.S. Border Patrol (USBP) agent for over 29 years. I began my career as a GS-05 Border Patrol agent trainee in San Diego, Ca in 1992. I competitively progressed through the ranks and earned key leadership roles under presidential administrations of both parties. Over my career I had several unique assignments that formed my border security perspectives. I was ultimately promoted to Chief, USBP in February 2020. I served as President Biden's Chief of USBP until I chose to retire on August 14, 2021.

I have never been a political appointee. Throughout my entire career, I worked diligently to secure our international borders as a nonpartisan civil servant. My only objective is and has been to provide America with the best border security possible.

When I joined the USBP in 1992 the USBP was primarily a reactionary law enforcement agency and did not have any semblance of control over any section of the US border. In 1994 the Clinton administration initiated Operation Gate Keeper and Operation Hold the Line. These two operations represented the first phase of an effective long-term strategy to establish control over our borders in between the ports of entry. The strategy, which included focused personnel deployments, physical barriers, improved access, the application of technology and appropriate consequences for violations of law was designed to reduce the clutter and chaos of illegal immigration so agents could more effectively identify and mitigate the most serious public safety threats. This successful strategy evolved over time to address various surges in illegal immigration and changes in smuggling tactics. However, the fundamental principles of deterrence and appropriate consequences for violations of law endured up until January 20, 2021.

The success experienced by Border Patrol agents sparked an unprecedented level of optimism within the USBP rank and file. High morale equates to a motivated workforce which further improved border security. We began to see what a secure border looks like and increasingly knew how to replicate it. I was privileged to observe and experience the transition from chaos to order firsthand. I watched the people and the economies of border communities in the US and Mexico begin to thrive as order was restored and people felt safe again.

These successes instilled in me a fundamental understanding that while border security and immigration policy are often spoken about synonymously, they are in fact two distinctly different, yet interrelated issues. Border security is simply knowing and controlling who and what enters our homeland. All immigration and customs laws and associated policies are founded on the premise of being able to establish and maintain border security, or simply the ability to control the initial entry. If you cannot control who enters our home, any discussion about who is allowed to stay is irrelevant.

The terrorist attacks that occurred on September 11, 2001, also had a profound impact on my career and subsequently on my perspectives of border security. Prior to the terrorist attacks on 9/11 my duties as a Border Patrol agent had focused on interdicting illegal narcotics and illegal aliens. Terrorism was not part of the US Border Patrol's daily discussions or focus. That all changed as we realized we had been

attacked by foreign terrorists that had exploited vulnerabilities in our border security. Congress responded by creating the Department of Homeland Security and consolidating the legacy border interdiction and inspection missions of US Customs, US Immigration and Naturalization Service, including the US Border Patrol, and the Department of Agriculture to create US Customs and Border Protection.

Shortly after DHS was established in March of 2003, I was recruited to be on a small team that stood up the CBP Office of Anti-Terrorism. I traded the remote mountain canyons and deserts of Arizona for the florescent lights of an office in DC and a windowless SCIF. I quickly found myself immersed in classified intelligence briefings and associated operational and strategic planning efforts, advising CBP senior leaders and representing CBP in interagency efforts to mitigate terrorist threats facing the United States.

The terrorists that perpetrated the 9/11 attacks had entered the country through official Ports of Entry. As such, improving our inspections at Ports of Entry was the top priority. Although, we never lost sight of the fact that as we mitigated the vulnerabilities at ports of entry, terrorists would predicably shift to entering illegally in between the ports of entry. There was also reason to believe that terrorist organizations would increasingly seek to use operatives that were unknown to US intelligence or law enforcement.

In the years since 9/11 CBP dramatically enhanced the security at our ports of entry through many initiatives. This included information sharing on known threats as well as advanced training and technology to help identify unknown threats. The Border Patrol strategy also evolved with an increased focus on situational awareness through intelligence and information sharing as well as physical surveillance along the borders. However, the strategy of deterring illegal immigration through a certainty of arrest and application of consequence remained a fundamental pillar.

When I was selected as Chief of the USBP, the capabilities of the USBP to detect and effectively interdict illegal entries along our southwest border were rapidly improving. Illegal entries were dropping to record lows. The reduction in illegal immigration combined with the construction of the new border wall system and advances in technology were making every agent more efficient and more effective. The efficiencies equated to additional time that could be devoted to conducting thorough intelligence interviews of anyone that was arrested. These interviews provided invaluable information on multiple levels. First it allowed agents a better opportunity to verify an arrested subject's identity and their intent. Further, it helped agents to identify transnational criminal networks and smuggling tactics to inform investigations and improve daily operational deployments.

As Chief, I was the most senior official responsible for border security between the ports of entry. I personally witnessed the unprecedented seismic shift in border security and immigration policy that was initiated by the Biden administration on January 20, 2021. As political leadership consistently ignored the guidance of career professionals and increasingly made policy decisions that resulted in aliens being released into the US, the volume of illegal immigration predictably increased dramatically. I observed and experienced the rapid degradation of our border security from order back to total chaos firsthand. I watched the border security gains that were made over three decades dismantled and the economies and safety of border communities in the US and Mexico spiral backwards.

It is my professional assessment that this highly publicized policy shift created the current border crisis and effectively transferred control of our southwest border into the hands of the Mexican drug cartels. Of greater concern, I also witnessed a lack of any meaningful effort on behalf of the Biden administration to secure our borders against the illegal entry of aliens as required by 8 USC 1103(a)(5) or to establish Operational Control of our borders as required by the Secure Fence Act of 2006 (Public Law 109-367,

109th Congress). I also witnessed disregard for the Impoundment Control Act of 1974 which established procedures to prevent the Executive Branch from unilaterally substituting their own funding decisions for those of Congress.

As I sit here today and reflect on the significant border security advances that were made over the past three decades, I am sickened by the avoidable and what appears to be intentional destruction of what was the most effective border security in our Nation's history.

During my tenure as Chief, the Biden administration's team at DHS was laser-focused on expediting the processing and flow of migrants into the U.S. They downplayed or completely refused to accept the significant vulnerability this creates for terrorists, narcotics smugglers, human traffickers, and even hostile nations to gain access to our homeland. Common sense border security recommendations from experienced career professionals were systematically ignored and/or stymied by inexperienced political appointees. The sustained record-breaking mass illegal immigration we have been experiencing is a direct result of the catch and release polices implemented through the termination of the Migrant Protection Protocols, broad exemptions to Title 42 expulsions, reduction of detention space and the implementation of an arguably illegal parole program.

While the sheer volume of aliens illegally entering the US is overwhelming, it is critical that policy makers understand that these mass incursions are not simply an immigration issue. These illegal entries are controlled by transnational criminal organizations (TCO) to overwhelm law enforcement and create controllable gaps in border security. These gaps are then exploited to easily smuggle contraband, criminals, or even potential terrorists into the U.S. at will. Today, low level, unsophisticated and uneducated smugglers are illegally crossing the border and increasingly evading apprehension. To think that well-resourced terrorist networks, criminal organization, and hostile nations are not doing the same is naive.

Unfortunately, due to the mass illegal immigration and the administration's decision to prioritize immigration processing over enforcement, when USBP detects an illegal entry, agents are routinely spread so thin that they lack the capability to make an interdiction. These events are reported as known Gotaways. It is important that you understand that the gotaways that USBP reports are only the known gotaways. That number does not include any estimate on the total number of gotaways that are not detected along the hundreds of miles of border that lack any persistent surveillance technology and go unpatrolled for days and even weeks. This is largely due to manpower being redirected to conduct administrative immigration processing and care and feeding of aliens in custody. Of note, when the border wall construction was stopped, the installation of the surveillance and communication technology that was part of the wall system was also halted.

It In my professional assessment, U.S. Border Patrol has lost the ability to maintain any meaningful level of situational awareness to know who and what is entering our homeland. The ability of USBP to detect and interdict those that want to evade apprehension has been decimated. An illegal entry unseen is an illegal entry uncounted. It is important to remember that what happens at the border does not stay at the border. The border is not the destination. The border is simply a transit point enroute to every, town, city, and State throughout the United States.

Again, thank you for inviting me here today and I look forward to answering your questions.

Rodney Scott
Retired – Chief U.S. Border Patrol
Honor First!

Mr. MCCLINTOCK. Thank you. Next, we will hear from Mr. Mark Hetfield.

STATEMENT OF MARK HETFIELD

Mr. HETFIELD. Mr. Chair, Ranking Member Jayapal, and Members of the Subcommittee, I thank you for this opportunity to join you today to speak about securing about border.

HIAS, founded over 120 years ago, is the Hebrew Immigrant Aid Society. It is the oldest refugee organization in the world. We were founded to help refugees because they were Jewish. Today, we help refugees because we are Jewish. We resettle refugees across the United States and partnership with the U.S. Government and Jewish communities. We also operate in 22 other countries, half of which are in Latin America, working to help refugees find welcome and safety in their countries of asylum.

HIAS is old enough to remember the importance of American leadership in drafting the Refugee Convention of 1951 and the Refugee Act of 1980 which passed this chamber and was signed into law with strong bipartisan support. These landmark measures were intended to ensure that never again would people fleeing persecution be turned back to their persecutors.

Today, however, our asylum and immigration and border protection systems are in dire need of investment, updating, and repair. We can all agree that the status quo is absolutely unacceptable. Congress has not addressed illegal immigration pathways in over three decades. The pretext for not doing so is that we cannot fix legal immigration pathways until we fix the border. This is a false choice, ignoring the laws of supply and demand. We cannot fix the border without also reforming legal immigration pathways.

As long as there are jobs to fill that American citizens cannot or will not do, the U.S. Government will not be able to secure the border. Congress needs to establish more pathways. As long as the Government continues to invest in immigration enforcement officers without investing in immigration judges and asylum officers and in a more and efficient asylum system, we will not be able to secure the border. Otherwise, people will continue to apply for asylum and be assigned a court date many years into the future.

As long as this system continues to leave people in limbo for decades like TPS recipients, streamers, humanitarian parolees, and people who have withholding of removal with no pathway to permanent residence or family reunion, we will not be able to secure the border.

So long as it is difficult for asylum seekers to access legal counsel, you won't be able to secure the border because they will not have access to advice on whether or not they qualify and should proceed with their application.

HIAS welcomes the Biden Administration's announcement that it is establishing resettlement processing centers in South and Central America. To secure the border, we need such safe and legal pathways for fleeing for their lives to access resettlement, but as a safer complement to asylum, not as a substitute.

Similarly, we welcome the Biden Administration's earlier decision to reopen the Central American Minors Program, so children will no longer have to risk their lives to reunite with family across

the border. Separating families, pushing people back without a hearing for their asylum claims, and subjecting asylum seekers to inhumane conditions on both sides of the border in detention shames us, but will not deter people from coming here if they have no better options.

My written testimony details the story of one HIAS client in Mexico from Venezuela who after struggling with the glitchy CBP app was locked in Mexican immigration detention in March in Huarez when the fire broke out where detainees were locked in their cells and could not escape. Forty people were killed, but he survived by keeping his head in the toilet throughout the ordeal. He is now in the United States receiving medical treatment for the burns all over his body.

My written statement provides details on HIAS's proposed approaches to the many challenges at the border. I cannot overemphasize, however, that there are no easy or cheap solutions to make up for decades of under investment, neglect, and polarization around this issue. We hope we can rely on the administration and Congress and this Subcommittee to find bipartisan solutions that provide the legal pathways and the enforcement mechanisms necessary to restore equilibrium and integrity to our asylum and immigration systems.

In the meantime, there needs to be additional resources at the border and within our asylum system, but those resources cannot be solely focused on apprehension, removal, and detention or on removal without a screening. The administration should not replace one legal fiction barring asylum seekers on health grounds with another, barring them because they did not go through asylum systems that are even more dysfunctional than our own.

In the immediate term, the administration and Congress should focus on increasing resources for the fair and efficient adjudication of asylum claims on a last-in and first-out base with legal counseling and measures to ensure that CBP follows the law and their own procedures to ensure that no one is sent back into harm's way. The Refugee Admissions Program should be resourced to be safe and orderly for pathways so that people can rely on U.S. law rather than on smugglers. We are not the only country facing this humanitarian challenge and we cannot solve it alone. Thank you.

[The prepared statement of Mr. Hetfield follows:]

Hearing of House Judiciary Committee

Subcommittee on Immigration Integrity, Security and Enforcement

The Biden Border Crisis: Part III

Testimony of Mark Hetfield

President & CEO, HIAS

10:00 a.m. Tuesday, May 23, 2023

2141 Rayburn House Office Building

Chairman McClintock, Ranking Member Jayapal, and distinguished members of the Subcommittee, I thank you for the opportunity to join you here today on behalf of HIAS to discuss what is happening at the U.S.-Mexico border.

HIAS, founded over 120 years ago as the Hebrew Immigrants Aid Society, on the lower east side of New York City, is the oldest refugee organization in the world. We were founded to help refugees because they were Jewish, today HIAS helps refugees because we are Jewish. We resettle refugees in partnership with Departments of State and Health and Human Services, and with Jewish family service agencies, congregations, and other local partners across the United States. We also operate in 22 other countries, half of which are in Latin America and the Caribbean, working in local communities to help refugees find welcome and safety in their countries of asylum.

HIAS is old enough to remember when this country, and this planet, did not recognize the right to seek and enjoy asylum, including during a time when 6 million Jews were murdered, trapped inside of a genocide, with no right to flee and no places that would accept them, during a time when the United States and other countries were turning refugee ships back to their persecutors, such as the Saint Louis, the refugee ship of 937 passengers which – this month 84 years ago – was turned away and sent back to Europe.

HIAS is also old enough to remember the importance of American leadership in the drafting of Article 14 of the Universal Declaration of Human Rights of 1948, the Refugee Convention of 1951, and the Refugee Act of 1980 – which passed this chamber and was signed into law with strong bipartisan support. These landmark measures were intended to ensure that never again would people fleeing persecution be turned back to their persecutors.

Today, however, the asylum and immigration systems in this country are in dire need of investment, updating and repair. Everyone in and outside of this room can agree that the system is broken. The status quo is unacceptable.

Congress has not addressed legal immigration pathways in over three decades. The excuse for not doing so is often that we can fix legal immigration pathways until we fix the border. This is a false choice, ignoring the laws of supply and demand. We cannot fix the border without also reforming our legal immigration pathways.

As long as there are jobs to fill that American citizens cannot do or will not do, the US government will not be able to secure the border. Congress needs to establish legal pathways.

As long as the government continues to invest in immigration enforcement officers without investing in immigration judges and asylum officers and in a more fair and efficient asylum system, the USG will not be able to secure the border. Otherwise, people will continue to apply for asylum and be assigned a court date many years into the future. With these massive

backlogs, people who are not legally entitled to protection will stay in the US for years before they will be sent back, and people who are entitled to protection will anxiously sit for years, unable to enjoy peace of mind.

As long as the system continues to leave people in limbo status for decades - like TPS recipients, Dreamers, humanitarian parolees, and those who receive withholding of removal - with no pathway to permanent residence or family reunion, you will not be able to secure the border. People who are living in danger or in extreme poverty will want to come here to reunite with loved ones, to work, and to start a new life..

So long as it is difficult for asylum seekers to access legal counsel, you will not be able to secure the border, because they will not have access to advice on whether or not they qualify and should proceed with their application.

HIAS welcomes the Biden Administration's announcement that it is establishing resettlement processing centers in South and Central America. In order to secure the border, we need such safe and legal pathways for people fleeing for their lives to access resettlement, but as a safer complement to asylum, not as a substitute. Similarly, we welcomed the Biden Administration's earlier decision to reopen the Central American Minors program, so that some children (and other eligible family members) from El Salvador, Honduras and Guatemala with qualifying parents or legal guardians in the U.S. will no longer have to risk their lives to reunite with family across the border.

Separating families, pushing people back without hearing their asylum claims, and subjecting asylum seekers to inhumane conditions on both sides of the border in detention shames us, but will not deter people from coming here, as they have no better options.

I can't get my mind off of one HIAS Mexico client in particular, a 26 year old Venezuelan man with a wife and three children, who was turned away from the United States without a hearing under Tile 42. He then tried to get an appointment using the CBPOne App, but was only able to get an appointment for himself, not for his family, who remained in Mexico. Concerned about their safety, he returned to Mexico, where he continued to try to get an appointment using CBPOne for his entire family, while selling flowers on the street in Juarez to help his family survive. On March 27, he was among those in the Juarez Mexican detention station, when a fire broke out with people locked in their cells. 40 people were killed in that fire, but he survived by putting his head in a toilet bowl and keeping it there throughout the ordeal, suffering severe burns all over his body. He and his family were ultimately allowed to enter the United States so that he could receive medical care for the severe burns from the fire.

My full written statement provides details on HIAS' proposed approaches to the many challenges at the border, and I am happy to answer any questions you may have. I cannot overemphasize, however, that there are no easy or cheap solutions to make up for decades of

underinvestment, neglect, and polarization around this issue. We hope we can rely on the Congress and this Subcommittee to find bipartisan solutions that provide the legal pathways and the enforcement mechanisms necessary to restore equilibrium and integrity to our immigration and asylum systems. These problems cannot be solved without joint leadership from both Congress and the Administration.

In the meantime, there need to be additional resources at the border and within our asylum system. But those resources cannot be solely focused on apprehension, removal and detention or on removal without a screening. The administration should not replace one legal fiction – barring asylum seekers on health grounds – with others – barring them because they did not go through asylum systems that are even more dysfunctional than our own. In the immediate term, the Administration, and Congress should focus on increasing resources for the fair and efficient adjudication of asylum claims, on a last in and first out basis, with legal counseling and measures to ensure that Customs and Border Protection follow the law and DHS procedures to ensure that no one is sent back into harm's way. The refugee admissions and Central American Minors programs should be resourced to be safe and orderly pathways so that people can rely on U.S. law rather than on smugglers.

As a faith based organization with operations in more than 20 countries, and as an agency which saw how critical U.S. leadership was in recognizing the international human right to seek and enjoy asylum, HIAS feels strongly that the promise made by President Biden in his inaugural address applies at our borders. We need to lead not just by the example of our power, but by the power of our example. The global refugee crisis is truly global, with more displaced persons across the globe than at any time in human history. We are not the only country facing this humanitarian challenge, and the United States can't solve it alone.

Detailed testimony

Perhaps most relevant to the discussion today, it is important to note that HIAS works in 11 countries, with more than 70 field offices, in Latin America and the Caribbean. HIAS first opened offices across Latin America in the 1930s to facilitate the immigration of Jewish refugees from Nazism in Europe, and maintained a presence in Latin America until the mid-1990s. In 2000, HIAS reopened its regional office in Buenos Aires to assist Jews fleeing the Argentine economic crisis with relocation to countries in the Americas, Europe and Australia. We then reopened operations in Ecuador in 2003 to serve refugees fleeing the conflict in Colombia. Since then, HIAS' presence in the region has expanded—reaching from Mexico and Central America to South America and the Caribbean, today,

Our work is taking place within the context of an estimated 20.6 million people who have been forced to flee from their homes in the region. For far too long, when the global community addressed displacement trends, the Latin American and Caribbean region was, for all intents and purposes, ignored. However, due to the sheer numbers of people now on the move in our hemisphere, that can no longer be the case. HIAS' response to this growing displacement trend has been, and continues to be, to provide legal protection, community mental health and psychosocial services, gender-based violence protection, economic inclusion support, and emergency response services to forcibly displaced people throughout the region.

A quick snapshot of one of HIAS' country teams demonstrates the type of work that we do with asylum seekers before they arrive in the United States. HIAS Mexico has offices in Juarez, Matamoros, Mexicali, Mexico City, Monterrey, Nuevo Laredo, Queretaro, Palenque, Puebla, Reynosa, San Cristobal de Las Casas, Tijuana, and Tuxtla Gutierrez. On an annual basis, HIAS Mexico provides thousands of individuals with legal protection services, including Know Your Rights (KYR) presentations and legal orientations about U.S. asylum law and current border policies for those seeking asylum in the U.S.

They also provide individual consultations for those seeking protection in Mexico. HIAS Mexico works in close collaboration with HIAS' U.S. headquarters-based Legal and Asylum Department to ensure that the information provided to asylum seekers is up to date and covers important, basic information. HIAS Mexico also provides referrals to our HQ Legal and Asylum

team and supports the development of programming to support legal representation of asylum seekers in the U.S. In addition, HIAS Mexico provides mental health, psychosocial services and gender based violence prevention and protection services. This is noteworthy given that these types of holistic supportive services for migrants are extremely limited, and in many Mexican cities and otherwise non-existent in many others.

All of this to say, on a daily basis, my colleagues in Mexico see with their own eyes what the regional displacement crisis really looks like. They see exactly why it is that people are forced to make the wrenching decisions to leave all that they know behind in an effort to find safety and peace for their families, and they see what the new U.S. border policies really mean in human terms.

For example, as I mentioned in my opening, HIAS Mexico staff recently shared the story of EJ, a 26 year old man from Venezuela that they served. EJ was traveling with his wife and their three children, ranging in age from two to 14 years old. They fled Venezuela due to political persecution, arriving in Ciudad Juarez in January of this year. When they first tried to enter the U.S, they were expelled under Title 42. Then, when the CBPOne app was introduced, EJ was able to obtain an appointment to present at the border, but because of confusion about how the app works (or does not work), EJ received an appointment but his family members did not. Even though he was ultimately allowed to enter the United States in order to start to pursue an asylum claim, he decided after a few days that he had to return to Mexico because he could not bear being separated from his family.

He was unsuccessful in getting a CBPOne appointment for his entire family. In order to support them while they were in limbo in Mexico, he started to sell flowers in the street because he was unable to get a more formal job, even though HIAS helped him to obtain the necessary documents to do so.

In March, he was illegally detained and taken to the immigration station in Juarez where a fire broke out, killing 40 people. EJ was able to survive because he put his head in the toilet bowl in one of the bathrooms, but he still suffered severe burns all over his body. Ultimately, he and his family were able to enter the United States in order for him to receive medical care, but his suffering and that of his family could have all been avoided if they had all been able to request asylum together when they first tried.

The HIAS Mexico team also recently started to help a new client, a Venezuelan woman named JF. JF is 38 years old and had no choice but to leave Venezuela because of the persecution she experienced just because of who she is as a transgender woman. She has been unable to ask for protection in the United States because she is experiencing difficulties using the CBPOne app because she cannot read or write. In addition, while she has been in shelters in Mexico, she has been the victim of transphobic discrimination. HIAS is now offering her support while she still waits to get an appointment through CBPOne.

My HIAS Mexico colleagues are working to explain to the people they serve, people like EJ and his family and JF, the complicated new policies that now dictate operations at the U.S Mexico border. As we all know, on 11:59 pm on May 11th, the implementation of Title 42 came to its inglorious end after three years; and, in its place came the administration's *Circumvention of Lawful Pathways* rule, its new asylum ban. To be very clear, HIAS and our fellow humanitarian organizations have been fighting for the termination of Title 42 since March 2020. Under the previous and current administration, because of this misused public health policy that was contorted into a draconian migration management policy, there were 2.8 million expulsions of people who were not able to exercise their legal right to seek asylum, a right enshrined in both our own U.S. law as well as accepted international law. The use of Title 42 was a black eye on our reputation as a country that prides itself on the rule of law; and, the new asylum ban is no different in that respect.

From the moment the administration released the details of the asylum ban, in addition to submitting our own comment, HIAS rallied the American Jewish community to submit comments during the absurdly brief 30 day notice and comment period. More than 5000 of HIAS' constituents submitted comments, all of them decrying the plan to replace one overly restrictive asylum policy with another. More than a few of the people who submitted comments talked about their families own refugee histories, including those whose parents and grandparents found safety in the U.S. after the horrors of World War II. This outpouring of opposition to the new asylum ban was a strong indication to us that in spite of the frenzied, debates taking place in Washington DC about U.S. border policies, vast swaths of the American public are deeply troubled by the recent changes to U.S. asylum policy and feel like we as a country are going backwards on these issues rather than forward.

My community's opposition to the new package of restrictive asylum policies is not without awareness that there are undeniable challenges at the U.S. Southern border. HIAS recognizes that there are high numbers of people presenting at the border, or hoping to present at the border, and that as a result, border operations and border communities are under significant pressures. We also do not believe that every single person who claims the need for asylum should receive it.

There is no denying that not everyone who seeks asylum can meet the strict definition of requiring international protection due to their past persecution , or well-founded fear of persecution, on account of their race, religion, nationality, membership in a particular social group, or political opinion. We need an efficient and humane asylum system to make those determinations.

However, HIAS maintains that everyone who comes to the U.S.-Mexico border should, without fail, be treated with dignity and respect, and have access to a fair, efficient and humane process. We do not believe that the new package of restrictive asylum policies will be effective in identifying those who are in actual need of protection in the United States, and we further assert that the new policies will deny the most basic tenets of due process to people who are trying to navigate extremely stressful and challenging border changes.

A significant amount of attention has already rightfully been paid to the two foundational components of the asylum ban: 1) The presumed ineligibility for asylum if someone is not successful in using the aforementioned CBPOne app to schedule an appointment to present at an official Port of Entry (POE); and 2) The presumed ineligibility if someone who enters the U.S. between POEs did not first seek asylum, and been denied asylum, in one of the countries through which they transited en route to the U.S. HIAS believes that this rule not only violates U.S. law that states that you can apply for asylum no matter how you enter the country; but it also violates our immigration law's firm resettlement and safe third country provisions in multiple ways, including that there cannot be a guarantee that asylum seekers' lives would not be threatened on one or more of the previously mentioned protected grounds, and where they would not have access to a "full and fair procedure for determining an asylum claim." It is clear that to require that people have first sought and been denied asylum in a transit country, many of which are also countries from which people are fleeing themselves, is a bar that cannot realistically be cleared. Moreover, many of the transit countries are grappling with asylum systems that are unable to meet the needs of the moment, rendering them as unrealistic protection options for the vast majority of people in search of safety."

In addition to the policy changes included in the asylum ban, in April, the administration quietly announced a new policy, *Expedited Credible Fear in U.S. Border Patrol (ECF-USBP)* that has not garnered as much attention as the asylum ban, but also has a significantly detrimental impact on true access to the asylum system. This new policy, implemented in 5 USBP sectors, involves conducting credible fear interviews (CFIs) shortly after people arrive and while they are in U.S. Customs and Border Protection (CBP) custody. Even before the policy was put into practice, HIAS and our partners were concerned that the proposed plan does not adequately address how asylum seekers will be able to access legal counsel in CBP custody, even though the administration contends that legal counsel will be available.

For some additional context, these CFIs are a part of the larger expedited removal process. Expedited removal allows CBP officers to quickly remove noncitizens who do not meet the requirements for entry into the United States. However, the law requires that any non-citizen who expresses a fear of return to their country of origin be referred to an asylum officer to determine if the noncitizen has a "credible fear" of persecution or torture if returned to their home countries. If the asylum officer finds credible fear, the noncitizen is referred to an immigration judge for an asylum determination. Studies by the US Commission on International Religious Freedom, one of which I led in 2005, and others have documented serious flaws in the expedited removal process. These include detaining asylum seekers in prisons or prison-like conditions, documenting that officers routinely fail to follow even the minimal due process protections required by the law and by DHS' own policy and procedures, and that records created by CBP do not accurately reflect the interview with the non-citizen

HIAS continues to support the USCIRF recommendations, and I urge Congress to do the following:

- Urge the administration to appoint a high-ranking official with sufficient authority and resources to make the necessary reforms to ensure that asylum seekers subject to expedited removal are protected. This official should also chair a regular interagency working group of all of the relevant agencies involved with the implementation of expedited removal.
- Consistently message to all relevant federal agencies implementing expedited removal that their law enforcement mandate includes the implementation of U.S. law and regulations that govern the protection of individuals seeking safety from return to persecution or torture.
- Request that the DHS Office of Inspector General audit the expedited removal process for compliance with U.S. laws and with DHS'own policies and procedures
- As Congress did in the International Religious Freedom Act, authorize and fund regular independent studies on the treatment of asylum seekers in expedited removal at all stages of the process.
- Request the Government Accountability Office to conduct a study to assess whether non-citizens removed to their home countries under Expedited Removal have faced persecution or torture after their return.

Unfortunately, our initial fears have proven to be true. Since the launch of CFI interviews in CBP detention, there have been multiple reports, including directly from pro bono attorneys attempting to counsel asylum seekers, that meaningful access to legal counsel for asylum seekers in CBP custody is largely not taking place. Moreover, since the launch of the ECF-USBP, there has been a shift from guaranteed legal counsel before a CFI from 48 to 24 hours, rendering the position that migrants have real access to legal counsel a farce.

I would like for us all to imagine for a minute how virtually impossible it would be for any of one of us to be detained in what amounts to a prison cell, after harrowing journeys to a new country, to understand how to navigate an incredibly complex legal landscape, all while the demand for legal consultations far outpaces the capacity to provide services. I suggest that only the luckiest among us would be successful in this endeavor, and I do not think that any of us, even those among us who would wish to see fewer people seeking protection in this country, would think that the best we can do is have an asylum system that is rooted in sheer luck versus adherence to basic legal standards.

In addition to the limited capacity to actually meet the legal needs of those in CBP custody, other challenges have further complicated access to counsel for asylum seekers, including but not limited to:

- The ECF-USBP is only supposed to apply to Spanish speakers, but there are reports of indigenous language speakers also subject to the program now.
- Consultations between asylum seekers and counsel are all being conducted telephonically, not even via video conference calls, exacerbating communication challenges and raising real privacy concerns.
- There are also reports that asylum seekers are not being provided with substantive KYR materials ahead of the time during which they can in fact speak to an attorney, creating the need for precious time to be dedicated to basic KYR discussions rather than focusing on the specifics of each case.
- Getting the completed G-28 form, the form required for an attorney or accredited representative to represent an asylum seeker, remains extremely challenging due to legal representatives not having access to their clients. While we are pleased that CBP now recognizes that this is a problem, their suggested remedy of having CBP officers get the required signatures from the asylum seekers, then being responsible for getting the signed form to the lawyers is a cumbersome, time consuming process that will likely be extremely difficult to implement for high numbers of people.
- Thus far, asylum seekers are not receiving written copies if they receive negative determinations following their CFIs. This further complicates their ability to quickly have further consultations with counsel before an immigration judge reviews the decision. I also understand that asylum seekers do not receive in writing the details about when their immigration judge review will take place.

This is not an exhaustive list of the due process challenges confronting asylum seekers in CBP custody; but, I wanted to highlight these because I think they are illustrative of a larger issue at

play, which is the denial of access to the most basic legal consultations to asylum seekers when there are literally life and death decisions at stake.

I certainly understand that the size and scope of the challenges at the border are daunting. However, I also think that there are real proposals that should be considered to address these challenges, proposals that respect the basic human rights of those seeking protection while also alleviating some of the pressures at the border. For example:

- The **asylum backlog** has reached new heights. There are currently more than 1.3 million pending asylum applications, with an estimated 750,000 in the immigration courts and over 600,000 with U.S. Citizenship and Immigration Services (USCIS). In order to make meaningful progress in reducing the massive asylum case backlog, Congress must appropriate robust funding to hire more asylum officers and immigration judges. This is of paramount importance, because the shortage of immigration judges and asylum officers contributes not only to the paralysis of the asylum system, but also to the inability of the United States to deter and remove non-citizens who are ineligible to remain in this country.

  For years, Congress and democratic and republican administrations alike have invested billions of tax dollars in Border Patrol, Immigration and Customs Enforcement, detention beds, and border enforcement technology. Meanwhile, they allocated a relative pittance of resources to the immigration courts and to U.S. Citizenship and Immigration Services (USCIS).

  Years long backlogs at USCIS and in the immigration courts due to massive underinvestment are responsible for the failure to enforce U.S. immigration laws. Justice delayed means justice denied not just for asylum seekers, but for all concerned about the integrity of our borders, because as long as Congress invests in immigration enforcement without investing in immigration judges and asylum officers, quite simply, securing the border will remain more of a buzzword than an attainable goal. People will continue to try to apply for asylum and then get lost in the years long backlog. With these massive backlogs, people who are not legally entitled to protection will stay in the U.S. for years before they will be sent back to their home countries, and people who are entitled to protection will anxiously sit for years, unable to truly start their lives over again while they are in a purgatory of sorts while they wait for their final asylum decisions.

- **Improved communications mechanisms**

  Currently, the main source of information for people seeking asylum are the human smugglers and word-of-mouth. People who are considering entering the United States should have access to information that helps them to understand what the United States will expect from them if they plan on asking for asylum. In addition, they should also have easy access to up- to- date information about major asylum policy changes from the U.S. government.

  Rocio Melendez Dominguez is HIAS Mexico's Managing Attorney. She lives in Ciudad Juarez, just across the border from El Paso, Texas. As she recently told NPR, one of HIAS Mexico's biggest challenges is the amount of misinformation about U.S. border policy that she and her staff must combat. She notes that sometimes false information is spread by smugglers, but frequently, well meaning people also unintentionally spread inaccurate information because the shifting situation at the border is extremely hard to understand, particularly without consistent access to reliable updates.

- **Detention along the border**

  Not only does subjecting people to the inhumane conditions in immigration detention shame us as a country, it does not actually deter people from trying their hand at coming to the United States, because what they are leaving behind is so much worse than immigration detention.

  Immigrant detention should only be used when absolutely necessary, and reserved for those who pose a serious public safety or national security threat. CBP detention should be in the least restrictive setting possible, and U.S. Immigration and Custom Enforcement (ICE) detention facilities should only be used when absolutely necessary, for those who have been found to be a national security threat, public safety concern, or extreme flight risk due to previous immigration history.

- We support the administration's plan to infuse an additional $15 million into its Case Management Pilot Program. HIAS has seen through our own offering of wrap around services to the asylum seekers for whom we provide legal services the positive impact that programming like this offers. Case management, run by community-based organizations, results in reduced immigration detention use; alleviates pressures on local

governments; and helps to ensure compliance with mandated immigration proceedings. We would like to see this type of programming become more widespread and the new norm for the types of services available to asylum seekers while they are going through their immigration processes.

- **Increased access to legal representation -**

As discussed above, the lack of legal representation for asylum seekers in CBP custody now is of grave concern to HIAS. Yet, that is just the first of many steps in the legal process when access to legal counsel for asylum seekers is of paramount importance, but extremely difficult to actually obtain.

Yes, HIAS believes that the surest way to promote equality and fairness in the asylum process is by dramatically increasing access to legal counsel at all stages of the asylum process. However, limited access to legal counsel for asylum seekers also has a direct impact on our country's inability to secure the border. For as long as it is too difficult for asylum seekers to have legal representation on both sides of the border, asylum seekers will not have access to the reliable advice they need in order to decide whether or not they could qualify for legal protection in the U.S, leading many to attempt to cross the border operating under the pretense of erroneous information.

U.S. immigration law is notoriously complex and faces constant updates and changes. In addition, the requirements to prove you are deserving and eligible for asylum are arduous. Therefore, being represented by a qualified representative that understands U.S. immigration and asylum law is a necessary step towards ensuring a fair and equitable system.

- **Collaboration with border shelter systems**

The federal government is not alone in managing the incoming population of asylum seekers. DHS should develop and implement communication and coordination systems among border cities and communities in the interior to facilitate the organized and humane transfer of asylum seekers from the border to their destinations of choice, ensuring coordinated service delivery in their destination city.

- HIAS has also long advocated for **increased refugee resettlement from the Western Hemisphere,** so we were encouraged on April 27th to learn of the administration's plans to significantly increase resettlement out of the region. U.S. proposals to double the regional resettlement numbers, as part of the commitments made in the Los Angeles Declaration on Migration and Protection are laudable. However, while we are optimistic about the benefits that will come from this planned expanded resettlement, we are at the same time troubled that this increase has been directly linked with restrictive asylum policies. Expanding resettlement is a great approach to promote safe passage and protection, but it must not ever be treated as a rationale for restricting asylum, which seems to be the rationale at play right now.

  I ask that you use your oversight authority to help to ensure that the administration meets its stated goal of doubling resettlement numbers out of the Western Hemisphere. Along with this, I urge you to encourage the administration to take every step necessary to make sure that any surge of resources to support the Regional Processing Centers (RPCs) that will eventually be found throughout Latin America will not come at the cost of resettlement from other parts of the world. As we are approaching the time when the administration must consult with Congress about its refugee admissions goals for FY24, now is the time to hold it accountable for making sure that our resettlement program truly reflects the global resettlement needs. We ask that Congress ensures that the necessary supplemental funding resources are made available to the Bureau of Population. Refugees and Migration (PRM) in the Department of State, the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services, and U.S. Citizenship and Immigration Services (USCIS) in the Department of Homeland Security.

- I would be remiss if I wrapped up my testimony this morning without expressing HIAS' opposition to H.R.2, which recently passed your chamber, as well as S.1473 and its House companion, H.R.3234. Support of this bill would have us moving further away from actually having an orderly U.S. asylum system. Rather, if implemented, it would essentially the entire system. As currently written, the bill would allow CBP to conduct mass expulsions to Mexico for two years, just like was done under the Title 42 policy, but this time without even the most specious of public health rationales. As if that is not troubling enough for those of us who support the U.S. hosting a functional asylum system, there are no provisions in the bill that would exempt unaccompanied children from this treatment.

  H.R. 3234 would also require that before DHS expels people that entered the U.S. between POEs or who arrived at POEs without prior approval, it has to detain them first,

including children (those with their families and those who are unaccompanied). Many of us are still haunted by images of young children behind bars in immigration detention, and to even suggest that we would return to a place where we are detaining babies and young children is unthinkable for HIAS.

As a refugee organization founded over a century ago by Jewish Americans driven by the imperative to welcome the stranger, HIAS remains deeply committed to the fundamental human right to seek asylum and staunchly oppose recent efforts to severely curtail access to this protection. As the asylum space in this country continues to shrink, we again call on the administration and Congress to lead by the power of example, by working together towards real, comprehensive immigration reform.

Mr. MCCLINTOCK. Thank you. We will next hear from Supervisor Teresa Kenny.

STATEMENT OF TERESA KENNY

Ms. KENNY. Thank you. Thank you, Mr. Chair, and every Member of the Subcommittee for giving me the opportunity to speak with you today about what transpired with Mayor Eric Adams and his efforts to house migrants in a local hotel in Orangetown, New York. I am here today as the Town Supervisor of Orangetown, a suburban community, approximately 30 miles North of New York City to give you some insight into what is happening around the country as a result of migration crisis at the southern border.

It is important to note at the onset that what is happening in Orangetown is not unique. It is playing out throughout communities all over our country as major cities are reaching capacity for migrant housing and they are sending into other communities without any regard for whether they have the resources or capabilities to handle them.

Orangetown's story began on Friday, May 5th, when New York City Mayor Adams called to tell me about a pilot program he was implementing as part of his decompression strategy. The plan, he explained, was to relocate migrants from New York City and to house them in hotels across New York State. He was calling to let me know that a hotel in Orangetown has been identified as a possible location.

Mayor Adams downplayed the plan telling me there was a chance that no one would be housed in Orangetown, and he implied that it would be happening in weeks. When pressed for specifics, he told me that a member of his team would get back to me.

I received a call from a member of the Mayor's staff and that is when I learned that the plan was to house single, adult males in a local hotel and that the buses would be arriving imminently. In fact, it was within hours of that call that I received photos of hundreds of mattresses stacked outside the Armoni Inn and Suites hotel and it was evident to me that the plan had been in the works for quite sometime and that it included getting local elected officials very little advance notice as a means to thwart legal challenges.

Throughout the following day, it became clear that New York City intended to house 340 men at the Armoni Inn and Suites, a local hotel in Orangeburg, a small hamlet of just over three-square miles in a population of approximately 4,500 people. The hotel is situated less than a mile from two college campuses, two senior citizen housing complexes, and a high school. It is located at the intersection of New York State, Route 303, which is one of the most dangerous highways in the county and Kings Highway, a street of mostly residential homes.

Mayor Adams' plan was simple, to convert the hotel in Orangetown into a housing facility for long-term residents. In other words, to open a New York City homeless shelter in Orangetown which is a clear violation of our local zoning standards. So, based on this information and what was brought up from the phone calls and the observations of medical supplies and other shelter items by town

officials who inspected the property, the town issued a Notice of Violation to advise the hotel that it was not consistent with the definition of a hotel as set forth in our town code.

Despite the issuance of the Notice of Violation, on Tuesday, May 9th, New York City scheduled a debriefing call with elected officials to tell us that they would be sending buses the next day. They also described conditions consistent with a shelter and that there would be onsite staff available 24 hours a day, seven days a week, including one social worker and one case worker per migrant for 30 migrants and that New York City would cover the cost of three meals, laundry service, and housekeeping for up to four months. They also introduced us to the staff from DocGo, a company that New York City had contracted with which specializes in providing medical-related services to shelters.

In light of this, the town filed legal papers in Rockland County Supreme Court and retained a restraining order against the hotel on Tuesday, May 9th, effectively preventing the use of a hotel as a shelter and the arrival of any migrants from New York City the next day.

To be very clear, for our purposes the immigration status of the individuals is irrelevant to the town's decision to seek legal recourse. The counsel of legal action to ensure the integrity of local zoning regulations and the protection of those who would be housed in the hotel on a long-term basis as a shelter, as well as the community at large.

I also want to outright reject any charges made that it is an act of anti-immigration. Rockland County is home to a vibrant immigrant population and in fact, I am married to one, but over the last two years, there has been a steady increase of migrants finding their way to Rockland County and settling in with the support of family, friends, and local community groups. This has already started to put a strain on Rockland County and Rockland County Department of Social Services so much that just over two months ago, Congressman Mike Lawler and County Executive Ed Day held a press conference and standing with nonprofits explained the financial impact on Rockland County.

The problem with Mr. Adams' plan is that he does not have one. That became evident when during the debriefing call, a member of staff was asked what would happen with the migrants at the end of the four months? The response was that they expected them to integrate into the community by that time. Orangetown, like the rest of New York State, is in a housing crisis, affordability crisis. So, the question is how are these men, without English skills, without family support, going to integrate into our community?

So, I will tell you what will happen. They will end up renting from unscrupulous landlords and we know it is happening because just this past March there was a tragic house fire in Rockland that killed five undocumented immigrants including two children with five others being hospitalized. Orange and Rockland County just do not have the resources or staffing levels to investigate and remedy these types of situations on a wide-scale basis.

That the Federal government acting to stem the flow of migrants at the border, it was only a matter of time before it impacted all

our neighborhoods. While it is Orangetown today. It will be yours tomorrow. Thank you and I look forward to answering questions.

[The prepared statement of Ms. Kenny follows:]

Thank you for giving me the opportunity to speak with you today about what transpired with Mayor Eric Adams and his efforts to house migrants in a local hotel in Orangetown, N.Y. I am here today as the Town Supervisor of Orangetown, a suburban community approximately 30 miles north of New York City, to give you some insight into what is happening around the country as a result of the migration crisis at the southern border.

It is important to note at the onset that what is happening in Orangetown is not unique; it is playing out throughout communities all over our country as major cities are reaching capacity for migrant housing and they are sending them to other communities, without any regard for whether they have the resources or capabilities to handle them.

Orangetown's story began at 11 am on Friday, May 5, 2023, when NYC Mayor Eric Adams called to tell me about a PILOT program he was implementing as part of his "decompression strategy." The plan, he explained, was to relocate migrants from NYC and to house them in hotels all across NYS. His call was to let me know that a hotel in Orangetown had been identified as a possible location. Mayor Adams downplayed the plan, telling me that there was a chance that no one would be housed in Orangetown, and he implied that it was weeks from happening. When pressed for specifics, he told me that a member of his team would get back to me later that day with the details.

At 1:30 pm that day, I received a call from a member of the Mayor's staff. That's when I learned that the plan was to house single, adult males in a local hotel and that the buses would be arriving "imminently." In fact, it was within hours of that call that I received a photo of hundreds of mattresses stacked outside the Armoni Inn and Suites Hotel. It was evident that this plan had been in the works for quite some time, and that it included giving local elected officials little advance notice as a means to thwart legal challenges.

Throughout the following days, it became clear that NYC intended to house 340 men at the Armoni Inn and Suites Hotel, a hotel located in Orangeburg, a small hamlet of just over 3 square miles and a population of approximately 4,500 people. The hotel is situated less than a mile from two college campuses, two senior citizen

housing complexes and a high school. It is located at the intersection of NYS Route 303, one of the most dangerous highways in Rockland County, and Kings Hwy, a street of mostly single-family residential homes. It was during this time that I obtained a copy of a pamphlet, which I have shared with the committee, and was told that it was being handed out to the migrants as they arrived in NYC.

Mayor Adams' plan was simple: convert the hotel in Orangetown into a housing facility for long-term residence. Or, in other words, to open a NYC homeless shelter in Orangetown, which is a clear violation of our local zoning standards. So, based upon the information that was garnered from the phone calls and observations of medical supplies and other shelter items by Town Officials who inspected the property, the Town issued the hotel a Notice of Violation on Sunday, May 7, 2023, giving them notice that the intended use was not consistent with the definition of a "Hotel" as set forth in the Town Code.

Despite the issuance of the Notice of Violation, on Tuesday, May 9, 2023, NYC officials scheduled a 4:30 pm "debriefing call" with elected officials from Rockland and Orange Counties. The purpose of the call was to tell us that buses would start arriving sometime the following day. During this call, they also described conditions consistent with a shelter, in that there would be on-site staff available 24 hours a day/7 day a week, including 1 social worker and 1 case worker per 30 migrants, and that NYC would cover the cost of 3 meals, laundry service, and housekeeping, for up to four months, and medical and legal consultations. We were also introduced to staff from "DocGo," a company that NYC had contracted with which specializes in providing medical related services to shelters.

By the time of this call, the Town had already filed legal papers in the Rockland County Supreme Court seeking a Temporary Restraining Order to enjoin the use of the hotel in Orangeburg for the long-term housing of individuals under the care of New York City. The Court granted the requested relief at 6:01 pm on Tuesday, May 9, 2023, effectively preventing the use of the hotel as a shelter and the arrival of any migrants from NYC the next day. This matter is scheduled to be back in court on May 31, 2023.

The County of Rockland also brought a separate legal action, based on the failure of NYC to possess the requisite license to operate such a facility, as is required by the Laws of Rockland County. The Court granted a Temporary Restraining Order, and that matter is back in court on May 30, 2023.

To be very clear, for our purposes the immigration status of the individuals is irrelevant to the Town's decision to seek legal recourse. The Town sought legal action to ensure the integrity of local zoning regulations and the protection of those who would be housed in the hotel on a long-term basis as a shelter, as well as the community at large.

I also want to outright reject charges being made against County Executive Ed Day and me that our actions are anti-immigration. Rockland County is home to a vibrant immigrant population. In fact, I am married to one. But, over the last two years, there has been a steady increase of migrants finding their way to Rockland County and settling in with the support of family, friends and local community groups. This has already started to put a strain on Rockland County and the Rockland County Department of Social Services.

So much so that, just over two months ago, Congressman Mike Lawler and County Executive Ed Day held a press conference and, standing beside a number of nonprofits, food pantries and immigrant services organizations, sounded the alarm of what was to come if action was not taken to address the crisis at the southern border. It was disclosed that over the last six months, the impacts have included food pantries running out of food, necessitating Rockland County investing another $1 million to help them, as well as the addition of 1,000 children enrolled in local school districts and a 35% increase in children in foster care, with nearly one-third being undocumented migrants.

The problem with Mr. Adams' plan is that he does not have one. That became evident when, during the debriefing call, a member of his staff was asked about what would happen with the migrants at the end of four months. The response was that they expected most of them to integrate into the community by that time.

But that raises the obvious question: How are these men with no family support, no working papers and with limited to no English language skills going to be able to integrate into our community? Especially when the Town of Orangetown, like all of NYS, is in the midst of a housing affordability crisis. My college educated adult children, with full-time employment, had to live at home for almost two years after graduation to be able to afford suitable housing. When the Mayor's staff was questioned about this, the response was that the migrants are "resourceful" and they will find work "off the books." This is not a plan; it is a recipe for disaster.

Let me tell you what will happen. These individuals will end up working for unlivable wages and renting in overcrowded homes, that are often unsafe, from

unscrupulous landlords. I know because it is already happening in Orangetown and throughout Rockland County. Just this past March, there was a tragic house fire in Rockland that killed five undocumented immigrants, including two children, with five others being hospitalized. Orangetown and Rockland County just do not have the resources or staffing levels to investigate and remedy these types of situations on a wide scale basis.

I know that Rockland County continues to work diligently with their partner nonprofits to ensure basic human services are maintained, but it is not prepared to take in hundreds of more people in a short period of time. And, if Mayor Adams is permitted to open shelters wherever and whenever he wants, with a complete disregard for local zoning laws or the suitability of the location for the migrants or the community, that number can easily swell into the thousands in Rockland County. Unlike NYC, which received $1.0 billion from NYS and $30 million from the Federal Government, Rockland County did not receive a single dollar of funding to assist with this problem.

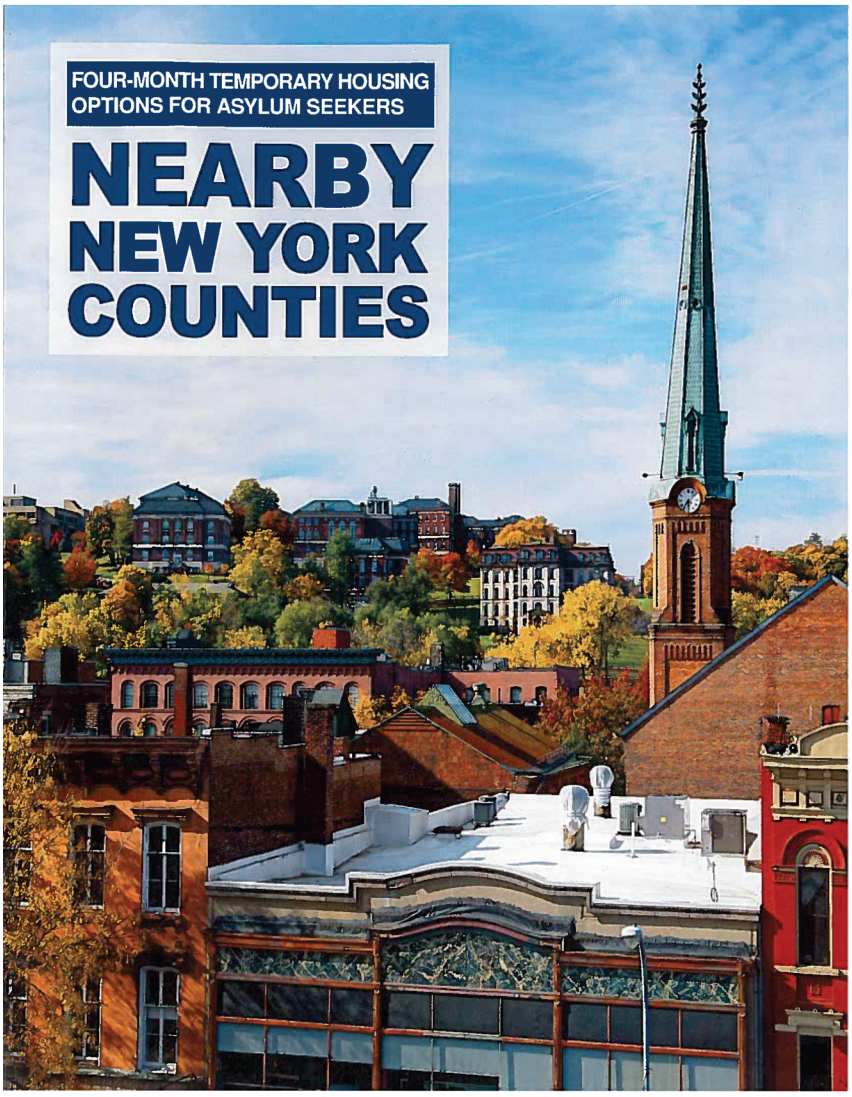
While I certainly empathize with Mayor Adams and the situation he finds himself in, it is the result of bad policies at both NYC and the federal level. And my heart breaks when I hear about unaccompanied children at the border and the human trafficking that is taking place, as well as the violence, abuse and death of migrants looking for a better life. This is now a humanitarian crisis and something more sustainable needs to be done. From the President down, every elected official has known that this crisis was coming.

Without the Federal Government acting to stem the flow of migrants at the border, it was only a matter of time before it impacted all our neighborhoods. While it is Orangetown today, it will be yours tomorrow.

This situation requires solutions on the Federal level, and I sincerely hope the lawmakers in D.C., both Democrats and Republicans, can come together to find a solution to fix this broken and unsustainable system.

I thank you all for your time and am happy to answer questions.

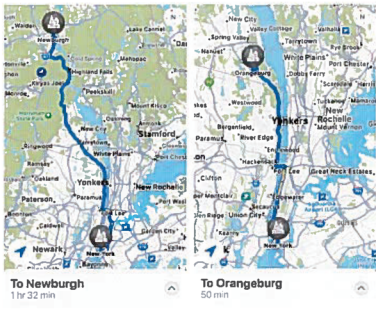
Teresa M. Kenny
Town of Orangetown Supervisor


FOUR-MONTH TEMPORARY HOUSING OPTIONS FOR ASYLUM SEEKERS
NEARBY NEW YORK COUNTIES

NEARBY NEW YORK COUNTIES

FOUR-MONTH TEMPORARY HOUSING OPTIONS FOR ASYLUM SEEKERS

New York has arranged for temporary housing and support services to help you and other asylum seekers. Located near the Hudson Valley, just outside New York City, these shelter options will include a warm environment, nutritious meals, and case workers to help adults over the age of 18 access what you need to care for yourself and transition to a new home.



TEMPORARY HOUSING

We have secured Double Occupancy Rooms for adults over 18 years old which include clean rooms and private bathrooms, housekeeping and medical consultations with a remote healthcare professional via telehealth for medical conditions. We will be providing you with a room at one of the two following hotels:

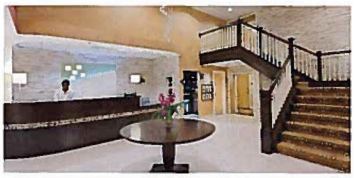
NEWBURGH





ORANGEBURG





MEALS

3 meals served each day - breakfast, lunch, and hot dinner

LAUNDRY SERVICE

Laundry service will be provided to you every other week. Case workers will coordinate a pickup day and time for your laundry, which will be returned to you in your room.

ADDITIONAL AMENITIES

Housekeeping, medical consultations with a remote healthcare professional via telehealth for medical conditions, hygiene kits and more.





ADDITIONAL SERVICES

Onsite case workers will be there daily to assist you:

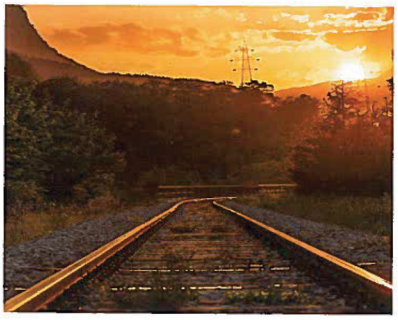
- Arrival/ check in
- Coordinate medical care
- Accessing Legal services
  - The case manager will help identify your needs and connect you to the services, resources, and information you may need.
- Reconnection services
- Introduction to community-based organizations and religious groups
- Hygiene kits including shampoo, soap, deodorant, shaving kit, nail file, antibiotic ointment, toothbrush, toothpaste and more.

GETTING THERE – SHUTTLE BUSES & PUBLIC TRANSPORTATION

A shuttle will take you directly to your temporary housing in Upstate New York.

Public Transportation Options:
The Armoni Hotel in Orangeburg is 0.4 miles away from the Orangeburg Rd and Western Highway South bus stop for train and bus services.





The Crossroads Hotel in Newburgh is 0.5 miles away from the Stewart Industrial Park Bus Station.

Walk 0.5 miles from the hotel to the Short Line Bus Stop on Route 17k. Take the east for 2.8 miles to the Short Line Transportation Center.





Mr. MCCLINTOCK. Thank you. Finally, we will hear from Ms. Tammy Nobles. Ms. Nobles, you have already heard from several of our colleagues. Our hearts go out to you, as do the hearts of every American who hears your story. I know that grief that always feels very alone, but I want to assure you that you are not alone, and you are recognized to tell your story.

STATEMENT OF TAMMY NOBLES

Ms. NOBLES. Thank you to the Members of the Committee for having me. My name is Tammy Nobles. I am the mother of Kayla Hamilton. July 24, 2002, was one of the best days of my life. I gave birth to a beautiful baby girl and named her Kayla Marie. She was a happy and easy-going baby. Even back then, she loved to smile and laugh. She always kept her friends close and never forgot anyone. She was kind, caring, thoughtful, and funny. She loved life and God. She showed the world that being yourself was OK and you didn't have to follow everyone else.

Sadly, on July 27, 2022, I received the worse news that a parent doesn't want to hear, that my newly 20-year-old daughter Kayla Hamilton was murdered in her own room and left on the floor like trash. She left behind a mother who loved her, a stepfather, a brother, a younger sister, grandparents, and lots of aunts, uncles, and cousins. At first, we knew very little details of the murder until an arrest was made. The details we learned broke us.

At the of March 2022, Kayla's murderer was apprehended by Border Patrol crossing illegally into the U.S. at the southwest border and Rio Grande City, Texas. I am not sure if he was vetted or not, but he was a 16-year-old known gang member affiliated with MS–13 in El Salvador. The MS–13 motto is kill, rape, and control. He entered the country as an unoccupied alien child. As a UAC, the murderer was allowed to go live with his aunt in Frederick, Maryland. She was also an illegal immigrant. There were issues with him living there and he went to go live with his half-brother who lived in the same trailer park as Kayla and her boyfriend.

My questions are what protocol was the aunt supposed to follow? If she couldn't handle him, then why not inform the proper authorities? The half-brother tried to get him a job and to do the right thing, but that didn't happen. So, the half-brother told him that he had to leave.

At the trailer park, an illegal immigrant owned numerous trailers and was subletting them out. That is how Kayla was able to get a place because she didn't make much and had no credit yet. The half-brother asked the owner if she had any rooms for rent. She did. The same trailer as Kayla. Kayla's murderer was living there less than five days before he viciously murdered my daughter.

Kayla had two jobs. She was working at a cleaning company and at a grocery store. Kayla had autism, but she was determined to live independently and make her way in this world and my baby paid the ultimate price. She had just gotten home from working the night shift and said goodbye to her boyfriend that morning when he left for work. She then went to sleep. The murderer went into Kayla's room, straddling her, grabbed her iPod charger and wrapped it around her throat and face while strangling her to

death. Kayla grabbed her phone and called her boyfriend but went to voice mail. The voice mail of the murderer strangling her was two minutes and 30 seconds long. The murderer then violently sexually assaulted Kayla. Kayla's boyfriend came home from work and found her dead on the floor. The charger cord was so tight around her neck and face that her boyfriend had to use his teeth to get it off. The murderer robbed her of her phone and six dollars. Six dollars was all my baby had in cash because she used the snack machines at work to get something to eat.

He then went to lunch with his half-brother like nothing happened. Local police didn't have enough evidence to arrest the murderer, so Child Protective Services took him into custody and placed him in an unsecured children's home with other children, even knowing that he was a named suspect in a premeditated murder case.

When he was arrest for Kayla's murder, he laughed and smirked. For me, this is not a political issue. This is a safety issue for everyone living in the United States. This could have been anyone's daughter. Kayla wasn't doing anything wrong. She didn't deserve to be murdered. I don't want any other parent to live the nightmare that I am living. I am her voice now and I am going to fight with everything I have to get her story told and bring awareness of the issue at the border. I will make sure her memory lives on.

Murder itself is already taboo, but then you mention MS–13 and nobody wants to touch it. Nothing will change if nobody talks about the problem. The U.S. Government has to secure our border. We need to properly vet all border crossers. The Government could have placed a phone call to authorities in El Salvador and found out that he was a gang member, but they didn't. If we had stricter border policies, my daughter would still be alive today. Nothing will bring my daughter back nor the pain, nor will fix the pain of not having her here. I want to prevent this from happening to someone else's child. This is about protecting everyone here in the United States. Thank you.

[The prepared statement of Ms. Nobles follows:]

Testimony of Tammy Nobles
Subcommittee on Immigration Integrity, Security and Enforcement
Biden Border Crisis: Part III
May 23, 2023

Good morning to the members of the committee. My name is Tammy Nobles. I am the mother of Kayla Hamilton.

July 24th, 2002, was one of the best days of my life. I gave birth to a beautiful baby girl and named her Kayla Marie. She was a happy and easy-going baby. Even back then she loved to smile and laugh. She always kept her friends close and never forgot anyone. She was kind, caring, thoughtful and funny. She loved life and God. She showed the world that being yourself was ok and you didn't have to follow everyone else. But sadly, on July 27th, 2022, I received the worst news that a parent doesn't want to hear that my newly 20-year-old daughter Kayla Hamilton was murdered in her own room and left on the floor like trash. She left behind a mother who loved her, a stepfather, a brother, a younger sister, grandparents and lots of aunts, uncles and cousins.

At first, we knew very few details of the murder until an arrest was made. The details we learned broke us. At the end of March of 2022 Kayla's murderer was apprehended by Border Patrol crossing illegally into the U.S. at the southwest border in Rio Grande City, Texas. I am not sure if he was vetted or not, but he was a 16-year-old known gang member affiliated with MS-13 in El Salvador. The MS-13 motto is "kill, rape and control". He entered the country as an unaccompanied alien child.

As a UAC the murderer was allowed to go with his aunt who lived in Frederick, Maryland – she was also an illegal immigrant. There were issues with him living there and he went to go live with his half-brother who lived in the same trailer park as Kayla and her boyfriend.

My questions are what protocol was the aunt supposed to follow? If she couldn't handle him then why not inform the proper authorities? The half-brother tried to get him a job and to do the right thing. But that didn't happen, so the half-brother told him that he had to leave. At the trailer park an illegal immigrant owned numerous trailers and was subletting them out. That is how Kayla was able to get a place because she didn't make much and had no credit yet. The half-brother asked the owner if she had any rooms for rent. She did, in the same trailer as Kayla.

Kayla's murderer was living there less than 5 days before he viciously murdered my daughter. Kayla had 2 jobs. She was working at a cleaning company and at Weis grocery store. Kayla had autism but she was determined to live independently and make her way in this world. And my baby paid the ultimate price. She had just gotten home from working the night shift and she said goodbye to her boyfriend that morning when he left for work. She then went to sleep.

The murderer went into Kayla's room startling her, grabbed her IPod charger and wrapped it around her throat and face while strangling her to death. Kayla grabbed her phone and called her boyfriend but went it to voicemail. The voicemail of the murderer strangling Kayla was 2 minutes and 30 seconds long. The murderer then violently sexually assaulted Kayla.

Kayla's boyfriend came home from work and found her dead on the floor. The charger cord was so tight around her neck and face that her boyfriend had to use his teeth to get it off.

The murderer robbed her of her phone and $6.00. $6.00 is all my baby had in cash because she used the snack machines at work to get something to eat. He then went to lunch with his half- brother like nothing happened. Local police didn't have enough evidence to arrest the murderer so Child Protective Services took him into custody and placed him in an unsecured children's home with other children – even knowing that he was the main suspect in a premediated murder case. There were issues at the children's home so he was placed with the foster family until he was arrested. When he was arrested for Kayla's murder he laughed and smirked.

For me this not a political issue this a safety issue for everyone living in the United States. This could have been anyone's daughter. Kayla wasn't doing anything wrong and she didn't deserve to be murdered. I don't want any other parent to live the nightmare that I am living. I am her voice now and I am going to fight with everything I have to get her story told and bring awareness of the issue at the border. I will make sure her memory lives on.

Murder itself is already taboo but then you mention MS-13 and nobody wants to touch it. Nothing will change if nobody talks about the problem. The United States Government has to secure our border. We need to properly vet all border crossers. The Government could have placed a phone call to authorities in El Salvador and found out that he was a gang member. But they didn't. If we had stricter border policies my daughter would still be alive today. Nothing will bring my daughter back nor fix the pain of not having her here, but I want to prevent this from happening to someone else's child. This isn't about immigration this is about protecting everyone in the United States.

Mr. MCCLINTOCK. We will now proceed with the five-minute rule of questions. I will defer mine until the end and recognize Mr. Biggs of Arizona.

Mr. BIGGS. Thank you, Mr. Chair. Ms. Nobles, thank you again for being here. I thank all the witnesses, but thank you for your poignant testimony.

I think of Steve Ronnebeck, whose son Grant was murdered as he worked at a convenience store in Mesa, Arizona by an illegal alien or Mary Ann Mendoza whose, son Brandon was a police officer was killed by an illegal alien in Mesa, Arizona. Our heart goes out to you, Ms. Nobles.

I am stunned that a witness would say we need to find equilibrium at a time when six million plus people have illegally entered the country in the last two years. Stunned. I am stunned to know that of 31,000, 32,000 people, 21,000 of them were released into the country over a 72–96-hour period. I am stunned because we don't have control of our border. The CBP Chief Ortiz has testified that the cartels control our border, as has Sector Chief Modlin of the Tucson Sector, as has Sector Chief Chavez of the Rio Grande Valley Sector.

I will go to you Chief Scott. Has Secretary Mayorkas taken the actions necessary and appropriate to achieve and maintain operational control of the borders?

Chief SCOTT. Absolutely not, sir. If you listen to the words he states every time, it's about creating safe pathways. When I was Chief, we were not allowed to even discuss consequences or actually securing the border. It was all about expediting the processing and avoiding the optics of people backed up into Border Patrol stations.

Mr. BIGGS. We've heard today about new parole processes being implemented. Last year, over 300,000 people received parole. This year, it will be over 750,000.

Prior to the Biden Administration, typically, you might see 15–20, maybe as high as 25, parole processes. That's because that's an individual process. Even Secretary Mayorkas has testified before this Committee that it's an individual process.

What has he done to distort the parole process, Chief Scott?

Chief SCOTT. I, honestly, do not understand how they can look at the law and do what they're currently doing with the parole process. By law, every one of those approvals is supposed to be a case-by-case basis. It's supposed to be based on a humanitarian reason or a benefit to the U.S. Government.

My entire time in the Border Patrol, I probably approved—and I'm estimating—about six or eight paroles a year, at the most, and those were usually to benefit a case or because of some type of a medical condition. There were tight restrictions put on every one of those. It was probably a packet about an inch thick—about keeping track of the individual. Because the concept of parole is you're allowing someone into the United States that we know does not have a legal right to be here. They haven't proven it. So, we're accepting risk on behalf of all America. That's a heavy burden. We all took that very seriously.

I do not believe the Border Patrol can be doing today the legal assessment required for each individual case. It's just not possible.

Mr. BIGGS. Chief Scott, DHS officials—and I'm quoting now from a *The New York Times* piece reads, "Thousands of migrants are successfully using CBP instead of paying smugglers." Are we to believe that CBP is an alternative to cartel smuggling? Or are we actually using CBP to facilitate cartel smuggling?

Chief SCOTT. There's—the CBP app is a—from my understanding, it is, basically, a queuing mechanism, like we used to do at ports of entry with a pen and paper on the South side. Anything that happens on the South side of that border is definitely controlled or influenced heavily by the cartel.

Anything we can do to get them out of the system would be fine, but I think the piece that we're missing here, too, is we're now taking away from the legal trade-and-travel processes of the CBP officers at those ports of entry. They were all gainfully employed prior, and the CBP app is pushing more and more people into that port of entry that don't have, by definition, do not have a legal right to be here.

The other challenge is it's a magnet. Because to use the CBP app—again, from my understanding—you have to be in Mexico; you have to be up close to the border. So, that entices even more people into that border community, and the throughput does not match the demand. Where does that overage go? Right back to the cartels.

Mr. BIGGS. Thank you. My time has expired.

Mr. MCCLINTOCK. The Chair now recognizes the Ranking Member for five minutes.

Ms. JAYAPAL. Thank you, Mr. Chair.

Mr. Hetfield, thank you for your very compelling testimony.

As you know, one of the Biden Administration's answers to increased migration at the border is to expand legal pathways. As Title 42 was set to expire earlier this month, the United States announced its opening of regional processing centers all over the hemisphere. They will be starting in Guatemala and Colombia, and then, expanding to other countries, including Mexico.

This seems like a positive step by the administration to build its capacity to take increased numbers of refugees before they even make that dangerous journey to our southern border. Would you agree with that? What do you think the United States needs to do to make these regional processing centers a success?

Mr. HETFIELD. Yes, I absolutely agree with that. I also agree with Chief Scott's assessment about the overuse of parole. The administration needs to rely more on the U.S. Refugee Admissions Program as a lawful pathway—with a pathway to permanent residence and, ultimately, citizenship and suitable vetting, and less on humanitarian parole. This is, definitely, a step in the right direction. So, I hope those centers are resourced.

One of the key strategies that's going to have to be implemented, though, is you have to make those centers for asylum seekers with legitimate claims more attractive than crossing the border to seek asylum. So, you have to look at things that have been used in the past with the refugee program, like the Lautenberg Amendment, and apply that to their applications. You have to make sure that they are—that their applications are processed expeditiously and fairly. So, yes, but I'm absolutely supportive of that measure.

Ms. JAYAPAL. If you listen to my colleagues, you will think that the United States is bearing the brunt of the global refugee crisis alone. HIAS works all over the world, as you said. It's simply not true. Can you discuss how other countries in the hemisphere are seeing significant increases in the number of asylum claims?

Mr. HETFIELD. Yes, absolutely. It really is a global refugee crisis, and we are just one player in this global refugee crisis. Colombia alone, which was, traditionally, a refugee-producing country, is now taking in refugees. Millions of Venezuelans, over 2.5 million Venezuelans have sought refuge in Colombia, where HIAS operates.

Likewise, over 1.5 million in Peru; over half a million in Ecuador; and nearly half a million in Chile. If you look at every single country in the hemisphere, there are many asylum seekers. Most of them come from Venezuela, but also from Central America, and even outside of the Western Hemisphere, seeking asylum.

So, this really requires international attention, and the U.S. has to lead on this issue.

Ms. JAYAPAL. It's my understanding that HIAS is actually helping some of these individuals apply for asylum in other countries. Can you tell us more about that?

Mr. HETFIELD. Sure. I mean, HIAS's No. 1 job is to make asylum seekers safe and secure and welcome wherever they are. That's in the first countries to which they flee. When that fails, then, we try to find them third countries, but, again, through safe and orderly means, like refugee resettlement. Our operations have expanded massively over the last few years because of the refugee crisis, and the Venezuelan migration, in particular, throughout the Western Hemisphere.

Ms. JAYAPAL. As you pointed out, refugee admissions and the need to assist refugees has always been a bipartisan concern until recently. In fact, I remember the testimony of somebody from the National Evangelical Association saying that our refugee resettlement program is the crown jewel of humanitarian assistance.

Mr. Hetfield, I wanted to see if you could discuss misinformation and how it spreads among migrants who are making the long journey to the border. Can you discuss how rumors and misinformation is spread by the cartels of an open border impacts the number of migrants that we see trying to come to the United States?

Mr. HETFIELD. Sure. It's massive, but it's not all misinformation. They're spreading misinformation and, also, information about how broken our border and our immigration system is. That is an attractant to people to come in, to apply for asylum and other benefits, to which many of them are not actually entitled.

Ms. JAYAPAL. Thank you, Mr. Hetfield. I couldn't agree more. I think our words matter, and I think that you pointing out of the importance of really establishing a functioning immigration system is absolutely crucial.

As the Ranking Member of the Full Committee said in his opening statement, it is, unfortunately, seen as an advantage by many of our colleagues across the aisle to leave our immigration system broken, so that we can continue to point fingers at immigrants who are simply trying to do what so many of our forbearers have done—come to the United States because it is a country that has pro-

tected so many people fleeing terrible persecution and many other ills.

I thank you for your testimony today and for being with us.

I yield back, Mr. Chair.

Mr. MCCLINTOCK. The Chair recognizes Mr. Tiffany from Wisconsin for five minutes.

Mr. TIFFANY. Thank you, Mr. Chair.

Chief Scott, isn't it correct that many of these people are not asylum seekers; that they're actually not legitimate asylees?

Chief SCOTT. That is very accurate. Most of them, when you ask them questions, they're economic refugees, if anything. They're seeking work. It's they're not political—

Mr. TIFFANY. Isn't it correct, when Remain in Mexico was in place under the previous administration, there was over 90 percent rejected? They were not legitimate asylees?

Chief SCOTT. That is correct. That also acted as a deterrent. So, people stopped coming to the border because they knew they couldn't get away with fraud.

Mr. TIFFANY. Yes, just for the record, Mr. Chair, I was down at the Darien Gap two years ago at this time in May. That's exactly what we heard, people were coming—they were like, "We had resettled to Chile and we were perfectly happy there—We resettled to Brazil." Haitians, others, the Venezuelans, they said, "We were perfectly happy there, but since you're going to open the border, we're going to come to the United States of America." That's not a legitimate asylum claim, is it?

Chief SCOTT. That is not.

Mr. TIFFANY. Secretary Mayorkas, has he done his job to protect the American people?

Chief SCOTT. I do not believe that he has. He's focused on the processing and completely ignored border security, which, by the way, actually decimates our immigration system. Good border security supports our good immigration system.

Mr. TIFFANY. Ms. Nobles, if border policies continue as they are over the last two years, will there be more Kaylas?

Ms. NOBLES. Yes, I believe so, and that is why I'm getting—trying to get her story out. So, people are aware of the issue.

Mr. TIFFANY. Might Kayla be alive if the Biden Administration had secured the border over the last two years?

Ms. NOBLES. Yes, I believe she would still be here if he was properly vetted.

Mr. TIFFANY. Would you prefer from us, if you had a choice, to get condolences from Members, which I'm sure are very heartfelt—would you prefer condolences or would you prefer changes in the law, like the Secure the Border Act to make—

Ms. NOBLES. I would like—oh, sorry. I would like to have changes in the law, and I want to put a law in Kayla's name to help to have her memory live on, and so those will know that she was the one that could that changed the law.

Mr. TIFFANY. Unfortunately, Mr. Chair, we have a name for these people, angel families. That is a horrible thing here in America, that we have such a thing, that we have to name all those people that have been killed by people who came in here illegally into our country.

I want to go back to you, Mr. Scott. Have you had a chance to see the grand jury presentment in Florida? Have you reviewed that?

Chief SCOTT. I have not reviewed it in its entirety, no.

Mr. TIFFANY. Would it surprise you, out of that presentment, a 24-year-old male was processed by ORR, the Office of Refugee Resettlement, and went on to violently kill his sponsor by stabbing him 50 times? Would it be a surprise that this person came in as a minor, but, actually, was a 24-year-old male? Is that surprising to you?

Chief SCOTT. It is not surprising. I'm familiar with that case. There's no data base that we can check people's ages off of. So, you have to go with their word.

Mr. TIFFANY. Would you be surprised, out of that presentment, that many don't carry any form of identification or authentic IDs?

Chief SCOTT. I'm not surprised. Usually, they get rid of it before they cross the border.

Mr. TIFFANY. Are you surprised that UACs, unaccompanied alien children, are not rapid DNA tested or biometric tested?

Chief SCOTT. To be honest, they're not even fingerprinted and photographed on many occasions if they're under 14. So, no.

Mr. TIFFANY. Would you be surprised to know, out of that presentment, that most case managers at ORR do not have any special training and many have been hired over the phone, sight unseen, with a very cursory approach?

Chief SCOTT. That's very troubling, but, unfortunately, I'm not surprised.

Mr. TIFFANY. Would you be surprised that agents in the El Paso region discovered more than 665 adult illegal aliens in 2021 alone who tried to pose as unaccompanied minors to gain expedited entry into the United States in the past 12 months?

Chief SCOTT. I am not surprised. Anytime you carve out a special group, people try to take advantage of that and lie and get into it.

Mr. TIFFANY. Would you be surprised if an ORR attorney, the Office of Refugee Resettlement, stated, "We only get sued for keeping them too long. We don't get sued by traffickers."?

Chief SCOTT. I am not surprised, no. It's consistent with what I was told and heard during my time as Chief in this administration.

Mr. TIFFANY. Thank you to all the people that are here today.

I would just close: We heard all kinds of data from the Ranking Member here in his presentation over the course of three decades about—I believe it added up to about 233,000 people came in via parole. That was over the course of three decades. We've had over a million people come in, Mr. Chair, in just a little over two years. That is not humane in any way. Terrorists, human traffickers, and fentanyl poisonings are a product of what has happened under the Biden Administration and Secretary Mayorkas.

I yield back.

Mr. MCCLINTOCK. The Chair now recognizes Mr. Nadler.

Mr. NADLER. Thank you, Mr. Chair.

Mr. Hetfield, our Republican colleagues use a lot of inflammatory rhetoric, calling migrants arriving at the southern border "an invasion." Can you discuss the impact this kind of language has on the work that you and HIAS do?

Mr. HETFIELD. Yes, that's a difficult topic. It's had a significant impact, especially as a Jewish agency. First, there's the vilification of undocumented immigrants and asylum seekers, which is having a major impact on the agency, security issues regarding the agency, and on relationships with the people that we deal with.

The vast majority of asylum seekers are coming here because they are fleeing persecution. Many people who come here are not in need of protection, but that's why we need a system that makes that distinction. We don't have one right now.

In terms of HIAS itself, unfortunately, the theory of replacement theory is gaining more and more mainstream attention, which is that there is a conspiracy of Jews and others to bring in Brown people and non-Christian people to replace White Christian Americans. This is becoming a serious problem for us. It's gaining more and more mainstream acceptance, and I'm not really sure what to do with that.

Mr. NADLER. Thank you.

The United States, along with others in the hemisphere, recently signed the Los Angeles Declaration on Migration and Protection. As part of the declaration, the United States committed to taking 20,000 refugees over the next two years from the hemisphere. This feels like a start, but seems wholly inadequate, given that seven million people are displaced from Venezuela alone. Would you agree and can the United States be doing more to take refugees from the hemisphere?

Mr. HETFIELD. Yes, absolutely. We're very late to that. As I said, many other countries are accepting many Venezuelans in much larger numbers than we are through more efficient processes. Venezuelans now make up the No. 1 population in the United States for asylum seekers. It is a hemispheric problem that needs a hemispheric solution, and we need to be part of that strategy, and accepting more to the Refugee Settlement Program. Again, a safe and orderly program is the best way to go.

Mr. NADLER. Thank you.

Can you discuss how the United States stepping up its refugee program can have a positive impact on the number of asylum seekers we see at the U.S. border?

Mr. HETFIELD. Right. It needs to be done in conjunction with having an asylum system that gives—that's efficient and that gives responses quickly and makes decisions quickly. It provides a safe and legal pathway for people who need protection, and therefore, discourages them from taking their lives at risk trying to cross the border to get that protection. It's absolutely a necessary safety valve and legal pathway.

Unfortunately, the Biden Administration has not yet succeeded in rebuilding that program. As you know, the refugee resettlement admissions ceiling last year was 125,000, and we fell 100,000 short of that.

Mr. NADLER. Thank you.

Barriers to work authorization have devastating consequences for arriving migrants in local communities, which is one reason there has been bipartisan support for improving access to work permits and addressing lengthy processing backlogs. What does Congress

and the administration need to do to support local employers and improve access to work authorization?

Mr. HETFIELD. Well, this is a really vexing problem, where asylum seekers are not allowed to accept employment, nor are they allowed to receive any assistance while their asylum application is pending for a minimum of six months. In many cases, it's much, much longer than that.

So, basically, they have to find a way to support themselves and there are no legal means for doing so. So, that is a system that is destined to fail.

H.R. 1325, the Asylum Seeker Work Authorization Act of 2023, does provide a solution. So, I would urge that this or similar measures be supported.

Mr. NADLER. Thank you.

My final question is, we heard the story of the person who murdered Ms. Nobles' daughter. Now, this person, I gather, was—came in as an unaccompanied minor. Has any change been made between the Trump and Biden Administrations that would have affected the ability of an unaccompanied minor to come into this country and what he would do afterwards?

Mr. HETFIELD. Many changes have been made by the administration; that the Trump Administration was, as you know, pushing, pushing minors back at the border. The bottom line is that this goes back to the other parts of my testimony, which is that we need a system where control does not stop at the border, but continues into the United States. So, right now, we're not properly resourcing the system to do that, including as *The New York Times* recently exposed, with regard to the treatment of unaccompanied minors.

Mr. NADLER. Thank you.

Thank you. My time has expired. I yield back.

Mr. MCCLINTOCK. Mr. Van Drew?

Mr. VAN DREW. Thank you, Mr. Chair.

Well, here we go again—addressing the continued policy failures of this administration at the border. As our border descends further into chaos, I can't help but worry that this Nation is becoming increasingly comfortable with accepting weakness, not accepting the rule of law, and accepting it all as our new normal—an acceptance of weakness that led to the highest number of border encounters in a single day ever.

By the way, there was a comment from somebody from the other side and they said that Republicans enjoy this because they can use it as political fodder. Let's be clear. The Democrats were in control for two years. They had the presidency; they had the Senate; they had the House of Representatives. They could have done anything. They could have made this better. They could have straightened it out. It wasn't a split. They didn't; that's the reality.

So, let's talk about what's really true and let's not just talk political talk that doesn't make sense. An acceptance of weakness has turned every town in America—from El Paso, Texas, to Orange County, California—I'm sorry—New York, into a de facto border town.

An acceptance of weakness that has turned public parks, police stations, and school gymnasiums into makeshift shelters. Tell me

that's good for America. Anybody sitting out there right now, you tell me that's good for our America.

An acceptance of weakness that led to the tragic case of Kayla Hamilton, where an MS–13 gang member was allowed into our country as a supposedly, quote, "unaccompanied minor"—despite a history of criminal activity and of violence. Tell me that's good for our America.

If you have strong borders—if you don't have strong borders, excuse me, you are not a strong Nation. Every country in the world, basically, has strong borders. Third world countries have stronger borders than we do right now.

If this administration cannot protect its citizens, they are not worthy of the authority Americans have trusted them with. Personally, I do not think that Secretary Mayorkas is worthy and I do not think our President is.

If you continue to accept the weakness we are witnessing, you are surrendering the very foundations of our democracy, the disregard for our laws. We're not a Nation of the rule of law anymore. Think about the premise in which we argue, discuss, and debate this. It's against the law to illegally enter the country. It's against the law. You've broken the law. I don't understand why the law doesn't matter anymore. Are we a Nation of laws or are we not? That's the important question here.

It's gotten so out of hand that our Secretary Mayorkas is celebrating—actually, celebrating—6,300 illegal encounters as a good day. That's a good day. Think about that. President Obama's Homeland Security Secretary once claimed that a thousand encounters a day would be a crisis. Now, 6,300 is a good day. Today, it's a triumph.

This is the acceptance of weakness consuming our Nation, and it threatens the safety and well-being of each and every American, and we should not tolerate it and we should change it. You can be a humane and good country, but still believe in the rule of law.

I wonder how Kayla's family feels about it all. I wonder if she thinks this is good.

I have three quick questions for Chief Scott. With the number of crossings our country is experiencing, can Border Patrol properly debrief and access the information and intentions of every migrant trying to come across our border? Yes or no?

Chief SCOTT. No.

Mr. VAN DREW. Thank you.

Do you believe it is easier for a terrorist to get into the United States undetected today than five years ago? Yes or no?

Chief SCOTT. It definitely is.

Mr. VAN DREW. Thank you.

As thousands of illegal migrants are accepted into our country every day, are there less obvious threats to Americans that we aren't noticing yet or are we looking into them enough? The question is, are we looking into these threats enough? Yes or no?

Chief SCOTT. No, the Border Patrol barely has time to process who's in custody. They're leaving hundreds of miles of border unpatrolled every day. No.

Mr. VAN DREW. Exactly. This is—and thank you, sir. Thank you for your work.

This is a joke. Let's really talk about the real issue. It's the rule of law. It's the safety of our people. We're breaking the law and we're becoming weaker, and we've got to stop it.

Thank you, Chair. I yield back.

Mr. MCCLINTOCK. The gentleman yields back.

The Chair recognizes Mr. Correa of California.

Mr. CORREA. Thank you, Mr. Chair.

First, Ms. Nobles, I also want to express my condolences, as a fellow parent. I also have a daughter about the same age that your daughter. About two years ago, I got a phone call at home—I should say, at work—from home. My daughter was all alone at home; called me screaming, crying, saying, "Daddy, there's two men in the house." Two men were burglarizing the house. "What do I do, Daddy?" I said, "Stay by the dogs. Let me call 911." Those moments of terror, I hate to think what would have happened if those German Shepherds weren't there, or if our local Santa Ana PD had not gotten there in minutes.

Ma'am, I can guarantee you that no one condones criminals in our streets with or without documents. This is about our families and the safety of our families. With or without documents, I do not condone anybody in our streets that would harm our families.

Ms. Nobles, my prayers are with your family.

Mr. Chair, without objection, I'd like to submit for the record this *Wall Street Journal* article entitled, "What Everyone—Except the U.S.—Has Learned About Immigration. Washington remains divided over allowing more foreign workers while global rivals lower barriers to ease persistent labor shortages."

Mr. Chair?

Mr. MCCLINTOCK. That's right. Without objection.

Mr. CORREA. Mr. Hetfield, if I may, COVID, the aftermath of COVID, it seems that the USA is again the world's economic locomotive. The world seems to be devastated economically. Even the great China, even the great economy is sputtering right now.

I got a phone call the other day from the President of Guatemala asking for help with the refugee challenge Guatemala is facing. You mentioned Colombia, 2.4 Venezuelan refugees. Mexico is having a challenge. This is a worldwide phenomenon.

You've already addressed it, but I want you to, again, repeat, is this a U.S. challenge at this moment? We can look at this last two or three years and say this is wrong, but you've got to open it up beyond just the United States. It's a worldwide phenomenon. Am I correct or not?

Mr. HETFIELD. Yes, you're absolutely correct. The United States cannot solve this problem alone, but we're not going through it alone, either. The global refugee crisis is over 120 million people right now.

Mr. CORREA. I'm always tempted to say this is a refugee challenge like we haven't seen since World War II, when 60 million Europeans were on the move. Am I correct in that assessment?

Mr. HETFIELD. Yes, the actual number is double that in terms of forcibly displaced persons. So, you're not incorrect at all. As a proportion of the world population, of course, it's smaller, but, in absolute numbers, it's double.

Mr. CORREA. Chief Scott, if I may ask you a question, sir? I want to say, first, you are doing an impossible job. Thank you for what you're doing.

The private sector in our society continues to be a magnet for workers. Sixty percent of the individuals that come across blend into society. They have families they arrive with. They blend into society.

Fifty percent of our farm workers aren't documented. I would say that, as long as we don't have immigration reform, that it's sensible, that it works for our private sector. The need for workers in this country is also a magnet. Would you say that or not?

Chief SCOTT. I started out in the Immigration and Naturalization Service, where I was taught border security supports our legal immigration system, so that we can meet needs like that. They do go hand-in-hand, but I do point out that, if you can't control the flow in any way, then you really can't—and any kind of numbers or any kind of decisions you put at the other end are irrelevant.

I do believe this country was based on immigration. I think everybody in the Border Patrol supports immigration. That's why they got in. We support it legally.

Mr. CORREA. I agree with you. The problem is there is no way to get in to work in this country right now. Our economy would suffer. Again, 50 percent of our farm workers being undocumented. I don't think anybody supports a policy to deport those workers because that would affect our food security.

I look forward to working with all of you in making sure we do some common-sense reforms that are good for the American economy and the American people.

Thank you very much, Mr. Chair. I yield.

Mr. MCCLINTOCK. The gentleman yields back.

Ms. JAYAPAL. Mr. Chair?

Mr. MCCLINTOCK. For what purpose does the gentlelady seek recognition?

Ms. JAYAPAL. I have a unanimous consent request to enter the following statements into the record: Organizational statements from the Center for Gender & Refugee Studies, Church World Service, and National Immigration Reform.

Mr. MCCLINTOCK. Without objection.

Ms. JAYAPAL. Thank you.

Mr. MCCLINTOCK. The Chair now recognizes Mr. Roy of Texas.

Mr. ROY. I thank the Chair.

Mr. Scott, we were just told that we're unable to get workers into this country. True or false, we get somewhere around a million green cards every year and we have seasonal workers available to come here and work under our current system under the law?

Chief SCOTT. That's correct.

Mr. ROY. Currently, at our border, what do we have right now in terms of our ability for Border Patrol to stop the flow between ports of entry or is it, in fact, that Border Patrol is processing people at the ports of entry?

Chief SCOTT. The Border Patrol stays outside the ports of entry themselves, but the Border Patrol is, literally, it's almost acting as a port because they're processing getaways and they're leaving hundreds of miles of border wide open.

Mr. ROY. For example, at a tent like in Eagle Pass, right, where you've got a 10-acre facility where you're processing 1,500 people a day? Is Border Patrol a part of that operation?

Chief SCOTT. Yes, sir. Yes.

Mr. ROY. As opposed to actually being on the line and being able to go patrol the border between the ports of entries, as they're supposed to do?

Chief SCOTT. Correct. There's been some numbers reported, but I think what's important is, even if half of the Border Patrol agents are deployed to the field at the beginning of a shift, within an hour or so, they're overwhelmed with thousands of more illegal aliens, and then, they are processing as well—leaving the border wide open.

Mr. ROY. Chief Scott, do we know how much fentanyl or dangerous narcotics come in between our ports of entry or dangerous individuals?

Chief SCOTT. We have no idea, but there's no shortage in Chicago or New York.

Mr. ROY. Right. So, this claim by my colleagues on the other side of the aisle that all the fentanyl comes in at the ports of entry—we, literally, don't know how much is coming in between the ports of entry because the Border Patrol is unable to do its job while it's being overwhelmed by the failed policies of this administration? Is that true?

Chief SCOTT. That is accurate. If you look at the statistics, anytime illegal immigration across the border between the ports slows down, drug seizures actually increase because agents are actually out there identifying it.

Mr. VAN DREW. Supervisor Kenny, your community has been dramatically impacted, right, by the number of individuals that have been dumped in your community? Can you quickly—it's just a matter of time—explain how much that has negatively impacted your community?

Ms. KENNY. I'm from Orangetown in Rockland County. We, actually, obtained a restraining to prevent them from coming until it goes through the court system. The county just North of us has received hundreds and hundreds at this point, and I can't speak for them.

Mr. ROY. You have had hotels filled up with like single, often single males that are filling up places, so that needy individuals aren't able to get facilities and they aren't able to get the resources they need? Is that true?

Ms. KENNY. Yes. The goal of Mayor Adams was to send 340 single, adult men to a hotel in my town. It's been put on hold by the courts.

Mr. ROY. Where is your town again?

Ms. KENNY. In Orangetown, which is 30 miles North of New York City.

Mr. ROY. OK. So, not on the southern border of the United States?

Ms. KENNY. No.

Mr. ROY. So, this is something we're dealing with. As my friend from Arizona, Mr. Biggs, knows, and my friend from California, Mr. McClintock, and others know, on the border, we deal with it

all the time in our communities in South Texas, but this is something that the entire country is now dealing with.

I'd like to now move to Ms. Nobles. I cannot possibly put into words, Ms. Nobles, what you have experienced as a result of the failed policies of this country.

I would simply ask, as carefully as I can, having met with numerous family members who have lost loved ones due to these failed policies, whether it's through violence, as you have, unfortunately, experienced, or whether it is through, for example, fentanyl poisonings that so many of our moms have experienced.

I met with three fentanyl moms just two weeks in Austin, Texas. I've met with dozens. I've met with dozens of individuals who have lost loved ones, including a family member in San Antonio whose son was killed by an illegal immigrant who had been here, had been arrested; let go; arrested; let go, and then, burned this woman's son to death.

That's what we have going on in our country, while our colleagues on the other side of the aisle bury their head in the sand and pretend that somehow, it's compassionate.

I would just ask you, Ms. Nobles, to explain whether or not you've had interactions with other moms and family members who have had similar unfortunate experiences as a result of our failed policies?

Ms. NOBLES. Unfortunately, I haven't. I haven't seen anybody talk about their story or shared anything about what—because I know that Kayla wasn't the only one. Where are they? So, that's why I'm standing up and talking about her story and getting her story out. At least, I can speak for my child and make sure that I make people aware of what's going on.

Mr. ROY. Well, Ms. Nobles, I'm going to, after this hearing, connect you with angel families who have had a number of these experiences that they've put out—with the Vargas family in San Antonio who have been dealing with it, with lost from these kinds of policies.

I would just ask, Chief Scott, are the current policies stopping the kind of violence that can occur through having, for example, in this case, a UAC, an unaccompanied alien child, who ended up carrying out this crime that Ms. Nobles had to suffer from? I want to ask you that question.

I also just want to point out before you answer the question—and then, I'll yield back—I just came back from the Federal District Courthouse because I went over there to support Jaime Zapata's family. Because Jaime Zapata was gunned down by the cartels in 2011 and the sentencing is going on right now, as we speak.

Cartels are empowered at our border. They are empowered by China. They are empowered by our own Federal government failing to do its job, and Americans are dying as a result, and so are migrants.

Mr. Scott, if you can answer that question? Then, I'll yield back.

Chief SCOTT. The current crisis is making it impossible to be able to weed out the criminals, especially the UACs, from anyone else. The agents don't have time to do face-to-face interviews. There's no global, like, data base of criminal records.

Mr. ROY. Thank you, Chief Scott.

Mr. BIGGS. Mr. Chair, I seek unanimous consent on various articles—to put a piece from *The New York Times*, dated April 23rd, "Biden Opens a New Back Door on Immigration"; the Navajo Nation requesting answers to questions; "Border Crossings Down"—this is a *Washington Post* article from May 19th, "Border Crossings Down, But Many Migrants Released to the U.S. to Ease Crowding"; a *Breitbart* piece entitled, "Human Smuggler Drops Preschool-Age Child Over California Border Wall," dated today's date; as well as a piece dated today, "Georgia Democrat Slams Party for Favoring Migrants Over Americans."

Mr. MCCLINTOCK. Without objection.

Mr. BIGGS. Thank you.

Mr. MCCLINTOCK. The Chair now recognizes Ms. Jackson Lee of Texas.

Ms. JACKSON LEE. Thank you, Mr. Chair, and to the Ranking Member.

As one would expect, Ms. Nobles—and I'm over here; Ms. Nobles, I'm in this direction.

Ms. NOBLES. Oh, yes.

Ms. JACKSON LEE. As a mother, I couldn't say anything less than the pain that I know that you're experiencing. I could say my heart goes out to you, but I want to acknowledge the pain for any mother, any family, to lose their precious child.

I want your daughter's story to be heard. If we can work in a bipartisan way, I will sign onto any bill that enhances her heroic story. I think that's what you are surviving on.

What a young woman—wanting to be independent, working two jobs, holding her head up high. A vicious act.

Forgive me if I say this is not solely immigration. It's poor police work, to be honest with you. Frankly, we wanted that not to happen. No one on this panel is championing MS–13; I can tell you that.

So, we've got to find a way to decipher, discern, to weed out. Because if there is a mother trying to come just to work in the fields, I know that may not be the best way for her to come, but that is not the MS–13. They don't deserve to be in this country, period.

So, let me just—I don't want to say thank you, because you're here in pain. I just want you to know I think her story has to be told.

Thank you for your presence here today.

Chief, I assume we served overlapping; I'm not sure. What years were you? You're retired. So, what years have you served, sir?

Chief SCOTT. As the Chief, it was 1920, February 2020 until August 2021. I was a Border Patrol Agent for over 29 years.

Ms. JACKSON LEE. Starting what year?

Chief SCOTT. 1992.

Ms. JACKSON LEE. Yes. So, you've had several leaders, Presidents, and then, of course, Homeland Security came into being after 9/11. I was on the Committee in its origins and know just about every one of your Border Patrol leaders.

Would you say that it would be better to approach immigration reform, Republicans and Democrats, in a terminology that we coined under the late John McCain, comprehensive immigration re-

form, which, in essence, deals with border security in the North and the South and recognizing legal pathways for entry? Would you accept that would be a better approach?

Chief SCOTT. I believe border security is exactly like your home; it gets overcomplicated a lot of times in the public discussion, but it's exactly like your home. We just need people to come through the front door in a legal manner. Congress gets to pick who those people are, not the Border Patrol.

Ms. JACKSON LEE. So, my time is short. I want you to answer the question specifically. Comprehensive immigration reform with border security and legal pathways, would you accept that?

Chief SCOTT. Based on my experience, the border security has to come first.

Ms. JACKSON LEE. Well, I can't put words in your mouth, but you're not going to get border security coming first. You need to be able to balance it. You would not accept a border security and recognizing pathways to legal entry?

Chief SCOTT. Based on my experience, and looking at 1986 IRCA, you have to be able to secure the border first—

Ms. JACKSON LEE. Well, you'll be stuck—

Chief SCOTT. —or all the other conversations are irrelevant.

Ms. JACKSON LEE. Yes, I appreciate that.

Reasonably, Mr. Hetfield, as you understand, when John McCain, the late John McCain—we had a very strong comprehensive bill, and it had border security and a legal pathway. We get stuck on border security. We're not listening to the witnesses here. We're not listening to the New York town that is frustrated with what's happening to them—and rightly so.

So, let me just get you to this, espouse, because my time is going.

First, your organization was affiliated with the Tree of Life, was it not? Or the attitude of that killer?

Mr. HETFIELD. Yes, I'd rather not discuss the Tree of Life because the prosecution is ongoing at this point.

Ms. JACKSON LEE. Well, let me just say, since I went there, let me just say that the attitude was that Jews were bringing in migrants and immigrants. Was that true?

Mr. HETFIELD. That is correct.

Ms. JACKSON LEE. It resulted in death, did it not?

Mr. HETFIELD. That is correct.

Ms. JACKSON LEE. All right. Let me just get to the point of the work that you do. That is, have things changed in the hemisphere, so that more refugees are coming and you work with refugees to help the United States, so they don't result in being lost or being in the wrong direction? As well, I would assume that you abhor MS–13 as well? If you can answer those two questions, I'd appreciate it.

Mr. HETFIELD. Absolutely and absolutely.

Ms. JACKSON LEE. You've got to say—

Mr. HETFIELD. Yes. Yes, HIAS is entirely focused on legal pathways to bring people into the United States, so they do not resort to fleeing across borders to seek asylum. We try to provide them with safe and legal alternatives to that, and in partnership with the U.S. Government and Jewish communities.

Absolutely, we need a system of control which can identify, vet, and detain, and reject and remove people who are a danger to the society.

Mr. MCCLINTOCK. The gentlelady's time has expired.

Ms. JACKSON LEE. Like MS–13?

Mr. HETFIELD. Yes.

Ms. JACKSON LEE. Yes.

Mr. MCCLINTOCK. The Chair recognizes Mr. Moore of Alabama.

Ms. JACKSON LEE. I yield back.

Mr. MOORE. Thank you, Mr. Chair.

Certainly, I want to thank all the witnesses for being here today.

I've said this before and I'll say it again—that a closed border, a controlled border is actually a compassionate border—and not just for the migrants who get turned into indentured servants, or worse, but for the Americans that some of these illegal aliens harm.

For example, in my district, the 2nd Congressional District of Alabama, a couple of weeks ago, the Autauga County Sheriff Department arrested Grevi Zavala, a 29-year-old illegal alien from Honduras for the rape of a teenaged girl in Prattville. It's alleged that he dragged her into a bathroom in a restaurant. Press reports indicate that he entered the United States in November 2021 through Texas, using a fake name, but was allowed to enter into this country. In addition, according to the press reports, he had a criminal record in Honduras. I don't know how this is possibly acceptable.

Ms. Nobles, unfortunately, you and your family know this all too well. I am terribly sorry for what happened to you and your daughter. I'm a proud father of four. I've got two girls and a granddaughter that will be born probably by Friday, I understand. That's what the experts are saying. Anyway, we should never let this happen.

So, Mr. Hetfield, I want to go to you initially. You said we've got a lot of people coming to this country that are not qualified. What do you mean by that?

Mr. HETFIELD. The only way for many people to come into this country is through the asylum system. That's the only way to be able to not be expeditiously removed at the border, is to claim a fear.

So, of course, people are using that pathway, if they're coming here for reasons that do not qualify them for asylum, such as they need to support themselves. They're trying to escape poverty. They're trying to reunite with family. Which is why we need to have an asylum system that functions and efficiently determines whether or not somebody has a legitimate asylum claim or not.

Mr. MOORE. Mr. Hetfield, let me ask you this: I was in Yuma, Arizona. This is our third hearing and we had one in the district in Yuma, or actually on the border. The sheriffs informed us there that, basically, they're just—the border agents have become concierges. They're just giving these people a Motion to Appear, an $800 taxpayer-funded subsidy, and a cell phone. Then, when we take their calls for court dates, they're not—they'll take our phones, but they're not taking our calls.

Do you find that alarming, that we're just turning people loose with very little background checks?

Mr. HETFIELD. I find it very alarming that people are getting lost in the system, waiting for years to get an asylum hearing. That doesn't work for anybody.

Mr. MOORE. Speaking of lost in the system, we heard a few weeks ago that we had lost 85,000 unaccompanied minors. The Federal government had shipped them to Google addresses in America. Now, it sounds like, based on testimony, that they're not all minors and there are actually some of them here doing a great deal of harm.

Mr. Scott, I want to ask you a question really quick. I heard prices people had on their heads for coming to this country. Just South of the border, the last time I heard, it was about six or seven thousand dollars to come of Mexico. Further South, the Triangle Nations, it's about nine or ten thousand dollars. Then, Syria was $20,000. Russians were paying $19,000, and Chinese nationals were paying $80,000. Where is that money going, do you think, Mr. Scott?

Chief SCOTT. It goes directly to fuel the cartels.

Mr. MOORE. It fuels the cartels. What happens if somebody doesn't have the money? Do they actually become indentured servants or slaves? Is that what happens?

Chief SCOTT. So, that is one of the many things that could happen. The prices vary, depending on how much risk you're willing to take, how far out in the desert you'll go. So, they vary.

The price also varies if you're willing to do other things. So, if you're willing to guide or you're willing to smuggle narcotics, or you're willing—

Mr. MOORE. I heard that—that's interesting, Mr. Scott. I appreciate you mentioning that they'll actually, if you'll backpack that heroin or cocaine or fentanyl, that your passage is somewhat considered paid if you're willing to be a drug mule rather than a slave. Is that correct?

Chief SCOTT. That is how some people cross, yes.

Mr. MOORE. Ms. Nobles, have you heard anything from the Biden Administration concerning the loss of your daughter?

Ms. NOBLES. No, I haven't.

Mr. MOORE. Thank you.

Thank you, Mr. Chair. With that, I'm going to yield back.

Mr. MCCLINTOCK. The gentleman yields back.

For what purpose does Ms. Jackson Lee seek recognition?

Ms. JACKSON LEE. I'd like to ask unanimous consent that I can submit into the record an article, "The Biden Administration To Send 1,500 Troops to the Southern Border," for support ahead of expected migrants, and also, to have a statement that reflects that the numbers have gone down, as it relates to those entering the United States at this time. I ask unanimous consent.

Mr. MCCLINTOCK. Without objection.

Mr. MCCLINTOCK. The Chair recognizes Ms. Ross.

Ms. ROSS. Thank you very much, Mr. Chair.

Thank you to all the witnesses, and, in particular, to Ms. Nobles for sharing your story. Please know that I join with my colleagues in wanting justice for her and for other people who have, similarly, lost their lives through senseless—senseless—acts. At least know we're with you.

Earlier this spring—and the Ranking Member may have brought this up in her opening comments—we traveled to McAllen and Brownsville, Texas, two Texas border towns. Our conversations with U.S. Customs and Border Protection during that visit reinforced my commitment to ensuring that CBP has the resources that it needs to strengthen border control.

Agents we spoke with specifically emphasized the need for sophisticated surveillance technology to monitor border crossings. They talked about how the cartels had more drones and kids on roofs who are operating the drones than the kinds of technology that we needed to see people before they get to the border and be able to stem that. I see that Chief Scott is nodding, as I talked about that.

During our visit, I was also struck by the reliance of our immigration and asylum systems on nonprofits and local governments; that they were not getting the support from the Federal government or the State governments to do their jobs. What goes on in Brownsville, Texas, on the local government tax dollar is nothing short of extraordinary, to make sure that people who have been allowed to cross the border can get on their way quickly, and not be in Brownsville and not be in those hotels. They say they don't want people to stay overnight in Brownsville. They want to get people to the bus station. They want to get people to the airport.

Now, while their work is admirable, this responsibility shouldn't fall solely on NGO's and local governments. State and Federal governments need to bolster the resources dedicated to responding to this many people who enter the United States under asylum claims and through other legal pathways. The Federal government must fund the technology that CBP needs and the training and the personnel, so that they can do their jobs.

Immigration is an extremely complex issue, and Democrats are pushing for implementation of effective solutions to strengthen border security and expand legal pathways to enter this country. It is important that we expand legal pathways because we simply need the workers.

I represent North Carolina. I heard from the agriculture industry every day. I went to visit a small, family farm two weeks ago. No. 1 issue, immigration. Hospitality industry, No. 1 issue, immigration. Tech industry, No. 1 issue, immigration. We need to do both.

In fact, we need to make sure that our rhetoric doesn't make the immigration problems worse. Unfortunately, it's been documented that repeated right-wing claims about the border being completely open are used on social media by smugglers to encourage more people to attempt to come to the United States without authorization. We need to have that stopped. We need to put aside our partisan blinders and use these hearings, not to magnify the problems of our immigration system, but to solve them in a bipartisan way.

With the remaining minute I have, my first question is for Mr. Hetfield. Unlike many countries, ours does not have a reception system for asylum seekers after they've been initially processed by immigration officials at the border and allowed to come into our country.

NGO's and local governments, like Brownsville, Texas, are stepping in to fill the gap that the Federal and State governments have left. We simply need a more orderly process. I wish everybody could see how well Brownsville does its job.

From your experience, how are these programs contributing to a safe and orderly immigration system, and what more can be done—in 14 seconds?

Mr. HETFIELD. They're absolutely essential. When I directed the U.S. Commission on International Religious Freedom's study on expedited removal a few years ago, we did find that, when you provide that kind of counseling, you actually have a very high dissolve rate by asylum seekers, because they realize that they're actually not eligible for the benefit. So, they withdraw their claims. By not having a reception system, you are just contributing to having people get lost in the system.

Ms. ROSS. Thank you, Mr. Chair, and I yield back.

Mr. MCCLINTOCK. The Chair recognizes Mr. Nehls of Texas.

Mr. NEHLS. Thank you, Mr. Chair.

Ms. Nobles, thank you for your testimony today. I can't imagine. I have three daughters—22, 17, and 10. I can't imagine what you and your family have been going through. Like so many other families across the United States, I'm incredibly sorry for your loss.

Chief Rodney Scott, I thank you for being here.

I had the opportunity to review the case file. This is the case file on this murderer, this—well, I'm going to stop with that—on this alleged 17-year-old unaccompanied alien child who brutally killed and raped Kayla Hamilton. I know you're familiar, sir. You're familiar with the intake forms.

Record of Deportable/Inadmissible Alien, this is the form here. So, I'm going to walk through a few things that I noticed, that I saw on this form—that this bad hombre said his intended location was Texas. As we know, he went to Maryland. He didn't stay in Texas. He didn't stay there very long.

This bad hombre said he had no funds in his possession, and that his father was his method of support. As we know, he somehow was moved to live with his aunt.

This bad hombre said he was claiming credible fear—credible fear, like everybody up there. We know that a majority of those claims are unsubstantiated. I think it's about 10 percent. Later said on his HHS intake form that he had come to work.

So, he's a liar. He's a bad hombre and a lying one at that.

The UAC said he had no prior criminal history—no prior criminal history. However, after his arrest, Maryland law enforcement—think about that. We can't count on the Federal government down at the border to make sure that the people entering our country are decent people that don't have criminal records.

It took local and State law enforcement in Maryland one phone call to El Salvador. That's it. Get on the phone. I call El Salvador. I say, "Hey, let me ask you about this bad hombre that entered our

country. Has he been arrested?" They say, "Oh, yes. Oh, yes, sir, he's been arrested in El Salvador in 2020 for his illicit association with MS–13 gangs."

Couldn't figure that out down at the border. We've got to find out after he kills, rapes, and murders a young woman in the United States.

He said he was 16. He wasn't 16. He had no parole form. You don't need to prove your age. You just say, "I'm 16."

We were in a case here a month or so ago about the gentleman that comes through. He claims he was a UAC. He goes to Florida with his caretaker and butchers the guy in Florida.

I saw a picture of this guy. He had more chin whiskers than the witness next to you. He's 25 years old. He came in as an unaccompanied alien child. How does that work? How does that happen? How or why don't we have more safety guards, safety wheels, down at our southern border?

So, we were able to establish this man—or, Chief, any of the 380,000 UACs that have entered since Joe Biden took office—were under the age of 18. How are we able to determine whether they're actually truly under 18?

Chief SCOTT. We really can't, sir. That's where a seasoned, professional agent comes in. When they interview them, a lot of those inconsistencies you talked about come up in the story immediately. The chaos that we have on the border today prevents the agents from having that amount of time. The administration is yelling at them to process and move them down the assembly line as fast as possible.

Mr. NEHLS. So, when Secretary Mayorkas gets in front of the camera and lies to the American people every other day, if not daily, and he says these people are betted, is that a true statement, sir?

Chief SCOTT. They're vetted against a blank sheet of paper. There's no global data base to vet them off.

Mr. NEHLS. Yes. What kind of a border—what kind of background check is done on these individuals?

Chief SCOTT. They're ran through a United States Government's NCIC, which runs through criminal data bases. Unless the individual has been in the United States, committed a crime here before, it's not going to be in that system.

Mr. NEHLS. I've said it before, and I'll say it again. This is No. 3, the third hearing on the border. All Joe Biden had to do, when he was inaugurated on January 20th—I sat; I went there; I respect the office of the President—all he had to do was keep his mouth shut. He didn't have to say anything about our southern border, and we'd be a much safer country today.

On March 12, 2021, I have a report. Hold it up. Following a reassessment, the CBP Director terminated Title 42 with respect to unaccompanied alien children. If I'm understanding this correctly, is it true that for the last two years we created a blanket waiver to allow anyone claiming to be under 18 into the United States, despite their criminal records or gang affiliation? Yes or no?

Chief SCOTT. I believe the gang affiliation, if they know, they could still deport them. For the most part, that—yes.

Mr. NEHLS. Parents let's be clear, MS–13 stands for kill, rape, and control. Joe Biden and Secretary Mayorkas are allowing potentially 30-year-old gang members into our communities, into our schools, and around our kids, where they will do the exact damned thing they did to Kayla Hamilton. Shame on them, and we must hold them accountable.

I yield back.

Mr. MCCLINTOCK. For what purpose does the gentlelady from Washington seek recognition?

Ms. JAYAPAL. Mr. Chair, I ask unanimous consent that the following be made a part of the record.

This is an email that was sent yesterday by the Department of Health and Human Services reminding my colleagues that HHS allowed Committee staff an in-camera review of this, the individual, the unaccompanied minors' file, with the expectation that the Committee would refrain from disclosing any nonpublic information it obtained.

It is imperative that we do not interfere with the integrity of criminal proceedings. I would hope that my colleagues would not disclose any information that could impact the criminal proceedings or Ms. Nobles' ability to get justice for her daughter.

Mr. MCCLINTOCK. The gentlelady was recognized for a unanimous consent request. Without objection.

Ms. JAYAPAL. It was a serious violation.

Mr. MCCLINTOCK. Without objection, that will be entered into the record.

Ms. JAYAPAL. Thank you, Mr. Chair.

Mr. MCCLINTOCK. I'll next recognize myself for five minutes.

Supervisor Kenny, again, 3.6 million illegal immigrants entering this country over the past 28 months. Gallup, by the way, told us last year they're estimating in Latin American and the Caribbean alone 42 million people intend to come here now that the borders are open.

What's this doing to the situation in your homeless shelters, in your food pantries, and what are you hearing from other cities in New York?

Ms. KENNY. Yes. So, as I've learned in recent weeks, we already have a lot of migrants finding their way to Rockland County through family and friends. It's already putting a burden on our social services in our Rockland county—so much so that they recently had to give another million dollars to the food pantries. Keeping in mind that Mayor Adams got eight—I'm sorry. He got a billion dollars from New York State, and he is looking to put them in hotels in our town without any support or any—

Mr. MCCLINTOCK. What are your constituents telling you?

Ms. KENNY. The constituents have concerns and as you—as I sit here today, and I hear this testimony and I understand why. There are questions raised about where the individuals are going to be vetted and they were told this would be—they would be vetted at the border. So, in light of what I'm hearing today it gives pause for questions about who should be in our community.

Mr. MCCLINTOCK. Thank you.

Chief Scott, one of our colleagues said that you had an impossible job. Was your job impossible when we were actually enforcing our immigration laws?

Chief SCOTT. It was not impossible, and we were getting better at it every single day and we had a strategy to actually secure the border.

Mr. MCCLINTOCK. It is basically becoming impossible since Biden changed those policies, is that correct?

Chief SCOTT. Correct. The current flow of illegal immigration will exceed any ability to be able to secure—

Mr. MCCLINTOCK. When Mr. Biden canceled work on the border wall did that also cancel work on the technology at the border to detect illegal crossing?

Chief SCOTT. It did that and it also shut off our new communications capability that was being built into the wall system as well.

Mr. MCCLINTOCK. Under the Immigration and Naturalization Act foreign nationals claiming asylum are required to be detained until their claim is heard. Are they?

Chief SCOTT. No.

Mr. MCCLINTOCK. What can you tell us about cartel and gang activity being introduced into our country over the past two years?

Chief SCOTT. So, everything that crosses that southwest border now is controlled by the cartels. The cartels control the illegal migrant crossings so that they can create these gaps in border security and then they smuggle—when I say gaps in border security, I mean they overwhelm all the law enforcement in the area beyond Border Patrol. Then that opens gaps where there's no law enforcement and they bring anything they want into the country behind that.

Even on the U.S. side, if it's narcotics or even aliens, they are basically facilitated or guided to their ultimate destinations through cartel on this side in very, very, very tight ties with many of the gangs, MS–13 and others. Can't really tell where the cartel ends and where they don't. It's more of a terminology. This is a huge threat and it's gotten significantly worse with the open border created.

Mr. MCCLINTOCK. So, they are brought in by the cartels to whom these migrants pay thousands of thousands of dollars, arrive at the border deeply indebted to those cartels, and then they are trafficked throughout the country, are they not?

Chief SCOTT. They are. I really use—

Mr. MCCLINTOCK. Who is doing that trafficking?

Chief SCOTT. Again, that's still cartel and that's still gang affiliations or anybody—

Mr. MCCLINTOCK. Do we not also have a lot of nongovernmental organizations that are assisting in distributing these migrants across the country?

Chief SCOTT. So, yes. So, currently they're getting millions of dollars. The nongovernmental organizations are getting millions of through FEMA. The people get to choose where they go. So, it's not necessarily those nongovernmental organizations that are telling them go to New York and hook up with smuggler.

Mr. MCCLINTOCK. Right.

Chief SCOTT. They're just getting the free plane ticket, the free care, and the feeding and place to rest for a while.

Mr. MCCLINTOCK. Well, free? Nothing is free. Who is paying for those plane tickets?

Chief SCOTT. You are. It's going through FEMA and its basically money being laundered and given to the NGO's to support this entire enterprise.

Mr. MCCLINTOCK. The Dems tell us this is just a hemispheric problem beyond our control, but when we had the Remain in Mexico policy and were completing the border wall and were enforcing court-ordered deportations didn't illegal immigration slow to a trickle?

Chief SCOTT. Dramatically. I agree with the colleague to my right, when people knew what the parameters were and they knew they couldn't defraud the system and get released into the United States before a judge adjudicated their case, they stopped coming. That reduced flow allowed agents to be more effective.

Mr. MCCLINTOCK. Ms. Nobles, can you tell us what you thought when you found out that the suspect in Kayla's murder was found to be an MS–13 gang member and that it was confirmed by a simple phone call by the local police department to El Salvadoran authorities and then discovered that the Federal authorities never bothered to make that call before releasing him into the country?

Ms. NOBLES. I was very angry about the whole thing.

Mr. MCCLINTOCK. What would you have to say to the organizations and officials responsible for the illegal entry literally of millions into this country over the past couple of years?

Ms. NOBLES. It's unbelievable. Like I'm really upset about how it was failed at the border and then allow him to go with his aunt. Then all it started right at the border and then it just went downhill from there.

Mr. MCCLINTOCK. Thank you.

The Chair now recognizes Mr. Hunt. Or no, Mr. Jordan.

Chair JORDAN. I thank the Chair.

It seems to me, Chief Scott, that the fundamental question that people are asking is why? Why is this happening now at this scale? It is certainly the question Ms. Nobles has about what happened to her daughter Kayla. It is a question the supervisor—it is a question the American people have. Why is this happening at this scale? Is it because—well, let me—give me an answer, Chief, what you think the why is.

Chief SCOTT. The short answer is Catch and Release.

Chair JORDAN. Yes.

Chief SCOTT. As long as people know they're going to be released into the United States that is the prize. They don't care about all the rest of the immigration process.

Chair JORDAN. Until you change that fundamental incentive that now exists you will not correct the problem, right?

Chief SCOTT. Correct.

Chair JORDAN. This administration decided on day one—I think this is so important for everyone to fully—on day one they decided they were going to stop building the wall, as you just talked about in your question—in response to the Chair. They said we will stop building the wall. We are going to end Remain in Mexico and we

are going to release you once you get here. They made that decision on day one. That says it all.

So, people come, and they say you know what, we won't have to wait in Mexico. There is not going to be a wall to get over and when we get in, we are going to get released to wherever we want to go. Who wouldn't come to the greatest country ever? Good people and a lot of bad people. Right?

It seems to me this administration made an intentional decision to put in place policies that have led to everything we have been talking about this morning. Do you agree, Chief?

Chief SCOTT. I agree with that. All the conversations I was part of focused on expediting the release of people into the United States. They were adamantly opposed to detention.

Chair JORDAN. When you bring in, as the Chair just talked about, two million who come here, are encountered, who are released, another 1.5 million that we know came, but we didn't actually get—they snuck in somehow, they got in somehow, 32 million people, there are going to be some and people in there.

Chief SCOTT. Statistically that is guaranteed.

Chair JORDAN. Drug dealers, gang members, as Ms. Nobles knows about all too well unfortunately, they are going to be there. Also, terrorists. What is the number up to now? Like we are close to like 100 people who have been on the Terrorist Watchlist who have been encountered on our border because of an intentional decision the Biden Administration made on January 20, 2021. Is that accurate, Chief?

Chief SCOTT. I believe that is accurate.

Chair JORDAN. What is the solution?

Chief SCOTT. The solution is to put back in place procedures that make sure that somebody has due process, that they don't get the prize until a judge adjudicates the case. You have to end Catch and Release. You can do that through detention or you can do that through something like the Remain in Mexico Program.

Chair JORDAN. We want to let good people come to this country. Legitimate asylum seekers, we went to let them in. You know what our legislation did? It did what you just described. It said when you come to this country you will either have to wait in Mexico or we will detain you while we evaluate your claim.

The Democrats say that is radical. That is common sense. If we would have kept that policy Kayla may be alive today, but because we didn't, all kinds of bad things happened.

That is what has to happen. Until the country understands that, the Democrats understand that—it is just so basic: You can't just let people come in the—you have to evaluate their claim. While you are doing that they have to be detained or they have to remain in some other country before we let them come to the United States. That is the answer.

Chief SCOTT. That is the answer. It worked.

Chair JORDAN. Worked before. It will work again. We just have to have the will to put it back in place so that the bad things we see happening all over the country won't continue.

Chief SCOTT. Correct.

Chair JORDAN. With that I yield back, Mr. Chair.

Mr. MCCLINTOCK. The Chair recognizes Mr. Hunt.

Mr. HUNT. First, I want to thank the witnesses for being here today to discuss this very important topic that is facing our Nation.

To you, ma'am, Ms. Nobles, I am so sorry for your loss. We failed you. I am so sorry that you lost your daughter, and I can assure you that you are sitting here today means that she lives through you and we will do everything in our power to make sure that her voice will be heard for the future to stop this foolishness from happening again. Thank you for being here, ma'am. I really appreciate it.

Ms. NOBLES. Thank you.

Mr. HUNT. You might be wondering what this photo is behind me. This is a photo of a room in a plush New York City tent made specifically for migrants. There are Xboxes and flat screens everywhere. Every creature comfort that you could think of is in this tent. This tent is actually nicer than my room at West Point. I wish I had this stuff.

My colleagues on the left often talk about the long arduous journey to get to this country. I ask you this: Why would illegal immigrants not make the journey to this country if this was going to be the end result?

In this facility they get free room and board, flat screens, three meals a day, free Internet, and phones. This is the carrot that is bringing millions of illegal aliens to this country at a time when this country can least afford it. For the Democrats migrants jump to the top of the list while Americans are consistently left behind.

Mayor Eric Adams never thought the border crisis would make it to New York City and now even he has to admit that the Biden open border policies have created a, quote, "real-life humanitarian crisis." I say again, a real-life humanitarian crisis. Welcome to the party, sir.

Let me show you a real-life humanitarian crisis. It is American cities due to Democrat policies. American cities had been crumbling long before President Biden opened the border. Now, that every town that we know of including New York City is a border town, it is about to get worse.

This is Philadelphia. These are not illegal immigrants. These are American cities currently living in abject poverty. This situation is about to get worse.

Greetings from Gary, Indiana. Or is that eastern Ukraine? It is hard to say, but I can guarantee you that if this were eastern Ukraine the government would be printing as much money as possible to help them, but not our own American citizens. Not so good for the people of Gary, Indiana. This is not the Dust Bowl or the Great Depression. This is yesterday. Our situation is about to get worse.

It has been three months since the train derailment in East Palestine and the people of East Palestine don't have the necessary resources to rebuild and the community can't even drink clean water today. Like Philadelphia and Gary, Indiana, East Palestine, Ohio, is part of the forgotten America, the Americans left behind as Democrats provide the American dream to illegal aliens and not to our fellow Americans. I have got news for you: It is going to continue to get worse.

We have San Mateo, California in California's 15th Congressional District. If some of my colleagues would spend more time in their districts instead of inside the Beltway, they would see the destruction that their policies are causing their own districts and their own towns. Perhaps then they would have a different position on the southern border. It is about to get worse.

Wait, there is more. This is Redwood City, California. Or is it Tent City, California? Does this look like a country that is thriving? Does this look like a country that is equipped to handle a massive influx of millions more into this country illegally? I think not. The situation is only going to get worse.

This is the death of the America dream and it starts with a carrot, as I discussed in the very beginning, and ends in abject poverty and despair for Americans. It ends in us losing control of our sovereign border. It ends with cartels running our sovereign border and killing our young people. It ends in fentanyl overdoses. It ends in crime.

I am a military guy by trade. I have never seen a derelict of duty like this in my entire life. This is insanity. While we owe the American people an apology, we also owe them to do our damn jobs.

Thank you so much for being here.

With that, I yield back.

Thank you, ma'am. God bless you.

Ms. NOBLES. Thank you.

Mr. MCCLINTOCK. The gentleman yields back.

The Chair recognizes Mr. Swalwell of California.

Mr. SWALWELL. Thank you, Chair.

I am proud to represent the 14th Congressional District of California. I will tell the colleague of mine who represents the 15th that he should probably come and defend his great district because our two districts are some of the most diverse, wealthiest, most educated places in America, and one of the biggest complaints I have from my constituents is it is too damn expensive to live there because there is too much demand on housing.

So, we have got a housing crisis. We have got a congestion crisis because of traffic. It doesn't look like a place that nobody wants to live, but certainly with open hearts and open minds we are doing everything we can to address immigration in our country.

What I hear from my colleagues in this hearing is more chaos, an appetite not for solutions, but an appetite to pander to grievances. They don't want to solve the problem. That is not worth anything to them politically. They want to stoke fear. When the Border Patrol seizes fentanyl at the border, God bless them. Thank them for doing that. They don't celebrate the Border Patrol. They try and use that to own the libs, and clap back at Joe Biden.

Where I come from when cops do their job and catch the bad guys and take drugs off the street, we thank them. We don't use them as political tools because we don't have any ideas or solutions when it comes to immigration.

When they say we are a country of open borders, that doesn't recognize the thousands of Border Patrol agents who work on the border, work hard every day and are trying to make sure we can secure the border. What it does is it invites people to believe that

the borders are open, and it invites more immigration to our country. Again, they don't want to solve this problem.

If they wanted to solve this problem, they would have brought to the floor the comprehensive immigration bill from 2014 where 68 Republican and Democratic senators voted to secure the border, to put 20-plus-thousand more border agents on the border, to have a pathway for earned citizenship, to take care of the dreamers who came here by no fault of their own. Republicans and Democrats voted for that. They walked away from it. So, this is really just more border theater, not border solutions.

Mr. Hetfield, thank you for being a serious participant in this process. I would just like to ask you, if we had passed that comprehensive immigration bill, the bipartisan bill back in 2014 where the most conservative Members of the Senate joined some of the most liberal Members of the Senate, where would be today as far as immigration in America?

Mr. HETFIELD. There's no panacea, but we'd be in a much, much better place. We would have a fighting chance to address this issue. I mean, Congress has not passed immigration reform about legal pathways since 1990. We barely had the—we didn't have the Internet then, right? Most people didn't have computers then. This was a totally different world and that illegal pathways have been totally ignored for 33 years.

Mr. SWALWELL. Talk to me about a shortage of labor. I see this in all sectors across my district. I see it in childcare, I see it in tourism, I see it in hospitality, I see in construction. I have got 50-plus wineries in my district. I see it with the wineries when harvest comes. What would an earned pathway or a skilled workforce pathway mean for addressing labor shortages that only lead to every one of my constituents having to pay more for the goods and services they consume?

Mr. HETFIELD. Yes, that's exactly right. Like we need legal pathways, so that people can take jobs that American citizens are not willing to take. There has been no movement in that area in decades.

People are not coming here to bring fentanyl and to kill people. They're coming here primarily to work and to seek protection. We need a system that actually identifies the people that are coming here for legitimate purposes and to give them legal pathways to do that and to identify the bad actors. We don't have that right now. Our system is totally out of control because we have not resourced —we have not resourced it.

Mr. SWALWELL. Thank you. Yield back.

Mr. MCCLINTOCK. The gentleman yields back.

If there is no further business to come before the Subcommittee, that will conclude our hearing.

I would like to thank our witnesses again for appearing before the Committee today.

Without objection, all Members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record.

Without objection, the hearing is adjourned.

[Whereupon, at 12:13 p.m., the Subcommittee was adjourned.]

All materials submitted for the record by Members of the Subcommittee on Immigration Integrity, Security, and Enforcement can be found at the following links: *https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=115998.*

○

4192

EXAMINING DHS'S FAILURE TO PREPARE FOR THE TERMINATION OF TITLE 42

HEARING

BEFORE THE

SUBCOMMITTEE ON BORDER SECURITY AND ENFORCEMENT

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

JUNE 6, 2023

Serial No. 118–15

Printed for the use of the Committee on Homeland Security



Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

53–978 PDF WASHINGTON : 2023

COMMITTEE ON HOMELAND SECURITY

MARK E. GREEN, MD, Tennessee, *Chairman*

MICHAEL T. MCCAUL, Texas
CLAY HIGGINS, Louisiana
MICHAEL GUEST, Mississippi
DAN BISHOP, North Carolina
CARLOS A. GIMENEZ, Florida
AUGUST PFLUGER, Texas
ANDREW R. GARBARINO, New York
MARJORIE TAYLOR GREENE, Georgia
TONY GONZALES, Texas
NICK LALOTA, New York
MIKE EZELL, Mississippi
ANTHONY D'ESPOSITO, New York
LAUREL M. LEE, Florida
MORGAN LUTTRELL, Texas
DALE W. STRONG, Alabama
JOSH BRECHEEN, Oklahoma
ELIJAH CRANE, Arizona

BENNIE G. THOMPSON, Mississippi, *Ranking Member*
SHEILA JACKSON LEE, Texas
DONALD M. PAYNE, JR., New Jersey
ERIC SWALWELL, California
J. LUIS CORREA, California
TROY A. CARTER, Louisiana
SHRI THANEDAR, Michigan
SETH MAGAZINER, Rhode Island
GLENN IVEY, Maryland
DANIEL S. GOLDMAN, New York
ROBERT GARCIA, California
DELIA C. RAMIREZ, Illinois
ROBERT MENENDEZ, New Jersey
YVETTE D. CLARKE, New York
DINA TITUS, Nevada

STEPHEN SIAO, *Staff Director*
HOPE GOINS, *Minority Staff Director*
NATALIE NIXON, *Chief Clerk*
SEAN JONES, *Deputy Chief Clerk*

SUBCOMMITTEE ON BORDER SECURITY AND ENFORCEMENT

CLAY HIGGINS, Louisiana, *Chairman*

MICHAEL GUEST, Mississippi
MARJORIE TAYLOR GREENE, Georgia
TONY GONZALES, Texas
MORGAN LUTTRELL, Texas
JOSH BRECHEEN, Oklahoma
MARK E. GREEN, MD, Tennessee *(ex officio)*

J. LUIS CORREA, California, *Ranking Member*
SHRI THANEDAR, Michigan
ROBERT GARCIA, California
DELIA C. RAMIREZ, Illinois
BENNIE G. THOMPSON, Mississippi *(ex officio)*

NATASHA EBY, *Subcommittee Staff Director*
BRIEANA MARTICORENA, *Minority Subcommittee Staff Director*
HALLE SARKISIAN, *Subcommittee Clerk*

CONTENTS

Page

STATEMENTS

The Honorable Clay Higgins, a Representative in Congress From the State of Louisiana, and Chairman, Subcommittee on Border Security and Enforcement:
Oral Statement 1
Prepared Statement 2
The Honorable J. Luis Correa, a Representative in Congress From the State of California, and Ranking Member, Subcommittee on Border Security and Enforcement:
Oral Statement 3
Prepared Statement 7
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security:
Prepared Statement 9

WITNESSES

Mr. Blas Nuñez-Neto, Assistant Secretary for Border and Immigration Policy, Office of Strategy, Policy and Plans, U.S. Department of Homeland Security:
Oral Statement 10
Prepared Statement 11
Mr. Benjamine "Carry" Huffman, Acting Deputy Commissioner, Customs and Border Protection, U.S. Department of Homeland Security:
Oral Statement 18
Prepared Statement 20

FOR THE RECORD

The Honorable J. Luis Correa, a Representative in Congress From the State of California, and Ranking Member, Subcommittee on Border Security and Enforcement:
Article 4

APPENDIX

Questions From Chairman Mark E. Green for Blas Nuñez-Neto 43
Questions From Honorable Josh Breechen for Blas Nuñez-Neto 43
Questions From Chairman Mark E. Green for Benjamine "Carry" Huffman 44
Questions From Honorable Josh Breechen for Benjamine "Carry" Huffman 44

EXAMINING DHS'S FAILURE TO PREPARE FOR THE TERMINATION OF TITLE 42

Tuesday, June 6, 2023

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON BORDER SECURITY AND ENFORCEMENT,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:14 p.m., in room 310, Cannon House Office Building, Hon. Clay Higgins [Chairman of the subcommittee] presiding.

Present: Representatives Higgins, Guest, Greene, Luttrell, Brecheen, Correa, Thanedar, Garcia, and Ramirez.

Also present: Representatives Pfluger, Crane, Clarke, and Green.

Chairman HIGGINS. I thank my colleagues for joining us today. Welcome to the Subcommittee on Border Security and Enforcement hearing on Title 42 and the preparations leading up to Title 42.

The purpose of today's hearing is to examine the Department of Homeland Security's—what we perceive as a failure to prepare for the termination of Title 42. We are going to discuss that today.

I welcome our witnesses and I very much appreciate their professionalism and taking their time to be with us today. However, I am very disappointed that the Department of Homeland Security declined our request for a third witness, that being someone from senior chain with ICE, Immigration and Customs Enforcement, and we are going to discuss why we believe that particular witness was withheld.

I am also concerned that the witnesses' testimony, written testimony, was not made available to this committee until late in the evening yesterday, rather late at night, well after normal business hours, despite the deadline for written testimony being last Friday. We are going to inquire about that during the course of today's hearing, because what we seek, the truth, on this committee, requires transparency and cooperative effort. When we have a deadline for written testimony, that is when we expect to receive the written testimony. I suspect that our panelists provided that testimony, but it was slow rolled by the Department. We will see. We will dig into that today.

So, despite what Secretary Mayorkas and other officials at DHS are advising the American public regarding the numbers being down, what we have come to observe is rather a shell game in the way numbers are actually documented and reported. The numbers of human beings crossing into America without appropriate documentation are indeed still at the record levels that we saw prior to the end of Title 42. But the classification of those human beings

and the way they are brought into the country has been very cleverly changed by the administration, and we seek clarity on that today. We will ask questions extensively from both sides of the aisle, again seeking truth. There is no benefit to any of us to conceal the actual numbers and the truth regarding immigration, both legal and illegal.

So to reclassify illegal entry as those that have entered by a legal pathway and then tell the American people the numbers are way down, we have this thing under control, this is misleading by design, and we are going to dig into that today.

The CBP One app is being used as a type of asylum application very broadly, allowing those who register with it to move to the front of the line at ports of entry, be processed quickly into the United States as an asylum seeker without the normal asylum process and vetting. These migrants would have attempted to enter the United States between ports of entry and would have been considered illegal aliens and intercepted or encountered by Border Patrol between the ports of entry, but they are being pushed back. If they make it through the NGO's in Central America and Mexico, where many, many are being intercepted and quite effectively redirected through the ports of entry using a CBP One app. The ones that make it to the border are being turned around. Steady increase in what referred to as voluntary return. They are being sent back deeper into Mexico where they are received by NGO's, and they are assisted to fill out the CBP One app and then they are being bussed to the ports of entry and they are entering in that manner through what the administration is calling a legal pathway. So then they tell America that the numbers of illegal migrants are down. It is a shell game. We are going to expose it today. We are going to do so respectfully, but quite aggressively.

I appreciate the opportunity to have presented this opening statement.

I yield the balance of my time.

[The statement of Chairman Higgins follows:]

STATEMENT OF CHAIRMAN CLAY HIGGINS

Good afternoon and welcome to the Subcommittee on Border Security and Enforcement hearing on Title 42. The purpose of today's hearing is to examine the Department of Homeland Security's failure to prepare for the termination of Title 42. I would like to welcome our witnesses from the Department of Homeland Security for being here today. While I appreciate the Department for making both these witnesses available for today's hearing, I am incredibly disappointed that the Department did not fulfill the committee's request for a third witness from Immigration and Customs Enforcement.

Title 42 was a highly effective tool used to expel illegal aliens on public health grounds stemming from the COVID–19 pandemic. While my colleagues and I knew the emergency authority would not be in effect indefinitely, the Biden administration had plenty of time to prepare for its ending, enforce existing immigration laws, and implement tougher restrictions to combat the continuing monumental increase of aliens presenting at the Southern Border.

Days before the Biden administration's catastrophic end to Title 42, U.S. Customs and Border Protection (CBP) agents encountered more than 10,000 illegal aliens for at least three consecutive days—a historic record! In addition, front-line Border Patrol agents saw a record number of known gotaways, as more and more aliens attempted to cross the U.S. and Mexico border and evade detection, including an increase in the apprehensions of individuals on the terrorist watchlist.

While it is true that the number of alien apprehensions between ports of entry have fallen since Title 42 expired, per U.S. Border Patrol Chief Ortiz, that number is expected to rise again. As media reporting suggests, there are more than 25,000

aliens in shelters and makeshift encampments living in Mexico. Alarmingly, an estimated total of 657,000 individuals are either living, traveling, or intending to travel from other countries in the Western Hemisphere and are on track to reach the Southwest Border any day. Moreover, CBP is funneling aliens to ports of entry as evidenced by the rise in CBP's Office of Field Operations Nation-wide inadmissible numbers, which were 82,288 in February 2023—in comparison to the Trump administration pre-COVID, where the inadmissible number was at 24,269 in February 2020.

Mere days after the termination of Title 42, the administration proudly proclaimed that its policies were highly effective in curtailing illegal immigration for the first part of 2023 by creating arguably illegal parole programs. What the administration does not want to publicly acknowledge is that most aliens claiming asylum will lose their claims in U.S. immigration courts. Thanks in large part to the Biden administration's de-prioritization of interior enforcement, many, if not the majority, of these aliens will not be removed or deported from the United States, despite breaking U.S. immigration law and being ordered removed by courts of law. The administration undoubtedly has the necessary tools available to deter and repel aliens coming to our borders and it outright refuses to utilize them, setting the United States up for an infiltration of illegal aliens into American communities.

By failing to sufficiently prepare for the end of Title 42, the administration has announced to the world, and most significantly, our adversaries, that the United States is more vulnerable than ever before, as is evident by the increase of gotaways and those on the terrorist watchlists. Instead of accepting responsibility for their failure to secure the border, the Biden administration would rather play a dangerous game with American's sovereignty and safety. The administration's refusal to adequately respond to the border crisis will no longer be tolerated in a Republican-controlled Majority—enough is enough.

With that, I yield back the balance of my time and look forward to hearing from our witnesses.

Chairman HIGGINS. I recognize for his opening statement my friend and colleague, Ranking Member Correa.

Mr. CORREA. Chairman Higgins, first of all, let me thank you very much for holding this most important hearing. What we want to do is get down to the facts and make sure we know what is going on at the border.

As policy makers on both sides of the aisle, we have to recognize the challenges we have as a Nation. It is important to start by looking back over the last few years and what we have seen to look forward as to what we can expect.

Mr. Chairman, we have dealt with COVID–19, and America spent trillions in fighting COVID–19, and we did pretty well. In fact, our economy is doing better than any other economy in the world today. Record unemployment, worker shortages, and this is happening while, sadly, the rest of the world, the rest of all economies are really crumbling. Even the great China economy is having trouble getting back on its feet.

I would like to submit, without objection, this article from *The Wall Street Journal,* talks about "China's fading recovery reveals deeper economic struggles."

Chairman HIGGINS. Without objection.

[The information follows:]

4

ARTICLE SUBMITTED BY RANKING MEMBER J. LUIS CORREA

CHINA'S FADING RECOVERY REVEALS DEEPER ECONOMIC STRUGGLES

BALLOONING DEBT, TEPID CONSUMPTION AND WORSENING RELATIONS WITH THE WEST TO WEIGH ON GROWTH, ECONOMISTS SAY

By Stella Yifan Xie and Jason Douglas

May 30, 2023 12:01 am ET

China's era of rapid growth is over. Its recovery from zero-Covid is stalling. And now the country is facing deep, structural problems in its economy.

The outlook was better just a few months ago, after Beijing lifted its draconian Covid–19 controls, setting off a flurry of spending as people ate out and splurged on travel.

But as the sugar high of the reopening wears off, underlying problems in China's economy that have been building for years are reasserting themselves.

The property boom and government overinvestment that fueled growth for more than a decade have ended. Enormous debts are crippling households and local governments. Some families, worried about the future, are hoarding cash.

Chinese leader Xi Jinping's crackdowns on private enterprise have discouraged risk-taking, while deteriorating relations with the West—exemplified by a new campaign against international due diligence and consulting firms—are stifling foreign investment.

Economists say these worsening structural problems are hobbling China's chances of extending the growth miracle that transformed it into a rival to the U.S. for global power and influence.

Instead of expanding at 6 percent to 8 percent a year as was common in the past, China might soon be heading toward growth of 2 percent or 3 percent, some economists say. An aging population and shrinking workforce compound its difficulties.

China could drive less global growth this year and beyond than many business leaders expected, making the country less important for some foreign companies, and less likely to significantly surpass the U.S. as the world's biggest economy.

"The disappointing recovery today really suggests that some of the structural drags are already in play," said Frederic Neumann, chief Asia economist at HSBC.

China's economy expanded at an annual rate of 4.5 percent in the first quarter, boosted by the end of Covid-era restrictions.

Yet more recent signals suggest the revival is ebbing. Retail sales rose 0.5 percent in April compared with March. A bundle of data on factory output, exports and investment came in much weaker than economists were expecting.

More than a fifth of Chinese youths aged 16 to 24 were unemployed in April. E-commerce companies Alibaba and JD.com reported lackluster first-quarter earnings. Hong Kong's Hang Seng Index, dominated by Chinese companies, is down 5.2 percent year to date, and the yuan has weakened against the U.S. dollar.

Most economists don't expect China's problems to lead to recession, or derail the government's growth target of around 5 percent this year, which is widely seen as easily achievable given how weak the economy was last year.

McDonald's and Starbucks have said they are opening hundreds of new restaurants in China, while retailers including Ralph Lauren are launching new stores.

A boom in electric-vehicle production allowed China to surpass Japan as the world's largest exporter of vehicles in the first quarter. Beijing's industrial policies and China's manufacturing prowess mean it is still finding ways to succeed in some major industries.

"We still have confidence in the long-term growth story of China," said Phillip Wool, head of research at Rayliant Global Advisors, an asset manager with $17 billion under management. He said the country's transition to one that relies more on domestic consumption instead of exports will help keep it on track.

Still, many economists are growing more worried about China's future.

The big hope for this year was that Chinese consumers would step up spending, as the main drivers of China's past growth—investment and exports—languish.

But while people are spending somewhat more after almost 3 years of tough Covid–19 controls, China isn't experiencing the kind of surge other economies enjoyed when they emerged from the pandemic.

Consumer confidence is low. More important, some economists say, is that Beijing hasn't been able to meaningfully change Chinese consumers' long-running propensity to save rather than spend—a response to a threadbare social-safety net that means families must sock away more for medical bills and other emergencies.

Chinese household consumption accounts for around 38 percent of annual gross domestic product, according to United Nations data, compared with 68 percent in the U.S.

"Consumer-led growth has always been a bit of an aspirational target" for China, said Louise Loo, China lead economist in Singapore at Oxford Economics, a consulting firm. Now, it might be even harder to achieve, she said, given how cautious Chinese consumers are coming out of the pandemic.

Although Beijing is trying to make it easier to borrow this year, lending data indicate households prefer to pay down debt than take on new loans.

In March, Zi Lu dipped into her dowry and paid off the remaining 1.2 million yuan, equivalent to about $170,000, on her mortgage for an apartment she bought in Shanghai 2 years ago. Working for an e-commerce retailer, she said sales have been underwhelming this year. Lu said she is anxious and wants to reduce her debt burden.

"I'm scared of getting laid off out of the blue," she said.

Also looming over the economy is its massive debt pile.

Between 2012 and 2022, China's debt grew by $37 trillion, while the U.S. added nearly $25 trillion. By June 2022, debt in China reached about $52 trillion, dwarfing outstanding debt in all other emerging markets combined, according to calculations by Nicholas Borst, director of China research at Seafarer Capital Partners.

As of last September, total debt as a share of GDP hit 295 percent in China, compared with 257 percent in the U.S., data from the Bank for International Settlements shows. Viewing the debt buildup as a threat to financial stability, Xi has made deleveraging a centerpiece of his economic policy since 2016, weighing on growth.

To help deflate the country's housing bubble, regulators imposed strict borrowing limits for property developers from late 2020. Property development investment fell 5.8 percent in the first quarter of this year despite policy efforts to stem the pace of the slide.

Two-thirds of local governments are now in danger of breaching unofficial debt thresholds set by Beijing to signify severe funding stress, according to S&P Global calculations. Cities across the country from Shenzhen to Zhengzhou have cut benefits for civil servants and delayed salary payments in some cases for teachers.

These problems are deepening when China's appeal as a destination for foreign firms is waning, data show, as tensions rise with the U.S.-led West.

Foreign direct investment into China tumbled 48 percent in 2022 compared with a year earlier, to $180 billion, according to Chinese data, while FDI as a share of China's GDP has slipped to less than 2 percent, from more than double that a decade ago.

Competition for investment with countries including India and Vietnam is heating up as firms seek to diversify supply chains, partly in response to the risk of disruption from conflict between the U.S. and China.

Jens Eskelund, president of the European Union Chamber of Commerce in China, said uncertainty over China's long-term economic prospects is another factor in companies' investment decisions.

"Naturally, it dampens the willingness to go out and invest in additional capacity if you are not super optimistic about the economic outlook," he said.

Reforms to foster more productive, private-sector activity have stalled under Xi, who is placing greater emphasis on security than economic growth. Beijing has tightened regulation of sectors including technology, private education and real estate, leaving many business owners unwilling to invest more.

In the first 4 months of this year, fixed-asset investment made by private firms grew 0.4 percent from a year earlier, compared with 5.5 percent growth in the same period in 2019.

Chinese leaders have dialed up rhetoric to reassure entrepreneurs and investors. Li Qiang, China's No. 2 official and new premier, said in March that China will open further to foreign players, and told Communist Party officials to treat private entrepreneurs as "our own people."

Economists are split over whether policymakers, who have held off on launching large-scale stimulus as they did in 2008 and 2015, will resort to more aggressive stimulus now. Some, including economists from Citigroup, expect China's central bank to cut interest rates in the coming months to lift sentiment.

Others say that Beijing's restraint stems from fear of compounding already-high debt levels, and that more stimulus might do little to trigger demand for credit anyway.

Jeff Bowman, chief executive of Cocona, which makes temperature-regulating materials used in apparel and bedding, said he is still optimistic about China. He said that during a recent 2-week business trip to Taiwan and China, customers who were

focused on China's domestic market were far more upbeat than their counterparts exporting to the U.S. or Europe, who he said "are hurting for sure."

He said that Cocona, based in Boulder, Colo., plans to set up a subsidiary in China to expand its business there.

But many analysts still wonder where the growth will come from.

"The big question is, have we reached the point where awareness of the structural slowdown is becoming a near-term issue for confidence? Then it's a bit of a vicious cycle," said Michael Hirson, head of China research at 22V Research, a New York-based consulting firm.

Mr. CORREA. Thank you, Mr. Chairman.

What we now have is a world-wide economic crisis that has led to world-wide economic crisis. There has never been more misplaced individuals probably in the last 100, 200 years in this world. World War II, 60 million individuals on the move. Today we have confirmed it, a greater number of individuals moving throughout the world displaced. This chart, if I can, from the U.N. Refugee Agency, shows the number of displaced persons, those in need of international protection and asylum seekers just in the Americas. As you can see from this chart, countries around the region, in this region, are suffering the challenge of refugees. Mexico is dealing with the refugee crisis within its borders, struggling. Guatemala is struggling. Europe, of course, is also feeling the stress. Further south in Colombia, not only is it hosting 2.5 million Venezuelan refugees, but others as well. Of course, these refugees are facing terrible conditions as they move north, looking for safety and opportunity.

This next picture I am going to show you is of a little girl struggling to continue north across the Darién Gap. She is separated from her mother and is being helped by another refugee trying to survive in that very dangerous region as they move north. If those refugees are willing to take that journey north, you know there is desperation.

So when we look at the post-COVID–19 world, we have to look at the challenges as a Nation. Let me start by saying Title 42 was a pandemic policy that was supposed to end when COVID ended as well. The party in charge of the House Representatives voted to end the COVID–19 pandemic and in doing so, voted to end or lift Title 42. I have to say I agree with them because Title 42 is an issue dealing with pandemics, health issues, and not an immigration instrument tool.

Looking forward to hearing from our witnesses today about the recent encounters at the border. I ask again that you talk about the numbers. As you do, you keep in mind the current challenges and the upcoming challenges, because this refugee challenge is not going away.

I have been to Central America and those nations, their infrastructures are devastated, and it is going to take a lot to get them back on their feet.

Also nearby, I visited all the CPB facilities that I could over the last few months on our Southern Border in the months leading up to the lifting of Title 42. I have also visited San Diego before and after 42. On every trip I would take, I would ask our officers at the border, are we prepared for May 11? Are we ready? They would say, yes, we are, to the best of our ability and based on assumptions that we have made on the numbers of individuals we are as-

suming will be here. You know what? They did a really good job. It wasn't just CBP, it was DHS, State Department, the administration, they did a good job.

In those first few days after Title 42 ended, the encounters dropped at the border by more than half. In fact, if you look at this next chart, those are the numbers reported by Border Patrol Chief Raul Ortiz showing more than a 50 percent drop in encounters since the ending of 42. These numbers continue to remain lower than what they were seeing earlier this spring, despite the fact that there is usually a normal increase at this time of the year, that is a seasonal increase.

Let me just repeat some of the things the administration did. They opened up regional processing centers in which CBP agents told me that they were very helpful in managing the capacity of processing individuals at the border, the administration created legal pathways for Venezuelans, Cubans, Haitians, and Nicaraguans to enter the United States legally, the administration sent active-duty military personnel to help with the logistics and expected surges at the border. By the way, California sent the National Guard and Texas sent the National Guard as well.

While I disagree with some of the consequences put in place at the border, some of the penalties in place at the border following the end of Title 42, they appear to be part of what has happened at the border today. I would say that as a body, as a legislative body, we have got a lot of work to do. The refugee crisis is not going away. It has got to be addressed with on a continent basis. South of the border, these are our neighbors, they are not going to move, they are going to be hanging out for a while. We have to address the challenges south of the border.

I would welcome the Chairman and others to visit with me countries south of the border to address the root causes of migration, to make sure that we prepare for the long-term. We can fight each other, point at each other, but we are talking about solutions in our continent, in our backyard. Though we roll up our sleeves and figure it out, we are going to continue to bicker and fight amongst each other and nothing is going to get done long-term.

So today, from our witnesses, I look forward to hearing your testimony. What you think has led to this—Mr. Chairman, I am not going to say a decline—but management of the border, was there a decline, what were the solutions you put in place, and what we can expect going forward?

Again, I don't believe this chapter is over in this refugee crisis. COVID–19 is still with us, it has devastated the continent, the world, and we are the only game in town. Like it or not, we are the greatest, strongest economy in the world.

With that, Mr. Chair, I want to thank you for my time and I turn over to you.

[The statement of Ranking Member Correa follows:]

STATEMENT OF RANKING MEMBER J. LUIS CORREA

JUNE 6, 2023

It's important to start by looking back over the last few years to see where we've been. And we need to look at where we are and look forward to see what we need to prepare for.

Chairman, we've dealt with COVID–19. America spent trillions in fighting COVID. And as a Nation, we have done pretty well in the aftermath.

In fact, our economy is doing so well that we have a record low unemployment rate and worker shortages. This is happening while the rest of the world's economies are stumbling. Even China, the second-largest economy in the world, is stumbling. I'd like to submit for the record one article talking about China and its post-COVID–19 pandemic woes.

What we have now is a world-wide refugee crisis, like the world has never seen. There are more displaced individuals than there were in World War II—about 60 million then. Today, the number is much greater number.

This chart from UNHCR, the U.N. Refugee Agency, shows the number of displaced persons, those in need of international protection and asylum seekers in the Americas. You can see countries across the region are experiencing unprecedented numbers.

This is not America's problem, it's the world's challenge.

Mexico is dealing with refugees within its borders. Canada has issues as well. Guatemala is feeling the stress of refugees. Europe is also feeling the stress. Further south, Columbia is hosting about 2.5 million Venezuelan refugees. Refugees are braving terrible conditions to find safety and opportunity.

I'd like to show this picture of a little girl struggling to continue on in the Darién Gap to show just some of the conditions refugees are willing to overcome to find safety.

If they are willing to endure this, we can only imagine what home must be like. So, when we look at the post-COVID world, let's look at challenges ahead of us as a Nation.

Let me start by saying that Title 42 was a pandemic policy supposedly intended to protect the public from COVID–19. The party in charge of House of Representatives voted to end the COVID–19 pandemic health emergency. Thus, my Republican colleagues voted to lift Title 42. And let me say, I agree with them. Title 42 should not be used as an immigration or border management tool.

I'm looking forward to hearing from our witnesses about recent encounter numbers. I ask that as you talk about the numbers, you keep in mind the current challenge of world-wide migration. This is not going away and this issue will require a long-term perspective.

While we heard a lot of fear about what might happen post-Title 42, the numbers of migrants we are seeing at the border actually dropped. We were told just last week that there is now significant capacity available in Border Patrol facilities. It's clear this administration has taken extensive steps to prepare for the end of Title 42.

I visited CBP facilities across the Southern Border in the months leading up to end of Title 42. And I visited the border in San Diego just days after it ended.

On every trip I made I would ask the officers and agents "Are we prepared for May 11? Are we prepared for when Title 42 ends?"

They would say "Yes we are prepared. But there is the great unknown and we continue to prepare for all possible scenarios."

They did the best they could, and they were ready.

It wasn't just CBP. It was DHS, the State Department, and this administration more broadly. And it looks like they did a pretty good job.

In those first few days after Title 42 ended, encounter numbers dropped by more than half. In fact, if you look at this chart, these are the numbers reported publicly by Border Patrol Chief Raul Ortiz showing more than a 50 percent drop in encounters since the ending of Title 42. That significant drop in the chart is when Title 42 ended.

Numbers remain significantly lower than what they were seeing earlier this Spring, despite the fact that numbers normally increase at this time of year. Yet this hearing is entitled "Examining DHS's Failure to Prepare for the Termination of Title 42." It's an interesting title. I'd like to recap some of the actions this administration took to prepare.

The administration is opening Regional Processing Centers, which CBP agents have told me will be incredibly helpful in managing the capacity and processing individuals at the ports of entry.

The administration created legal pathways for Venezuelans, Cubans, Haitians, and Nicaraguans to enter the United States legally.

The administration sent active-duty military personnel to help with logistics and surged additional resources from DHS to manage increased encounters.

The administration expanded access to the CBP One app and increased efforts to combat misinformation and stop transnational criminal organizations and smugglers from taking advantage of vulnerable migrants and those who seek to traffic drugs

into the United States. While I disagree with some of the consequences put in place, our border was not overwhelmed following the end of Title 42. Again, we've seen a significant decrease in encounters at the border.

There is still more we can do to improve our border security and reform our immigration system. We need to be prepared if numbers do increase in the future. Because this isn't a short-term challenge. We need to come up with more incentives for refugees to apply for admission to the United States before approaching our borders. We have to refocus on the economies of the world that have been devastated, with particular attention to our North American continent, and our neighbors to the south. And of course, we have to address immigration reform, and the demand for workers by an economically vibrant American economy.

Chairman HIGGINS. I thank my friend, Ranking Member Correa.

Other Members of the committee are reminded that opening statements may be submitted for the record.

[The statement of Ranking Member Thompson follows:]

PREPARED STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JUNE 6, 2023

We are here today to discuss the Department's readiness for the end of Title 42. Despite this hearing's title, the administration did, in fact, prepare for the end of Title 42. And that preparation has been successful. But let's start by acknowledging that Title 42 was a pandemic-era policy. And that Republicans in the House voted to end the public health emergency, which means they voted to end Title 42.

Under Title 42, hundreds of thousands of migrants were denied due process and access to the lawful asylum system. Migrants have the legal right to request protection under U.S. law, and I am glad to see we have transitioned back to regular immigration policy that allows for those laws to be followed. Nevertheless, terminating Title 42 was a complex undertaking that required significant planning.

DHS and the Biden administration instituted a whole-of-Government approach more than a year-and-a-half ago to prepare for the end of Title 42. DHS and the administration surged resources, increased efficiencies, administered consequences for unlawful entry, bolstered capacity, disrupted criminal organizations, and collaborated with international and Federal partners to prepare for the end of Title 42.

While my Republican colleagues may be disappointed with the lack of chaos at the border, the administration's actions led to a dramatic decrease in encounters with migrants at our Southwest Border following the end of Title 42. While the decrease in encounters is encouraging, we know that numbers may increase in the future.

Our immigration system has been broken for decades and we must continue to work to address the problems that plague this system. This committee should help ensure the Department has the personnel and resources it needs to process migrants in an orderly and humane manner. Democrats have worked to ensure the Department has the resources needed to process migrants humanely and efficiently.

Instead of helping the Department prepare and manage encounters on our Southwest Border, Republicans recently voted against authorizing the 1,700 CBP officers needed to increase capacity at our ports of entry. They also voted to cut 2,400 CBP officers and agents. And yet now, despite decreased encounters and the fact that they voted to end Title 42, they are trying to claim that the Department did not adequately prepare.

I look forward to hearing from the witnesses on the state of the border post-Title 42, as well as the Department's extensive efforts to prepare for its termination.

Chairman HIGGINS. I am pleased to have a distinguished panel of witnesses before us today on this very important topic and I ask that our witnesses please rise and raise your right hand.

[Witnesses sworn.]

Chairman HIGGINS. Let the record reflect that the witnesses have answered in the affirmative.

Thank you gentlemen, please be seated.

I would like to now formally introduce our witnesses.

Mr. Blas Nuñez-Neto has been serving as the assistant secretary for border and immigration policy since October 1, 2021. Mr.

Nuñez-Neto has nearly 20 years of homeland security experience and previously served as the chief operating officer at U.S. Customs and Border Protection.

Mr. Benjamine "Carry" Huffman is the acting deputy commissioner for U.S. Customs and Border Protection, where he oversees the daily operation of CBP's expansive mission, including matters related to trade, travel, and national security. Mr. Huffman entered duty with the U.S. Border Patrol on February 3, 1985 as a member of the Border Patrol Academy Class 173.

I thank our witnesses for being here today, and I now recognize Assistant Secretary Nuñez-Neto for 5 minutes to summarize his opening statement.

STATEMENT OF BLAS NUÑEZ-NETO, ASSISTANT SECRETARY FOR BORDER AND IMMIGRATION POLICY, OFFICE OF STRATEGY, POLICY AND PLANS, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. NUÑEZ-NETO. Chairman Higgins, Ranking Member Correa, and distinguished Members of the subcommittee, I appreciate the opportunity to appear before you today.

DHS led a comprehensive planning effort for more than 18 months to prepare for the end of Title 42. This effort included record deployments of personnel, infrastructure, and resources to support our front line. We also developed a series of policy measures intended to disincentivize unlawful entries at the land border while incentivizing migrants to use safe, orderly, and lawful processes and pathways to come to the United States.

The end of Title 42 on May 12 allowed DHS to once again impose consequences at the border. Unlike an expulsion under Title 42, removal under Title 8 carries with it a minimum 5-year bar to reentry and the potential to be prosecuted for repeated re-entries. In the weeks since May 12, DHS has overseen a whole-of-Government effort that has reduced unlawful entries between our ports of entry by 70 percent. We did so even as Congress appropriated less than half of the $4.9 billion that DHS requested to prepare for the end of Title 42.

As part of these efforts, we strengthened the consequences for those who are apprehended crossing the border unlawfully through the new Lawful Pathways Rule. This rule places common-sense conditions on asylum eligibility for migrants who do not use the lawful pathways and processes that we have dramatically expanded over the last year. Since May 12, USCIS has conducted a record number of credible fear interviews, more than 13,000, for migrants placed in expedited removal. We have repatriated over 38,400 single adults and families to more than 80 countries, including over 1,400 nationals of Cuba, Haiti, Nicaragua, and Venezuela who were returned to Mexico under our Title 8 authorities. This is the first time in our bilateral history that the government of Mexico has allowed the repatriation of non-Mexican nationals at the border under our Title 8 authorities.

DHS has made clear through these efforts that there are serious consequences for unlawful entry. However, consequences are by themselves not sufficient to deter migration. To be most effective, the consequences we enforce must be paired with incentives for mi-

grants to use lawful processes. This administration has overseen a historic increase in access to lawful processes for migrants to come to the United States in a safe and orderly manner that takes them out of the hands of the drug cartels and the coyotes. These processes include supporter-based parole processes for nationals of Cuba, Haiti, Nicaragua, and Venezuela, which have significantly reduced unlawful entries at the border, they include a 300 percent increase since 2019 in temporary work visas available for migrants in the region, and a dramatic expansion of refugee resettlement in the Western Hemisphere. The recently-announced Safe Mobility offices in Guatemala and Colombia will also allow migrants to be referred to legal pathways, not just to the United States, but to other partner countries, including Canada and Spain, that are participating in this effort. We have also significantly expanded orderly access to our land border ports of entry through the CBP One mobile application, which allows us to process almost four times our pre-pandemic average of individuals at our land border ports of entry each day.

Once again, the end result of this comprehensive effort has been a 70 percent decrease in unlawful entries between ports of entries since May 12. However, we know that the conditions in the hemisphere that are driving the unprecedented movement of people, not just to our country, but to countries throughout the region, are still present, and that the cartels and the coyotes will continue to weaponize disinformation to put migrants' lives at risk for profit.

I'd like to conclude by noting that these surges in migration have now become a regular occurrence for more than a decade, under both Republican and Democratic administrations. Presidents of both parties have attempted to use their Executive authorities to address these challenges as we have. This, in turn, has invited litigation from both sides of the political spectrum and has resulted in courts across the country dictating border and immigration policy. It is abundantly clear that Executive action alone cannot solve the entrenched challenge of irregular migration in our region, and neither party can address its impact on our border by themselves. Until and unless the U.S. Congress comes together in a bipartisan way to address our broken immigration and asylum system, we will continue to see these surges in migration at our border.

Thank you for the opportunity to appear before you today and I look forward to your questions.

[The prepared statement of Mr. Nuñez-Neto follows:]

PREPARED STATEMENT OF BLAS NUÑEZ-NETO

JUNE 6, 2023

INTRODUCTION

Chairman Higgins, Ranking Member Correa, and distinguished Members of the committee, I appreciate the opportunity to appear before you today to discuss the Department of Homeland Security's (DHS or Department) on-going efforts to secure and manage our Nation's borders.

I have been serving as the assistant secretary for border and immigration policy since March 26, 2023, having previously acted in this capacity since October 1, 2021. Prior to this role, I served as the chief operating officer at U.S. Customs and Border Protection (CBP), as well as the vice chair for the Secretary of Homeland Security's Southwest Border Taskforce.

For more than 3 years, starting in March 2020, DHS enforced the public health order that the Centers for Disease Control and Prevention (CDC) issued, under Title 42 of the U.S. Code, in response to the COVID–19 pandemic. On May 11, 2023, at 11:59PM ET, the public health emergency officially expired and the pandemic-era Title 42 public health order came to an end.

DHS led a planning effort for more than 18 months to prepare for the end of the Title 42 public heath order. This effort included record deployments of personnel, infrastructure, and resources to support our front-line personnel as well as the development of a series of policy measures intended to disincentivize unlawful entries at the land border while incentivizing migrants to use safe, orderly, and lawful processes and pathways to come to the United States. In the weeks since May 12, DHS has executed on this plan by leading a whole-of-Government effort to ensure the safe, orderly, and humane management of the Nation's borders and the continued enforcement of U.S. immigration laws. We did so even as Congress failed to adequately fund these efforts, appropriating less than half of the $4.9 billion that DHS requested to prepare for the end of Title 42.

The end of the Title 42 Order allowed DHS to fully return to processing all noncitizens under its long-standing Title 8 immigration authorities. DHS has strengthened the consequences for those who are apprehended crossing the border unlawfully, who are now subject to the Circumvention of Lawful Pathways rule on asylum eligibility. Migrants who do not use the expanded lawful pathways and processes to come to the United States in a safe and orderly manner are subject to a rebuttable presumption of asylum ineligibility unless they meet an exception or are able to rebut the presumption.

The result of this comprehensive planning effort has been a significant reduction in unlawful entries between ports of entry along our Southwest Border (SWB), which have decreased by more than 70 percent since May 12. The plan we put forward is working. We are cognizant, however, that the conditions in the hemisphere that are driving unprecedented movements of people are still present and that the cartels and coyotes will continue to spread disinformation about any potential changes to policies at the border in order to put migrants' lives at risk for profit. We will remain vigilant and continue to execute our plan, making adjustments where needed.

Surges in migration have been a regular occurrence for more than a decade under Republican and Democratic administrations. Presidents of both parties have attempted to use their Executive authorities to address these challenges—as we have. This, in turn, has invited litigation from both sides of the political spectrum and has resulted in courts across the country dictating border and immigration policy in ways that are contradictory and detrimental to our ability to manage the border. It is abundantly clear that Executive action cannot solve the entrenched challenge of migration in our region, and that neither party can address its impact on our border by itself. Until and unless Congress comes together in a bipartisan way to address our broken immigration and asylum system, we will continue to see surges in migration at our border.

CONTEXTUALIZING MIGRATORY FLOWS

There are more people displaced throughout the world today than at any other time since World War II. Violence, food insecurity, severe poverty, corruption, climate change, the fall-out of the COVID–19 pandemic, and dire economic conditions have all contributed to a significant increase in irregular migration around the globe. In the Western Hemisphere, failing authoritarian regimes in Venezuela, Cuba, and Nicaragua, along with an on-going humanitarian crisis in Haiti, have driven millions of people from those countries to leave their homes. Moreover, violence, corruption, and the lack of economic opportunity—challenges that are endemic throughout the region—are driving many others from countries as diverse as Colombia, Ecuador, Guatemala, Honduras, and Peru to make the dangerous journey to our border.

Transnational criminal organizations encourage and facilitate these migratory flows, spreading disinformation about what individuals will encounter along the route and at our border, so they can exploit migrants as part of a billion-dollar criminal enterprise. The increasing role that drug cartels are playing in human smuggling throughout the region is particularly concerning given their complete disregard for human life, which has led to tragedies in the United States, Mexico, and other countries.

The increased migratory flows at our border are a direct result of global trends that have been building for many years. Historically, encounters along the SWB in the 1980's and 1990's consisted overwhelmingly of single adults from Mexico, most

of whom were migrating for economic reasons and regularly crossed back and forth across the border. Until the early 2000's, annual encounters routinely numbered more than a million. In the early 2010's, after three decades of bipartisan investments in border security and strategy, encounters along the SWB reached modern lows, averaging fewer than 400,000 per year from 2011 to 2017. However, even during this period of relatively low encounters, DHS faced significant surges in migration by unaccompanied children in 2014, and family units in 2016, which strained our operations given the unique challenges posed by those demographics. Between 2017 and 2019, encounters along the SWB more than doubled, and—following a significant drop during the beginning of the COVID–19 pandemic, which shut down travel across the world and depressed migration—continued to increase in 2021 and 2022.

In fiscal year 2021, encounters at the SWB reached levels not seen since the early 2000's, with a total of 1.7 million encounters. In fiscal year 2022, DHS reached a high-water mark for encounters at the SWB with 2.4 million total encounters. A surge in migration of nationals from Cuba, Haiti, Nicaragua, and Venezuela (CHNV) accounted for more than two-thirds of the increase in encounters from fiscal year 2021 to fiscal year 2022. DHS encountered more than 626,000 CHNV nationals in fiscal year 2022 comprising 26 percent of total encounters and 35 percent of unique encounters—by far the highest proportion these groups had ever accounted for. This surge was largely driven by deteriorating conditions in these countries, as well as DHS's general inability to impose immigration consequences on nationals from these countries that were encountered at the border because of the requirement to implement the Title 42 public health order. Venezuela does not allow repatriations via charter flights, which significantly limits DHS's ability to remove Venezuelan nationals. Nicaragua and Cuba have historically placed restrictions on the number of charter flights that DHS can operate. DHS has, however, recently restarted removal flights to Cuba, conducting two individual flights on April 24 and May 10—the first since the onset of the COVID–19 pandemic in 2020. While DHS does continue to operate removal flights to Haiti, the deteriorating security, economic, and political situation on the ground there, including the security situation at the Port-au-Prince airport, has raised operational challenges in doing so at particular times.

These historic challenges were exacerbated by the unpredictable impacts that the application of Title 42 at the SWB had on migration in our hemisphere. Because Title 42 expulsions had no immigration consequence for migrants, these expulsions did not have the same impact as traditional Title 8 processing. Unlike a Title 42 expulsion, a removal under Title 8 carries with it at least a 5-year bar to admission, among other legal consequences such as potential criminal prosecution for repeated entries. The application of Title 42 at the border—which DHS was required by a court order to continue to implement after the CDC initially determined it should have been ended in April 2022—may have actually increased border encounters, particularly for single adults expelled to Mexico. This is due to the significant increase in recidivism—or multiple encounters of the same person—observed for individuals processed under Title 42 as compared to those processed under Title 8 authorities. From the start of the pandemic and the initiation of Title 42 expulsions through December 31, 2022, 39 percent of all Title 42 expulsions were followed by a re-encounter of the same individual within 30 days, compared with a 30-day re-encounter rate of 9 percent for Title 8 repatriations. Similarly, the 12-month re-encounter rates were 51 percent for Title 42 expulsions versus 20 percent for Title 8 repatriations. Overall, in April 2023, 26 percent of encounters at the SWB involved individuals who had at least one prior encounter during the previous 12 months, compared to an average 1-year re-encounter rate of 14 percent for fiscal year 2014–2019.

A WHOLE-OF-GOVERNMENT APPROACH TO MANAGE AND SECURE THE BORDER

DHS led a comprehensive all-of-Government effort to prepare for the end of the Title 42 public health order that lasted more than a year-and-a-half. In the Fall of 2021, DHS began contingency planning efforts that included building an operational plan and conducting regular interagency tabletop exercises. Through the Southwest Border Coordination Center (SBCC), formally launched in February 2022, DHS leveraged its components, including CBP, U.S. Immigration and Customs Enforcement (ICE), U.S. Citizenship and Immigration Services (USCIS), U.S. Coast Guard, and the Federal Emergency Management Agency (FEMA), in coordination with interagency partners across the Federal Government, to strategically position resources and accelerate processing efficiencies that enable DHS to better manage the operational environment along the SWB. DHS is also working closely with the De-

partment of State (DOS) to engage partners in the region to streamline repatriation processes, increase removal flights, and address migratory flows downstream.

In April 2022, Secretary of Homeland Security Alejandro N. Mayorkas issued the DHS Plan for Southwest Border Security and Preparedness, laying out a six-pillar plan to manage an increase in encounters once the Title 42 Order was no longer in effect. DHS updated this comprehensive plan in December 2022, and continues to build upon the impact DHS has seen as a result of these efforts, which include: (1) Surging resources, including personnel, transportation, medical support, and facilities to support border operations; (2) increasing CBP processing efficiency and moving with deliberate speed to mitigate potential overcrowding at U.S. Border Patrol (USBP) stations and to alleviate the burden on the surrounding border communities; (3) administering consequences for unlawful entry, including removal, detention, and prosecution; (4) bolstering the capacity of non-governmental organizations (NGO's) to receive noncitizens after they have been processed by CBP and are awaiting the results of their immigration proceedings; as well as ensuring appropriate coordination with and support for State, local, and community leaders to help mitigate increased impacts to their communities; (5) targeting and disrupting the transnational criminal organizations (TCOs) and smugglers who take advantage of and profit from vulnerable migrants, and who seek to traffic drugs into the United States; and (6) deterring irregular migration south of the border, in partnership with the DOS, other Federal agencies, and nations throughout the Western Hemisphere, to ensure responsibility sharing. This robust plan leverages a whole-of-Government approach to prepare for and manage potential increases in encounters of noncitizens at the SWB.

At our current funding level, DHS has:

- Surged personnel to reinforce the more than 24,000 USBP and Office of Field Operations (OFO) personnel at the border, with approximately 1,000 law enforcement officers from across the DHS network, as well as other Federal agencies, thousands of contract personnel, 1,500 active-duty military personnel, and hundreds of volunteers from across DHS and interagency partners.
- Dedicated and retrained more than 1,000 USCIS officers to conduct credible fear interviews of migrants encountered at the border, allowing DHS the ability to more quickly provide relief to those who are eligible and expeditiously remove those who are not.
- Enhanced surveillance capacity by adding 81 new autonomous surveillance towers since the start of fiscal year 2022 for a current total of 223. The President's fiscal year 2024 budget also requests more than $500 million in border technology.
- Expanded CBP temporary holding capacity at the border by nearly 50 percent, from 13,230 in January 2021 to over 19,000 today.
- Made available several thousand detention beds in the ICE network by updating guidelines to reflect the latest CDC guidance regarding congregate settings in detention facilities.
- Increased contracted medical personnel by 75 percent since the start of fiscal year 2022.
- Arrested nearly 10,000 smugglers and disrupted thousands of human smuggling operations, such as raiding smuggler stash houses, impounding tractor trailers that are used to smuggle migrants, and confiscating smugglers' information technology.

We have also been working closely with the DOS and countries throughout the hemisphere—including Mexico, Guatemala, Costa Rica, Colombia, Ecuador, and Panama—to expand efforts to counter human smuggling organizations, humanely secure borders, increase labor mobility, and expand protection and lawful pathways for intending migrants. A key part of this coordination with foreign partners has been working to increase our capacity to remove individuals who do not establish a legal basis to remain in the United States. These efforts have included significantly increasing the number of flights that ICE is able to operate to countries throughout the hemisphere—with the number of removal flights doubling or tripling for some countries—while streamlining the requirements that countries place on operating those flights, and generally making it easier to repatriate individuals. As an example, we have increased the number of weekly flights that we can operate to countries such as Ecuador and Colombia from 2 and 1 in 2021, to 8 and 12 today, respectively.

Through this planning effort and intensive international negotiations, DHS has repatriated—through removals, returns, and expulsions—record numbers of noncitizens over the past 2 years. Since January 2021, DHS repatriated 3.4 million individuals to 146 countries, including a record 1.5 million individuals in fiscal year 2022.

NEW MEASURES TO EFFECTIVELY MANAGE AN ORDERLY AND HUMANE IMMIGRATION SYSTEM

In addition to coordinating an all-of-Government response and surging personnel, infrastructure, and other resources to the border, DHS has taken a number of innovative policy steps that seek to change the calculus for intending migrants. These measures impose new consequences on individuals who cross the border unlawfully and do not qualify for an exception, while significantly expanding lawful pathways to incentivize noncitizens to use safe, orderly, and lawful pathways to come to the United States without having to put their lives in the hands of drug cartels and smugglers. As part of these efforts, we have also overseen the largest expansion in lawful pathways in decades even as we have set records for repatriations.

As described above, most of the increase in encounters from fiscal year 2021 to fiscal year 2022 was driven by a surge in migration from CHNV nationals—countries for which the United States had limited ability to impose consequences on unlawful entry. In the fall of 2022, Venezuelan migrants began to take the extraordinarily dangerous path to our border in increasing numbers—a journey that goes through the most dangerous border crossing in the world, the Darién region, a jungle between Colombia and Panama. By early October 2022, DHS was encountering more than 1,100 Venezuelan migrants a day between ports of entry (POEs) and Panama was encountering roughly 4,000 a day exiting the Darién. In response to this challenge, DHS developed—in close coordination with the government of Mexico—an innovative approach that provided Venezuelans with a safe, orderly way to come to the United States and imposed new consequences on those who crossed unlawfully. Venezuelans who did not use this new process and were encountered at the land border would, for the first time, be returned to Mexico. As part of this process, U.S.-based supporters provide financial support for Venezuelan nationals who can be authorized to travel directly to the interior of the United States—after clearing national security and public safety vetting—to seek a discretionary grant of parole based after a case-by-case determination.

The Venezuela process significantly reduced irregular migration to the border, and throughout the entire hemisphere. Two weeks after the announcement, encounters of Venezuelan nationals between POEs had declined to under 200 per day. This significant reduction continues today with a daily average of 162 the week ending June 2. Panama has seen a similarly dramatic decline in Venezuelans exiting the Darién, reflecting a paradigm shift in regional migratory flows.

In November and December 2022, DHS began to see a surge in migration from nationals of Cuba and Nicaragua, with CHNV encounters between POEs peaking at 3,644 encounters on December 10. On January 5, 2023, DHS announced the expansion of the Venezuela process to Cubans, Haitians, and Nicaraguans. Encounters of CHNV nationals between POEs at the SWB immediately declined, from a 7-day average of 1,231 on the day of the announcement on January 5, to a 7-day average of 205 2 weeks later. The reduction occurred even as encounters of other noncitizens began to rebound from their typical seasonal drop and represented a decline of 94 percent from the early December 10 peak; and CHNV encounters between POEs are even lower today, averaging 182 per day the week ending June 2, down 95 percent from the December peak.

The significant decrease in unlawful entries after the implementation of the CHNV enforcement processes—a decrease that holds months later—demonstrates clearly that migrants will wait to utilize a safe, lawful, and orderly pathway to the United States if one is available, rather than putting their lives and livelihoods in the hands of ruthless smugglers.

It is also true that smugglers will look for any opportunity to deceive migrants about U.S. law and immigration policies at the border in order to drive migration. We saw this phenomenon play out in the weeks leading up to the end of Title 42, when smugglers weaponized misinformation to convince migrants in Mexico that the United States was no longer returning Venezuelan nationals at the border and used the promise of heightened consequences starting on May 12 to convince migrants to part with their money and risk their lives to attempt to enter unlawfully before that date. This resulted in an increase in encounters of Venezuelan nationals to their highest levels since the implementation of the parole process in October 2022—even as encounters of Cubans, Haitians, and Nicaraguans remained at historically low rates. Encounters of Venezuelans once again declined precipitously with the resumption of Title 8 processing and the implementation of stricter consequences for non-citizens who unlawfully cross the border into the United States. As noted above, after May 12 CHNV encounters declined precipitously once again, to an average of fewer than 182 per day the week ending June 2.

On May 12, 2023, after a robust regulatory process that included responding to more than 50,000 comments from the public, DHS and the Department of Justice began implementing the Circumvention of Lawful Pathways rule, which is designed to build on the success of the CHNV enforcement processes. The rule is designed to cut the transnational criminal organizations that prey on migrants out of the process, making migration safer and more orderly. Its provisions incentivize migrants to use the new and existing lawful processes that DHS has established and disincentivize dangerous border crossings by placing a common-sense condition on asylum eligibility for those individuals who fail to do so, and who do not otherwise qualify for an exception.

Under the rule, individuals who circumvent the expanded lawful, safe, and orderly pathways into the United States—including the CHNV processes, the significant expansion in refugee and temporary work visas, and use of the CBP One mobile app to schedule a time and place to arrive at a port of entry—and also fail to seek protection in a country through which they traveled on their way to the United States, are subject to a rebuttable presumption of asylum ineligibility in the United States unless they meet specified exceptions. Individuals who cannot establish a valid claim to protection under the standards set out in the rule are subject to prompt removal under Title 8 authorities, which carries at least a 5-year bar to admission to the United States and the potential to be criminally prosecuted for repeated unlawful entry.

To implement the rule to the maximum extent possible, DHS has surged resources, including training more than 1,000 USCIS officers to support an unprecedented increase in credible fear interviews for those placed into expedited removal proceedings. This ambitious plan included adding more than 600 private interview spaces in CBP and ICE facilities to provide noncitizens in our custody who wish to consult with legal services providers the opportunity to do so—if legal service providers are available.

Since May 12, USCIS has conducted more than 13,000 credible fear interviews—a record number of interviews conducted by USCIS personnel during a 3-week period.

DHS has made clear through these efforts that there are consequences for unlawful entry. From May 12 to June 2, 2023, DHS repatriated over 38,400 noncitizens under Title 8 authorities, including single adults and families, to more than 80 countries. This includes over 1,400 noncitizens from Cuba, Haiti, Nicaragua, and Venezuela who were returned to Mexico under Title 8 authorities—the first time in our bilateral history that the government of Mexico has allowed the repatriation of non-Mexican nationals at the border under Title 8 authorities.

Consequences are, by themselves, not sufficient to deter migration. Migrants have, time and time again, shown that they are willing to endure unfathomable suffering for an opportunity to come to the United States. And our Nation has, for generations, been made stronger by those migrants that have come. To be effective, the consequences we apply must be paired with incentives for migrants to use lawful processes. This administration has overseen a historic increase in access to lawful processes for migrants to come to the United States in a safe, orderly, and lawful manner.

The CHNV processes described above have allowed more than 130,000 individuals who have U.S.-based supporters and have passed the requisite national security and public safety vetting, to come directly to the United States. We have significantly expanded the number of temporary work visas available for migrants in the region, especially in Northern Central American (NCA) countries of El Salvador, Guatemala, and Honduras, through the H–2A and H–2B programs. As of May 11, 2023, 11,991 H–2B visas were issued to nationals of El Salvador, Guatemala, Honduras, and Haiti. This is almost double the number of H–2B visas issued for these populations last fiscal year and a 300 percent increase compared to the entire fiscal year 2019.

We have also dramatically expanded refugee resettlement in the Western Hemisphere, working in conjunction with the DOS. We resettled 2,485 individuals in fiscal year 2022, a 521 percent increase over fiscal year 2021 and an 8-year high for the region. As of April 30, 2023, we have already resettled 2,826 refugees from the Western Hemisphere—a nearly 20 percent increase over the total fiscal year 2022 with 5 months left in the fiscal year. With the establishment of Safe Mobility Offices in South and Central America, we will significantly increase the number of individuals processed for refugee resettlement in the coming months and years.

We have also significantly expanded access to our land border ports of entry. The CBP One mobile app, which is available to download for free to a mobile device, allows individuals of any nationality who are in Central or Northern Mexico to schedule an appointment to present at a POE along the SWB in a safe and orderly man-

ner. The advance biographic and biometric information captured by the app allows CBP to significantly streamline its processes at the border, which in turn has allowed CBP to greatly increase its ability to process inadmissible individuals at land border POEs compared to its 2014–2019 pre-pandemic average. On June 1, CBP expanded the number of available daily appointments to 1,250 per day—almost 4 times our pre-pandemic average. These individuals have presented in a safe and orderly manner at a port of entry each day during their scheduled appointment time. Since its launch on January 18, 2023, more than 125,000 noncitizens have successfully scheduled an appointment to present at a designated POE through the CBP One app, and more than 109,000 of those appointments have been processed thus far at POEs along the SWB. This app, available in English, Spanish, and Haitian Creole, effectively cuts out the smugglers, decreases migrant exploitation, and improves safety and security in addition to making the process more efficient.

We also recognize that the United States cannot address this issue on its own. As endorsed by the 21 countries that signed the Los Angeles Declaration on Migration and Protection in June last year, it is our collective responsibility to address the factors causing irregular migration throughout our hemisphere. A key pillar of these efforts includes DHS and DOS are continuing to deliver on our commitments by establishing Safe Mobility Offices in South and Central America, starting with Guatemala and Colombia, which formally announced their participation on June 1 and June 5, respectively. Safe Mobility Offices enable eligible individuals to begin the process of accessing protection and other lawful pathways to the United States or other partner countries including Canada and Spain.

We have also seen governments in the region step up their enforcement measures since May 12. For instance, The GOM is also undertaking an unprecedented migration management effort on its Southern Border with Guatemala, and along key transit routes, and along our shared border. For its own sovereign reasons, the GOM continues to be a leader in the region when it comes to innovative and balanced efforts to manage migration. The government of Guatemala (GOG) has also taken important steps to address migratory flows. In addition to our work together to establish safe mobility offices, the GOG has augmented its border control activities by deploying military and law enforcement personnel on its own Southern Border. And finally, recognizing that the unmonitored flow through the Darién region has increasingly been managed by transnational criminal organizations, is dangerous for the migrants who use it, and contributes significantly to the volume of irregular migratory flows in the region, the governments of Colombia and Panama are, for the first time, working together to attack transnational criminal networks operating in the Darién. Finally, throughout the region, DHS and DOS are working bilaterally with numerous partner countries to encourage the strengthening of visa policies, better and more targeted screening of individuals flying into the hemisphere, and enhanced capture and exchange of biometric data. All these efforts, when taken together, represent significant strides forward in managing the extraordinary migration challenge that is facing this hemisphere.

CONCLUSION

The bottom line is that this approach is working. Since the CDC's Title 42 public health order ended and the Biden-Harris administration's comprehensive plan to manage the border went into full effect on May 12, 2023, encounters between POEs at the border have decreased by more than 70 percent compared to the 48 hours preceding the end of Title 42, with CBP averaging 3,400 USBP encounters in between POEs per day and less than 300 non-CBP One OFO encounters at POEs per day.

Our message has been clear—there are safe, lawful pathways to come to the United States, and consequences for those who do not use them. Those who come lawfully will be able to stay and work in the United States for the time that they are authorized to be here, while those who come unlawfully will be subject to strengthened consequences and quickly removed.

DHS is encouraged by this progress, but we recognize that the underlying conditions prompting historic migration across the Western Hemisphere remain, and smugglers will continue to weaponize disinformation to put migrants lives at risk for profit. DHS remains vigilant and will continue to deliver the strengthened consequences that have been put in place at the border for migrants who fail to take advantage of the historic increase in lawful pathways to come to the United States. We will continue to work with our foreign partners, including the GOM, to coordinate enforcement efforts and provide lawful pathways for migration throughout the Hemisphere.

We have demonstrated our commitment to work innovatively within our statutory authorities, and using the resources made available by Congress, to address the challenges we are facing at our border and in the region—challenges that have led to repeated surges in migration over the past decade years under Presidents of both political parties. However, it is clear that there is no lasting solution to these challenges that does not include the U.S. Congress working on a bipartisan basis to update our hopelessly outdated immigration laws—laws that have not been touched in decades, and that were created to deal with a dramatically different migratory challenge. The fact that DHS's efforts continue to be the subject of on-going litigation—from both sides of the political spectrum, and often on the same issue—clearly demonstrates the need for Congressional action. Neither party can solve this problem on its own, and letting the courts continue to dictate immigration and border policy is simply untenable.

The Department remains eager to work with this committee and other Congressional leaders, on a bipartisan basis, to update the United States' immigration framework, including by modernizing the asylum system. Until that happens, DHS will continue to utilize every tool currently at its disposal and within DHS's authorities to secure the border and create a safe, orderly, and humane immigration system.

I am proud of the work that DHS and the men and women on the front lines have been doing to address these challenges. The best way for Congress to support them is by once and for all fixing our outdated, broken immigration system.

I look forward to working together and to answering your questions. Thank you.

Chairman HIGGINS. Thank you, sir. Appreciate your opening statement.

I now recognize Mr. Huffman for 5 minutes to summarize his opening statement.

STATEMENT OF BENJAMINE "CARRY" HUFFMAN, ACTING DEPUTY COMMISSIONER, CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. HUFFMAN. Good afternoon, Chairman Higgins, Ranking Member Correa, and distinguished Members of the subcommittee. It is an honor to testify today on behalf of U.S. Customs and Border Protections work force and discuss our preparations for the termination of Title 42 Public Health Order.

Before I cover those preparations, however, I want to take a moment to state how proud I am of the CBP work force and how time and again they rise to meet any challenge thrown their way. I would also be remiss if I didn't point out that last month, the U.S. Border Patrol celebrated their 99th anniversary since their establishment in May 1924. I've had the privilege of serving within their ranks for over 38 of those 99 years.

CBP operates in an ever-evolving and dynamic environment, which is complex, demanding, and dangerous. The 64,000 men and women who make up CBP work in this environment under extreme stress, stress not only is a result of the mission itself and the expectations of the Nation we serve, but also acute personal stress. The last 3 years have been particularly difficult, exhaustive, and taxing while extending our work force to extreme limits. This period of time has required enormous sacrifices, the greatest of which has been the cost of the lives of our work force—64 line-of-duty deaths since 2020, of which 55 were attributed to COVID–19 and, tragically, another 36 employees who died by suicide. The leadership of CBP recognizes the stress and the well-being of our employees as a CBP's top priority. I am thankful for the support Congress has provided us for our dedicated work force.

Whether we're talking about the Southwest Border before, during, or after Title 42, CBP has seen considerable operational demands. Today, I would like to first highlight some of those challenges and second, discuss how CBP prepared for the end of Title 42.

First, the Southwest Border environment is immensely complex and can be dangerous. To that end, CBP continues to counter the threat of sophisticated transnational criminal organizations that profit from ruthless human and drug smuggling. When it comes to drugs, such as illicit fentanyl, CBP is increasing our detection capabilities and working with our partners to dismantle production and trafficking. These efforts have led to results. In April, we surpassed the amount of fentanyl seized during all of fiscal year 2022. Special multi-agency operations, such as Operation Blue Lotus and Four Horsemen, amplified our efforts. In just 2 months these operations led to the seizures of more than 5,700 pounds of fentanyl and 250 arrests.

CBP is also responding to the historic flows of irregular migration as transnational criminal organizations take advantage and mislead migrants. In the course of combating these ruthless organizations, CBP regularly performs life-saving rescues and provides initial emergency medical care to those in distress in often the extreme environments. As a result, CBP officers and agents have conducted nearly 3,700 rescue operations this year alone and provided life-saving assistance to more than 24,000 migrants.

Which brings me to my second point. CBP, along with our DHS partners, have been planning and preparing for the end of Title 42. Our preparations align with CBP's overall strategy, prioritize and strengthen National and border security, enforce the rule of law, including human and civil rights, while implementing Executive branch policies, provide for the safe, humane processing of migrants, and ensure the continued flow of lawful trade and travel.

In anticipation of increased migration flows, CBP surged resources to encounter migrants crossing between ports of entry and to safely and thoroughly conduct immigration processing. This is done with a persistent focus on maintaining national and economic security, with all of our preparations considering how to care for and alleviate the stress upon our most important asset, our work force. As we have done throughout our history, CBP has resumed fully using Title 8 immigration authorities. Title 8 provides meaningful consequences for unlawful border crossings, including expedited removal, a 5-year ban on U.S. admission, and criminal prosecution.

In the days preceding the lifting of Title 42, CBP encounters with non-citizens between the ports of entry reached historic highs, approximately 10,000 a day. In the weeks since, the numbers have dropped by approximately 70 percent. At our ports of entry we've recently been encountering over 1,250 non-citizens a day who have made appointments through the CBP One app mobile application.

In closing the border has always been a dynamic and complex environment, and as always, the CBP work force will be prepared for any challenges that may come up. CBP will continue to do our part enforcing the law, ensuring our work force and individuals in our

custody are properly cared for, and being a trusted partner to all others in this effort.

Thank you for the opportunity to appear here today, and I do look forward to your questions.

[The prepared statement of Mr. Huffman follows:]

PREPARED STATEMENT OF BENJAMINE "CARRY" HUFFMAN

JUNE 6, 2023

INTRODUCTION

Chairman Higgins, Ranking Member Correa, and Members of the subcommittee, thank you for the opportunity to discuss the conditions along the Southwest Border and U.S. Customs and Border Protection's (CBP) critical role in securing our borders and facilitating lawful trade and travel. I am honored to represent the dedicated men and women of CBP who operate on the front lines to ensure our national and economic security.

The emergence of the COVID–19 pandemic and the March 2020 implementation of the Centers for Disease Control and Prevention's (CDC) public health order, commonly referred to as Title 42,[1] transformed the Southwest Border environment and significantly altered CBP's operations. From March 2020 until the order terminated at 11:59 p.m. ET on May 11, 2023, CBP assisted in enforcing Title 42, which suspended the right to introduce into the United States certain non-citizens arriving at the land and adjacent coastal borders to protect against the spread of COVID–19.

Throughout the pandemic, CBP and our partners responded to high levels of migrant encounters, simultaneously upholding civil and human rights, securing our borders, and protecting the health and safety of surrounding communities, our personnel, and the noncitizens we encounter. The COVID–19 outbreak in early 2020 and the resulting worldwide pandemic was particularly hard on the men and women of CBP. While many people retreated to the safety of their homes and telework, CBP remained on the front line directly confronting this deadly virus in continuance of our border security mission and keeping the Nation's economic engine running and viable. This was at extreme cost to the agency with tens of thousands of employees contracting the virus—resulting in 55 deaths directly attributed to contracting the virus in the line of duty.

While the Title 42 Order was effective in helping CBP quickly expel certain covered noncitizens as part of our national efforts to prevent the spread of the virus, the order carried no legal consequences for attempts at unlawfully crossing the United States border and, as a result, repeat encounters increased significantly.[2]

As a critical component of the Department of Homeland Security (DHS) planning effort, CBP made numerous preparations for the end of the Title 42 order. Our response focused on the application and enforcement of immigration authorities and regulations and was supported by the deployment of technology and infrastructure; increased levels of personnel; improved processing efficiencies and security; and coordination with our partners.

Leveraging experience and expertise gained during previous migration surges, CBP, together with our partners, prepared a response plan, now implemented, to ensure we can continue to scale our operations and effectively respond to areas of the greatest need, impose consequences on those who break the law, and process noncitizens safely and humanely.

CURRENT POST-TITLE 42 PROCESSING AND SECURITY OPERATIONS

As anticipated, in the days leading up to the termination of the Title 42 Order, daily CBP encounters with noncitizens between the ports of entry (POEs) reached historic highs of approximately 10,000 per day. Since the CDC's Title 42 public health order terminated and DHS and the Department of Justice (DOJ) began implementing a new regulation on May 12, 2023, CBP has experienced a significant reduction in encounters at the Southwest Border. Following the termination of the

[1] March 20, 2020, CDC Order under Sections 362 and 365 of the Public Health Service Act (42 U.S.C. §§265, 268), Order Suspending Introduction of Certain Persons from Countries Where a Communicable Disease Exists. *https://www.cdc.gov/quarantine/pdf/CDC-Order-Prohibiting-Introduction-of-Persons_Final_3-20-20_3-p.pdf.*

[2] See U.S. Border Patrol Recidivism Rates—*https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics.*

Title 42 Order, CBP has been encountering approximately 3,400 noncitizens between POEs per day. At the POEs, CBP has been encountering approximately 1,000 noncitizens per day, predominately with an appointment scheduled through the CBP One mobile application. The level of encounters between the POEs represents a decrease of approximately 70 percent compared to the 48 hours preceding the termination of the Title 42 Order.

Together with our partners across DHS and throughout the Federal Government, CBP's response has been focused on the resources and capabilities needed to enforce the law and regulations to mitigate potential increases in migration and keep our front-line personnel where it belongs: on the front line.

Enforcement of Immigration Authorities and Regulations

With the termination of the CDC's Title 42 public health order, CBP has resumed using its full range of immigration authorities under Title 8 of the U.S. Code to process migrants encountered at the border without documentation for lawful admission, as we have done throughout our agency's history. These authorities provide for meaningful consequences that include placing individuals in expedited removal or other immigration removal proceedings. Under Title 8, an individual who is removed is subject to at least a 5-year ban on admission to the United States and can face criminal prosecution for any subsequent attempt to cross the border illegally.

Coupled with these consequences, DHS and DOJ implemented a final rule,[3] "Circumvention of Lawful Pathways," that establishes a rebuttable presumption of asylum ineligibility for certain noncitizens who fail to seek asylum or other protection in one of the countries through which they travel on their way to the United States, and who fail to take advantage of the existing and expanded lawful pathways to enter the United States, including the opportunity to schedule a time and place to present at a POE via the CBP One mobile application.

Those who attempt to cross the Southwest Border without utilizing these processes are, with some exceptions, subject to a rebuttable presumption of asylum ineligibility. To maintain our border security posture and ensure this process is conducted fairly, efficiently, and safely, CBP has deployed technology, increased personnel, expanded facilities and transportation, improved processing efficiencies, and strengthened coordination with our partners.

Deployed Technology, Infrastructure, and Personnel

Accelerating efforts to provide significant enhancements to its domain awareness capabilities between the POEs, CBP made substantial investments in advanced technologies that improve our agent and officer efficacy and safety, including improved communications solutions, body-worn cameras, and additional autonomous surveillance towers. Additionally, CBP's large- and small-scale non-intrusive inspection (NII) systems are critical tools used at and in between the POEs to provide officers and agents with deeper insight into what is entering or traveling through the United States. The NII systems alert officers and agents to the presence of anomalies in shipments, passenger belongings, cargo containers, commercial trucks, rail cars, and privately-owned vehicles, quickly signaling to officers and agents where further inspection is needed.

CBP has also closed 55 gates and gaps in the border barrier to date, and we are working to close an additional 74 gates and gaps along with life, safety, environmental, and other remediation activities at incomplete border barrier projects.

Surveillance and detection technology is critical to our border security operations but serves only limited purpose without our greatest asset: our skilled and professional workforce. CBP has approximately 24,000 agents and officers along the Southwest Border. We have been hiring more personnel, especially non-uniformed support personnel and contract personnel to assist in data entry and facility operations. These personnel investments allow our law enforcement agents and officers to stay in the field and focus on their critical security mission.

Expanded Facilities and Transportation and Improved Safety

To accommodate increases of non-citizens in CBP custody, we renovated and reopened the Rio Grande Valley Central Processing Center (CPC) in McAllen, Texas, in March 2022; opened two new soft-sided facilities in the El Paso and San Diego sectors in January 2023; recently expanded the Yuma and El Paso soft-sided facilities and maintained additional soft-sided facilities located in priority locations. These facilities include wrap-around service contracts that provide sanitation, food, and medical services necessary to ensure appropriate conditions for migrants in cus-

[3] 88 FR 31314 (published May 16, 2023).

tody and front-line personnel. Higher numbers of migrant encounters require deliberate and coordinated actions to ensure individuals in CBP custody are held in safe and sanitary conditions and unaccompanied children or other vulnerable populations are appropriately cared for until they are transferred out of CBP custody.

We are also maximizing the use of air and ground transportation contracts to move noncitizens from U.S. Border Patrol Sectors that are over capacity to other less-impacted CBP locations.

Improved Processing Efficiencies and Security

Deployed in conjunction with expanded facilities, non-uniform personnel, and contracted services, CBP's investments in virtual and mobile processing have provided operational flexibility and streamlined operations to ensure the safe and humane processing of migrants and relieve agents of non-enforcement duties.

For example, noncitizens are able to use the CBP One mobile application to schedule an appointment at one of seven Southwest Border POEs and present themselves for inspection to a CBP officer. The ability to use the app cuts out the smugglers, decreases migrant exploitation, and makes processing more efficient upon arrival at the POE. The CBP One scheduling process is available to all noncitizens who are located in Central and Northern Mexico.

CBP collects biometric and biographic information and screens and vets all noncitizens encountered at the border against multiple public safety databases. Noncitizens who may pose a threat to national security or public safety are detained. Noncitizens who are provisionally released must abide by the requirements of their release, including contact with U.S. Immigration and Customs Enforcement (ICE) for further processing once they reach their destination. CBP coordinates with nongovernmental organizations and local governments to identify locations where noncitizens can safely access services, transportation, or accommodations.

Coordination with Partners

In February 2022, DHS stood up a Southwest Border Coordination Center (SBCC) to bring CBP together with other DHS and Federal partners to coordinate planning, operations, engagement, and interagency support in response to migration increases at the Southwest Border. CBP is the primary supported component of the SBCC and is also utilizing our operational coordination capability to provide expertise and resources in response to the irregular migration flows across the Southwest Border. This enhanced collaboration spans the entire scope of border security activities, including resources and capabilities related to infrastructure, facilities, transportation, medical care, and joint processing.

MAINTAINING BORDER ENFORCEMENT AND FACILITATION EFFORTS

As part of our planning for the termination of the Title 42 public health order, we surged resources, technology, and personnel to manage challenges safely and orderly along the Southwest Border—while at the same time maintaining a persistent focus on our other missions to ensure national and economic security.

Combating Human Smuggling

CBP's posture and response to migration events are informed by comprehensive analyses of information and intelligence on operations of smugglers and the movement of noncitizens. We are more effectively tracking movements of various migrant groups who may be headed toward the U.S. border, and more aggressively pursuing investigation and prosecution of transnational criminal organizations (TCOs) and human smuggling networks responsible for illegal border crossings.

CBP's collaborative efforts with our partners help stop cruel and profit-driven human smugglers and save lives at the border and beyond. For example, launched in 2016 as a joint effort between CBP and the government of Mexico (GOM), "Se Busca Información," which translates to "Information Wanted," identifies individuals associated with TCOs wanted for crimes associated with human and drug smuggling on both sides of the border. The "Se Busca Información" initiative promotes binational unity and encourages the public to anonymously report information about known smugglers. CBP has also taken the lead on Operation Sentinel, a major U.S. interagency effort supported by the GOM that aims to cut off access to TCO profits from human smuggling by denying these criminals the ability to engage in travel, trade, and finance in the United States.

Migrant smugglers put vulnerable individuals and families in danger every single day. Smuggling organizations are abandoning migrants in remote and dangerous areas, leading to a dramatic rise in the number of rescues CBP performs. In fiscal year 2022, CBP conducted nearly 22,500 rescues Nation-wide, which was 69 percent higher than the total number of rescues in all of fiscal year 2021. These humani-

tarian life-saving acts are often lost in the border debate, but these acts are clear examples of the bravery, selflessness, and humanity our CBP agents and officers display each and every day.

Interdicting Illicit Drugs

In addition to migrant smuggling, illicit drugs are another major source of revenue for TCOs. CBP remains focused on our efforts to combat the flow of illicit drugs and disrupt TCO activity by collaborating and sharing information with other agencies and foreign partners; obtaining advance electronic information to identify and target suspect shipments; leveraging advanced scientific, laboratory, and canine capabilities; and deploying NII.

Fentanyl and its analogs are synthetic opioids that continue to be some of the most dangerous illegal drugs flowing through, and damaging, communities across the Nation and are involved in more overdose deaths than any other illicit drug trafficked into the United States. CBP seizures of fentanyl have been escalating for several years.[4] In fiscal year 2022, CBP seized approximately 14,700 pounds of fentanyl Nation-wide, with most of it—12,500 pounds—seized at POEs, and we already exceeded those amounts just 7 months into this fiscal year.

Our partnerships are also invaluable to our enforcement efforts. For example, through Operation Blue Lotus, CBP and our ICE Homeland Security Investigation (HSI) partners surged our intelligence, analysis, and enforcement capabilities to not only target and seize illicit fentanyl, but also pursue investigations and take down criminal networks. In just 2 months, the operation resulted in 108 arrests and the seizure of nearly 4,800 pounds of fentanyl. Through a concurrent operation between the POEs, the U.S. Border Patrol seized an additional 2,260 pounds of fentanyl.[5]

Limiting Disruptions to Travel and Trade

In addition to its border security mandate, one of CBP's core mission objectives is to enhance the Nation's economic prosperity through the facilitation of travel and trade. The Nation's POEs are vital gateways for cross-border commerce and travel—critical sectors that drive economic growth and opportunities for American businesses and consumers. The scope and importance of CBP's role in protecting the economic security of the United States cannot be understated. Collecting almost $112 billion in duties, taxes, and fees in fiscal year 2022, CBP remains the second-largest collector of revenue in the Federal Government.

The resources, technology, and processes put in place to manage anticipated challenges along the Southwest Border associated with the termination of the Title 42 public health order were also established to limit disruption to the critical and lawful traffic that flows through our POEs and supports our economic security responsibilities.

Commercial vehicle traffic at both the Northern and Southwest Border land POEs fully rebounded to levels experienced before the COVID–19 pandemic, and since COVID–19 travel restrictions were lifted, CBP continues to process increasing numbers of arriving travelers without any significant delays.[6] CBP will continue to track POE traffic and wait times and adjust resources as needed to ensure travelers and goods move safely and efficiently across the Southwest Border.

CONCLUSION

Planning and preparedness efforts are critical to managing irregular migration. As we approached the end of Title 42, CBP was prepared to ensure we could continue to fulfill our border security mission. In anticipation of potential challenges, we deployed resources, streamlined processes, and put measures in place to prevent disruptions to our critical border security and facilitation operations.

CBP remains committed to maintaining border security, properly caring for those in our custody, and keeping the American people and our CBP workforce safe. We remain vigilant and responsive to the full range of our responsibilities including interdicting illicit drugs crossing into the United States, preventing dangerous people and goods from crossing our borders, enforcing hundreds of trade laws, and ensuring the efficient flow of lawful trade and travel that is so important to our economy.

---

[4] *https://www.cbp.gov/newsroom/stats/drug-seizure-statistics.*

[5] Operation Blue Lotus ran from March 13, 2023, to May 8, 2023. U.S. Border Patrol's Operation Four Horsemen ran from March 6, 2023, to May 6, 2023.

[6] As of May 12, 2023, COVID–19 travel restrictions have been fully terminated. See 88 FR 30033 (May 10, 2023) (terminating restrictions at land POEs and ferry terminals along the United States-Canada border); 88 FR 30035 (May 10, 2023) (terminating restrictions at land POEs and ferry terminals the United States-Mexico border).

Thank you for the opportunity to testify today. I look forward to your questions.

Chairman HIGGINS. Thank you, Mr. Huffman.

Members will be recognized by order of seniority for their 5 minutes of questioning. An additional round of questioning may be called after all Members have been recognized.

I now recognize myself for 5 minutes of questioning.

My colleagues and Americans watching this, the Legislative branch of our Government passes laws, and the Executive branch historically works to enforce those laws. In a broad perspective, the Executive branch is required to have—is a rulemaking whereby the laws are interpreted and the means by which the enforcement of those laws shall be established across the country. This is reasonable and understandable.

Federal law enforcement, especially when it comes to something as clear as enforcement of border and immigration law, is much less of a gray area. The solution that has been suggested here, one could argue that from my colleagues across the aisle, you have reached a solution, but it is not a solution within the parameters of enforcement of existing Federal law as established by the U.S. Congress. And we are the Legislative branch.

So there has been an interesting interpretation of Executive authority since January 2021 whereby our current administration, if it doesn't like an existing law, it uses Executive authority to find a way around that law. That is what has happened with the incoming wave upon human wave of illegal migrants attempting to come into our country.

The Federal immigration laws that have been established by Congress have been essentially replaced by immigration policy that legalizes illegal entry into our country. They tell you the numbers of illegal entry are down because this Executive branch has redefined what an illegal entry is. The CBP One app goes down through Mexico and Central America into Colombia. These migrant citizens, these children of God, who endeavor to enter our country, but they are undocumented, which makes them illegal, historically, they would be intercepted at the border and handled appropriately. But this administration has changed that. They have diffused our border and essentially extended American operations for border control down through South America and Central America and Mexico and establish these so-called legal pathways.

Can I see the quote please? There you go. Put the quote up Mr.—sir, do you recognize these quotes? It is not trick stuff, these are your quotes. Do you acknowledge that these are your quotes?

Mr. NUÑEZ-NETO. I can't read that from here, unfortunately, but I—it looks like——

Chairman HIGGINS. They are from an NPR interview recently. You say, you know, what we have done is really oversee a historic increase in lawful pathways to the United States, including at our ports of entry through the CBP One app. Do you acknowledge that? You said that?

Mr. NUÑEZ-NETO. I do.

Chairman HIGGINS. Thank you.

You went on to say, and what we are really trying to do here is incentivize migrants to use safe, lawful, and orderly pathways, that

again, we have expanded dramatically over the last 2 years. Do you acknowledge that that is your quote?

Mr. NUÑEZ-NETO. I do. It's also in my opening remarks.

Chairman HIGGINS. Yes, sir. So what we are establishing here is that this Executive branch has redefined what an illegal entry is, and you admit that exact policy agenda. So when you report that illegal migrants, the numbers are down, that is a shell game. It is like a magic trick.

We were advised by Chief Ortiz and what I believe was his last confidential briefing, that there were 657,000 immigrants in the pipeline south of the border. It was an interesting number, because Chief didn't say between 600,000 and 700,000, he didn't say 650,000, give or take, he said 657,000. That is quite a precise number.

Mr. Huffman, Mr. Nuñez-Neto, I will just ask you each to—and I will yield the balance of my time—where are those 657,000 people headed?

Mr. NUÑEZ-NETO. So I have not seen that particular estimate. We do know that there are——

Chairman HIGGINS. It was from the Chief. He is now retired.

My time has expired.

Are they headed north?

Mr. NUÑEZ-NETO. We believe many of them are waiting for the lawful pathways and processes that we have established——

Chairman HIGGINS. In order to come north?

Mr. NUÑEZ-NETO [continuing]. Not just in Mexico, but in other countries along hemisphere.

Chairman HIGGINS. They are headed here.

Mr. Huffman, do you agree they are headed here?

Mr. HUFFMAN. A lot of them are headed here, yes, sir. Some of them have stayed in other countries. Like we know there's many of the Venezuelans have stopped and stayed in Colombia. So there's a lot of people in movement——

Chairman HIGGINS. OK.

Mr. HUFFMAN [continuing]. But generally this direction, yes, sir.

Chairman HIGGINS. Thank you for your answers, gentlemen, for being here.

My time has expired. I recognize Ranking Member Correa for 5 minutes.

Mr. CORREA. Thank you, Mr. Chairman.

I am going to follow up with the Chairman's last comment, 657,000—let's call it 700,000. Where do we get that intel to figure out that number? Either gentlemen, please.

Mr. NUÑEZ-NETO. So our Office of Intelligence and Analysis does estimate the number of people who are in the hemisphere and who may be moving north. The numbers I've seen don't quite match the 650,000, but those are all rough estimates. I think we can all agree that there are hundreds of thousands of migrants throughout the hemisphere that——

Mr. CORREA. But you do this with a partnership of others that work with us?

Mr. NUÑEZ-NETO. Of course, yes.

Mr. CORREA. Mr. Huffman, any thoughts on that number?

Mr. HUFFMAN. So, again, I don't know the exact source of the Chief Ortiz's number. I've known Chief Ortiz a lot of years, and I'm sure he's extremely confident in that number if he gets that number, I just don't know the source of it.

I am confident there are a lot of people moving into the hemisphere, mostly headed this way. The exact number, it's hard to tell where they're going to stop. But yes, they are moving. People are moving this way. We see the news reports, we look at shelters that have people that are housing——

Mr. CORREA. Mr. Huffman, again, I would invite folks, if we could put together Codel to go visit some of these countries to see the devastation. You don't have to argue that point here. People are hungry, devastated economies, they will find a place to survive as that picture of that little girl showed.

I guess if I can, I would say that Mr. Chairman is right, which he showed in that poster was what I would call part of the hope, the opportunity to maybe figure out a way to employ a safe legal pathway. I would say the other two legs of that stool are penalties, Title 8. There are severe penalties for trying to cross not using a legal pathway.

The last one I want to focus on, my last 3 minutes are the cooperation piece. I think it is important because if we are going to move forward to address the issues in the hemisphere, specifically our Southern Border, we have to continue to work with our partners. You mentioned, for example, that Mexico is taking—for the first time ever, is taking repatriated individuals from Cuba, Haiti, Nicaragua, and Venezuela. Are these people that are then repatriated to Mexico? Do they stay in Mexico or does Mexico repatriate them back to the other countries?

Mr. NUÑEZ-NETO. So that is really a question for the government of Mexico. But these are individuals that are repatriated under our Title 8 authorities, which, as you know, it is the first time in our history Mexico is allowing that.

Mr. CORREA. So, essentially, I believe what Mexico is doing—and I will double check myself here, but I think they are providing with work visas and other opportunities to actually work.

You mentioned—was it you were that I listened to this morning in the news that we are cooperating with Panama, Colombia, in other efforts across the hemisphere. I hope that those are humanitarian efforts to address this refugee crisis and begin to figure out how to get a handle on this situation because it is going to be with us for a number of years, in my opinion.

But any thoughts on that, Mr. Huffman, Mr. Nuñez-Neto?

Mr. NUÑEZ-NETO. So, if I may, I think when someone arrives at our border, it is far too late. We need to engage regionally with our partner countries in order to address these flows well before they reach our border. What Colombia and Panama are doing right now is unprecedented. It is a coordinated bi-national operation in the Darién to try to attack the smuggling networks. We have been providing technical assistance. I know CBP has deployed personnel to assist in that, the Department of Defense has been active. Those are the kinds of things that we really need to do more of because, again, I think the more we can impact these flows well before our border, the better off——

Mr. CORREA. Mr. Huffman—excuse—my last 50 seconds, please.

Mr. HUFFMAN. Yes, thank you. Sure. From an operational perspective, I would say that Mexico has cooperated with us more recently than I've seen in my career. The help they've been——

Mr. CORREA. Your career is how many years?

Mr. HUFFMAN. 38 years, sir.

Mr. CORREA. Thank you.

Mr. HUFFMAN. They are increasing their enforcement efforts on their Southern Border as well, which is slowing the flow, they are redirecting folks that we have returned to Mexico and flying them back to their Southern Border to kind-of add an extra consequence and deter them from coming to come north. They're also helping redirect folks to our border to kind-of slow them down as a way as well. So that's a very positive outcome that we've been having recently. It's been very helpful. I think it's part of the reason some of the flows have slowed down here recently.

Mr. CORREA. I would like to, with my last 3 seconds, say I do hope we continue to double down on the humanitarian aspect of this refugee crisis.

Mr. Chairman, I ran out of time.

Chairman HIGGINS. The gentleman yields.

The gentleman from Mississippi, Mr. Guest is recognized for 5 minutes for question.

Mr. GUEST. Thank you, Mr. Chairman, gentlemen, thank you for being here today.

As Chairman Higgins indicated a few moments ago, roughly 2 weeks ago, Chief Ortiz was here on Capitol Hill briefing Members of Congress, particularly Members of this committee, about events that have transpired post-Title 42. We had the opportunity to speak with him and Chief Ortiz said that he believed that the reduction that we have seen post-Title 42, he described it as what he believed to be a temporary reduction and that he expected the numbers to return at some point back to the baseline that we had seen over the last 2 years.

So my first question to both of you: Do you agree with Chief Ortiz's assessment that the reduction that we have seen is more temporary in nature and that we will return to the base last 2 years? Or do you believe that the reduction that we have seen is permanent in nature?

Mr. NUÑEZ-NETO. I would say that we're encouraged by what we've seen the last 3 weeks. But as I mentioned, we are clear-eyed that the factors in our hemisphere that are driving this historic movement of people are still there and that smugglers use disinformation to drive migration. So this is a fragile equilibrium that we have on the border and it could be upset in the future for sure.

Mr. HUFFMAN. I would agree with that statement. Also with Chief Ortiz's that there's still numbers there in Mexico. I believe they've taken kind-of a wait-and-see approach to see how this pans out, how do we stick to our guns with this, with how we're enforcing the Title 8 rules, and see how that works out? Time will tell.

Mr. GUEST. Then also Chairman Higgins mentioned earlier some conversation about the CBP One app. I know both of you mentioned that in your written testimony about the use of the CB One

app. We see that news reports show that the CB One app, that there are roughly 1,000 immigrants a day who are able to apply for some sort of status within the United States using the CBP One app. Recent report by Fox News talks about the administration is seeking to expand that very quickly to 40,000 a month.

So my question is, is when Congress receives information, the public receives information from DHS about southwest land border encounters, those numbers in March were 191,000 and some change, in April were 211,000 and some change, are the individuals who are applying and entering the country through the CBP One app, are those individuals included in the figures that we are receiving or are those individuals somewhere else not included in those numbers? Because that is very important for us to know exactly how many people are coming across the border, whether you are coming across illegally and claiming asylum or whether you are coming in by using the CBP One app, presenting yourself at a port of entry, they are still being allowed into the country. So we are trying to get—at least I am and I am assuming others on this committee—we are trying to wrap our head around the true figure of individuals who are allowing to come into the country each and every month.

So are you aware of to how those numbers are calculated when you are talking about the southwest land border encounter numbers that we routinely rely upon from CBP?

Mr. NUÑEZ-NETO. Yes. Thank you, sir.

So my understanding is that when CBP issues its monthly reports, those numbers include encounters at ports of entry and it also includes encounters between ports of entry, which obviously would not include CBP One.

I would also note that the Immigration and Nationality Act expressly authorizes individuals to present at ports of entry and claim asylum and they must be processed. We're actually under litigation right now that prevents the use of metering at the land border.

So I know Chief Huffman has thoughts here, but the CBP One app is really just a scheduling tool to allow us to let people who may wish to claim asylum present at a port of entry in a way that is safe and orderly and doesn't tie up our ports of entry.

Mr. HUFFMAN. Yes, thank you.

Yes, sir, those numbers that we encounter, for example, I have the numbers running my office every day and they'll say like 4,500 apprehensions yesterday. That will include probably 3,000 to 4,000—3,000 or so encounters by the Border Patrol, plus it includes the ones that applied for entry or presented themselves for entry using that—being scheduled by the CBP One app.

I want to emphasize something that's very important to us because concern is the CBP One—can easily get misconstrued. For us, it is nothing more than a scheduling tool. It allows us to have an orderly process at our ports of entry. Because without that scheduling tool, all these people that are waiting and seeing would all be showing up at the same time and clogging up and shutting down our ports and impact trade, impact other people that have lawful ways into the country, the U.S. citizens, lawful permanent residents, those things. So we use the CBP One as a scheduling

tool to help us maintain that order at our ports because we are not allowed to use our metering that we used to do due to a lawsuit a number of years ago.

Mr. GUEST. Thank you.

Mr. Chairman, I yield back.

Chairman HIGGINS. The gentlemen, yields.

Mr. Thanedar, the gentleman from Michigan, is recognized for 5 minutes for questioning.

Mr. THANEDAR. Thank you, Chairman, and thank you the gentleman, for being here.

I feel a strong personal connection to the issues we are discussing here today. You see, in 1979, at the age of 24, I was one of those immigrants with only a name, $20 in my pocket, and my American dream, entering this country with no friends, no family, and very fearful about how I would survive in this new homeland.

During summers between the academic school years, I was often forced to sleep in a car or sometimes homeless shelter funded by a faith-based non-government organization, NGO's. Now you know, NGO's have played a crucial role for decades in providing care and support for migrants, including at the U.S. border. In times of solitude, those NGO's could be the only aid an immigrant receives for weeks. Strengthening the capabilities of NGO's to receive individuals who are not citizens following their processing has been an essential aspect of Secretary Mayorkas' preparation for lifting of Title 42.

Mr. Nuñez-Neto my question is, can you please expand on those NGO's role at the border and why they remain vital to ensuring the treatments for the immigrants?

Mr. NUÑEZ-NETO. Yes, thank you very much for that question.

As an immigrant myself, I think it is a sign of this country's strength that an immigrant like you could become a Member of Congress and that one like me could achieve the kind of role I have at DHS.

You know, Chief Huffman and I were just in Brownsville last week observing first-hand how the city government in Brownsville and the local NGO's process migrants as they are released from CBP custody or from ICE custody and allow them to connect with family members and move onwards to their final destination. These are non-citizens who are issued notices to appear and released to have their court proceedings as the law provides. Those NGO's and our city and State governments on the border are really playing a critical role in allowing migrants to be able to move onward and not remain at the border.

I know CBP obviously relies a great deal on those relationships locally, and I'm sure Chief Huffman has some thoughts there as well.

Mr. THANEDAR. Mr. Huffman after receiving my PhD in chemistry and a United States citizenship, I became a serial entrepreneur. In that time, I learned a lot about the importance of technological innovations in solving problems.

Can you elaborate on the app's advantage, both for applicants and CBP officers? Also how would CBP expand the availability of this system in coming months?

Mr. HUFFMAN. Thank you for the opportunity to respond.

As far as technology goes, technology is key for all aspects on ours, not just the CBP One, but how we do border security across the whole. The border now is a much more dynamic border than we've ever had in our history. The folks that want to enter this country illegally or they're traffickers, they can change the picture of the border with easy, fast, quick communication. So we have to be able to communicate as well, and we have to have the technology to respond as well too.

The problems grow very rapidly, more rapidly than we can build our capacity. So the only way we actually increase our capacity oftentimes is with the use of innovation and technology. That's what we've done in a number of areas. CBP app is one, how we process is another way, how we transport information is another way. All those things combined help us to be a much more agile response to whatever threat we see facing us.

Mr. THANEDAR. Thank you, Mr. Huffman.

Chairman, I yield back.

Chairman HIGGINS. The gentleman yields.

My colleague, the gentlelady from Georgia, Ms. Greene is recognized for questioning for 5 minutes.

Ms. GREENE. Thank you very much.

I have enjoyed learning about the CBP One app today. It is a pretty nifty little app. I just wanted to point out that so if someone is illegally coming into our country—I call it illegally, because I feel like a lot of them are in our country illegally—they can go to this app, and all they have to do is download CBP One and they can come into Mexico, they can click on here and decide are they a traveler, a broker, carrier, aircraft operator, bus operator, sea pilot, commercial truck driver, international organization. It is really interesting, though, the commercial truck driver one doesn't work yet, which I think is a complete failure. When you click on commercial truck driver, it says, coming soon. You would think that to keep track of imports coming into our country, trucks, agriculture, goods, whatever is bringing into the country, that is a really important fact and figure to keep track of. But if I am an individual and I am coming into America, I can go on there and I can choose how I want to come in. I am a pedestrian, so I click pedestrian. Let me tell you how great it is for people that are coming into our country that are not American citizens. They can find a wait time that fits their schedule. All they have to do is go on here, and I can pick Calexico East, and I only have a 5-minute wait at a port of entry. Then I can look at this neat little graph that somehow tracks what time of the day is busier or less busy. But again, this app does not track or check trucks, commercial trucks coming into our country.

Then here is what is really interesting. I find this very interesting. I can get a scheduled appointment and it says you must be in central or northern Mexico to accept and schedule an appointment. So if I am coming from China or Africa or whatever country in the world, I got to get my plane ticket to Mexico and then schedule my appointment so I can come into a port of entry. Now, here is the really interesting part, I would like our laws followed, but they are not followed right here on the CBP One app because it says that passports are optional. I think that is a big problem for people coming into our country and being told to go directly to the

port of entry instead of, of course, going outside of the port of entries because that messes up the numbers, that apprehension numbers were off the chart and that was a real problem for the Biden administration.

So I would like to ask you, Mr. Nuñez-Neto, why can't you tell us how many people are coming in the United States when you have a handy dandy little app that you are tracking? You know the numbers. This is the American Government. We put a man on the moon. We are able to count. Why can't you tell us how many so-called migrants are coming into our country?

Mr. NUÑEZ-NETO. So we do update the public and Congress on the number of people who are processed through the CBP One application. I believe my testimony notes that since May 12 we've been averaging about 1,070 individuals a day using the CBP One application, which again, as Chief Huffman noted, is just a scheduling tool that allows individuals who may wish to claim asylum to access the ports of entry as the Immigration and Nationality Act provides.

Ms. GREENE. Well, can I ask you a question? This is something else I am trying to understand. Now that we have an app to organize the illegal invasion into America so that everyone gets accepted, they have a time to come in, they say that they are seeking asylum, and then the American taxpayer gives them a plane ticket or a bus ticket to any town in the United States—gosh, the American taxpayers are nice—right here it says that you say the reason why people are coming to America today is because of violence, food insecurity, severe poverty, corruption, climate change, and the COVID–19 pandemic. Did you know that there are over half a million homeless people in the United States today? As a matter of fact, the homeless population rose significantly since 2019. That is for Americans. So we have homelessness here in America.

Natural disasters. Talk about climate change. This is the fourth-largest country in the world. We have an extremely diverse climate, we have a wide range of natural disasters—97 natural disasters occurred in 2021. I don't think this is very safe for migrants here in America. We had 97. How many are they having in their country? These natural disasters include wildfires, heat waves, droughts, flash floods, winter storms, cold waves, tropical cyclones, and on and on and on. But yet they need to come to our country because of climate change? That doesn't make a lot of sense.

It is not a safe country either by the way. In America there were 1,313,000 violent crimes in the United States and that was in 2020. I can't imagine what the numbers are since then, since crime has come up.

I think that you need better reasons if you are going to try to let a bunch of people in the United States using a handy dandy app where you don't track imports than climate change, because that is not an excuse people are buying.

Thank you.

Chairman HIGGINS. The gentlelady yields.

Mr. Gonzales, my colleague from Texas, is recognized for 5 minutes for questioning. He is not here?

Mr. Garcia is here, though. My colleague from California, Mr. Garcia is here.

Mr. GARCIA. Close.

Chairman HIGGINS. You are recognized for 5 minutes.

Mr. GARCIA. Thank you, Mr. Chairman. I am glad that we have an opportunity to speak with our witnesses today. Thank you for your service.

That was an interesting conversation about the app, which I will get to in a minute.

But I want to just start off by talking about Title 42. As a proud immigrant myself who believes in humane immigration, I think we all agree that a secure border is important and is vital. Our Nation benefits when people have an opportunity to come here to build better lives, as you have, sir, and like I have as well and other Members of the Congress. I want to remind my colleagues in the Majority that attempts to demonize immigrants and people who come here legally to seek asylum is un-American. Our country is a Nation of immigrants and we are constantly reinvigorated with immigrants, with their talents and with their innovation.

I know that some people here have been openly rooting for a post-Title 42 crisis as a way to score political points, but let's be very clear, that crisis did not happen. This hearing is an attempt to manufacture one.

Now, as has been stated, Border Patrol encounters are at the lowest point since 2020. That is a fact. Those are statistics that are widely accepted. They have been reviewed by our Departments, they have been put out as information for us to assess, and I want to thank you all for your work with that. It is also true that these numbers should be not celebrated but welcomed as progress in our ability to control and secure the border.

I just really briefly want to just ask to get clarification from Mr. Blas Nuñez-Neto. Would you agree and do you support those numbers that we are at the lowest border encounters since 2020?

Mr. NUÑEZ-NETO. I believe if we're talking about encounters between ports of entry, that, yes, we are at the lowest level since, I believe, December 2020.

Mr. GARCIA. Thank you, sir.

Now, I think a key reason for the conditions and why they have improved also is the pathways for asylum seekers that we have focused on. So you have worked on, the entire Department has been supportive of, the CBP One app, and that continues to improve, I think, outcomes for all and for us here on the country, certainly for asylum seekers. I know we had a difficult rollout early on, but the Department has also made really great progress. I want to thank all the groups involved in getting the One app to where it is today.

Now, I appreciate the gentlelady from Georgia's tutorial on the One app and how it works. I personally appreciate the use of technology and its way to actually facilitate information, collect data, and make things simpler for all involved, including those that are seeking asylum, who I wish to remind the committee and her, have a legal right to actually claim in the United States of America.

It is also important to note that the One app is actually allowing us to actually manage this crisis better here at home and at our ports of entry. I want to thank you for that work.

I think claiming that the One app somehow is facilitating an invasion of the country is incredibly irresponsible. Asylum is a legal

right in this country, and claiming asylum is, so—and so until that changes, we need to continue to support this program and make it easier for folks and for us to manage anyone that is coming to the border or a port of entry or now, in many cases, going to other parts of the hemisphere and seeking asylum there, which I think has been a very productive advancement the Biden administration has done as well.

I want to note that I support the administration's new efforts to create these regional processing centers in Central and South America, including in Guatemala and Colombia, where we know migrants receiving interviews with immigration officials, with specialists, and, if eligible, are able to be processed rapidly for pathways to the United States, if, of course, they meet our standards.

I also want to note that I hope that we can strengthen our Shelter and Services program, which supports groups like Catholic Charities that support legal asylum in our country. I think it has been unfortunate that Members of this committee tried to actually defund this critical program that essentially partners with nonprofit agencies to use Federal funds, secure an orderly border. So I hope that that is something that we can continue.

Finally, I want to remind the committee that we have a responsibility to provide legal status and protections to the people who build lives and pay taxes here, and I hope that is something that we can move forward on.

Mr. Nuñez-Neto, finally, what will the administration do to continue to expand legal pathways to protect the right of asylum while maintaining access to the border?

Mr. NUÑEZ-NETO. So, as we have said, we are committed to continuing to expand lawful pathways and processes. I think you mentioned these safe mobility offices, which is what we're calling the regional processing centers. I view that and we view that as really a fundamental tool to help better organize migration, not just to the United States, but, as I said, to some of our partner countries, including Canada and Spain, which have signed on. We are in active discussions with other countries to allow for referrals to their processes as well.

Mr. GARCIA. Thank you very much, sir.

I yield back.

Thank you for your service.

Chairman HIGGINS. I thank the gentleman.

My colleague from Texas, Mr. Luttrell has been recognized for 5 minutes for questions.

Mr. LUTTRELL. Thank you, Mr. Chairman. Good afternoon, gentlemen.

If the numbers that Mr. Correa and Mr. Garcia are talking about are in fact the truth, and those numbers are dropping, job well done. I am a border State. I am a Texas boy. I am one of the landing zones for the illegal migration coming across the border. So if those numbers are dropping, absolutely I applaud that effort because that is what I need. That is what my base are asking me for every day. How do we control that situation?

Mr. Nuñez-Neto, ICE detention policy states that ICE uses its limited detention resources to detain non-citizens to secure their presence for immigration proceedings or removal from the United

States, as well as those that are subject to mandatory detention as outlined by the Immigration and Nationality Act or those that ICE determines are a flight risk during the custody determination process. Now, in my district I border Liberty County—Polk County and Liberty County. The population of Liberty County is roughly around 90,000. There are 50,000—50,000 illegal immigrants parked right on the border of my district and another Member's district. Now, here is my issue, and I want your help solving this problem, we are a country of immigrants, absolutely, and my colleagues on the other side, they shine a very good, a very meaningful light on people and the process and the struggle is real. I get it and it is very challenging. But that number of illegal immigrants in that small area is scuttling that county. The school districts are absolutely overwhelmed. They are having to bring in teachers that speak Spanish because none of the children speak English. The area that they have occupied looks like a Third World country.

My question is, why isn't ICE—or why doesn't ICE move on that and assist our county in the removal of those undocumented immigrants?

Mr. NUÑEZ-NETO. So ICE's function is to obviously enforce our immigration laws and carry out—execute what we call final orders of removal. I don't know the circumstances in your county. I'd be happy to look into it. I will say ICE has never received enough funding to detain every individual we encounter. This has been the subject of active litigation. I think, as we have said repeatedly, we are a Nation of laws and we're a Nation of immigrants and we need to be able to enforce our laws while also providing avenues for immigrants who wish to come to be able to come.

Mr. LUTTRELL. So I am glad you said that, we are a Nation of laws, so in that we need to enforce those laws. But that is obviously not happening. I don't know where the rub is between State, county, and local law and Federal law, since these are our illegal immigrants that were processed—some, not all, but some were processed in. How do I fix this problem, sir?

Mr. NUÑEZ-NETO. So again, without knowing the specific details, I'd be happy to follow up with your office. Individuals who are issued a notice to appear can go through the immigration court process, which can take many years. It is an unfortunate reality in this country that our immigration and asylum system is so broken that it does take an extraordinary time for people to go through that process. Individuals with final orders of removal should be removed at the end of that process. But historically it has been quite difficult, again under Presidents of both parties, to execute final orders of removal for people who are not detained.

Mr. LUTTRELL. OK. To that, can you confirm for me—and this committee was in El Paso and down at the—I am sorry, I forgot what the other place that we went—but they told us that it is widely reported that aliens are released into the interior without court dates, regardless of whether or not they were issued at an NTA. Are those reports true? Do illegal migrants that come across, are they processed through without a show time or show place?

Mr. NUÑEZ-NETO. So historically the Border Patrol has issued notices to appear without court dates on them until frankly fairly recently.

Mr. LUTTRELL. Or locations?

Mr. NUÑEZ-NETO. Right now we are issuing NTAs with court dates on them. In the lead up to the lifting of Title 42 we were also—because of the——

Mr. LUTTRELL. That happened. Have illegal migrants come across and not been issued—because we have heard from leadership that that is the case, but I want to hear what you have to say.

Mr. NUÑEZ-NETO. So we have paroled individuals in order to relieve the overcrowding in our facilities. Those individuals are required to report into ICE facilities and be issued NTAs there.

Mr. LUTTRELL. How on earth are we supposed to track those individuals if we are just releasing them basically on their own recognizance? I am sorry sir, can you answer that for me?

Chairman HIGGINS. Would the gentleman like to answer that question?

Mr. NUÑEZ-NETO. Sure. Many of those individuals were placed into alternatives to detention program, which does include monitoring. So as part of that program, more than 90 percent of the individuals who are released on ATD do, in fact report to their ICE facilities.

Mr. LUTTRELL. Thank you, sir.

Chairman, I yield back.

Chairman HIGGINS. The gentleman yields.

The gentlewoman from Illinois, Ms. Ramirez, is recognized for questioning.

Ms. RAMIREZ. Thank you Chairman Higgins.

I want to thank both of you for being here today.

Similar to Congressman Thanedar, I have a similar family of immigrant story. Actually as I look around, I think all of us here have a history of family migrating here, it just depended on when we came.

So I want to clarify a few things and then I want to get into some questions.

First, I have heard a lot of conversation about legal entrance versus illegal entrance to this country. It is my understanding that the CBP app is a tool to do the scheduling so that people can enter here seeking asylum legally, correct?

Mr. NUÑEZ-NETO. That's right. The CBP one app allows individuals to schedule their presentation at a port of entry. Our Immigration and Nationality Act expressly provides that people without documents can claim asylum.

Ms. RAMIREZ. So Mr. Nuñez-Neto, that means that if they are making that request, if they are filling out the app, as one of my colleagues has talked about, the filling out of the app, they show up to a port of entry and turn themselves in during that appointment, they are lawfully entering and seeking asylum. Yes or no?

Mr. NUÑEZ-NETO. Individuals—and I welcome Chief Huffman's views here—but individuals who are processed by CBP at the ports of entry will be placed into removal proceedings and issued a notice to appear. They, as part of that process, the immigration court process, have a right to claim asylum, which again is enshrined in the INA.

Ms. RAMIREZ. If someone requests asylum because of the fear or the extreme circumstances that they have experienced in their

country or maybe Mexico or maybe Guatemala or Honduras or Nicaragua or whatever country that they are fleeing from or in the process of getting up north from, they go through the critical fear interviews, correct?

Mr. NUÑEZ-NETO. That is true for individuals who are placed into expedited removal at the border. That is a separate, more streamlined process that is primarily used for individuals encountered between ports of entry, although it can be used at ports of entry as well. That's right, the credible fear interview, which is basically a broad screen as it was designed by Congress in the Immigration and Nationality Act, that allows, frankly, most individuals who are going through that interview under normal circumstances to be screened in.

Ms. RAMIREZ. Got it.

So I just want to come back to this concern. I really appreciate my colleagues on the other side being concerned for the children and the people that are crossing the border and the inhumane experiences that they go through. My youngest sister is adopted, she was 12 years old, weighed 60 pounds when she crossed, unaccompanied more than 16 years ago. So I appreciate care for people like my family. The thing that I don't appreciate is the idea that they come to the border, they are at a school, or they are attempting to seek asylum like my little sister was, and all of a sudden we want ICE to deport them immediately to Mexico or to wherever their country of origin is. In my opinion, having been in these countries for a very long time, months at a time, I personally know clearly what people are escaping. So I know that if Iris, my little sister, would have been deported immediately, if ICE would have came to the school and deported Iris, Iris would have died within a month in Guatemala at the age of 12.

So I actually have to push back on the other side and say that seeking asylum is not a crime. That is what many of our families have done. Maybe they did it now, maybe they are doing it today, maybe they did it 100 years ago. So I am really concerned, actually, when we talk about the number of people that have been repatriated or deported, because I am not very clear yet on how many of the people that are requesting the critical fear interviews, in fact, are able to stay from immediate removal based on some of the training questions that I have. I will go ahead and send you some of that in advance so that I can get more information on that.

I also want to mention, we have talked a lot about legal and illegal pathways. I do want to say that I appreciate the administration's commitment to identifying ways through some of the regional centers and other ways that asylum seekers can apply to be able to seek asylum here. While I don't think those are perfect and I don't think it solves our immigration issue or the cause of migration, I certainly think it is a path forward. I also do invite my colleagues if they want to go to Guatemala, Honduras, El Salvador, my family is from the border there, happy to bring you with me. We can talk and walk through some of those roads and get to know a little bit more of the immigrant experience.

Chairman, I yield back.

Chairman HIGGINS. The gentlelady yields.

My colleague from Arizona, Mr. Crane, is recognized for 5 minutes for questions.

Mr. CRANE. Thank you, Mr. Chairman. I appreciate it.

I also appreciate you bringing up the quote from Mr. Nuñez-Neto.

I want to go through that quote really quick again, Mr. Nuñez-Neto. Here is what you said. You know, what we have really done here is oversee a historic increase in lawful pathways to the United States, including at our ports of entry, through CBP One application. You most certainly have given us a historic increase, sir. I want to go to a historic increase real quick. Just an example, just a couple of days ago, not a couple of years ago, but a couple of days ago in Arizona, where I am from, this is Fox News on 6/4/23, Border Patrol canine sniffs out $2 million in fentanyl during traffic stop in Arizona. Fox News. Mr. Huffman, are you aware of this story? Do you remember this one?

Yes, Border Patrol canine helped agents sniff out $2 million worth of smuggled fentanyl during a traffic stop in Arizona last week. The seizure happened at a checkpoint along I8 near Yuma. Yuma Sector Chief Patrol Agent Patricia McGurk Daniel. Daniel stated the narcotics totaled more than 192 pounds, enough to kill 48 million people. Sir, I didn't say 48 people, I didn't say 48,000 people, I said 48 million people. That is exactly the historic increase that you all have brought to the United States of America.

Now, I want to go down to the second part of your quote where you say, and what we are really trying to do here is incentivize migrants to use safe, lawful, and orderly pathways that, again, we have expanded dramatically over the last 2 years. I want to focus in on one word—incentives. That is exactly what you have done. I know why you have done it, sir, because that is exactly what your boss did. He was doing that when he was campaigning for President. I actually got a chance to read his very quote to Secretary Mayorkas sitting in your chair like a month ago. If you guys were actually serious about securing this border and protecting Americans, that word would not be incentivized. You know what it would be, sir? It would be deter. I will say it one more time, it would be deter. You guys would be trying to deter people.

Now, I understand my colleagues over here, they are talking about folks trying to come here, migrants. Because one of my colleagues said he attributed our border crisis to global economic disaster, OK. I have said this in this committee before, this side of the aisle, we do love the fact that the United States of America is such a great country that people want to come here. As a matter of fact, we can all recognize that one of the great things about this country is that we do have a lot of immigrants here, but legal immigrants. That is what we want, sir. Because of the Biden open border policies, it is flooding people into this country and it is tying up our Border Patrol Agents to the tune of—this story that I just read you, 48 million people could have died by the fentanyl that just came in in Arizona 2 days ago. What do you think about that, sir?

Mr. NUÑEZ-NETO. Thank you for that question.

I would note that 90 percent of the fentanyl that comes into the country comes through our ports of entry, not between our ports of entry. We have been engaged in an all of government——

Mr. CRANE. Hold on a second, sir. How are you able to even calculate that when there are so many gotaways that come through port of entries that you guys don't even get? How could you say that? The only numbers that you can calculate are based on——

Mr. CORREA. Will the gentlemen yield?

Mr. CRANE. Yes, go ahead.

Mr. CORREA. I was just going to say two separate issues, fentanyl. Earlier we had a witness, my Orange County Sheriff, that said a lot of the fentanyl precursors are now coming into the United States through our own ports of entry, then going south into Mexico for manufacturing. So I think it is a—Mr. Crane, great issue, fentanyl. Love to set up another committee hearing to address this issue specifically, sir.

Mr. CRANE. Mr. Correa—I am going to claim back my time. Are you saying that fentanyl is not coming through the gaps? Is that what you are saying, sir?

Mr. CORREA. I am saying, sir, that fentanyl is coming in from all parts.

Mr. CRANE. Yes, that is what I am saying too. So he is claiming that 98 percent according to experts is coming through the ports of entry. How can he possibly know that? Anybody in Border Patrol can tell you they don't have enough manpower, especially when a lot of our agents are busy processing people coming in through the country. They don't have enough manpower. That is why there are so many gotaways. That is why there are so many people on the Terror Watch List that are coming through the border as well.

Mr. CORREA. Mr. Crane, just to answer your question, I think he is talking—I am not going to put words in their mouth—but, from experience, that is where most of the fentanyl is being caught right now, at the ports of entry. I have been there like you have.

Mr. CRANE. Caught, that is the key, caught. That is because that is where most of our people are. There is not the same percentage of people in the gap. That is what I am telling you.

Mr. CORREA. If we doubled the number of blue uniforms at those ports or entry, we would catch double the amount.

Mr. CRANE. But you still aren't touching the gaps where there aren't people in the open desert. That is what we are talking about. There is video after video of people that just—ranchers, good citizens that just go to the border, sit there with cameras, and watch these people come in with backpacks. I live in Arizona, sir. I know you live in California, right?

Chairman HIGGINS. So this is engaging debate. It is the kind of thing that should be discussed, but the gentleman's time has expired.

I recognize——

Mr. LUTTRELL. Mr. Chairman, real quick. For the record, it was—we went to McAllen.

Chairman HIGGINS. Yes, OK.

Mr. LUTTRELL. I just wanted that for the record. Popped into my head. Sorry. Thank you.

Chairman HIGGINS. Again, to 1,954 miles border and some of us have scouted the entire thing on several occasions.

I recognize my friend Mr. Green from Texas for 5 minutes for questioning.

Mr. GREEN. Thank you Mr. Chairman.

I thank the committee for allowing me to participate as an interloper today.

Mr. Huffman, I believe you indicated that the CBP is in its 99th year of existence.

Mr. HUFFMAN. So CBP is actually in its 20th year existence. The U.S. Border Patrol, one of the legacy agencies, is in its 99th year of existence.

Mr. GREEN. Well, I want to just say thank you to all of the persons who do this work. I know it is not easy.

In my old age I am starting to see both sides of things more and more. Just celebrated my 25th birthday for the third time. There are some people who live on our side of this border who are suffering too. Just mentioned communities, they are suffering too. We need to do something about that. We need to do something about the people who are hungry, need to be fed. When I was thirsty, you gave me water, when I needed shelter, clothing, you gave me clothing. Somewhere around Matthew 25. It is a difficult problem. There is no real simple solution. There really isn't. If the solution were really simple, it would have been solved. There are better minds than have been here and had the opportunity.

Mr. Nuñez-Neto—Is that correct? Sir, you said that the conditions driving the migrants still exist. Could you just quickly articulate some of those conditions, please?

Mr. NUÑEZ-NETO. Sure. We have seen over the last 2 years, at times, surges in migration from Cuba, Venezuela, Nicaragua. Those are countries with failing regimes and devastated economies that we have difficulties removing people to. That is still the case. We have at times seen surges in migration of Haitian Nationals. Haiti, a place that is in the middle of a humanitarian crisis. We have seen economies failing throughout Latin America, leading to the movement of countries to our border that we have not historically seen. That includes countries like Colombia, Ecuador, Peru, as well as some others.

Mr. GREEN. Thank you.

I heard someone say not so very long ago that the whole country has become the border now, that it is not just at the south where you make your entry. When you think about that, we all have to share the burden. My Governor has been putting people on buses and he just sends them. I don't approve of the way he is doing it, but I do think that the places to migrate to other than just right at the border, not a bad idea. I think that we ought to try to work together to implement an idea. Why, why not call and say, we have some people here, one Governor to another, we have some people, can you help us? Federal Government steps in and says we are going to help by providing some additional resources.

At some point, we will have to work together to resolve this. It is just not going to be resolved with simple sound bites. So I am hoping that we can do so now.

I want to just say this, I find Mr. Mayorkas a decent man. He has a tough job, just as you have a tough job, Mr. Huffman, just as you do. We all have tough jobs. I found him be a good, decent man. He is working with a broken system that we have not fixed,

to borrow some Texas terminology. What do you do when you have the system that we—we have not—we have neglected?

So I thank you.

I am sorry, Mr. Chairman. I thank you.

I yield back.

Chairman HIGGINS. The gentlemen yields.

My colleague and friend from Texas, Representative Pfluger, is recognized for 5 minutes for questioning.

Mr. PFLUGER. Thank you, Chairman. Thank you for letting me wave onto this committee.

Mr. Huffman, thank you for your service.

I will get right into it. Assistant secretary, how long have you been the assistant secretary for immigration?

Mr. NUÑEZ-NETO. Officially, since, I believe, April. But I was acting in this role since October 2021.

Mr. PFLUGER. OK. Can you tell me the number of apprehensions since January 2021?

Mr. NUÑEZ-NETO. I don't have the numbers right in front of me, but I believe the number is somewhere in the 3.5 million range.

Mr. PFLUGER. I don't have the document, Mr. Chairman, but but that sounds about 2 million short. Apprehensions on the Southwest Border—and I will yield to you if you can back me up—about 5½ million.

Chairman HIGGINS. Is the gentleman referencing for the total number of encounters and apprehensions?

Mr. PFLUGER. Yes.

Chairman HIGGINS. I would say that is—3½ million is low.

Mr. NUÑEZ-NETO. I'm sorry, I meant the last 2 fiscal years. I think if you're counting from January, that's probably a little bit higher.

Mr. PFLUGER. How do those compare to the 4-year period between 2017 and beginning of 2021?

Mr. NUÑEZ-NETO. It is higher.

Mr. PFLUGER. Twice, three, four, five times higher?

Mr. NUÑEZ-NETO. It is significantly higher.

Mr. PFLUGER. OK. Would you consider that a success for the Department?

Mr. NUÑEZ-NETO. You know, we have seen over the last few years, again, as I said, these surges in migration under Presidents of both parties. This is not a new phenomenon, this is not something that is solely the purview of one party or the other.

Mr. PFLUGER. No, but Assistant Secretary, it is the numbers indicate a story out here. Would you consider that a success for our country?

Mr. NUÑEZ-NETO. I don't believe that what we have seen at the border is a success for anybody.

Mr. PFLUGER. OK. I agree with that.

Mr. NUÑEZ-NETO. Going back more than a decade.

Mr. PFLUGER. That might be the first answer that I have agreed with DHS on our border in the last 3 years since I have been here.

It is not a success. Title 42 is not the answer. This was a Band-Aid fix. It goes to the point where I meet with Mr. Huffman's officers, and it doesn't matter if I am in Del Rio or El Paso, McAllen or Laredo, Eagle Pass, or my hometown of San Angelo, it really

doesn't matter, the thing that keeps coming back, every officer, every Border Patrol, Customs agent or ICE agent says these words, and I quote, "there are no consequences". Without consequences, there is chaos. The chaos that we are seeing is fentanyl, 100,000-plus deaths, trafficking of humans, 53 people who died in a tractor trailer south of San Antonio in July.

So to your answer, I am disappointed that you don't actually know the number. As the assistant secretary, that number should be ingrained. You should know that number and you should be able to add it up today for the crossings, the apprehensions today. You should be able to have a running counter today. That is the problem with this administration, is that the tragedies that are happening to us, in my community in Odessa, Texas, where we had the police chief here 2 weeks ago, we are feeling the impact of this. Without rules, there is chaos.

Would you say that after Title 42 ended and Title 8 was reverted to, DHS has noted that aliens may qualify for an exception and even if they don't use a lawful pathway, would you say that those—do aliens who use the alleged lawful pathways need a legal basis to enter? Or can anyone enter the United States at this point?

Mr. NUÑEZ-NETO. Going back to my previous comments, sir, I would note that Title 42 did not allow us to place consequences at the border. We need consequences on unlawful entry in order to deter unlawful migration. That is why we have implemented the Circumvention of Lawful Pathways Rule, which does place common-sense conditions on asylum eligibility. But we need Congress to act here, or there will never be a success on our border.

Mr. PFLUGER. You need Congress to act here?

Mr. NUÑEZ-NETO. We do, sir.

Mr. PFLUGER. Assistant Secretary, we passed the most comprehensive border security package in the history of Congress. We have acted. That is one of the most outrageous statements that I think I have ever heard.

Mr. NUÑEZ-NETO. We need Congress to act in a bipartisan manner to fix this problem. Neither party is going to solve this on its own.

Mr. PFLUGER. Mr. Chairman, my time has expired.

I am having trouble——

Chairman HIGGINS. I indulge the gentleman.

Mr. PFLUGER. We passed H.R. 2 and have acted. What this country needs is the political will to enforce the laws that are already on the books. In fact, the gentleman sitting next to you as Commissioner has 19,000 Border Patrol agents that are currently out there ready to give their lives and they are saying that there are no consequences because Remain in Mexico, MPP has not been adhered to, because the political will to engage with our allies and our partners and countries to the south of us has not been adhered to. We had policy that deterred, and without deterrence, we will see a massive surge.

So I take great offense to the fact that you are telling me that you think Congress should act, and that that is the problem.

I couldn't disagree with you more.

With that, Mr. Chairman, I yield back.

Chairman HIGGINS. The gentlemen yields.

It has been an engaging committee hearing. We have shared insightful and I think well-thought-out perspectives from both sides. The Ranking Member and I are friends, and we will continue to discuss this.

I thank the witnesses for their testimony today. I thank the Members for their questions.

Members of the subcommittee may have some additional questions for the witnesses. We would ask that the witnesses respond to these questions if presented to you in writing.

Pursuant to committee rule VII(D), the hearing record will be held open for 10 days.

Without objection, the subcommittee stands adjourned.

[Whereupon, at 3:45 p.m., the subcommittee was adjourned.]

APPENDIX

QUESTIONS FROM CHAIRMAN MARK E. GREEN FOR BLAS NUÑEZ-NETO

Question 1. When Title 42 ended, CBP reverted to Title 8 to process and remove illegal aliens from the United States who were not authorized to remain or who did not use a designated "lawful pathway" for entry. However, DHS notes that aliens may qualify for an exception if they do not utilize a "lawful pathway." The exceptions are expansive. Currently, what percentage of those who did not use a "lawful pathway" for entry have been granted an exception? Do aliens who use the alleged "lawful pathways" need a legal basis to enter, or can anyone wishing to enter the United States use the pathways? Those using parole pathways—what happens after the 2-year term ends—are they issued NTAs, or are they expected to present for removal on their own volition? Are the parole pathways expected to be implemented in perpetuity?

Answer. Response was not received at the time of publication.

Question 2. Parole+ATD was struck down by a Federal judge in March 2023. Prior to the end of Title 42, Chief of Border Patrol Raul Ortiz issued a policy called "Parole with Conditions," which in practice seemingly was the same program as Parole+ATD, just under a different name. Is Parole+ATD still in use, despite the court order to terminate? What are the differences between Parole+ATD and Parole with Conditions? Are aliens still released under these conditions? What conditions do the aliens have to meet in order to be released?

Answer. Response was not received at the time of publication.

Question 3. The administration has announced recent agreements with the government of Mexico, one of which being that Mexico will accept 30,000 returns per month from the United States. Are only Cubans, Haitians, Nicaraguans, and Venezuelans being accepted by Mexico, or are other nationalities being accepted, as well? What are the limitations of the agreement? Since the agreement's inception, how many aliens has Mexico accepted? Is Mexico accepting returns only from specific portions of the border (i.e., Southwest border), or does Mexico accept aliens from any portion of the United States? Are there any restrictions on whom Mexico will accept?

Answer. Response was not received at the time of publication.

Question 4. ICE detention policy states that, "ICE uses its limited detention resources to detain noncitizens to secure their presence for immigration proceedings or removal from the United States—as well as those that are subject to mandatory detention, as outlined by the Immigration and Nationality Act, or those that ICE determines are a public safety or flight risk during the custody determination process." Does ICE Enforcement and Removal Operations (ERO) have enough officers to handle both a potential upcoming post-Title 42 surge at the border and the ability to continue its interior enforcement operations? What plan does DHS have for ICE to track those who fail to show for their immigration removal proceedings? Also, it has been widely reported that aliens were released into the interior without court dates, regardless of whether they were issued a NTA. Are the reports true, and how does DHS expect to track those aliens without proper documentation?

Answer. Response was not received at the time of publication.

QUESTIONS FROM HONORABLE JOSH BREECHEN FOR BLAS NUÑEZ-NETO

Question 1. Under President Biden and Secretary Mayorkas, DHS has closed several detention centers across the country that were previously used to house and keep aliens in DHS custody and prevent their release into the interior of the United States. Instead of detaining aliens, this administration decided to implement alternatives to detention like GPS ankle monitoring, telephonic reporting, and SmartLINK phone app monitoring. On May 20, 2021, then-ICE Acting Director Tae Johnson said, "ICE will continue to ensure it has sufficient detention space to hold

noncitizens as appropriate." Yet, in his fiscal year 2024 budget proposal, President Biden requested 9,000 fewer detention beds at detention facilities—a reduction from 34,000 to 25,000.

Is this memo accurate?

Answer. Response was not received at the time of publication.

Question 2. Will CPB have the flexibility to conduct a DNA test if CBP agents are suspicious of an adult alien?

Answer. Response was not received at the time of publication.

Question 3. Would you agree that this policy change will encourage more children to be trafficked into the country with complete strangers?

Answer. Response was not received at the time of publication.

QUESTIONS FROM CHAIRMAN MARK E. GREEN FOR BENJAMINE "CARRY" HUFFMAN

Question 1. Regarding the parole process for Cubans, Haitians, Nicaraguans, and Venezuelans (CHNV), the CHNV program was created due to a large amount of those aliens presenting at the border. What is the process for screening individuals for parole when they arrive at air ports of entry? Have any been denied parole at the port of entry? Have any sponsor applicants within the United States been denied sponsorship of those arriving under CHNV and on what grounds were they denied?

Answer. Response was not received at the time of publication.

Question 2. It was noted that CBP has closed gates and plugged gaps in the wall to prevent illegal aliens from entering between points of entry. However, it has been reported that Border Patrol agents are shuffling in aliens through an area used by authorized personnel called Gate 42. Why is Border Patrol escorting aliens through personnel gates, such as Gate 42?

Answer. Response was not received at the time of publication.

Question 3. The committee has been told that 90 percent of the drugs crossing our border enter through ports of entry, while also being told that the amount caught is roughly between 5–10 percent being trafficked into the United States. Please clarify what percentage of illicit substances are interdicted at our ports of entry. Has Border Patrol seen an increase of fentanyl seizures between ports of entry? In total, what is the estimated percentage of fentanyl being trafficked across the border between ports of entry?

Answer. Response was not received at the time of publication.

Question 4. In his testimony, Mr. Huffman stated that in addition to the approximately 24,000 agents and officers along the Southwest Border, CBP has also been hiring non-uniformed personnel and contract personnel to assist in processing and facility operations. How many non-uniformed personnel have been hired specifically for processing along the Southwest Border? How many contract personnel have been hired for the same reason? Where are the majority of these extra personnel being sent? How much do the extra non-uniform personnel cost?

Answer. Response was not received at the time of publication.

Question 5. Once family units (FAMUs) are released into the United States, are all family members tracked/accounted for individually, or is only the head of household tracked? What does the vetting process look like for family units? How is it determined that the family units are indeed related?

Answer. Response was not received at the time of publication.

Question 6. There have been reports of NGO's bussing processed migrants into the interior of the United States—as many as three chartered busloads in just a few hours. How does CBP keep track of every individual on the bus? Which specific NGO's does CBP work with to arrange travel for the aliens and how is the decision made when choosing an NGO?

Answer. Response was not received at the time of publication.

QUESTIONS FROM HONORABLE JOSH BREECHEN FOR BENJAMINE "CARRY" HUFFMAN

Question 1a. Under President Biden and Secretary Mayorkas, DHS has closed several detention centers across the country that were previously used to house and keep aliens in DHS custody and prevent their release into the interior of the United States. Instead of detaining aliens, this administration decided to implement alternatives to detention like GPS ankle monitoring, telephonic reporting, and SmartLINK phone app monitoring. On May 20, 2021, then-ICE Acting Director Tae Johnson said, "ICE will continue to ensure it has sufficient detention space to hold noncitizens as appropriate." Yet in his fiscal year 2024 budget proposal, President Biden requested 9,000 fewer detention beds at detention facilities—a reduction from 34,000 to 25,000.

Why would the administration claim a lack of resources as justification for implementing alternatives to detention policies, yet simultaneously request fewer detention beds? Shouldn't this administration be requesting more beds, not less?

Answer. Response was not received at the time of publication.

Question 1b. I was made aware of a CPB memo dated May 19, 2023, which states that this administration voluntarily directed Border Patrol to terminate all DNA testing last Wednesday, on May 31.

Last fiscal year there were over 560,000 apprehensions at the Southern Border of aliens in a family unit. If we were to use GAO's 8 percent of familial claims being fraudulent, this would mean that over 44,000 of those kids apprehended were not traveling with their families.

Answer. Response was not received at the time of publication.



4240

HELP WANTED: LAW ENFORCEMENT STAFFING CHALLENGES AT THE BORDER

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY, THE BORDER, AND FOREIGN AFFAIRS

OF THE

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

JUNE 6, 2023

Serial No. 118–39

Printed for the use of the Committee on Oversight and Accountability



Available on: *govinfo.gov*
oversight.house.gov or
docs.house.gov

U.S. GOVERNMENT PUBLISHING OFFICE
52–573 PDF WASHINGTON : 2023

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

JAMES COMER, Kentucky, Chairman

JIM JORDAN, Ohio
MIKE TURNER, Ohio
PAUL GOSAR, Arizona
VIRGINIA FOXX, North Carolina
GLENN GROTHMAN, Wisconsin
GARY PALMER, Alabama
CLAY HIGGINS, Louisiana
PETE SESSIONS, Texas
ANDY BIGGS, Arizona
NANCY MACE, South Carolina
JAKE LATURNER, Kansas
PAT FALLON, Texas
BYRON DONALDS, Florida
KELLY ARMSTRONG, North Dakota
SCOTT PERRY, Pennsylvania
WILLIAM TIMMONS, South Carolina
TIM BURCHETT, Tennessee
MARJORIE TAYLOR GREENE, Georgia
LISA MCCLAIN, Michigan
LAUREN BOEBERT, Colorado
RUSSELL FRY, South Carolina
ANNA PAULINA LUNA, Florida
CHUCK EDWARDS, North Carolina
NICK LANGWORTHY, New York
ERIC BURLISON, Missouri

JAMIE RASKIN, Maryland, *Ranking Minority Member*
ELEANOR HOLMES NORTON, District of Columbia
STEPHEN F. LYNCH, Massachusetts
GERALD E. CONNOLLY, Virginia
RAJA KRISHNAMOORTHI, Illinois
RO KHANNA, California
KWEISI MFUME, Maryland
ALEXANDRIA OCASIO-CORTEZ, New York
KATIE PORTER, California
CORI BUSH, Missouri
JIMMY GOMEZ, California
SHONTEL BROWN, Ohio
MELANIE STANSBURY, New Mexico
ROBERT GARCIA, California
MAXWELL FROST, Florida
BECCA BALINT, Vermont
SUMMER LEE, Pennsylvania
GREG CASAR, Texas
JASMINE CROCKETT, Texas
DAN GOLDMAN, New York
JARED MOSKOWITZ, Florida

MARK MARIN, Staff Director
JESSICA DONLON, Deputy Staff Director and General Counsel
KAITY WOLFE, Senior Professional Staff Member
GRAYSON WESTMORELAND, Senior Professional Staff Member
SLOAN MCDONAGH, Counsel
MALLORY COGAR, Deputy Director of Operations and Chief Clerk
CONTACT NUMBER: 202-225-5074

JULIE TAGEN, Minority Staff Director
CONTACT NUMBER: 202-225-5051

SUBCOMMITTEE ON NATIONAL SECURITY, THE BORDER, AND FOREIGN AFFAIRS

GLENN GROTHMAN, Wisconsin, Chairman

PAUL GOSAR, Arizona
VIRGINIA FOXX, North Carolina
CLAY HIGGINS, Louisiana
PETE SESSIONS, Texas
ANDY BIGGS, Arizona
NANCY MACE, South Carolina
JAKE LATURNER, Kansas
PAT FALLON, Texas
KELLY ARMSTRONG, North Dakota
SCOTT PERRY, Pennsylvania

ROBERT GARCIA, California, *Ranking Minority Member*
STEPHEN F. LYNCH, Massachusetts
DAN GOLDMAN, New York
JARED MOSKOWITZ, Florida
ALEXANDRIA OCASIO-CORTEZ, New York
KATIE PORTER, California
CORI BUSH, Missouri
MAXWELL FROST, Florida

C O N T E N T S

Page

Hearing held on June 6, 2023 1

WITNESSES

The Honorable Joseph Cuffari, Inspector General, Department of Homeland Security
Oral Statement 5

Written opening statements and the statement for the witness are available on the U.S. House of Representatives Document Repository at: docs.house.gov.

INDEX OF DOCUMENTS

* Statement for the Record, for Rep. Connolly; submitted by Rep. Connolly.
* Letter, to Chairman Grothman and Rep. Garcia, re: Project on Government Oversight, June 6, 2023; submitted by Rep. Garcia.
* Email, between Inspector General Cuffari and IG office, re: the importance of Federal Employee Viewpoint Survey scores; submitted by Rep. Frost.
* Article, *Politico*, "DHS has a Program Gathering Domestic Intelligence and Virtually No One Knows About It"; submitted by Rep. Porter.
* Statement for the Record, Project on Government Oversight (POGO); submitted by Rep. Garcia.
* Letter, from POGO to President Biden, re IG Cuffari; submitted by Rep. Lynch.
* Questions for the Record: to Mr. Cuffari; submitted by Rep. Garcia.
* Questions for the Record: to Mr. Cuffari; submitted by Gosar.
* Questions for the Record: to Mr. Cuffari; submitted by Grothman.

Documents are available at: docs.house.gov.

HELP WANTED: LAW ENFORCEMENT STAFFING CHALLENGES AT THE BORDER:

Tuesday, June 6, 2023

HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY
SUBCOMMITTEE ON NATIONAL SECURITY, THE BORDER, AND FOREIGN AFFAIRS

Washington, DC.

The Subcommittee met, pursuant to notice, at 10:05 a.m., in room 2154, Rayburn House Office Building, Hon. Glenn Grothman [Chairman of the Subcommittee] presiding.

Present: Representatives Grothman, Comer, Gosar, Higgins, Sessions, Biggs, Mace, LaTurner, Armstrong, Perry, Garcia, Raskin, Lynch, Goldman, Moskowitz, Porter, and Frost.

Also present: Representative Ivey.

Mr. GROTHMAN. The Subcommittee on National Security, the Border, and Foreign Affairs will come to order. Everyone, welcome.

Without objection, Representative Connolly of Virginia and Representative Ivey of Maryland are waived on to the Subcommittee for the purpose of questioning the witness of today's hearing.

Without objection, the Chair may declare a recess at any time.

I recognize myself for the purpose of making an opening statement.

On day one of his Administration, President Biden signaled to the world through words and actions that our borders are open, and so they were. Our country has since watched the crisis along our Southwest border devolve into a catastrophe, a humanitarian and national security catastrophe. The deteriorating conditions along the Southwest border and mismanagement of resources have harmed law enforcement and made existing staffing challenges even worse.

Just last month, the Department of Homeland Security Office of the Inspector General issued a report examining how law enforcement and Customs and Border Protection and Immigration and Customs Enforcement have been negatively impacted by historically high levels of illegal immigration and other operational challenges. Per this audit, the DHS Office of Inspector General surveyed over 9,000 DHS law enforcement personnel within ICE and CBP. They collected information from Border Patrol agents who protect our border from illegal entries, Office of Field Operation of-

ficers who guard our points of entry, Enforcement and Removal Operation officers who enforce immigration laws, and Homeland Security Investigation agents who investigate cross-border criminal activity.

What they found is shocking. Eighty-eight percent of ICE and CBP law enforcement personnel who responded said their work location was not adequately prepared and staffed during migrant surges. Seventy-one percent of CBP personnel and 61 percent of ICE personnel stated that their current work location was not adequately prepared and staffed even during normal operations, but there is nothing normal about the current border catastrophe.

As noted in the IG's report, migrant encounters at the Southwest border have risen from approximately a little under a million in Fiscal Year 2019 to 2.5 million in 2022. This Fiscal Year through the end of April, CBP has already made 1.4 million encounters along the Southwest border with 1.2 million of those coming from Border Patrol agent apprehensions of illegal border crossers. Each of these encounters represents law enforcement resources expended in arresting and processing those individuals, and those resources are being used up at the expense of enforcement.

The Inspector General's report highlights a 300 percent increase in the number of known got-aways, meaning migrants who invade apprehension entirely, in Fiscal Year 2022 compared 2019. Last year there were more than 600,000 known got-aways recorded by CBP. In one Border Patrol station reviewed by the Inspector General's audit, 15 percent of the got-aways over a five-day period evaded apprehension simply because no agents were available to respond. Think about that. I mean, people are showing up at the Southern border, even though we know they are there. We do not have anybody who can show up and process these people. These challenges have left the men and women on the front lines of this crisis overwhelmed and stretched to their limits.

To meet mission requirements, DHS implemented stopgap measures, like increased overtime and temporary details, that exacerbate staffing challenges in the long term by eroding morale and jeopardizing retention of experienced law enforcement professionals. Today, we hear from Inspector General Cuffari on his office's findings about the reality of the problem, how DHS is managing these staffing challenges, and recommendations to solve the staffing crisis.

Since 2016, DHS Office of Inspector General and the Government Accountability Office have issued 25 reports examining staffing issues at our border, but 80 percent of the recommendations have been closed without yielding tangible results at DHS. In fact, DHS did not concur with one of the three recommendations in this report, appearing not even to be willing to acknowledge the impact of temporary details and overtime on the workforce. We must hold DHS accountable to achieve critical mission goals, including ensuring border security, enforcement of our immigration laws, and facilitating lawful trade and travel, and that means DHS must successfully manage law enforcement resources and support the men and women who carry out these essential functions.

I want to thank Inspector General Cuffari for appearing today, and I look forward to working with his office to ensure continued

robust investigation of DHS. I will tell you, I have been at the border several times. Last time I was down there two months ago, it was shocking the degree to which we did not have enough people to deal with particularly would-be got-aways coming across the border, and that is why we have this drug crisis in our country. But in any event, I would like to recognize the Ranking Member Garcia for the purpose of making his opening statement.

Mr. GARCIA. Thank you very much, Mr. Chairman, and I want to thank you for convening this important hearing. I want to just start by just noting that I hope that we can all commend the Biden-Harris Administration for their actions to prevent a serious disorder at the border following the expiration of Title 42, which I believe was the right decision. As a proud immigrant myself and a patriotic American, we certainly have to focus on a humane and secure border but also have legal pathways to let people continue to come to this country and be part of our experience. We know that immigrants make our country stronger and we are a Nation of immigrants.

Congressional Democrats and President Biden have taken clear actions to improve border security. We have provided unprecedented resources to the men and women who protect our borders, and President Biden has implemented numerous policies to bolster the health and wellbeing of border security. Now, House Republicans, on the other hand, have opposed greater funding to frontline agencies, including Customs and Border Protection, and House Republicans have called to defund our Federal law enforcement agencies, claiming oftentimes and weaponizing them to further political agendas. Now, Democrats know we have a responsibility to support the wellbeing of all Federal employees and, as Mayor of Long Beach, California, I worked closely with all of our employees and was proud to have the support of our local police department.

Today, I am glad we are addressing concerns of Federal law enforcement agencies. The work that they do is very important, but I believe we have a responsibility to support all Federal employees who serve our country, and that is everything from DHS to the U.S. Postal Service. However, today I am very concerned that we are holding a hearing today on the basis of a flawed report and with a witness with a problematic record.

Now, Mr. Cuffari is a witness who repeatedly refused to comply with this Committee's requests for meetings and information, and he has sought to block congressional oversight at every turn. And it is actually ironic that we are dealing with a politicized and problematic report given his own Department's staff morale challenges. Now, on September 23, 2022, a letter was published that was drafted, "By concerned DHS OIG employees representing every program office at every grade level." The letter claimed that Inspector General Cuffari "no longer has the support of his workforce," and that staff fear retaliation if they speak up about the multitude of issues at the office. Staff made the startling claim that DHS OIG "will continue to fail under the IG's disastrous leadership."

Now, the concerns about this witness go on and on, from his resigning under ethical concerns early in his career, allegations of deliberately delaying essential oversight reports, and alerting and covering up critical investigatory facts. Now, we all know that the

Inspector General is currently under investigation by the Council of the Inspector General on Integrity and Efficiency, CIGIE. Now, rather than cooperate with legitimate oversight efforts, the Inspector General has filed a lawsuit against CIGIE in a desperate attempt to escape scrutiny or consequences for failures and transgressions. Now, it is unacceptable that the individual entrusted to investigate fraud, waste, and abuse in our third largest executive department believes that he is above the law, believes that his office is above scrutiny from Congress, and believes that he is beyond reproach for his own potential perpetration of fraud, waste, and abuse.

Now, under Inspector General Cuffari's leadership, Department of Homeland Security Office of Inspector General has developed a pattern of flawed and misleading investigations, including a failure to report sexual misconduct and harassment at DHS and a failure to investigate and disclose to Congress missing Secret Service text messages from the January 6 interaction.

I would also like to briefly address the report on which this hearing is based, a report that is misleading, non-representative of the broader Agency, and deeply flawed. The DHS Office of Inspector General claimed that the purpose of their work was to gain insight into staffing. Instead, the report made sweeping generalizations about morale at CBP and ICE. The report has mathematical errors and misleading tables and graphs. DHS OIG even states that their work was conducted in accordance with "generally accepted government auditing standards, with the exception of data reliability." And I do not know about all of you, but with the exception of data reliability seems like a pretty big exception to me.

Now, we need an IG in place at DHS who is able to perform high-quality audit work with integrity, objectivity, and independence, or we will never have the accountability and transparency that we need and that we deserve from this agency. We should expect better. I look forward to this hearing only for the opportunity for our Members to raise longstanding concerns. We have serious challenges to address at our borders, and I look forward to building solutions to address them. Mr. Chairman, I yield back.

Mr. GROTHMAN. I am pleased to introduce our witness today. Joseph Cuffari was confirmed by the Senate to be the Department of Homeland Security's Inspector General in July 2019. He was previously a policy adviser to the Governor of Arizona, served in the U.S. Air Force, and spent 20 years at the Department of Justice. In 2013, he retired from his position as Assistant Special Agent in Charge for the Office of Inspector General in Tucson, Arizona. I want to thank Dr. Cuffari for being here today, and I look forward to his testimony. I was down in Tucson sector for, I think, the third time in the last four years, and I will tell you, I am glad you are in that position and look forward to hearing from you and your testimony.

Pursuant to Committee Rule 9(g), the witness will please stand and raise your right hand.

Do you solemnly swear or affirm that the testimony that you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

Mr. CUFFARI. I do.

Mr. GROTHMAN. Let the record show the witness answered in the affirmative.

We appreciate you being here today and look forward to your testimony. Let me remind you that we have read your written statement, and it will appear in full in the hearing record. Please, if you can, limit your oral statement to five minutes. As a reminder, please press the button on the microphone in front of you so that it is on, and the Members can hear you. When you begin to speak, the light in front of you will turn green. After four minutes the light will turn yellow, and when the red light comes on, your five minutes have expired.

I recognize you to please begin your opening statement.

STATEMENT OF JOSEPH CUFFARI
INSPECTOR GENERAL
DEPARTMENT OF HOMELAND SECURITY

Mr. CUFFARI. Chairman Grothman, Ranking Member Garcia, and distinguished Members of the Subcommittee, thank you for the opportunity to discuss Homeland Security IG's critical oversight of DHS.

Prior to my unanimous confirmation in 2019, I served more than 20 years with the Department of Justice IG and various offices along the Southwest border. For 10 of those years, until the establishment of DHS in 2003, DOJ IG oversaw the Immigration and Naturalization Service and its component, the U.S. Border Patrol. I personally observed three special Border Patrol operations in which INS detailed agents to the Southwest border, and I investigated financial irregularities related to one of those operations.

As I promised Congress during my confirmation process, as Homeland Security IG, I prioritized oversight of border security and immigration. My first visit to the Southwest border was within two months of my confirmation, and since then, I have personally traveled to the Southwest border nine times to review DHS operations and border conditions. These trips have encompassed all nine Border Patrol sectors from San Diego, California, to the Rio Grande Valley in Texas. In addition, my senior staff or I have visited the Northern borders of Washington, Michigan, New York, Vermont, and Florida's maritime border. During my visits, I have engaged with senior law enforcement and frontline personnel to better understand how DHS can enhance border security and fight corruption. I have also received situational briefings from NORTHCOM, SOUTHCOM, U.S. Army North regarding active and reserve components assisting at the Southwest border.

My testimony today will focus on CBP and ICE's management of resources as discussed in our recently published audit about the health and morale of CBP and ICE. We conducted this audit to determine the extent to which DHS is effectively managing law enforcement staffing resources. Our audit work included analysis of attrition rates, succession plans, and physical observations of 31 facilities. We also interviewed and surveyed law enforcement personnel. We determined CBP and ICE's current approach to staffing is neither effective nor viable long-term.

Despite greater workload, staffing levels of both agencies have remained relatively flat since 2019. CBP and ICE have relied on

the use of temporary duty assignments, overtime shift work to surge staffing along the Southwest border, a practice that dates back to at least 1994 with the creation of the INS' national border strategy. Although CBP and ICE annually assessed their staffing needs, neither Agency has assessed the impact of these details on their operations.

CBP and ICE have initiated programs focused on the wellbeing of their agents and officers. Both components could benefit from a more strategic approach to resource allocation. We heard from more than 9,000 law enforcement personnel. That represents 16 percent of the 57,000 who we surveyed. Our analysis of the survey comments indicated that many recipients felt the current staffing has negatively impacted their health and morale. CBP and ICE cannot continue to use temporary duty assignments and overtime shift work effectively to meet the challenges at the Southwest border. We made three recommendations to help DHS strategically assess the issues we identified. DHS concurred with two of these recommendations and did not concur with one.

In total, during my tenure, we published 51 reports and made 145 recommendations specifically aimed at improving DHS Southwest border ops. I am very proud of the quality and quantity of the work by more than 700 professional career DHS employees have produced under my leadership. As I have reported since the fall of 2021, DHS continues to delay and deny OIG access to information that DHS is required to provide to us and that we need to do our jobs. I remain hopeful DHS will improve their responsiveness to our request for information so that we can continue to provide Congress and the public robust timely oversight like that being featured in today's hearing.

Mr. Chairman, this concludes my prepared remarks. I look forward to the Subcommittee's questions.

Mr. GROTHMAN. Thank you. Right on the button. I will give you a few questions.

Law enforcement staffing at the Southwest border is facing a systemic crisis, one that the Department of Homeland Security does not have a coherent plan to address. Why did you decide to initiate this report, and what are some of the biggest challenges our law enforcement agents and officers face at the Southwest border that your report found?

Mr. CUFFARI. Mr. Chairman, thank you. So, starting in around March 2021 when it became safe to travel post-COVID, I began to visit the Southwest border again. I began to hear from line law enforcement personnel and senior staff that there were morale issues impacting the workforce. And those issues related to the deployment of Border Patrol primarily from the Northern tier offices to the Southwest border. I asked my staff to conduct a review, and they did so within a year and a half, and they completed the report in May of this year.

Mr. GROTHMAN. What were some of the mental and physical consequences of the current work conditions that DHS' law enforcement officers reported?

Mr. CUFFARI. According to the law enforcement personnel, who actually have been doing these details, the constant flux of being transferred to the Southwest border from the home station for 30

to 60 days provides a lot of turmoil to the agents and their families. In some cases, they do not know where on the Southwest border they are going to be detailed and/or for how long they are going to be there. Once they complete their initial assignment, they return back to their home station where they are back working where they were originally assigned. And then 30 to 60 days later, they get notified again that they are going back to the Southwest border, so it is a constant churn. It is the unknown effects, and, according to the respondents, they have developed an inability to continue to do what they consider to be their primary law enforcement function.

Mr. GROTHMAN. One of the issues addressed in your report is temporary detailing, which is the practice of temporarily assigning agents and officers to different locations for a period of time before returning to their permanent duty station. Many Border Patrol agencies and Office of Field Operation officers can be detailed from their duty locations to assist with custody and processing of migrants. One Border Patrol agent said in your report that agents were providing clothing, diapers, formula, and other domestic services, noting that the job feels more like social worker duties rather than law enforcement. How can DHS improve their detailing practices to make sure the detailees are actually performing jobs within their job description?

Mr. CUFFARI. It is a function of the first recommendation that we made to DHS, what they did not concur with, which was to hire an outside national academy to take a look and develop a strategic staffing model so that DHS would be best able to use the resources they have to the most effective benefit of the organization.

Mr. GROTHMAN. Does the practice of temporary details leave home duty stations vulnerable or understaffed?

Mr. CUFFARI. According to the agents who responded, yes, there is a gap when you pull resources from one area to another.

Mr. GROTHMAN. No question. Anybody who is down at the border knows that. What are the current staffing levels at ICE and Customs and Border Patrol compared to their authorized levels?

Mr. CUFFARI. I do not know the exact number, Chairman. I would have to get that number to you.

Mr. GROTHMAN. OK.

Mr. GROTHMAN. How many Border Patrol agents and Office of Field Operation officers do we need to address the issues we are dealing with today?

Mr. CUFFARI. That is a matter for the Department to decide based on the recommendation, No. 1, that we made to have an outside entity take a look at their organization to have a strategic staffing model.

Mr. GROTHMAN. I ask you, in a two-year period we went from about 20,000 people coming across the Southern border to about 220,000 per month. Isn't that kind of part of the big problem, that they have not adjusted the number of agents for the huge number of people who are coming over here?

Mr. CUFFARI. There certainly has been a significant influx of migrants coming in the Southwest border. The staffing levels for ICE and CBP, although I do not know the actual numbers, have remained relatively flat. So as the——

Mr. GROTHMAN. OK. How does the turnover rate within DHS' law enforcement agencies compare with other government agencies?

Mr. CUFFARI. Their turnover rate, from what I recall from our report, is consistent with that of other agencies in the Federal Government.

Mr. GROTHMAN. OK. OK. Very good. We will now call on Mr. Garcia for five minutes.

Mr. GARCIA. Thank you, Mr. Chairman. Mr. Cuffari, I want to look at the report you recently published about Customs and Border Patrol morale among people working at the Southern border. Now, an examination of your report shows that it is exceptionally flawed, and I am stunned that you and your team released this report. It does not meet the standards required of inspectors general or, quite frankly, data collection of any kind.

[Chart]

Mr. GARCIA. Now, as you can see on this poster behind me, one of the first points highlighted in the report is that it is based on "a non-statistical survey." I am going to read that again, "a non-statistical survey." You might as well at this point be doing a Twitter poll, which is the same exact thing as a non-statistical survey. I want to also, again, quote from the report, "It cannot be projected to the entire population of CBP and ICE law enforcement officers and agents." Again, a non-statistical survey.

Now, in fact, on the same page as this paragraph, you explained that only 16 percent of border law enforcement personnel actually responded to the survey that the report is based on. And so, we have 16 percent respondents, of which was non-statistical of those that are in the Department, and so this is really flawed just from the go. And I just want to make sure that we highlight that as very important as far as this Committee is worth.

Now, throughout the report, then you begin to cherry pick responses from individual law enforcement officers to bolster your conclusions. Now, last week, our Committee staff had the chance to sit and have actually interviews with Border Patrol sector chiefs. A Border Patrol agent, Joel Martinez, who is the Chief Patrol Agent of Laredo Sector, said it best, and I want to quote him: "If you speak to 20 different agents, you will get 20 different opinions. Some guys are out there just loving their job." Now, it should be pretty obvious to anyone that there is a diverse set of opinions in any organization, and if you do not actually conduct statistical analysis, you are not actually going to get a real report.

Now, Mr. IG, did you interview chief patrol agents at CBP for this report?

Mr. CUFFARI. Yes, we did.

Mr. GARCIA. I do not believe you did actually, sir, and if you did, it is not clear in this report. But the most egregious flaw in this report is your office's failure to even test the reliability of the data. Now, as you can also see here, you explain that you conducted your audit, "according to generally accepted government auditing standards, with the exception of data reliability." I am going to read that one more time, "according to generally accepted government auditing standards, with the exception of data reliability." Now, do you agree that you need reliable data to do an audit?

Mr. CUFFARI. I believe we need reliable data. We asked for that reliable data from the Department. They were unable to provide it to us.

Mr. GARCIA. OK. So, the answer is, yes, I think we need reliable data to do an audit, and yet the data reliability of this report cannot be verified, and you actually say this in the report. So, in other words, we simply do not know if the data you relied upon is sufficient to support any of the findings of this report. So, essentially, this report is not verified and should not be acceptable to anyone to make any sort of conclusions.

Now, I know, sir, that the President that appointed you to this position also had a problem with facts and data, and so this is not a surprise, but I want to go back to actually the report itself. The title of the report, for instance, makes no mention of staffing issues at CBP and ICE, which you allege were the entire purpose of this work. And the attrition data in the report is full of basic math errors, so there are errors of basic math all throughout the report. The data is not reliable, and a small subsection of folks were actually interviewed. Now, I think we can all agree that safely establishing humane immigration policies, and at the border, we know are challenging tasks for Congress in every administration, but flawed reports like this only make those tasks harder. Now, this report is a disservice to our law enforcement personnel, and instead of working to actually identify and solve issues affecting morale, our attention now is forced to correct mistakes and correct a report that is deeply flawed. Mr. Chairman, with that, I yield back.

Mr. GROTHMAN. Mr. Gosar?

Mr. GOSAR. Thank you, Mr. Chairman. Thank you very much for being here, Inspector. Now, in 2021, the Department of Health and Human Services took over $2 billion designated for other purposes, such as replenishing medical supplies and coronavirus testing, and moved it to house and care for illegal alien children. The executive took advantage of the recently terminated COVID–19 National Emergency to spend money on programs unrelated to COVID–19. Are you concerned that the Department of Homeland Security may be using National Emergency Act money to redirect spending, contrary to Congress' intention?

Mr. CUFFARI. Sir, I think you mentioned Health and Human Services, apparently.

Mr. GOSAR. Yes.

Mr. CUFFARI. And in the Department of Homeland Security, it is primarily FEMA who is responsible for the disbursement of COVID-related funding. So, we have a number of audits, and, in fact, we have created a special COVID Fraud Unit to investigate criminal fraud related to pandemic relief money.

Mr. GOSAR. So, has Department of Homeland Security been forthcoming to you on how they are spending taxpayer money?

Mr. CUFFARI. Based on the questions we have asked, we have been provided with information, and we are evaluating that information.

Mr. GOSAR. Can you tell me the most egregious example of wasteful spending by DHS that you have uncovered?

Mr. CUFFARI. There is a whole host of audits that we have completed, and I do not have one off the top of my head to give you at the moment.

Mr. GOSAR. Were contracts done appropriately?

Mr. CUFFARI. There have been a number of audits that we have conducted to look at ICE's—I am sorry—DHS' unsolicited, no-bid, sole-source contracting. We published a report about that last year. And we have also identified, in one instance, where an unsolicited contract was awarded to a company to provide housing, and that company also received an award from Health and Human Services.

Mr. GOSAR. By the way, at the very beginning, I talked about the status of children. What are the status of some of these children? How many have we lost?

Mr. CUFFARI. DHS' responsibility is to care and feed for the children who are in their custody during the term that they are in their custody, which is primarily for a short period of time of about 72 hours, and DHS then releases the unaccompanied minors to Health and Human Services, to the Office of Refugee Resettlement. It then turns into a Health and Human Services responsibility.

Mr. GOSAR. And we have lost a bunch. Well, let me go back to something else. You uncovered the fact that the Secret Service erased text messages in the aftermath of January 6, 2021. After you requested the electronic communications, could you please expound on your office's work in this area, one. No. 2, why in the world did the Secret Service erase text message? That is No. 2. Does it make you suspicious that there is something to hide, and how many requests for documentation preservation were there?

Mr. CUFFARI. I know of at least five preservation notices.

Mr. GOSAR. And who did those come from?

Mr. CUFFARI. Four of those were issued by Majority Members of oversight committees in the last Congress starting on January 16, 2021, four from a committee or multiple committees, and one from our office when we opened an audit of the events of January 6th.

Mr. GOSAR. Can you come up with any idea why the Secret Service under preservation notices would erase emails?

Mr. CUFFARI. We have been unable to get an answer to that question.

Mr. GOSAR. Wow, that is pretty incredible. And last one, you mentioned that there was a 100 percent increase in ICE's notices to appear, an NTA, from October 2020 to April 2022. Could you explain what is in an NTA, and how often do illegal aliens show up for their court hearings?

Mr. CUFFARI. I believe DHS discontinued the use of notices to appear, or NTAs, in November 2021. They began to issue notices to report, which required migrants to report to an immigration court on a predetermined date. The Immigration Court, as you know, is within the jurisdiction of the Department of Justice, and the Immigration Court would retain statistics on no-shows or individuals who actually do show for their court date.

Mr. GOSAR. I want to thank you for your information. I think the other side is very particular because this does not point very good to them. So, I yield back.

Mr. GROTHMAN. Congressman Raskin?

Mr. RASKIN. Mr. Chairman, thank you. Mr. Cuffari, your duty under the Inspector General Act is to immediately report flagrant and serious abuses that are taking place. You were aware at least as early as May 2021 that the Secret Service had erased thousands of text messages that were sent before and during the January 6 violent attack on the Capitol, the Congress, and the Vice President, but you failed to notify Congress for 14 months—for a year and two months—that the Secret Service was refusing to comply with your requests for information. So why did not you immediately report, as you are statutorily bound to do, these serious and flagrant failures to answer your questions about the disappearance of thousands of texts that were sent during January 6?

Mr. CUFFARI. Just so the record is clear, Congressman, we were not informed by the Secret Service on the date that you described in 2021. In fact, at no time in 2021 were we informed that Secret Service had deleted and was no longer able to retrieve text messages on cellphones owned by the Secret Service.

Mr. RASKIN. So, when did you become aware of that?

Mr. CUFFARI. In February, I believe, of 2022.

Mr. RASKIN. Well, we have documents showing that just six weeks after the initial request for documents from the Secret Service, you canceled requests to the Secret Service for phone records and text messages. Why did you do that?

Mr. CUFFARI. If I recall correctly, and I mentioned during my prepared remarks here, DHS was delaying or denying us access to relevant information. We——

Mr. RASKIN. But did you report that to Congress at that point or ask for a report to Congress?

Mr. CUFFARI. I was working with the senior leadership of the Department to free up or to pry loose information that the Department was withholding from us. In fact, I met with the Secretary of Homeland Security in about September or October 2021. I explained to him that we were having delays in getting information, and the Secretary saw fit to publish a memo in which he directed all the employees in the Department to cooperate with our office. We subsequently received a tranche of documents from the Department. They were basically emails that we had been waiting for eight months to receive. I think there were about 700,000 emails.

Mr. RASKIN. Yes. Well, what I do not understand is your office revived the request that you nullified six weeks after originally making it, five months later in December 2021 is what the paper trail reveals. But what I do not understand is your statutory duty to immediately inform Congress about this flagrant abuse. I mean, we are talking about the worst violent insurrection against Congress in the history of the United States, and the Secret Service is not cooperating with your request for information. Why did you not think that you needed to immediately alert Congress to that fact?

Mr. CUFFARI. I was working with senior leadership and the Department of Homeland Security to get the records we were lawfully entitled to receive. The Department was also under four preservation notices by congressional oversight committees last Congress, and to my knowledge, the Department never informed Congress that itself had deleted the messages.

Mr. RASKIN. Right.

Mr. CUFFARI. Nor were they ever asked——

Mr. RASKIN. But that is the role of the inspector general. That is why we have an inspector general. Look, in June 2022, you published your semiannual report where there was going to be a reference to the Secret Service's obstruction of this investigative path, and you removed that. Why was the reference to the Secret Service's obstruction deliberately deleted from the June 22 semiannual report of the Inspector General?

Mr. CUFFARI. I believe our first notification at Congress was in the fall of 2021 in our semiannual report, where we describe the delays that the Department was doing to us and prohibiting us from receiving requested information.

Mr. RASKIN. Well, did you sign off on the decision to remove this reference from the report?

Mr. CUFFARI. I do not know when that reference was.

Mr. RASKIN. In June 2022, there was going to be a reference to Secret Service's obstruction of questioning about the disappearance of the texts, and that was deliberately removed. Did you sign off on that deliberate removal?

Mr. CUFFARI. I signed off on the removal, and I signed a letter specifically to the January 6th oversight committee and to this Oversight Committee.

Mr. RASKIN. But why did you remove it?

Mr. GROTHMAN. Your time has expired. I am going to say something here. I think what is going on in the border is the biggest crisis this country has to deal with today. And it is not surprising that when the number of people coming into this country has increased by a factor of 11, it would have a tremendous impact on the morale of the Border Patrol. I realize Dr. Cuffari was originally appointed by Donald Trump, and some people are never going to get over that, but our focus today should be on what is going there. We could have a million hearings on the Southern border, but today we are going to focus on the morale of the Border Patrol and what effect this increase by a factor of 10, the number of people coming across, has. I am down on the border many times. I can assure you, if you go down there, the Border Patrol agents will tell you all sorts of things. But in any event, next we have Mr. Higgins.

Mr. GARCIA. Mr. Chairman, I just want to also just add. I think of the questions that have been asked so far, the statements on our side have been all within the scope of the hearing. I think we are merely pointing out flaws and issues within the witness and the witness' statements. And so, I just want to just add that I think their line of questioning so far has been very reasonable, within the scope of the hearing.

Mr. GROTHMAN. Mr. Higgins?

Mr. HIGGINS. Thank you, Mr. Chairman. Inspector General Cuffari, Joe Cuffari is one of the most honorable men I have ever met. I have had interactions with many in seven years of congressional service to my country. He is a rare combination of experience and intellect and honor and principle. You always get a straight answer from Joe Cuffari. I hope America is listening to him today. He has had attack after attack after attack from the left. The man is not looking at notes. He is responding from his head because he knows what is going on. It is no surprise that the Biden Adminis-

tration and my colleagues across the aisle do not like him because he is an honorable man who speaks the truth. There is a lot of wailing and gnashing of teeth over there.

The Democrats' issue with Inspector General Cuffari is that he is an actual investigator, he is not a political hack, and he speaks the truth. Here is the problem, though, that my colleagues launching these attacks against this good man, face. Joe Cuffari is a principled man, and he deals with personal attacks against him like something stuck to the bottom of his boot.

Inspector General Cuffari, you have been accused of conducting your survey. You surveyed over 9,000 agents, is my understanding. Our colleagues managed to leave that out. They act like you talked to 28 people. Over 9,000 agents participated, and in your report that you provided, you go on to attest to the quality of the survey, which is essentially amazing to America watching. You came to the conclusion that these border agents that have been tasked with dealing with the disintegration of our sovereignty at the Southern border. They have been moved from all across the country to work the Southern border, taken away from their primary law enforcement role to do housekeeping and social work. Your survey came to the conclusion, amazingly, that there is a problem with morale, but they are folding themselves in half over there trying to impugn you as a man. They get nowhere. America is watching.

Let me ask you about these deployments, Inspector General Cuffari, deployments from across the country, down to the Southern border, where agents were moved from where they lived and worked, where their family is, where their kids go to school, to go down to the Southern border. Were those deployments voluntary or were the agents ordered?

Mr. CUFFARI. In certain cases, according to the agents and other employees of the Department who were deployed, they were voluntary, and in others they were voluntold to go.

Mr. HIGGINS. So, could you clarify what that means? I know what it means. I am a veteran, an Army veteran. I was a cop for 12 years. I mean, you get volunteered. Your chain of command tells you, yes, we need you to volunteer for this. So, these guys are deployed for quite some time in incredibly difficult circumstances. They love their country. They are serving their country. By and large, they concur. But the longer they stay down there, the more it impacts themselves, their family, their morale, the esprit de corps of their units.

I think it is obvious that this system of moving people down there has been detrimental to the health and wellbeing of our agents. It is concerning that agents are not performing their primary law enforcement roles. America is largely under the impression that we are moving border agents down there to enhance law enforcement. Is that the role that agents are primarily performing, Mr. Cuffari?

Mr. CUFFARI. The role that they were hired to do and the performance of their duties is to do law enforcement, at least for the Border Patrol and the 1,811 criminal investigators who were deployed there.

Mr. HIGGINS. But what role are they actually performing down there?

Mr. CUFFARI. They are doing some law enforcement, but they are also providing care and welfare services to the detained and those individuals who they are processing.

Mr. HIGGINS. Thank you, Inspector General. Thank you for your service. God bless you, sir. Stand strong. My time has expired. Mr. Chairman, I yield.

Mr. GROTHMAN. Thank you. Congressman Lynch.

Mr. LYNCH. Thank you, Mr. Chairman. Mr. Cuffari, first let me say that I have been on this Committee for 22 years and have been involved in dozens and dozens and dozens of investigations, from 20-something trips to Afghanistan, over 20 to Iraq, Ukraine. There has been no Member on this Committee currently that has done more investigations and involved in this type of work longer than I have, and I am honored to do it.

Mr. Cuffari, I do want to say that our relationship with the inspectors general during that 22 years that I have been on this committee has been a partnership. We rely heavily on our inspectors general to cooperate with us. It has been a good relationship, and I have dealt with probably three to four dozen different inspectors general over that 22 years, and I have been proud to do it. I have to say that based on the evidence I have before me, our relationship with you is different. It is different. We have not had the cooperation and the relationship of trust that we have had with other inspectors general. We have not had that with you, and I regret that. I do not diminish your service to your country or any other capacity. I am just talking about the facts of what has happened and what is going on.

Are you familiar with the Project on Government Oversight?

Mr. CUFFARI. Yes.

Mr. LYNCH. OK. So, the Project on Government Oversight is a nonpartisan, independent, nonprofit group that we have worked with for more than the 22 years I have been here. And I think they started in 1980, and they have been nothing short of honest and forthright. And I have worked with them in Republican administrations and Democratic administrations, and sometimes I agree with them, sometimes I do not, but they have always been straightforward, regardless of whose administration was in power at that time.

Mr. Chairman, I want to ask for unanimous consent to enter into the record a letter from the Project on Government Oversight urging the President of the United States to remove Inspector General Joseph V. Cuffari from his position with the Department of Homeland Security Inspector General.

Mr. GROTHMAN. OK.

Mr. LYNCH. Mr. Cuffari, currently another group that we work with very closely, and continue to, is the Council of Inspectors General, and they are a group that not only does their own independent work, but also polices other inspectors general. Am I correct in saying that you are currently under investigation by the Council of Inspectors General on integrity and efficiency? Is that correct, Mr. Cuffari?

Mr. CUFFARI. You are correct, Mr. Lynch.

Mr. LYNCH. What is the basis of that investigation? Could you share that with us?

Mr. CUFFARI. I am uncertain, since I am under investigation, if I can share that in a public setting. I would be happy to discuss it with you.

Mr. LYNCH. They have made it public, so I am not sure how private this is. There are several allegations. One, as the Ranking Member of this full Committee indicated, was your failure to promptly notify Congress of crucial information on the Secret Service erasure of text messages related to the January 6th attacks on this Capitol. That did happen. It did happen. And I witnessed Republicans and Democrats running for their lives, so anybody who says that did not happen, let us just disabuse that notion. But the relationship of trust that we have had with our inspectors general have not been continued. I want to yield my remaining time to the Ranking Member.

Mr. GARCIA. Thank you, sir. Thank you.

Mr. GROTHMAN. The time is up.

Mr. GARCIA. Yes, go ahead, sir.

Mr. GROTHMAN. OK. Kelly Armstrong.

Mr. ARMSTRONG. Thank you, Mr. Chair. Your report states that frequent deployments at the Southern border are affecting staffing levels at the Northern border. This is an important issue to my home state of North Dakota. Businesses rely on customers from both sides of the Canadian-U.S. border. Commerce does not stop at 5 p.m. when CBP closes a port of entry. Crops still need to be planted. Substantial detours to operating facilities significantly raise costs.

After years of shortened operational hours, CBP finally extended hours at three ports of entry in North Dakota on a trial basis, but these hours are only temporary while CBP evaluates vehicular traffic, which does not account for other ramifications, including the transfer of goods and services. Lawful economic access to the United States should not be based on volume. It is the government's basic duty to maintain the Northern border.

And drawing down at the Northern border to beef up the Southern border does not justify shutting down North Dakota's economic sector. DHS is not properly allocating resources, and we talk about these things in large dollar amounts. But I am going to talk about what is, actually, in the grand scope of things, a fairly insignificant one. However, it would be significant at the Northern border.

One of your reports highlights that ICE spent over $17 million for hotel space and services that largely went unused in 2021. Can you elaborate on how ICE managed to waste $17 million in taxpayer resources?

Mr. CUFFARI. If you are speaking about the contract that was between DHS and the Endeavors Corporation?

Mr. ARMSTRONG. I am.

Mr. CUFFARI. The contract required a minimum number of beds to be available to ICE during certain periods, and those beds would be paid for regardless of whether a migrant was actually staying in the hotel room.

Mr. ARMSTRONG. Were the beds ever used?

Mr. CUFFARI. Not to my knowledge, no.

Mr. ARMSTRONG. Why was ICE able to use sole-source contracting and not award a contract based on an open competitive process?

Mr. CUFFARI. Because the question that you just asked relates to an ongoing matter, I am not able to provide more sufficient information in this setting.

Mr. ARMSTRONG. OK. If the company had no experience, why were they awarded the contract over more experienced companies?

Mr. CUFFARI. Again, Congressman, the same answer as before.

Mr. ARMSTRONG. So, my next question, there is an ongoing investigation, so hopefully somebody will be held accountable?

Mr. CUFFARI. Sir.

Mr. ARMSTRONG. Would $17 million help at the Northern border?

Mr. CUFFARI. I believe it would help anywhere.

Mr. ARMSTRONG. I mean, we do not have the volume that they have on the Southern border. Everybody understands that, but we also move a lot of products that a lot of people need. If you like bread, you like what goes on between North Dakota and Canada. If you like, you know, to eat a hamburger, you care about what goes on in North Dakota and Canada. I am just trying to understand where we end up and how we get to these places that we have these scenarios where we are paying for money. I mean, we have seen people all over the country, many in sanctuary cities, balk and revolt at the fact that we are moving migrants across and moving them out of a high-density area into other places. Do we have any analysis at this point, yet, of what we are spending on hotel rooms and other facilities while we have $17 million worth of unused beds?

Mr. CUFFARI. I believe, Congressman, we have an ongoing audit to look at the movement of migrants and what it is costing DHS to do that.

Mr. ARMSTRONG. Thank you. I would just say as we finish this off, that we have to figure out a better way to do this. At the same time, the level of frustration from my constituents that exists when we have unfettered access, whether it is ports of entry, whether it is between ports of entry, and the vast majority of illegal activity that is occurring. And at the same time, economic sectors for Northern border communities are absolutely being crushed, and it started with COVID and it started with vaccine mandates, and it finally ended with the United States being the last, essentially, country in the civilized world that lifted those mandates, and these are real-world consequences.

And when we talk about trust in government and talk about trust of these issues, when people see fentanyl flowing across the Southern border, ports of entry, between ports of entry, we have had that debate a thousand times. When we see people being released into the interior of the United States with court dates that do not exist for five, seven, nine years in advance, and I got a farmer from Grano, North Dakota, that cannot get across the border after 5 p.m. because we do not have the resources to do it. The frustration is real, and it exists all across the country and exists as far away from the Southern border as you can possibly be, which is North Dakota. Thank you and I yield back.

Mr. GROTHMAN. Mr. Moskowitz?

Mr. MOSKOWITZ. Thank you, Mr. Chairman. The border has been a problem for a long period of time because Congress has failed to pass comprehensive immigration reform. It is not like this is a new issue. This is something that has been going on for decades here. It has been passed from one President to the next, to the next. Is it possibly worse now? Well, that is what happens when you have a problem that you do not fix for three decades. The same people who talk about the border, it is not like they have come up with solutions. They complain to get on Fox News every day, but it is not like we are having solutions.

And so, I want to ask you a couple of questions because I am frustrated with Homeland as well. I mean, I have folks back home who were raped by their nanny. She spent 20 years in jail in Florida, and all the family wanted to know is that, when she was released, what was going to happen. That is it. She was a victim. She had a right to know, and I had even on her behalf made connections with Homeland on this issue. We were told, do not worry, we will make sure the family knows if she is deported or if we are keeping her, whatever the story is. Guess what? None of it happened. The rapist was deported. Nobody knows what happened to her. She is not flagged in the system. And now that family, the girl, who is now a mother of two, has to be worried about where her rapist is.

And so, I have a couple of questions because obviously, there are complaints all around, whether it is Secret Service or ICE. Homeland was founded 22 years ago, or 20 years ago, after a national emergency. It has got 22 agencies, and I am not going to list them all. They are all household names. Has Homeland become too big? Is it too big? Is it time to split Homeland up? Is it time to reform the bureaucracy?

Mr. CUFFARI. Congressman, let me first say that you and I did have a discussion about the individual who was convicted of rape. And we discussed the Crime Victims' Rights Act, and the prosecutor should have complied with that. I hope that that information was helpful that I supplied to you.

Mr. MOSKOWITZ. Well, that is a whole other issue because——

Mr. CUFFARI. Yes, sir.

Mr. MOSKOWITZ [continuing]. Quite frankly, the rapist had more rights than the victim.

Mr. CUFFARI. Yes, sir. I agree with you. I will say that Homeland Security is the third largest department, and the Federal Government is quite large. It was put together, as you described——

Mr. MOSKOWITZ. You are almost as big as DoD.

Mr. CUFFARI. Yes, sir. We are No. 3 right behind DoD and Health and Human Services. It perhaps may require a look by this Committee or others, maybe the Committee on Homeland Security, to see sort of a look back to see if it is fulfilling the mission that it was intended to do. But that would be a decision for Congress and not for me as the Inspector General.

Mr. MOSKOWITZ. So, you do not have any suggestions on potential reforms or opinions on whether you think the Agency can still function with 22 agencies. I mean, I hear it is kind of like when all the agencies get together with the Secretary, it is like the

Knights of the Round Table. They each give five-minute updates to the Secretary, and then the meeting is over.

Mr. CUFFARI. I will share that from our experience of doing audits and inspections, and even criminal investigations, that silos of information remain to this day in DHS, which is presenting a problem for effective management.

Mr. MOSKOWITZ. Yes. So, what I would like to hear is I would like to hear solutions to problems rather than continuing to gaslight issues at Homeland or INS or Customs and Border, whatever it is, and I do not hear any solutions. And I think it is quite time we start looking at reform at Homeland. I will yield the balance of my time to the Ranking Member.

Mr. GARCIA. Thank you. Mr. Cuffari, in April 2022—I want to get back to something—the nonpartisan watchdog Project on Government Oversight, and this was mentioned by another Member, broke a disturbing story that your office sought to censor findings of sexual harassment and misconduct at DHS. According to the draft report that we have obtained in the committee, 28,000 DHS employees were surveyed, and more than 10,000 of the 28,000 reported experiencing sexual harassment and misconduct in the workplace, yet the report was shelved. Mr. Cuffari, did your report on the morale of CBP, which we have been discussing, consider the effects of sexual harassment on employees?

Mr. CUFFARI. I am sorry, Ranking Member. What is the question?

Mr. GARCIA. Did you report on the morale of CBP or ICE employees, considered the effect of sexual harassment and misconduct? I think the answer to that is actually no, but would you agree that sexual harassment or misconduct are one factor that could actually impact morale?

Mr. CUFFARI. It could be a factor, certainly.

Mr. GARCIA. Thank you. And yet it was not considered in that report, and so I just want to make that note. I also with the remainder of my time, just want to note that

—thank you, Mr. Chairman, I will discuss it later.

Mr. GROTHMAN. Mr. Sessions?

Mr. SESSIONS. Chairman, thank you very much. Dr. Cuffari, welcome to the committee. I think it is interesting that our friends, rather than asking pertinent questions about what your ideas have been in writing, have been simply to attack you.

I have been to the border, top to bottom, for a number of years and I went back and saw firsthand the piles of equipment that still sit there waiting for the wall to be built. This is not a question to you, but it is my understanding that was there to help the Border Patrol agents so that they were not overrun as they are being done now. It would allow them operational control of the border. That would mean that they could then follow the political will. If we went from one President to another, we would effectively understand, I do not know about 100 percent, but a higher percentage of people who were coming in, could control drug usage, could control people who might come to this country who were wanted or would be seen as wanting to harm our country.

And these piles are still there. Requiring the Border Patrol, as when I was there with our young Chairman, Chairman Comer,

down in Yuma, where we were in a bus, there were 90 or so people from Cuba, men. One Border Patrol agent, one female Border Patrol agent whose job was to hustle and get her job done, and that was not to catch people that were running away. That was to hurry up and take them to processing because her boss or her boss' boss was being held accountable for how long it took them to hustle to do their job, to take these people in rather than protecting our border. I am concerned that there is a staffing issue problem—we have spoken about it—you have today with understanding how we protect this country. Seemingly, you are being attacked about your oversight after things have occurred rather than your ideas.

We know the border is in trouble. We know that we have a problem with fentanyl, got-aways, drugs, people come to this country losing children—the government actually taking control of children and then losing them—them being let loose on the streets of Texas, Arizona, California. People in California seem to be happy with it. People in Arizona, I will let them speak for themselves. But in Texas, it is causing a huge problem, so much so that our Governor is transporting them where they want to go, Washington, DC, New York City, Chicago, and now they are being attacked for doing what these people wanted.

I want you to know this Congress views, in the Majority, that you are doing your job, that you are being stretched to a political limit about reporting what is happening versus trying to toe the line of what this Department wants to do, the Department of Homeland Security, including the Secret Service. A few minutes ago, literally they said you did not do your job in reporting to them. Have you ever offered to come and meet with the Minority, which was then the Majority? Were you ever asked to come meet with them?

Mr. CUFFARI. I volunteered and I met with several Members of this Committee, who are now Minority Members.

Mr. SESSIONS. Well, I would say to my friend, Congressman Lynch, that if he feels like he is not getting what he needs from his vast service, which I am a friend of Stephen and I appreciate him, I would encourage him to do that with this Subcommittee, to write the same letter, to get an answer because I view that this Department is failing to protect this country, which is its core mission. Why it was established was not to let anybody come into this country, encourage them, waive them through, and then lose them from within the masses of millions that are coming. I am concerned about rule of law. I am concerned about the deaths. I am concerned about even mid-sized cities receiving people who have come from a marketing organization of a cartel to distribute drugs all over this country. They are openly allowing this, and the Democratic Party is right there with this Administration to allow it to happen.

I want to thank you for taking time to be with us. I find you refreshing, but I also want you to know when our friends that are on the other side, the Democrat Members of this Committee, wish to correspond, I would encourage them to come, and we will get them the same answer rather than an answer that they do not like. Thank you very much. I yield back my time, Mr. Chairman.

Mr. GROTHMAN. Mr. Goldman?

Mr. GOLDMAN. Thank you, Mr. Chairman. Did I just hear you say that you offered to come and sit with members of the Majority in the last Congress?

Mr. CUFFARI. That is correct.

Mr. GOLDMAN. You did?

Mr. CUFFARI. Yes.

Mr. GOLDMAN. And did you ever do that?

Mr. CUFFARI. Yes.

Mr. GOLDMAN. With who?

Mr. CUFFARI. Mr. Moskowitz. Ms. Porter.

Mr. GOLDMAN. Mr. Moskowitz was not in Congress last Congress.

Mr. CUFFARI. I am talking about this Congress.

Mr. GOLDMAN. I said last Congress. You said last Congress. He asked you last Congress did you ever meet with the Majority, Chairman Thompson, Chairman Maloney, anyone?

Mr. CUFFARI. I did meet with Chairman Thompson, did not meet with Chairwoman Maloney.

Mr. GOLDMAN. OK. On August 1, 2022, former Chairwoman Maloney and former Chairman Mr. Thompson from the Homeland Security Committee requested that you provide all communications and documents related to your office's decision not to pursue missing Secret Service text messages related to the January 6 insurrection. Did you ever provide that information to those committee chairmen?

Mr. CUFFARI. I did in an August 23, 2022 letter to both Chairwoman Maloney and to Chairman Thompson.

Mr. GOLDMAN. You wrote a letter. Did you provide all the communications and documents related to your decision?

Mr. CUFFARI. I provided information that was requested and not particular documents.

Mr. GOLDMAN. OK. Well, let the record show that you did not actually provide the requested information. Were your Deputy Inspector General and your Chief of Staff requested to have transcribed interviews last Congress as well?

Mr. CUFFARI. Yes.

Mr. GOLDMAN. And did you allow them to undergo these transcribed interviews?

Mr. CUFFARI. Because of ongoing investigations, I did not permit them to be interviewed by this body.

Mr. GOLDMAN. So you just blanketly refused to permit them, even though they could, of course, come in here and say that they cannot answer specific questions related to ongoing investigations?

Mr. CUFFARI. That is correct.

Mr. GOLDMAN. OK. You know, I find it remarkable that we are having this hearing with someone with a very clear vendetta and politicized approach to the job of an independent inspector general. If the point of your report and the point of this hearing is, as my colleague from Texas just said, because we have a problem at the border, we can all agree, and if the morale is down because there are not enough agents and officers at the border, we can all agree.

The sad reality is that my colleagues on the Majority have no interest in any meaningful immigration reform. They would prefer to hold a hearing like this, and we have many of them in the Homeland Security Committee where they can talk about the problems.

They can accuse the Biden Administration, make false allegations about all of their terrible policies, and yet they do not want to actually do anything. Would you agree we need more immigration judges to decide asylum cases, Mr. Cuffari?

Mr. CUFFARI. That would be a decision that would rest with the Justice Department who has——

Mr. GOLDMAN. That is not my question. Do you think it would help things at the border if we had more immigration judges to decide asylum claims faster?

Mr. CUFFARI. More people will certainly help across the entire network.

Mr. GOLDMAN. That is right. It gets tiresome to continue to have these conversations. There is a tremendous migration issue in Central America. There are 2.4 million Venezuelans in Colombia. This is not particular to the United States. This is a problem that congressional effort and oversight and legislation needs to correct, yet we are not doing that. And when you hear my colleagues on the other side of the aisle talk about all the problems with fentanyl and with got-aways and with smuggling, you know what they do not ever talk about? They do not ever talk about the tremendous exportation of American-made guns to Mexican cartels that give them the power and authority to control the fentanyl trafficking into this country.

My colleague from Texas just listed a whole litany of things that are the problems we are having at the border, and never mentioned guns. H.R. 2, Mr. Perry, was a immigration border security bill. It does not mention guns. It does not mention gun trafficking. It does not mention guns going from America to Mexico. If you want to talk about immigration reform and you want a fix at the border, come talk to us. Let us be real about how we can actually fix the border. I yield back.

Mr. GROTHMAN. Mr. Biggs?

Mr. BIGGS. Thanks, Mr. Chairman. Thanks, Dr. Cuffari for being here. You know, I do think it is interesting that the last gentleman was asking you about asylum and immigration courts, but that is not in your purview, right? That is DOJ. That is not DHS, right?

Mr. CUFFARI. That is correct.

Mr. BIGGS. Yes. So that was odd, I thought, but it was pretty consistent because I thought the Ranking Member, who is sitting in there today, rather dubious, his own credibility. It is kind of dubious because he basically questioned this document, your document, your report, but in so doing, he spent a good portion of his time lobbying the Biden border policies. When you start lobbying the Biden border policies—I do not care what the pre-42 surge was, we have gone back down to the typical Biden border crisis numbers. That is where we sit today, and that is about a fivefold increase over what Jeh Johnson said was a crisis on the border. If you see 1,000 a day, he says "that is a crisis." Here you got about 5,000 a day, the gentleman from Long Beach says, whoa, we have got this thing back under control. Well, you do not. You just simply do not.

But I will say this. Your report is consistent with my on-the-ground experience and getting down to the border many, many times. I have taken the Chairman down many times. I have been

down there. I go down there. You just go down there. I do not take anybody with me. I will park my car. I will start walking along the border, see how long it takes for a Border Patrol agent to come. When they finally get there, I ask them how things are going. They tell me it is not going good. I say, well, what do your colleagues feel. Well, they feel like they have been abandoned by this Administration. The other thing I will say is, you had survey responses from 16 percent of the entire force, is that right?

Mr. CUFFARI. Sixteen percent of the 57,000 employees in DHS, primarily ICE and CBP, who we surveyed.

Mr. BIGGS. Yes. Well, in my studies, a large in-study, was typically, we thought anything over 350 to 500 was a large in-study. Nine thousand would be pretty persuasive. He compared it to a Twitter survey. The only difference is you had a limited universe, and if you are going to make a claim, you might say selection bias because only the people that cared enough to respond responded, but you had 9,000, 16 percent, respond.

Well, let us take a look here just a little bit. Can you discuss what steps your office takes when an auditor investigation is opened?

Mr. CUFFARI. We notify the Department through a transmittal memo of opening of a project, an audit, or an inspection. We let them know that we will be looking for certain documents, for some communication. And we set what is called an entrance conference with the Department's Liaison Office and the component's Liaison Office to begin our audit or inspection work.

Mr. BIGGS. And when you request documents or information, what is the typical response time for an agency?

Mr. CUFFARI. Normally, it is about 30 days to respond back to us.

Mr. BIGGS. The DHS, are they responsive typically within 30 days?

Mr. CUFFARI. They have been on certain occasions.

Mr. BIGGS. What is their typical responsive time now?

Mr. CUFFARI. There is one project that is 140 days that we have made our request and have not got any information.

Mr. BIGGS. So, did they give you a rationale for their five-month delay?

Mr. CUFFARI. Not in that particular case, but they have in others.

Mr. BIGGS. Is a rationale for a delay that they give to you, are those allowed under the Inspector General Act?

Mr. CUFFARI. The only exception to not providing the IG, that I am aware of in the IG Act, is the Secretary of the Department would have to make a determination that, for national security or not to compromise an ongoing investigation. The Department secretary would then have to make that determination.

Mr. BIGGS. Has Secretary Mayorkas made that determination and communicated that to you?

Mr. CUFFARI. He would also have to communicate that to this Oversight Committee as well.

Mr. BIGGS. Has he communicated that to you?

Mr. CUFFARI. No, sir.

Mr. BIGGS. He has not communicated that to us as far as I know, so he is not complying with the requirements of the Inspector General Act. Is that fair to say?

Mr. CUFFARI. Not to my knowledge.

Mr. BIGGS. Well, my time has expired, and I told you it goes by fast, but, Mr. Chairman, thank you.

Mr. GROTHMAN. OK. Congressman Ivey?

Mr. IVEY. Thank you, Mr. Chairman. Good morning, sir.

Mr. CUFFARI. Good morning, sir.

Mr. IVEY. Mr. Raskin was asking you about text messages with respect to January 6. I had some questions about some messaging, I believe it was Signal, that was used, I think, by you and some of your colleagues beginning around December 13, 2020, and this is based on an affidavit that you filed yesterday in a case that is pending. Do you recall filing the affidavit?

Mr. CUFFARI. I do.

Mr. IVEY. OK. And in the affidavit, you talked about how there was a time where you made a switch and others to using Signal. Do you recall that?

Mr. CUFFARI. I recall at the direction of DHS, Signal was placed on our government cellphones as a result of the SolarWinds compromise of the Department's communication.

Mr. IVEY. OK. And who was it specifically that directed the use of Signal?

Mr. CUFFARI. I believe it was the Chief Information Officer for the Department of Homeland Security.

Mr. IVEY. OK. And so, during that time period, you used Signal until early 2021 according to your affidavit.

Mr. CUFFARI. I physically used Signal on one occasion in a two-week period of time.

Mr. IVEY. OK. Well, I am not sure you said that in your affidavit, but there came a time where you stopped using it in early 2021, according to your affidavit?

Mr. CUFFARI. That is correct.

Mr. IVEY. All right. And Signal, you may know, is an application where, in some instances, it can automatically delete the communications that are exchanged on it.

Mr. CUFFARI. Actually, I do not know that.

Mr. IVEY. All right. Well, let me ask you this. As the Inspector General unit, you are familiar with the Federal Records Act, right?

Mr. CUFFARI. Yes.

Mr. IVEY. All right. And so, you know there is an obligation to preserve official government documents. Is that correct?

Mr. CUFFARI. That is correct.

Mr. IVEY. All right. And electronic messaging falls under that category. Isn't that right?

Mr. CUFFARI. Yes.

Mr. IVEY. OK. Now, according to your affidavit, whatever those messages were, were all deleted. Is that correct?

Mr. CUFFARI. No, that is incorrect.

Mr. IVEY. OK. They are not preserved?

Mr. CUFFARI. No. What I am saying is that the one instance that I did use Signal, it was an oral communication telephone call with the members of the Department of Homeland Security. I believe it

was their Breach Response Team. That is the one and only instance that I ever used Signal.

Mr. IVEY. OK. Well, did your organization, did your Department respond that none of the messages on Signal were preserved in the filing yesterday from the U.S. Attorney's Office?

Mr. CUFFARI. I do not believe there were messages. There was an oral communication, not text messages or anything to my knowledge, at least in my case. I only used it once, as I described.

Mr. IVEY. All right. Well, let me read this to you: "However, until that time, the Signal messaging application was not approved for use on DHS devices. However, I was one of the small number of users authorized to install the application on my OIG-issued cellphone for the limited purpose of discussing via SecureME," through a response to the above-described apparent breach of DHS computer networks. So, that is the messaging you are talking about?

Mr. CUFFARI. That is the oral communication, not a message. I just want to be clear with the Committee.

Mr. IVEY. OK. And then in the next paragraph down, you said, "No more than a few weeks after installing the Signal application, I deleted Signal from my OIG-issued cellphone because I no longer had use for it." That is correct?

Mr. CUFFARI. That is correct. Yes.

Mr. IVEY. OK. So, any messages that are unavailable were not based on you deleting anything. It is just, they were not preserved in some way?

Mr. CUFFARI. No, what I am saying, just to be clear, Congressman, I did not use Signal to do messaging. I used it to do a telephone call at the request of DHS.

Mr. IVEY. All right. And nothing was done to preserve anything with respect to those telephone calls?

Mr. CUFFARI. Unless we had a title three or some other electronic intercept of my oral communications, I do not believe there would be a message that would be preserved.

Mr. IVEY. All right. Let me ask you this question. With respect to the January 6 documentation from the Secret Service, all right, and there was a 14-month delay before you notified Congress of that issue with respect to the deletion of the Secret Service text?

Mr. CUFFARI. Just to be clear, I answered that question previously, and it is not 14 months. We learned that DHS deleted all the text messages from the Secret Service phones. We learned that in February 2022.

Mr. IVEY. All right. Thank you, Mr. Chair. I yield back.

Mr. GROTHMAN. Now we have Mr. Perry.

Mr. PERRY. Thanks, Mr. Chairman. Mr. Cuffari, as often is the case, I am left with correcting, clarifying the record in these hearings. Comprehensive immigration reform, as decried by my colleagues on the other side of the aisle, is generally known and perceived rightly so as amnesty for breaking America's laws. Therefore that, they lament the fact that we are not interested in allowing people that come across our border, illegally bringing fentanyl, engaged in human trafficking, gang activity, we are not interested in providing amnesty for their lawlessness. So, no, there is not going

to be comprehensive immigration reform because that is what it includes. Just let the record reflect that.

Regarding my colleague who complained about the rape of his constituent and the fact that it seemed like the person that was deported had more rights than she did, I would just remind my colleague on the other side of the aisle that they support that. They supported that in all the cities that they run across the country and at the Southern border. They support that lawlessness. And so, it is rich for him to come in and complain on her behalf when he and his Party have been aiding and abetting it for years upon years.

And Mr. Goldman says that we do not want to talk about guns. We are happy to talk about Fast and Furious, where his Party took guns across the border to Mexican cartels that were used to kill Americans trying to protect this border, but they did not want to talk about it. Eric Holder did not want to talk about it, was held in contempt, and they still do not want to talk about it. And it is rich for Mr. Goldman to talk about you promoting falsehoods while he sat at the front and center of impeachment of a President based entirely on falsehood, which he was well aware of at the time and is well aware of right now. I know you are laughing it up over there, aren't you? You are laughing it up because you are full of perfidy, lies and more lies and more lies.

Mr. Cuffari, it has been alleged or averred that more people would make it better, more Border Patrol agents, Mr. Goldman said more judges, more would make it better. Here is what also would make it better, I think. If less people were allowed to cross the border illegally, would that make it better?

Mr. CUFFARI. That certainly would help, yes.

Mr. PERRY. If there were less people crossing illegally, would we need more judges to deal with those less people crossing illegally?

Mr. CUFFARI. You would need more judges to process people who were claiming asylum.

Mr. PERRY. Right, but they are crossing illegally and claiming asylum based on their illegal crossing. The point is, yes, we can hire as many as we want to, but as long as you are going to let more and more and more unstoppable people coming across the border illegally, you are never going to have enough. The solution is not to hire more people. The solution is to stop the people from coming across illegally. That is the solution.

To get you to say that the solution is actually to hire more people belies the fact that people are coming across illegally because of the policies of my friends on the other side of the aisle, and no other reason, for no other reason. Was the border ever manageable before without hiring more people? Let me ask you that question. Was it ever manageable before without hiring more people?

Mr. CUFFARI. According to my personal experience, it was manageable starting in 1994.

Mr. PERRY. You did a survey, 9,300 and change, 16 percent of the total population surveyed, much more than most of the polls that this operation runs to determine public opinion about who is going to vote for what, and you are being criticized here today for the survey. And some Border Patrol agents said that local management would transport migrants out of the facility before a visit and re-

turn them after the visit ended. Why would they do that? Why would that happen?

Mr. CUFFARI. I cannot answer that, sir. That is——

Mr. PERRY. I do not know. Hazard a guess?

Mr. CUFFARI. Let me say, in my experience, I did not see that happen.

Mr. PERRY. Well, how would you see it happen? Like, how would you see it happen? If they move them before you got there and moved them back after you left, how would you see it happen?

Mr. CUFFARI. We also do unannounced inspections when they do not know that we are coming to a particular detention.

Mr. PERRY. Right. But still, you do not know that, right, but these are Border Patrol agents saying it. Are Border Patrol agents signing up for overseeing meal delivery, restocking snacks and hygiene products? Is that why people want to secure the border? Is that the job that they are looking for when they sign up and say, I want to be a Border Patrol agent, I want to replenish the snack supply for people coming across illegally? Is that like the No. 1 request on their list of job assignments?

Mr. CUFFARI. That is the frustration that they described.

Mr. PERRY. Thank you, Mr. Chairman. I yield the balance.

Mr. GROTHMAN. Mr. Frost?

Mr. FROST. Thank you, Mr. Chair. Mr. Cuffari, the Office of Personnel Management's Federal Employee Viewpoint Survey is a tool for Federal Agency employees to provide feedback on how engaged they are in their work. When people are engaged at work, they are more effective at their jobs. They perform the work more efficiently, and part of a principal's job is keeping their team engaged. In other words, the Federal Employee Viewpoint Surveys can reveal what leadership techniques are working for agency executives and which ones are not.

In fact, Mr. Cuffari, you regularly tout your office's Federal Employee Viewpoint FEVS score. Since you have taken over as Inspector General in May 2022, in a letter to this Committee, you highlighted portions of your office's survey data from 2020 and 2021 that apparently show improvement in employee engagement. And in an email you sent to all your staff in December 2022 that I have here, you again highlighted improvements in your Agency's 2022 survey data.

Mr. Chair, I ask unanimous consent to enter into the record an email between Inspector General Cuffari and his office lauding the importance of Federal Employee Viewpoint Survey scores.

Mr. GROTHMAN. Without objection.

Mr. FROST. Thank you. Mr. Cuffari, do you agree that the Federal Employee Viewpoint Survey data are important indicators for how an agency is performing?

Mr. CUFFARI. Yes.

Mr. FROST. That is right. And in the past, you have said that they document progress. However, in the most recent survey data shows that a majority of the people in your office do not believe that their senior leadership maintains high standards of honesty and integrity, 66 percent of your employees. Mr. Cuffari, are you a senior leader?

Mr. CUFFARI. Yes.

Mr. FROST. Mr. Cuffari, are you aware that nearly half of the employees in the Office of Inspection and Evaluations fear retaliation if they disclose suspected violation of laws, rules, or regulation?

Mr. CUFFARI. You are asking if I am aware of it?

Mr. FROST. Are you aware of that? Are you aware of the fact that 40 percent compared to 43 percent who don't?

Mr. CUFFARI. No, sir.

Mr. FROST. Yes, that is a reality through the survey that you tout. Mr. Cuffari, do you know about the fact that less than half of your staff in the Office of Counsel feel like they can safely disclose suspected wrongdoing?

Mr. CUFFARI. Yes.

Mr. FROST. You are aware of that. Only 45 percent feel like they can disclose that. I find this incredibly alarming, especially when coupled with the fact that you have run away from any efforts to conduct oversight in your office using taxpayer money, $1.4 million, to contract a law firm, to run away from accountability on your part.

And, you know, I have seen weak leaders run from accountability before. In my home state of Florida, right now, Governor Ron DeSantis is saddling taxpayers with billions in legal fees to defend his unlawful policies. With his intimidation, his removal of dissenting officials, he is taking major losses on the backs of taxpayers because private sector officials called out his disastrous agenda. And the Florida legislature has approved a whole new budget to pay for all of his legal losses, but he does not want to answer for that.

And I admit at this point many of us realize that DeSantis gets an F in accountability. However, inspectors general are meant to serve as a safe haven for whistleblowers. How is a whistleblower supposed to trust your office when members of your own staff do not even feel safe to report wrongdoing themselves? I yield to Mr. Ivey.

Mr. IVEY. Mr. Cuffari, I am sorry. I had one question left or a couple of questions left. This is with respect to text messages with respect to your government-issued iPhone.

Mr. CUFFARI. Yes.

Mr. IVEY. Did you delete text messages from your government-issued iPhone?

Mr. CUFFARI. Yes.

Mr. IVEY. OK. Well, when was that?

Mr. CUFFARI. It is my normal practice to delete text messages.

Mr. IVEY. So, you delete them on an ongoing basis?

Mr. CUFFARI. That is correct.

Mr. IVEY. All right. Are they stored anywhere? Not sure?

Mr. CUFFARI. I am not sure.

Mr. IVEY. OK. Well, is it safe to say, based on that at the time you deleted them, you did not know if they were stored in an alternative place? Is that fair?

Mr. CUFFARI. Correct.

Mr. IVEY. All right.

Mr. CUFFARI. It is also fair to note that I do not use my government cellphone to conduct official business.

Mr. IVEY. All right. So, your testimony today is that these text messages that you have deleted, or at least some of them, had no Federal information or any information that would be implicated under the Federal Records Act?

Mr. CUFFARI. Under the Federal Records Act, that is correct.

Mr. IVEY. OK. And so, they have no connection to official business at all?

Mr. CUFFARI. Nothing that would be considered a Federal record.

Mr. IVEY. Well, are you using your Federal phone for personal purposes then?

Mr. CUFFARI. No, sir.

Mr. IVEY. All right. Then what is the purpose for using your government-issued phone?

Mr. CUFFARI. To conduct business.

Mr. IVEY. But not Federal business related to your Department?

Mr. CUFFARI. Not Federal business considering that they are records. It is a clearly defined statute that places requirements on what a Federal record actually is.

Mr. IVEY. All right. So, just a final question. So, you have made a conscious decision with the documents or the messages you deleted that the Federal records laws did not apply to the messages you deleted?

Mr. CUFFARI. The messages that I deleted, I did not consider those to be Federal records, and, therefore, I deleted them. That is correct

Mr. IVEY. OK. Thank you, Mr. Chairman.

Mr. GROTHMAN. Ms. Mace?

Ms. MACE. Thank you, Mr. Chairman. I did not know we were going to be debating 2024 Presidential candidates this morning, but welcome to Congress.

Mr. CUFFARI. Thank you.

Ms. MACE. In 2019, there were just under 17,000 border agents handling an average of 71,000 monthly encounters. As of 2022, border agents decreased to 16,654, but average monthly encounters rose to around 184,000 encounters. In that time, it is no coincidence, there was an over 300 percent increase in known got-aways. Border agent morale is low, border agent retention is low, and this Administration's ability to follow the rule of law is simply in the gutter.

I am very proud of South Carolina. At FLETC, we train Border Patrol agents. I have been to one of their graduations. I know that they put a lot on the line. They work hard, and so the purpose of this hearing today is to talk a little bit about that. Speaking on the condition of anonymity, one agent said, "Under Biden, things are the worst they have ever been by far. Agents are calling in all the time. You always hear, 'It doesn't matter. What is the point?' Agents are afraid of ending up on the news for doing their job or getting in trouble for just doing their job, and there is no morale."

Mr. Cuffari, yes or no, is this the same type of sentiment you found when visiting the Southwest border from our Border Patrol agents?

Mr. CUFFARI. Border Patrol agents have expressed similar comments to me and to my staff.

Ms. MACE. Do you think it is the worst it has ever been for their morale?

Mr. CUFFARI. It has been significantly increased since I started with my Federal civil service in 1993.

Ms. MACE. OK. My next question, do you find agents have become apathetic as their concerns that workplace issues are not being addressed? Are they sort of apathetic when you talk to them?

Mr. CUFFARI. They express frustration. I must say that the Border Patrol and the Immigration and Customs Enforcement agents do a great job every single day of the year, and they are just frustrated.

Ms. MACE. They work very hard, don't they?

Mr. CUFFARI. They do.

Ms. MACE. When you speak with Border Patrol agents, do they blame Agency leadership, do they blame the Administration, or both? The status of the border, I mean, who do they blame for this?

Mr. CUFFARI. They express frustration with both.

Ms. MACE. All right. Mr. Cuffari, I just want to thank you for your time today. I appreciate your work regarding the sad state of affairs that is the Border Patrol agents' morale. I think it is very clear and evident today. It does not take a 65-page report to realize something is wrong. It is self-evident. It is undeniable. Thank you for answering my questions today.

While my colleagues on the other side of the aisle knew this was a problem, their goal has always been to push our Border Patrol issues to the brink of unsustainability, and that is where we are today. What we are doing along our Southern border is completely unsustainable. It is a consistent strategy: never let a good crisis go to waste. And unfortunately, this plan has come at the expense of deadly journeys for migrants, vilification of our border agents, and a less safe country for American citizens.

Last Congress when the left had the House, they had the Senate, they had the White House, on this Committee, I remember having one hearing about the border, and it was about the Northern border where we were getting less than 10,000 illegal immigrants coming across the Northern border every year. And today, you know, we saw even last year, the growth of illegal immigrants coming and crossing over the Southern border daily. It far surpasses, and I hope that Republican leadership can hold this Administration accountable. Thank you, and I yield back my time, Mr. Chairman.

Mr. GROTHMAN. Mr. LaTurner?

Mr. LATURNER. Thank you, Mr. Chairman. I appreciate it, and thank you, Mr. Cuffari, for being here today.

America's Border Patrol agents put their lives on the line to secure our border and halt the flow of illegal immigrants, drugs, weapons and human trafficking from entering our country. For far too long, under this Administration, these brave men and women have been understaffed and without adequate resources to do their job effectively, and that needs to change.

Between fiscal years 2020 and 2022, your recent report found the number of Border Patrol agents guarding the Southwest border fell slightly, while monthly encounters with illegal aliens spiked by a staggering 450 percent. Your report also found that Fiscal Year 2022 set the record for migrant deaths, with more than 800 mi-

grants dying while attempting to cross the Southwest border. These are not just statistics. They represent a very real crisis at the border that remains unaddressed by the Biden Administration.

Unsurprisingly, 88 percent of ICE and CBP agents you surveyed said their duty locations are not adequately staffed to handle the surge of people streaming across our border. And to further compound the problem, 24 percent of respondents said they plan to leave their respective agencies within the calendar year. It is a dangerous and demanding job in the first place, and it is clear from your reporting that morale amongst our border agents is lower than ever before. One agent testified that due to a significant shift in immigration policies from the prior administration, it feels like they are trying to do their job "with one hand tied behind their back."

Mr. Cuffari, amongst the agents you surveyed, which policy changes did they say most hindered their efforts to protect our border?

Mr. CUFFARI. The unknown, lawsuits, there are just a whole wide variety of concerns.

Mr. LATURNER. Would the current number of agents be better able to maintain control of the Southwest border if Remain in Mexico was still in place?

Mr. CUFFARI. More individuals certainly would help stem the flow of illegal immigration.

Mr. LATURNER. I understand that, but the Remain in Mexico policy, if that was still in place, would that help them maintain control of the Southwest border from your observations?

Mr. CUFFARI. I cannot speak to the policy decisions.

Mr. LATURNER. You concluded your report with three recommendations to remedy the staffing shortage at CBP and ICE. The Biden Administration agreed with two of them, but rejected the first under the premise the Agency's staffing models are already sufficient and that your report did not recognize all the DHS initiatives to support its personnel. Do you agree with that assessment?

Mr. CUFFARI. No.

Mr. LATURNER. According to your report, between Fiscal Year 2019 and 2022, there was a 303-percent increase in known got-aways. Is this occurring because there are no agents available to respond?

Mr. CUFFARI. According to the agents who are on the border, yes.

Mr. LATURNER. Your report details that at one Southwest Border station, 15 percent of got-aways in a five-day period occurred because no agents were available to respond. How common of an occurrence is that?

Mr. CUFFARI. To my knowledge, it is a weekly occurrence.

Mr. LATURNER. What impact does the staffing shortage have on efforts to combat human trafficking, drug smuggling, and other illicit activities?

Mr. CUFFARI. A negative impact.

Mr. LATURNER. Given the increasing demand for cybersecurity expertise, what steps is the Department taking to recruit and retain individuals with specialized skills in this area?

Mr. CUFFARI. I believe the Department implemented a H.R. program to provide additional funding, like an enhancement to basic salary for those types of career fields, those jobs that relate to that.

Mr. LATURNER. Are there any partnerships or collaborations with educational institutions or industry to enhance recruitment that you know of specifically?

Mr. CUFFARI. Not that I am aware of, no.

Mr. LATURNER. OK. Your report also detailed CBP and ICE's use of details and overtime as a staffing mechanism. How efficient is this from a budget perspective, and is this an approach that is the best use of taxpayer money?

Mr. CUFFARI. It is driving a huge cost in terms of expenditures of money to the Department.

Mr. LATURNER. My time is about to expire, but I just want to thank you for being here today. I know you have put up with a lot from the other side of the aisle. And the reason that I am so pleased with you being here and the way in which you have conducted yourself is because you have given short answers that center on the facts and the truth as you have observed it, and I appreciate that. You can ask any of my colleagues up here. You know you are getting the runaround when answers are really, really long and do not allow for you to get to all the questions that you have. So, I appreciate you being here today, and I yield back, Mr. Chairman.

Mr. CUFFARI. Thank you.

Mr. GROTHMAN. Thank you. Ms. Porter?

Ms. PORTER. Hello, Inspector General Cuffari. I want to ask you about the Office of Intelligence and Analysis. Are you aware of a domestic intelligence program under OIA that allowed Homeland Security individuals to interview just about anyone in the United States to gather human intelligence?

Mr. CUFFARI. I believe we have an audit into that.

Ms. PORTER. You have an ongoing audit?

Mr. CUFFARI. I believe.

Ms. PORTER. When was it initiated?

Mr. CUFFARI. We are going to have to get back to you, ma'am.

Ms. PORTER. Have you conducted any other oversight of this program, the Overt Human Intelligence Collection Program, specifically?

Mr. CUFFARI. Not that I am aware of, no.

Ms. PORTER. Are you aware of this political article from March 6 of this year, "DHS Has a Program Gathering Domestic Intelligence and Virtually No One Knows About It?"

Mr. CUFFARI. I am not certain that I have seen that one.

Ms. PORTER. Mr. Chairman, I would like to enter this into the record.

Ms. PORTER. This program gives government officials broad discretion to interview any civilian for any reason that they want. Does it concern you that some employees working in this program are so worried about the legality of their actions that they wanted legal liability insurance?

Mr. CUFFARI. That would certainly be a concern.

Ms. PORTER. Are you aware of the workings of this program?

Mr. CUFFARI. No.

Ms. PORTER. Given that it made national news multiple times, why have you not undertaken an audit of this program in the past?

Mr. CUFFARI. As I mentioned, I am going to have to get back to you, ma'am. About when we did or did not open an audit, I am not certain.

Ms. PORTER. As you go about that work, let me give you some facts. There was a survey in 2020. There were 126 respondents, so this is three years ago. Half of the respondents said they alerted managers about their concerns that their work involved activity that was inappropriate or illegal. Are you aware of this survey?

Mr. CUFFARI. No.

Ms. PORTER. The slide deck put together by the Department responded to this fact that half of all respondents said they were concerned their work was inappropriate or illegal. The slide deck said, "There is an opportunity to work with employees to address concerns they have about the appropriateness or lawfulness of a work activity." Do you think it is appropriate for your Agency to work with employees about their concerns about lawfulness, or do you think that your office should be making sure the program is actually lawful?

Mr. CUFFARI. The program that you described, it appears to be at main DHS, so not within the Office of the Inspector General.

Ms. PORTER. Correct. But you as the Inspector General, sir, is your job, like, not to do oversight of main DHS?

Mr. CUFFARI. Oh, most certainly.

Ms. PORTER. OK. So, I am asking you about a program of DHS, and I would like to know why you have not conducted any oversight of it at this time.

Mr. CUFFARI. I thank you for making us aware of it.

Ms. PORTER. You were not aware?

Mr. CUFFARI. I was not.

Ms. PORTER. Are you aware that this program was interviewing incarcerated individuals without their counsel present?

Mr. CUFFARI. No, ma'am.

Ms. PORTER. Is that constitutional?

Mr. CUFFARI. It is unconstitutional.

Ms. PORTER. So, can I have you promise that you will conduct an investigation into this program?

Mr. CUFFARI. You have my commitment that if we do not have an ongoing audit, we will look into the matter that you are describing.

Ms. PORTER. Thank you very much, Mr. Cuffari.

Mr. CUFFARI. You are welcome.

Ms. PORTER. I yield back.

Mr. GROTHMAN. OK. In closing, I would like to thank our panelist for his important and insightful testimony. I will yield to Ranking Member Garcia for his closing remarks.

Mr. GARCIA. Thank you, Mr. Chairman. I want to thank all of my colleagues today for their hard work and certainly to holding our witness accountable for the long history of partisan and improper behavior, for the mishandling of the January 6 investigation, and for his inability to do his critical, important job to its standards.

I want to remind the Committee that this whole hearing is premised on a nonstatistical survey and an opinion article that is disguised as serious oversight. The report is "a non-statistical survey," that cannot be projected to the entire population of CBP and ICE law enforcement officers and agents." This is, again, a report that would not hold muster in any serious survey work. Without making this hearing a lesson on statistical methods and data integrity, if you are not willing to put in place data controls or use the foundational basics of statistics, you are left with the equivalent of a Twitter poll or a Yelp review.

Now, I spent some time studying statistical methods when I did my doctoral work, and this work and this report would never be accepted in a basic stats class. This is not about data from the Department of Homeland Security as you claimed in response to my earlier question. This is about the methods that you chose to publish publicly to push a political argument. This report indicates that you knew the fundamental problems with the report, yet you published it anyway.

Now, our Committee relies on the work of dedicated inspector generals to root out against waste, fraud, and abuse. I also just want to note, and this was actually a very important note from earlier in the hearing, that I am extremely concerned that today, in front of our Committee, and by the way, that oversees the Federal Records Act, that you had admitted to deleting Federal records based upon your own determination. That should concern the Chairman and this entire Committee.

Now, I personally have no confidence in your ability to hold up the mission that you are intended to do. Now, coming here with a study that does not meet the basic standards of data reliability by your own admission should be an embarrassment. An inspector general who does not understand his own duties, who resists basic congressional oversight, who is deleting Federal records, who is under investigation, and who has lost the faith of his workforce has no business serving.

And before I close, Mr. Chairman, I ask unanimous consent to include in the record a letter to both the Chairman and myself from the Project on Government Oversight dated June 6, 2023, that speaks to the continued concerns with the Inspector General and how his inability to perform his job is preventing independent oversight. And I also ask unanimous consent to include into the record a letter from September 2022 from concerned DHS staff, representing every program office at every level, to the President detailing the IG's troubling management of the office, and I want to quote "his disastrous leadership." With that, I yield back.

Mr. GROTHMAN. OK. So ordered.

Mr. GROTHMAN. I think we have kind of a lack of common sense here. As Congressman Biggs said, he has had me down on the border probably six or seven times by himself. I have been down there at other times. We have a situation, which, depending on the metric, contacts at the border, got-aways at the border, people crossing into the border, unaccompanied minors, the number of people coming here is, say, 8 to 10 times what it was two years ago.

So common sense will tell you what the morale is of the Border Patrol. When you have that many more people coming across, you

obviously have a hard time doing your job. A lot of these people are little children. When I am down there, the Border Patrol complains about having to kind of be a babysitter instead of doing what they signed up to be, which is a law enforcement agency.

They uniformly, by the way, say the biggest problem is not the lack of personnel, although they say the lack of personnel is a big problem. The biggest problem is the policies of the Biden Administration and that they got rid of the Remain in Mexico policy. And no matter how many people they have down there, as long as they have this asylum policy, a huge number of people are going to come in here.

Another thing that frustrates them is the degree to which the Mexican cartels run the border. Last time I was down there, me and Congressman Biggs ran into 21 people coming here from Mexico. The reason they came there and the Border Patrol on the way is because the Border Patrol was going to have to process 21 people, including two kids under the age of one. And while they were busy processing them, it opened that segment of the border because they were understaffed to people crossing the border with illegal drugs, which leads to over 100,000 Americans dying every year of illegal drugs because we do not have enough people to both process people and continue to guard the border.

I will remind the Minority that 9,000 people were surveyed here, but you do not need 9,000 people if you are down at the border. You talk to 10 or 20 or 30 Border Patrol agents, you all get the same thing. They are woefully understaffed. And the Biden Administration, their policy when they got rid of Stay in Mexico, was apparently they do not care how many people are coming here, and that results in low morale because they signed up to guard our border, and they are not allowed to guard our border when you have over 100,000 people coming here.

And over time, the arrogance of the people coming here just keeps getting worse. I am struck by Border Patrol telling me people complaining that they have got concert tickets to go somewhere next week and come on, Border Patrol, let's go, let's go, let's go. And it is probably true, but that is who we have coming across. It is so automatic.

So, in any event, I hope in the near budget we get more Border Patrol agents down there so you cannot just send a few families across, tie up the Border Patrol, and then people coming across with drugs that are killing Americans. I also hope somebody in the Biden Administration cares about the fact that getting rid of the Stay in Mexico policy has made it so difficult for these guys to do their jobs, but in any event, I thank you for being here.

With that and without objection, all Members will have five legislative days within which to submit materials and submit additional written questions for the witness, which will be forwarded to the witness for their response.

Mr. GROTHMAN. If there is no further business, without objection, the Subcommittee stands adjourned.

[Whereupon, at 11:58 a.m., the Subcommittee was adjourned.]

4277

TRANSNATIONAL CRIMINAL ORGANIZATIONS: THE MENACING THREAT TO THE U.S. HOMELAND

HEARING

BEFORE THE

SUBCOMMITTEE ON COUNTERTERRORISM, LAW ENFORCEMENT, AND INTELLIGENCE

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

JUNE 7, 2023

Serial No. 118–16

Printed for the use of the Committee on Homeland Security



Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

53–960 PDF WASHINGTON : 2023

COMMITTEE ON HOMELAND SECURITY

MARK E. GREEN, MD, Tennessee, *Chairman*

MICHAEL T. MCCAUL, Texas
CLAY HIGGINS, Louisiana
MICHAEL GUEST, Mississippi
DAN BISHOP, North Carolina
CARLOS A. GIMENEZ, Florida
AUGUST PFLUGER, Texas
ANDREW R. GARBARINO, New York
MARJORIE TAYLOR GREENE, Georgia
TONY GONZALES, Texas
NICK LALOTA, New York
MIKE EZELL, Mississippi
ANTHONY D'ESPOSITO, New York
LAUREL M. LEE, Florida
MORGAN LUTTRELL, Texas
DALE W. STRONG, Alabama
JOSH BRECHEEN, Oklahoma
ELIJAH CRANE, Arizona

BENNIE G. THOMPSON, Mississippi, *Ranking Member*
SHEILA JACKSON LEE, Texas
DONALD M. PAYNE, JR., New Jersey
ERIC SWALWELL, California
J. LUIS CORREA, California
TROY A. CARTER, Louisiana
SHRI THANEDAR, Michigan
SETH MAGAZINER, Rhode Island
GLENN IVEY, Maryland
DANIEL S. GOLDMAN, New York
ROBERT GARCIA, California
DELIA C. RAMIREZ, Illinois
ROBERT MENENDEZ, New Jersey
YVETTE D. CLARKE, New York
DINA TITUS, Nevada

STEPHEN SIAO, *Staff Director*
HOPE GOINS, *Minority Staff Director*
NATALIE NIXON, *Chief Clerk*
SEAN JONES, *Deputy Chief Clerk*

SUBCOMMITTEE ON COUNTERTERRORISM, LAW ENFORCEMENT, AND INTELLIGENCE

AUGUST PFLUGER, Texas, *Chairman*

DAN BISHOP, North Carolina
TONY GONZALES, Texas
ANTHONY D'ESPOSITO, New York
ELIJAH CRANE, Arizona
MARK E. GREEN, MD, Tennessee *(ex officio)*

SETH MAGAZINER, Rhode Island, *Ranking Member*
J. LUIS CORREA, California
DANIEL S. GOLDMAN, New York
DINA TITUS, Nevada
BENNIE G. THOMPSON, Mississippi *(ex officio)*

MICHAEL KOREN, *Subcommittee Staff Director*
BRITTANY CARR, *Minority Subcommittee Staff Director*
ALICE HAYES, *Subcommittee Clerk*

CONTENTS

Page

STATEMENTS

The Honorable August Pfluger, a Representative in Congress From the State of Texas, and Chairman, Subcommittee on Counterterrorism, Law Enforcement, and Intelligence:
Oral Statement 1
Prepared Statement 3
The Honorable Seth Magaziner, a Representative in Congress From the State of Rhode Island, and Ranking Member, Subcommittee on Counterterrorism, Law Enforcement, and Intelligence:
Oral Statement 4
Prepared Statement 6
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security:
Prepared Statement 7

WITNESSES

Mr. Douglas Farah, Founder and President, IBI Consultants:
Oral Statement 9
Prepared Statement 11
Mr. Christopher Urben, Former Assistant Special Agent in Charge of U.S. Drug Enforcement Agency, DEA, and Managing Director, Nardello & Company:
Oral Statement 20
Prepared Statement 21
Ms. Melissa Ford Maldonado, Policy Director, Texas Public Policy Foundation, Secure and Sovereign Texas Campaign:
Oral Statement 24
Prepared Statement 25
Mr. Jason Blazakis, Professor, Middlebury Institute of International Studies, Director, The Center on Terrorism Extremism and Counterterrorism:
Oral Statement 28
Prepared Statement 29

TRANSNATIONAL CRIMINAL ORGANIZATIONS: THE MENACING THREAT TO THE U.S. HOMELAND

Wednesday, June 7, 2023

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON COUNTERTERRORISM,
LAW ENFORCEMENT, AND INTELLIGENCE,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:04 p.m., in room 310, Cannon House Office Building, Hon. August Pfluger (Chairman of the subcommittee) presiding.

Present: Representatives Pfluger, Bishop of North Carolina, D'Esposito, Crane, Jackson Lee, Thanedar, Garcia, and Ramirez.

Mr. PFLUGER. The Committee on Homeland Security, Subcommittee on Counterterrorism, Law Enforcement, and Intelligence will come to order. Without objection, the subcommittee may recess at any time.

The purpose of this hearing is to receive testimony from a nongovernmental panel of expert witnesses to examine the wide-ranging operations of Transnational Criminal Organizations, TCOs, which have expanded both in size and sophistication as well as to explore Federal and other efforts to mitigate and disrupt TCO activities. I now recognize myself for an opening statement.

Good afternoon, and welcome to Subcommittee on Counterterrorism, Law Enforcement, and Intelligence. Today, we are holding an important hearing on the menacing threat posed by Transnational Criminal Organizations, TCOs, to our Homeland Security and public safety. I'd like to thank all of our witnesses for your time and for testifying today.

TCOs are groups or networks of individuals who engage in illegal activities across national borders. They engage in multifaceted criminal enterprise from drug trafficking, to human trafficking, to human smuggling, and other criminal acts. Organized crime is a massive business. In fact, it's a multibillion-dollar business.

TCOs are responsible for trafficking deadly drugs, like illicit Fentanyl and other opioids into American communities fueling violence and corruption and undermining the rule of law. These enterprises exploit our poor Southern Border to advance their criminal agendas as they facilitate and profit off of smuggling and trafficking of people, often victimizing susceptible migrants who are traveling along the treacherous journey from Central and South America to the United States.

According to the DEA, Mexican TCOs, in particular, control smuggling corridors, mainly across the Southwest Border and maintain the greatest drug trafficking influence in the United States. The trafficking of drugs, like illicit Fentanyl into American neighborhoods and communities from Texas to New York by TCOs have contributed to the deaths of hundreds of thousands of Americans. In fact, Fentanyl is the leading cause of death for Americans between the ages of 18 to 45, and these deaths are occurring in every single State in our Nation unfortunately.

The scourge of Fentanyl has hit every single one of our communities. In February, two of my constituents lost their son Jackson Lee Warnick, 17 years old, to Fentanyl poisoning. Jackson's parents had to live through a nightmare that no parent should ever have to endure. Jackson's family has been working tirelessly across the Permian Basin to share their son's story, to help educate other people in the dangers posed by synthetic opioids.

According to the Centers for Disease Control and Prevention, 107,735 Americans died between August 2021 and August 2022 from drug overdoses or from the poisoning of Fentanyl, with the vast majority of those deaths involving synthetic opioids like Fentanyl.

Just this past April, the head of the DEA, Anne Milgram, called the Sinaloa Jalisco New Generation Cartel the greatest criminal drug threat that the United States has ever faced, and that these ruthless, violent criminal organizations have associates, facilitators, and brokers in all 50 States in the United States as well as in more than 40 countries around the world.

These cartels purchase precursor chemicals from China which are shipped to South America and Mexico and using those precursors to produce Fentanyl and even process that Fentanyl into counterfeit prescription pills. The cartels then traffic the drugs from Mexico into the United States for distribution.

To put this in perspective, and as noted recently by the DEA administrator, it cost the cartels as little as 10 cents to produce a Fentanyl-based fake prescription pill that is then sold in the United States for as much as $10 to $30. As a result, the cartels make billions of dollars from trafficking Fentanyl in the United States each year.

Cartels are also beginning to mix Fentanyl with Xylazine, a powerful sedative that the U.S. Food and Drug Administration has permitted for veterinary use. It has licit uses, but it causes fatal overdoses in this country.

It is also important to examine the collaboration between Asian and Mexican TCOs. In particular, the Asian TCOs play a major role in the laundering of the illicit drug proceeds on the behalf of Mexican TCOs. Meanwhile, China has ceased all counterdrug cooperation with the United States, which raises serious concerns about the global effort to curb precursor chemicals from going to Mexico for the manufacturing of illicit Fentanyl.

Additionally, these criminal activities by TCOs extend well beyond drug-smuggling and money-laundering activities. TCOs are also involved in human trafficking, human smuggling, and a wide variety of other crimes.

In fiscal year 2022, Homeland Security Investigation or HSI initiated over 1,300 criminal investigations related to sex trafficking and forced labor resulting in more than 3,650 arrests and 630 convictions. We cannot allow these criminal networks to operate with impunity and endanger our Homeland Security and public safety. We must explore all tools at our disposal to detect, disrupt, and dismantle their operations and hold them accountable for their actions.

As we face a growing crisis at the border, and as TCOs evolve, both in size and sophistication, it is more important than ever that we unequivocally support our dedicated Border Patrol Homeland Security Investigation agents as well as our State and local law enforcement as they work on the front lines to disrupt and dismantle the egregious operations of the TCOs.

This afternoon, I'm pleased to say that we have a distinguished panel of expert witnesses to discuss the TCOs, the grave threat that they pose to our homeland, and to have a debate in front of the American public on the direction that we should go as a whole-of-Government in order to put a stop to this scourge that is causing hundreds of thousands of deaths.

I'd like to thank our witnesses for being with us this afternoon, and I look forward to this discussion on a critical topic.

[The statement of Chairman Pfluger follows:]

STATEMENT OF CHAIRMAN AUGUST PFLUGER

JUNE 7, 2023

Good afternoon, and welcome to the Subcommittee on Counterterrorism, Law Enforcement, and Intelligence. Today we are holding an important hearing on the menacing threat posed by transnational criminal organizations to our homeland security and public safety.

I would like to thank all of our witnesses for testifying today.

Transnational criminal organizations or TCOs are groups or networks of individuals who engage in illegal activities across national borders. They engage in a multi-faceted criminal enterprise from drug trafficking, human trafficking, human smuggling, and other criminal acts.

Organized crime is a massive business. In fact, it is a multi-billion dollar business.

TCOs are responsible for trafficking deadly drugs like illicit Fentanyl and other opioids into American communities, fueling violence and corruption, and undermining the rule of law.

These enterprises exploit our porous Southern Border to advance their criminal agendas, as they facilitate and profit off of the smuggling and trafficking of people, often victimizing susceptible migrants who are traveling along the treacherous journey from Central and South America to the United States.

According to the Drug Enforcement Administration (DEA), Mexican TCOs, in particular, control smuggling corridors, mainly across the Southwest Border and maintain "the greatest drug trafficking influence" in the United States.

The trafficking of drugs like illicit Fentanyl into American neighborhoods and communities from Texas to New York by TCOs have contributed to the death of hundreds of thousands of Americans.

In fact, Fentanyl is the leading cause of death for Americans between the ages of 18 to 45, and these deaths are occurring in every State in our Nation.

The scourge of Fentanyl has hit every single one of our communities. In February, two of my constituents lost their son, Jackson Lee Warnick, age 17, to a Fentanyl overdose. Jackson's parents had to live through a nightmare that no parent should ever have to endure. Jackson's family has been working tirelessly across the Permian Basin to share their son's story to help educate folks on the dangers posed by synthetic opioids.

According to the Centers for Disease Control and Prevention, 107,735 Americans died between August 2021 and August 2022 from drug overdoses, with the vast majority of those deaths involving synthetic opioids like Fentanyl.

Just this past April, the head of the DEA, Anne Milgram, called the Sinaloa and the Jalisco New Generation Cartel the "greatest criminal drug threat the United States has ever faced" and that "these ruthless, violent, criminal organizations have associates, facilitators, and brokers in all 50 States in the United States, as well as in more than 40 countries around the world."[1]

These cartels purchase precursor chemicals from China, which are shipped to South America and Mexico, and using those precursors to produce Fentanyl and even process that Fentanyl into counterfeit prescription pills.[2]

The cartels then traffic these drugs from Mexico into the United States for distribution.[3]

To put this into perspective, and as noted recently by the DEA administrator, "[i]t costs the cartels as little as 10 cents to produce a Fentanyl-laced fake prescription pill that is then sold in the United States for as much as $10 to $30. As a result, the cartels make billions of dollars from trafficking Fentanyl into the United States."[4]

Cartels are also beginning to mix Fentanyl with Xylazine—a powerful sedative that the U.S. Food and Drug Administration has permitted for veterinary use—causing fatal overdoses across the country.

It is also important to examine the collaboration between Asian and Mexican TCOs. In particular, Asian TCOs play a major role in the laundering of illicit drug proceeds on behalf of Mexican TCOs.[5]

The money-laundering tactics used by Asian TCOs involve the transfer of funds between China and Hong Kong, using front companies to facilitate international money movement.[6]

Meanwhile, China has ceased all counter-drugs cooperation with the United States, which raises serious concerns about the global effort to curb precursor chemicals from going to Mexico for the manufacturing of illicit Fentanyl.

Additionally, these criminal activities by TCOs extend well beyond drug smuggling and money-laundering activities. TCOs are also involved in human trafficking, human smuggling, and other crimes.

In fiscal year 2022, Homeland Security Investigations initiated over 1,300 criminal investigations related to sex trafficking and forced labor, resulting in more than 3,650 arrests and over 630 convictions.[7]

We cannot allow these criminal networks to operate with impunity and endanger our homeland security and public safety. We must explore all the tools at our disposal to detect, disrupt, and dismantle their operations, and hold them accountable for their actions.

As we face a growing crisis at the border, and as TCOs evolve in both size and sophistication, it is more important than ever that we unequivocally support our dedicated Border Patrol, Homeland Security Investigations agents, as well as our State and local law enforcement as they work on the front lines to disrupt and dismantle the egregious operations of TCOs.

This afternoon, we have a distinguished panel of expert witnesses to discuss TCOs and the grave threat they pose to the homeland.

Thank you to all our witnesses for being with us this afternoon, and I look forward to our discussion on this critical topic.

Mr. PFLUGER. I would now like to recognize the Ranking Member of the subcommittee, Mr. Magaziner for his opening statement.

Mr. MAGAZINER. Thank you, Chairman. Thank you for calling this hearing on such an important topic and to our witnesses for

---

[1] *Fiscal Year 2024 Request for the Drug Enforcement Administration: Hearing before the Committee on the Appropriations, Subcomm. on Justice, Science, and Related Agencies,* 118th Cong. (Apr. 27, 2023) (testimony of Anne Milgram at 4, Administrator, U.S. Drug Enforcement Administration).

[2] Id.

[3] Id.

[4] Id.

[5] *2020 Drug Enforcement Administration NDTA National Drug Threat Assessment* at 69, (March 2021) available at *https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment_WEB.pdf.*

[6] Id. at 76.

[7] U.S. Dep't of Homeland Sec., *DHS Center for Countering Human Trafficking Releases Fiscal Year Annual Report (Jan. 31, 2023), https://www.dhs.gov/news/2023/01/31/dhs-center-countering-human-trafficking-releases-fy-2022-annual-report.*

being here today and for your work and your expertise. I am glad that we are having this hearing to examine threats posed by Transnational Criminal Organizations to the U.S. homeland.

TCOs are broad-ranging, originate all over the globe, and engage in many forms of criminal activity, from drug and arms trafficking, to human smuggling, to cyber crime, and illegal fishing and mining. In carrying out criminal activity, TCOs are often violent, degrading the security and stability of the countries they have a presence in, harming and killing civilians of those countries, and threatening the national security of the United States.

In our neighboring country of Mexico and in Central and South America, violent crime has steadily been on the rise at the hands of drug trafficking organizations. It has been estimated that between 40 and 65 percent of all homicides in Mexico are organized-crime-related. It is possible that the percentage is higher. As it is well-known that the cartels have threatened journalists and government officials in attempts to cover up the identities of homicide victims.

Mexican citizens are unfortunately not alone in living in fear of extreme violence under TCOs. Guatemala, Honduras, and El Salvador have some of the highest homicide rates in the world. Women and girls are disproportionately affected by TCO violence.

In response, Central Americans and Mexicans flee their homes to avoid the threat of violence, and often travel to the U.S. Border for safety. More than 2 million people are estimated to have left El Salvador, Guatemala, and Honduras from 2014 through 2022. Many hoping to escape the violence in their home countries end up facing danger and extortion from TCOs on their journey.

TCOs are connected to migrant smugglers who will charge a fee before allowing the smugglers and migrants to pass through territories under their control. Streamlining asylum processing and allowing migrants to apply for legal protection before they get to our border is a smart policy that is good for our national security, because it undermines the financial model of human traffickers and creates more order at our border and points of entry. I am encouraged that the administration is exploring these policies, so that those who are eligible for legal asylum don't have to make the dangerous journey under the extortion of smugglers. Those who are not eligible can find out—because as we all know the cartels and the smugglers, the traffickers will tell people anything in order to convince them that if they do come to the United States, they'll have no problem getting in, even what that's not true.

So by creating these opportunities, we can undercut the cartels' ability to exploit traffic and profit from vulnerable people.

It is also critical that the United States collaborate with our partners in Mexico and Central America to stop the primary harm from TCOs to the U.S. homeland illicit drug trafficking. Mexican drug traffickers are the primary wholesalers of U.S.-bound cocaine from the major supply countries of Colombia, Peru, and Bolivia, and are also largely responsible for the procurement of Fentanyl precursors from China, and control the cross-border trafficking of Fentanyl, a drug DEA Administrator Anne Milgram has declared the single, deadliest drug threat our Nation has ever encountered.

As we hold today's hearing, we also need to focus on another source of the cartels' strength, the illegal export of guns from the United States across our Southern Border. ATF estimates that as many as 597,000 firearms are trafficked from the United States into Mexico each year, 597,000 each year. It is shameful, and it is fueling the cartels' violence which only exacerbates the problems we face here at home. We cannot call ourselves fully committed to the fight against threats posed by transnational crime groups, particularly, those operating in Mexico and Central America until we act on illegal gun trafficking.

So my hope for today's hearing, in addition to objectively examining the TCO threat landscape, is that we begin a discussion in how we in Congress can support the U.S. Government's efforts to stifle the cartel and all TCO activity. It is critical that we examine the efforts of the Department of Homeland Security, which through several components, including Homeland Security Investigations, and the Office of Intelligence and Analysis, develop intelligence, interdict illicit money and goods, and investigate the TCOs. We must ensure that DHS has the resources and the authorities it needs to protect Americans from TCO violence. With that, once again, I thank the witnesses for being here, and I yield back.

[The statement of Ranking Member Magaziner follows:]

STATEMENT OF RANKING MEMBER SETH MAGAZINER

JUNE 7, 2023

I am glad to be holding this hearing to examine threats posed by transnational criminal organizations to the U.S. homeland. TCOs are broad-ranging, originate all over the globe, and engage in many forms of criminal activity, from drug and arms trafficking to human smuggling to cyber crime and illegal fishing and mining. And in carrying out criminal activity, TCOs are often violent—degrading the security and stability of the countries they have a presence in, harming and even killing citizens of those countries, and threatening the national security of the United States.

In our neighboring country of Mexico, and in Central America, violent crime has steadily been on the rise at the hands of drug trafficking organizations. It has been estimated that between 40 and 65 percent of all homicides in Mexico are organized-crime-related, and it is possible that the percentage is much higher—as it is well-known that the cartels have threatened journalists and Mexican government officials in attempts to cover up the numbers and identities of homicide victims.

Mexican citizens are unfortunately not alone in living in fear of extreme violence under TCOs. Guatemala, Honduras, and El Salvador have some of the highest homicide rates in the world, and women and girls are disproportionately affected by TCO violence. In response, Central Americans and Mexicans flee their homes, to avoid the threat of violence, and travel to the U.S. border. More than 2 million people are estimated to have left El Salvador, Guatemala, and Honduras from 2014–2022. Many—hoping to escape violence in their home countries—end up facing danger and extortion from TCOs on their journey. TCOs are connected to migrant smugglers and will charge a fee before allowing the smugglers and migrants to pass through territories under their control.

Streamlining asylum processing and allowing migrants to apply for legal protection before they get to our border is smart policy that is good for our national security because it undermines the financial model of human traffickers and creates more order at our border and points of entry. I am encouraged that the Biden administration is exploring these policies in the interest of American security.

So far, I have also been pleased with the Biden administration's handling of Title 42's expiration, as recent numbers indicate encounters are down significantly since the week of its expiration, and even lower than the average daily encounters in March. This is further evidence that expanding legal pathways for migrants and a more humane approach to our immigration system is better for our country and better for migrants. By creating further opportunities, we can undercut the cartels' ability to exploit, traffic, and profit from vulnerable people.

It is also critical that the United States collaborate with our partners in Mexico and Central America to stop the primary harm from TCOs to the U.S. homeland—illicit drug trafficking. Mexican drug traffickers are the primary wholesalers of U.S.-bound cocaine from the major supply countries of Colombia, Peru, and Bolivia. We also know that the Mexican cartels are largely responsible for the procurement of Fentanyl precursors from China and control the cross-border trafficking of Fentanyl—a drug DEA Administrator Anne Milgram has declared "the single deadliest drug threat our Nation has ever encountered."

As we hold today's hearing we also need to focus on another source of the cartel's strength: the illegal export of guns from the United States across our Southern Border. ATF estimates that as many as 597,000 firearms are trafficked from the United States into Mexico each year.

Five hundred ninety-seven thousand. Each year.

It is shameful and it is fueling the cartels' violence, which only exacerbates the problems we face here at home. We cannot call ourselves fully committed to the fight against threats posed by transnational crime groups—particularly those operating in Mexico and Central America—until we act on illegal gun trafficking.

My hope for today's hearing—in addition to objectively examining the TCO threat landscape—is that we begin a discussion on how we in Congress can support the U.S. Government's efforts to stifle cartel activity. It is also critical that we examine the efforts of the Department of Homeland Security, which through several components, including Homeland Security Investigations and the Office of Intelligence & Analysis, develop intelligence, interdict illicit money and goods, and investigate various TCOs. We must ensure that DHS has the resources and the authorities it needs to protect Americans from TCO violence.

Mr. PFLUGER. Thank you, Ranking Member Magaziner. Other Members of the committee are reminded that opening statements may be submitted for the record.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JUNE 7, 2023

I am pleased the subcommittee is exploring threats to the homeland from transnational criminal organizations (TCOs) and the fact that violence perpetrated by TCOs is one of many reasons that people migrate to the U.S. Southern Border. Violent crime has caused thousands across the globe to flee in fear for their lives, particularly in Central America, a region that experiences some of the highest crime rates in the world.

As migrants seek a better, safer life, and embark on a journey to the United States, they face extortion and violence on migration routes through Mexico which the cartels control and charge large sums to allow the migrants to pass.

Increasingly, we hear awful stories of migrants being assaulted, robbed, abandoned, and even murdered along the way. Some experts assess that the increased violence toward and extortion of migrants may be a result of heightened profit competition among the various cartels. That is important for us to factor into today's conversation—the cartels are profit-driven. They are violent, and criminal, but they are not political. They act with callousness toward migrants, perpetrate horrendous acts of gun violence, profit from illicit drug trafficking at the expense of American lives, and disrupt the much-needed border trade helping to lift millions of our Latin American neighbors out of poverty.

However, designating Mexican cartels as Foreign Terrorist Organizations will do nothing to stop them. They are not deterred by anything unless it affects their bottom line—which terrorist designations will not accomplish. What designating these transnational criminal organizations as terrorists will succeed in is damaging our relationship with the government of Mexico. Comments from Republicans suggesting we invade Mexico only make matters worse.

As I have said before, and will say again, it is high time the Majority stop focusing on trying to score political points—especially when those "points" work to our Nation's detriment. I urge my colleagues across the aisle to join Democrats in seeking real solutions to address the threats posed by heinous TCOs. For example, we ought to reinstate the interagency Joint Task Force-Investigations—which coordinated efforts across the Federal Government to dismantle TCOs, prevent their reconstitution, and reduce illicit flows. Unfortunately for us and fortunately for the cartels, the Trump administration shut this task force down.

We must improve the Department of Justice's Transnational Organized Crime Actor Detection Program.

At my request, the Government Accountability Office recently conducted a review of this program and recommended that DOJ build on its success by increasing participation and information sharing among partner agencies and developing analysis from the shared data.

We must support DHS's surge operation against Fentanyl, known as "Operation Blue Lotus," which in its first month of operation stopped over 4,000 pounds of Fentanyl at ports of entry, where more than 90 percent of Fentanyl is trafficked.

We must also support our Customs and Border Protection officers at points of entry since they are on the front lines of the battle against Fentanyl.

Democrats were disappointed to see Republicans vote down our amendments to their border bill that would have authorized Operation Blue Lotus and ensured CBP is well-staffed and resourced to seize Fentanyl.

I am hopeful we can begin to work together to further address the dangers posed by the cartels.

Mr. PFLUGER. I am pleased to have the distinguished panel of witnesses before us today on this very important topic, and I ask our witnesses to please rise and raise their right hands.

[Witnesses sworn.]

Mr. PFLUGER. Thank you. You may be seated. Let the record show that the witnesses have answered in the affirmative.

I would now like to formally introduce our witnesses. Mr. Douglas Farah is the founder and president of IBI Consultants, a security consulting firm that specializes in field research study and security challenges in transnational organized crime in Latin America. From September 2013 to September 2022, Mr. Farah was a visiting senior fellow at the Center for Strategic Research, the National Defense University, where he led the Western Hemisphere Illicit Network Review Project under the auspices of Deputy Secretary of Defense for counter narcotics and global threats. In that position, Mr. Farah briefed his research findings across the interagency and intelligence communities, including U.S. Southern Command.

Farah also testified before Congress more than a dozen times on important matters related to Western Hemisphere and U.S. homeland. Thank you.

Mr. Christopher Urben is a former assistant special agent in charge of U.S. Drug Enforcement Agency, DEA. Currently, he is the managing director of Nardello & Company in which Mr. Urben supports the firm's efforts to target organized crime groups operating in the ports and borders of the United States, Mexico, Panama, and Colombia. Mr. Urben started his career with DEA in 1996 as a special agent in the New York division. He was later assigned to the New Jersey division where he worked on several high-profile investigations involving Colombian and Mexican drug cartels. Mr. Urben also served on two overseas tours in Europe, working with international law enforcement agencies.

Mr. Urben's most recent position was assistant special agent in charge of the Special Operations Division for Europe, Africa, the Middle East, and the Far East. In particular, Mr. Urben has led sensitive global undercover DEA operations that targeted Chinese organized crime groups that facilitated money laundering for Mexican drug cartels. Thank you for being with us.

Ms. Melissa Ford is the policy director for the Texas Public Policy Foundation's secure and sovereign Texas campaign which helps

to keep our country safe and free. Ms. Ford's work is focused on policies that secure the border and restore the rule of law.

Prior to joining the foundation, Ms. Ford served at the White House first in the Office of American Innovation, and later in the Domestic Policy Council. Ms. Ford has written extensively about foreign policy, public safety, drug cartels, and organized crime. Thank you for being with us.

Last, Mr. Jason Blazakis is a professor at Middlebury Institute of International Studies where he focuses on threat financing, sanctions, and violent extremism, and special operations-related research. He is the director of the Center on Terrorism Extremism and Counterterrorism where he directs research on domestic terrorism, terrorism finance, recruitment propaganda, and the use of special operations to counter transnational threats.

In 2008 to 2018, he served as the director of Counterterrorism Finance and Designations Office, Bureau of Counterterrorism, U.S. Department of State.

I would like to welcome all of our witnesses and thank you for your professional experience.

I know that you have submitted statements for the record. Some of those will exceed 5 minutes. In the interest of time, please summarize your statements to 5 minutes so that we go along the committee lines here and ask questions.

I now recognize Mr. Douglas Farah for your 5 minutes in an opening statement.

STATEMENT OF DOUGLAS FARAH, FOUNDER AND PRESIDENT, IBI CONSULTANTS

Mr. FARAH. Thank you, Chairman Pfluger and Ranking Member Magaziner, and Members of the subcommittee for the opportunity to be here today talk about the issue of Transnational Criminal Organizations and the threats they pose to their homeland. The multi-billion-dollar illicit economies in Latin America centered on the cocaine trade but diversifying to new commodities and activities are undergoing profound restructuring with long-term strategic repercussions for United States and its allies in the hemisphere.

New actors, new markets, and new products are driving fragmentation among traditional groups, consolidation of criminalized economies, and convergents among different actors are driving instability and corruption. The growing ideologically-agnostic criminalized authoritarian model that's spreading across Latin America with leaders staying in power through alliances with transnational criminal structures that render ideology almost meaningless.

While the world of illicit economies and TCO structures are undergoing the seismic realignment across the hemisphere, many of our strategies to combat these threats remain rooted in the past.

Much of the law enforcement and intelligence community analysis do not grasp the significant implications of states and governments that actively seek the participation of TCOs as part of their national strategic endeavors. Often relying on old paradigms of ideologically-driven actors, model product cartel structures, and shared values of once-friendly government. Yet, as General Richardson, the commander of USSOUTHCOM recently stated, the

Western Hemisphere is under assault from "A host of cross-cutting trans boundary challenges that directly threaten the homeland."

Already the staunchly anti-U.S. bloc of countries led by Venezuela is ensconced in power, while deeply corrupt authoritarian governments in El Salvador, Guatemala, and Honduras are no longer viable partners for the United States.

In Colombia, which has been the strongest partner of the United States for the past three decades, President Gustavo Petro campaigned on moving away from that alliance, and since taking office has consistently bolstered the Maduro regime in Venezuela.

Most of Colombia's counter-narcotics efforts have been brought to a standstill by budget cuts, loss of experience, personnel, and a lack of political will. This leaves us with the very real possibility of a traditionally robust alliance that U.S. strategic partners in Latin America will be reduced to a handful of the smallest countries rather than regional economic and political leaders.

Amid these changes, new actors such as Albanian organized crime, Turkish criminal groups, Libyan fixer groups, and Italian mafia groups are emerging as significant new players across the region changing the dynamics of the traditional criminal economics and offering new paths to expand profits to product and market diversification.

I and my colleagues at the international coalition against illicit economies in the spring 2023 policy brief identified several emerging threats that we believe need to be dealt with quickly. The first is the trafficking of natural resources, especially gold. That is a primary contributor to massive environmental degradation, health hazards, child labor, human trafficking, and sexual slavery, and loss of state legitimacy. It also brings broad new avenues of almost untraceable money laundering that's being taken advantage of by criminalized states and criminal groups.

The second is the diversification and the expansion of the cartels, Jalisco Nueva Generacion. Jalisco in the past 3 years has emerged as the most prominent cocaine trafficking organization in Latin America and is expanding its operation and corruptive influence in different parts of the world. A primary area of expansion is into the diversified economic portfolio of growing fake and counterfeit pharmaceuticals, a new multibillion-dollar industry, as well as the Fentanyl industry mentioned by the Chairman and the Ranking Member.

The second is the evolution of the MS–13 and the PCC gangs and the Transnational Criminal Organizations. Since the 1990's, the MS–13 are Mara Salvatrucha in Central America and the PCC. In Brazil, it has been identified primarily as street thugs knows for their ruthless violence, flashy tattoos, neighborhood extortion rings, and cultural insularity. These groups have now moved far beyond being that type thing and are what we have termed in the academic community, Community Embedded Transnational Armed Groups. Working in informal and imperfect alliances to become part of the multinational trafficking structures that are effectively challenging U.S. strategic interest in the region and make the U.S. ability to respond to the broadening instability much more difficult.

The third one that we identified is the emergence of new extra regional criminal structures as noted with the diversification of

markets and products. The face of transnational organized crime in Latin America is going much more diverse.

Now, there is a growing presence of Eastern European, Chinese, Turkish, Italian, Balkan, syndicates all vying for space across the transnational criminal world in the hemisphere, and this is most visible in the crisis in Ecuador.

In conclusion, as illicit networks expand their territorial control, ecosystems of corruption, and political power, they are aided and abetted by extra regional actors, such as China, Russia, and Iran. They will undercut the rule of law and directly challenge U.S. goals and initiatives across the hemisphere.

As traditional Transnational Organized Criminal Groups form new alliances with non-state extraregional networks and emerge with regional criminal state actors, the United States is very likely facing an unprecedented loss of key allies and influence in the hemisphere. The United States has an underutilized toolbox that can be deployed to reverse these worrisome trends, but new policy initiatives back by resources to carry them out must be deployed quickly or the cost of these trends will be even higher. I thank you for your time.

[The prepared statement of Mr. Farah follows:]

PREPARED STATEMENT OF DOUGLAS FARAH

JUNE 7, 2023

Chairman Pfluger, Ranking Member Magaziner, and Members of the subcommittee: Thank you for the opportunity to discuss with you today the issue of Transnational Criminal Organizations and the threat they pose to the homeland.

The multi-billion dollar illicit economies in Latin America, centered on the cocaine trade but diversifying to new commodities and activities, are undergoing profound restructuring with long-term strategic repercussions for the United States and its allies in the hemisphere.

New actors, new markets, and new products are driving fragmentation among traditional groups, consolidation of criminalized economies within the Bolivarian Joint Criminal Enterprise (BJCE)[1] and convergence among different actors that are driving instability and corruption.

The growing, ideologically agnostic criminalized authoritarian model is spreading across Latin America. Authoritarian cliques are staying in power through alliances with transnational criminal structures that renders ideology almost meaningless. This new approach has opened new possibilities for formerly antagonistic groups. One-time ideological opponents are no longer considered enemies, but potential partners who can provide or purchase specific criminal services and financial rewards.

The sustained ability of the Bolivarian authoritarian criminal structures to consolidate and endure in Venezuela, Nicaragua, Bolivia and elsewhere has emboldened new leaders across the political spectrum. These new leaders follow the same playbook to gain a chokehold on state power and the wealth generated by the alliance of states and transnational criminal organizations (TCOs).

This necessitates using the same type of state partnership with an array of illicit actors in order to generate revenues, withstand U.S. economic sanctions, evade accountability and maintain a grip on power. Because they are politically agnostic, leaders of criminalized states often merge across ideological boundaries to move their illicit products or hide their illicit fundings through a shared network of fixers and facilitators.

This dynamic cripples democratic governance and the rule of law by embedding the criminal alliances at the most senior levels of multiple governments. Weakened democratic governance and growing criminal authoritarianism, in turn, greatly un-

[1] We define the Bolivarian Joint Criminal Enterprise as an alliance of criminalized states and non-state actors, led by the Maduro regime in Venezuela, the Revolutionary Armed Forces of Colombia (FARC) in Colombia and the Daniel Ortega regime in Nicaragua. For a full discussion of the BJCE see IBI Consultants deliverable for DAS–D CNGT March 28, 2019, "Maduro's Last Stand: Venezuela's Survival Through the Bolivarian Joint Criminal Enterprise."

dermine U.S. strategic interests and influence by undermining its key allies in the region.

While the world of illicit economies and TCO structures are undergoing a seismic realignment across the hemisphere, many of our strategies to combat these threats remains rooted in the past, often attacking problem sets and issues that were relevant years ago but are no longer are part of the landscape.

Much of the law enforcement and intelligence community analysis do not fully grasp the significant implications of the ideologically agnostic criminalized states—that is, states and governments that actively seek the participation of TCOs as part of their national strategic endeavors. This leads to gaps in understanding how illicit activities are undertaken and who profits from them. The law enforcement and intelligence communities often rely on old paradigms of ideologically-driven actors, mono-product cartel structures, and shared values with once-friendly countries. Unfortunately, these paradigms no longer describe the context that allows these illicit economies to flourish, and they do not help law enforcement develop viable strategies to address them.

Few states are wholly criminalized and most operate along a continuum. At one end are strong criminalized states, where the state acts as a partner of TCOs and/or use TCOs as an instrument of state policy. In addition to Venezuela, Nicaragua, Bolivia, and Cuba of the Bolivarian bloc these include the countries of the Northern Triangle of Central America (El Salvador, Honduras, Guatemala); while Paraguay and Argentina are moving closer to that end of the spectrum.

At the other end are weak and captured states, where certain nodes of governmental authority have been seized by TCOs, where officials are the primary beneficiaries of the proceeds from the illicit activity but where the state as an entity is not integrated into the enterprise.[2]

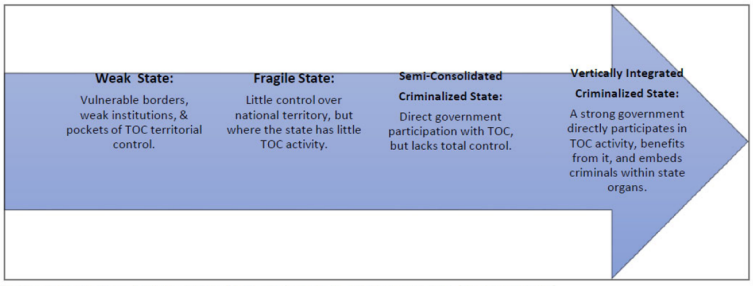


Figure 1: Continuum of state capture from weak state to criminalized state (IBI Consultants)

The framework of the convergence paradigm posits that multiple transnational criminal and terrorist groups—and their enablers, regardless of ideology—work collaboratively when economic or political interests align, and under state protection when such cooperation is mutually beneficial.[3] In too many places in the hemisphere, these threat networks co-opted governance structures and penetrated key public institutions and markets. Yet this framework, although repeatedly validated in recent years, is seldom used to analyze threat structures and illicit product pipelines.

The result is that now Latin America is facing a "perfect storm of reinforcing economic, criminal, and political stresses that is eroding its institutions and economic prospects, radicalizing its people, and undermining its commitment to democracy and the rule of law."[4]

The massive levels of corruption and multiple, persistent armed conflicts among and between state and non-state actors are key drivers of the regional decline in

[2] Douglas Farah, "Transnational Organized Crime, Terrorism and Criminalized States in Latin America: An Emerging Tier-One National Security Priority," U.S. Army War College, Strategic Studies Institute, August 2012, accessed at: *https://press.armywarcollege.edu/cgi/viewcontent.cgi?article=1551&context=monographs*.

[3] For an examination of convergence theory see: Michael Miklaucic and Jaqueline Brewer, eds. *Convergence: Illicit Networks and National Security in the Age of Globalization* (Washington, DC, NDU Press, 2013); Douglas Farah, "Convergence and Criminalized States: The New Paradigm," in *Beyond Convergence: World Without Order,* Ed. Hilary Matfess and Michael Miklaucic, Center for Complex Operations, NDU Press, October 2016.

[4] Evan Ellis, "Latin America's Perfect Storm," Global Americans, August 31, 2022, accessed at: *https://theglobalamericans.org/2022/08/latin-americas-perfect-storm/*.

democratic governance and the wave of authoritarian populism in the hemisphere. The Biden administration designated corruption as a "core United States national security interest" in December 2021,[5] noting that

"In today's globalized world, corrupt actors bribe across borders, harness the international financial system to stash illicit wealth abroad, and abuse democratic institutions to advance anti-democratic means . . . Corruption threatens United States national security, economic equity, global anti-poverty and development efforts, and democracy itself."[6]

While the United States has revoked the U.S. visas of several dozen Latin American leaders for corruption, these are executed in a haphazard, episodic manner that do not dismantle criminal structures or lead to asset forfeiture, the true life blood of the corrupt. Significantly more political will and a broader, more coordinated and coherent set of enforcement efforts will have to be employed to dismantle kleptocracies and criminal ruling elites.

This significant reordering of illicit networks structure in the Western Hemisphere is not taking place in a vacuum. The malign influence of China, Russia, and Iran adds new layers of complexity to regional anti-crime strategies.

This is in part because, at the same time illicit economies are expanding, traditional U.S. allies are shifting away from strategic partnerships with the United States to either openly antagonistic relationships or ones of dramatically less strategic engagement.

As Gen. Richardson, commander of U.S. Southern Command, recently stated, the Western Hemisphere is under assault from "a host of cross-cutting, transboundary challenges that directly threaten" the homeland. She added that:

"Transnational criminal organizations (TCOs), which operate nearly uncontested, and blaze a trail of corruption and violence that create conditions that allow the PRC and Russia to exploit, threaten citizen security, and undermine public confidence in government institutions. These threats, along with Iran, corruption, irregular migration, and climate change, all overwhelm the region's fragile state institutions, springing unrest and increasingly frustrated populations. This combination of factors pushes many political leaders to seek resources and support from all sources, including our adversaries who are very eager to undermine U.S. presence and public image."[7]

Already the staunchly anti-U.S. bloc of the BJCE is ensconced in power in Venezuela, Bolivia, and Nicaragua while deeply corrupt authoritarian governments in El Salvador, Guatemala, and increasingly Honduras, are no longer viable partners for the United States.

In Argentina, President Alberto Fernández announced his country as the gateway to Russian expansion in the hemisphere on the eve of the Russian invasion of Ukraine and following a face-to-face meeting with Vladimir Putin.[8] He has also granted the PRC privileged access to strategic Argentine state infrastructure and key minerals. These concessions included the construction of an autonomous deep space station, control of a key access point to Antarctica, and access to lithium deposits under opaque contracts.

Brazil's right-wing populist leader Jair Bolsonaro also visited Russia just before the invasion of Ukraine. Bolsonaro declared his solidarity with Russia after meeting Putin and falsely bragged that he had negotiated a peaceful resolution to the looming conflict.[9]

In a sequence that clearly demonstrates blurred ideological lines, Bolsonaro's successor, long-time leftist leader Luiz Inácio Lula da Silva (Lula), went out of his way to downplay Russia's aggression in Ukraine, declare the United States was partly

---

[5] "Strategy on Countering Corruption," The White House, December 2021, accessed at: *https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf.*

[6] United States Strategy on Countering Corruption, December 2021.

[7] Statement of General Laura Richardson, Commander, United States Southern Command, Before the 117th Congress, House Armed Services Committee, March 8, 2022, accessed at: *https://www.southcom.mil/Media/Special-Coverage/SOUTHCOMs-2022-Posture-Statement-to-Congress/.*

[8] Federico Rivas Molina, "Alberto Fernández le ofrece a Rusia que Argentina sea su puerta de entrada a América Latina," El País, February 4, 2022, accessed at: *https://elpais.com/internacional/2022-02-04/alberto-fernandez-le-ofrece-a-rusia-que-argentina-sea-su-puerta-de-entrada-a-america-latina.html.*

[9] Giovanna Galvani, "Bolsonaro em encontro com Putin: 'Somos solidários á Russia," CNN Brasil, February 16, 2022, accessed at: *https://elpais.com/internacional/2022-02-04/alberto-fernandez-le-ofrece-a-rusia-que-argentina-sea-su-puerta-de-entrada-a-america-latina.html.*

to blame for Russia's actions, and publicly embraced Maduro and the region's other authoritarian regimes.[10]

In Colombia, which has been the strongest partner of the United States over the past three decades, President Gustavo Petro campaigned on moving away from that close alliance. Since taking office, Petro has consistently bolstered the Maduro regime in Venezuela and used his large social media following to repeat Russian propaganda talking points. Most of Colombia's counter-narcotics efforts have been brought to a standstill by budget cuts, loss of experienced personnel, and lack of political will.

This opens the door to the real possibility that the traditionally robust alliance of U.S. strategic partners in Latin America will be reduced to a handful of the smallest countries rather than regional economic and political leaders.

This erosion of alliances comes while traditional actors in criminal economies have remained active—including the Sinaloa Cartel (Mexico), the Cartel Jalisco Nueva Generación—CJNG (Mexico), and several thousand dissident members of the Revolutionary Armed Forces of Colombia—FARC (Colombia/Venezuela/Ecuador) divided into different groups.

Amid these changes, new actors such as Albanian organized crime, Turkish criminal groups, Libyan actors, and other mafia groups are emerging as significant new players. These groups are changing the dynamics of traditional criminal economies, challenging and upsetting current relationships, and offering new paths to expand profits through product and market diversification. Each group brings added prospects of globalization for products, money laundering, and exchanges of lessons learned.

New actors, new markets, and new products are driving fragmentation among traditional groups, consolidation of criminalized economies within the BJCE and convergence and competition among different actors that are driving instability and corruption. The Mexican CJNG has displaced the Sinaloa cartel as the dominant criminal network, expanding its illicit pipelines from primarily trafficking in cocaine to dominating Fentanyl markets, fake pharmaceuticals, precursor chemicals, methamphetamines, and a host of other products.

Traditional criminal actors based in Colombia and Mexico are now competing with—and sometimes collaborating with—new actors such as transnational gangs in Brazil and Central America, as well extra-regional, non-traditional actors. New actors such as Albanian organized crime, Turkish criminal groups, Libyan actors and Italian mafia groups are emerging as significant new players that are changing the dynamics of these traditional groups, challenging and upsetting current relationships, and offering new paths to expand profits through product and market diversification. Each group brings added prospects of globalization for products, new technologies, money-laundering methodologies, and exchanges of lessons learned.

As attention in the United States is focused heavily on the Russia-Ukraine conflict, and will likely remain so for the foreseeable future, the space for criminal actors and state-sponsored criminal groups to expand under the protection of regional and extra-regional governments will likely continue to grow.

Among the most visible effects of the on-going reordering of illicit economies and networks in Latin America under the protection of a criminalized state is the massive refugee and humanitarian crisis arising from the Maduro regime's repression, corruption, and mismanagement. Some 6 million people have fled Venezuela in the past 5 years, with more than half remaining in camps in Colombia and millions more scattered around the region. This crisis is not the focus of this report but must be noted not only because of the human toll, but because supporting the Venezuelan migrant community strains the humanitarian resources of surrounding countries.

Long-term results of these two major blows to the regions' economies has been to force the state to retrench, leaving broadening gaps for illicit economies to flourish while empowering non-state armed actors that can replace the state. These issues, in turn, make finding viable, sustainable strategies to combat these trends in the near- and mid-term very difficult, even in the countries where the political will to do so exists.

In this context I and my colleagues at the International Coalition Against Illicit Economies (ICAIE), where I am a senior adviser, in a recent Spring 2023 Policy Brief *(https://icaie.com/2023/04/spring-icaie-policy-brief-emerging-transnational-organized-crime-threats-in-latin-america-converging-criminalized-markets-illicit-vectors/)* identified several emerging security trends that offer new challenges to law enforcement and policy communities in the region that are far-reaching, and threat-

[10] Will Grant and Jaroslov Lukiv, "Lula welcomes back banned Venezuelan leader Maduro," BBC News, May 30, 2023, accessed at: *https://www.bbc.co.uk/news/world-latin-america-65750537.*

en to accelerate the negative trends unless dealt with effectively. I summarize our findings in the Policy Brief, below.

Trafficking in Natural Resources.—The illicit trafficking of natural resources not only opens new revenue streams for transnational criminal organizations and money-laundering avenues, but it is a primary contributor to massive environmental degradation, health hazards, child labor, human trafficking and loss of state legitimacy. The most lucrative commodity is gold—especially illegally-mined gold—a largely unregulated trade booming across the hemisphere from Venezuela, Colombia, Ecuador, Guyana, and in the north to the Madre de Dios regions of Peru and Bolivia and the Amazon Basin in Brazil.

Gold has several advantages that make it increasingly attractive to criminal groups as the formal financial system has put anti-money laundering laws and regulations in place. As the Organization of American States (OAS) noted in a series of reports, illicit gold mining provides fungible assets that are easy to transport, largely impossible to trace once out of the ground, and readily convertible in markets around the world.[11]

The price of gold has risen sharply in recent years, meaning in many places, mining gold illegally is more profitable for miners in the jungles of South America than planting coca crops to produce cocaine.[12] If gold is moved at 95 percent purity or below it does not legally have to be declared a financial instrument. This makes it easy to move nearly pure gold to a financial hub without declaring it, refine it in situ and have gold that can be turned into cash immediately in ways that avoid the formal banking system. This process enables criminals and kleptocrats to exploit gold markets as a way to launder dirty money.

The Maduro regime in Venezuela has raised hundreds of millions of dollars through the sale of illegally mined gold, often with the support or proxy actions of Colombian non-state armed actors affiliated with different groups of the Revolutionary Armed Forces of Colombia (FARC) dissident factions. Large gold refineries in the United Arab Emirates, United States, and elsewhere have been sanctioned for their massive failure of their own "know your customer" rules and due diligence. One refinery in Suriname helped the FARC, the Maduro regime, and Mexican cartel launder hundreds of millions of dollars through illicit gold and falsified gold invoices.[13]

As U.S. pressure to stem the flow of what human rights groups and others call "blood gold" to the international market has increased, growing amounts of gold have flowed from Venezuela, Nicaragua, Suriname, Ecuador, and elsewhere to state actors and criminal enterprises operating outside of the hemisphere, including Turkey, China, Kenya, the United Arab Emirates and elsewhere.[14] In recent years, China has become an increasingly important market for gold mined by the Maduro regime, which often the allied regime of Daniel Ortega in Nicaragua to move the gold to market.[15] A group of Libyan middlemen who had long ties to the Gadhafi regime's sanctions evasion efforts in the 1990's are key facilitators in this new criminal convergence space.[16]

The Ascent, Diversification, and Expansion of the Cartel Jalisco Nueva Generación (CJNG): The CJNG in the past 3 years has emerged as the most promi-

---

[11] "Tipologías y señales de alerta relacionadas con el lavado de activos provenientes de la minería illegal en América Latina y el Caribe," Organization of American States, Department Against Transnational Organized Crime, January 2022, accessed at: *https://www.flipsnack.com/dcmmcenter/doc-tipolog-as-y-se-ales-de-alerta-mineria-ilegal-esp.html.*

[12] Javier Villalba, "Colombia Drug Trafficking Money Laundered Through Modified Gold," InSight Crime, June 17, 2021, accessed at: *https://insightcrime.org/news/urabenos-gold-launder-drug-money-colombia/.*

[13] Douglas Farah and Kathryn Babineau, "Suriname: New Paradigm of a Criminalized State," Global Dispatch, Center for a Secure Free Society, March 2017, accessed at: *https://www.securefreesociety.org/wp-content/uploads/2017/03/Global-Dispatch-Issue-3-FINAL.pdf.*

[14] See for example: Carina Pons and Mayela Armas, "Venezuela sold 73 tonnes of gold to Turkey, UAE last year: Legislator," Reuters, February 6, 2019, accessed at: *https://www.reuters.com/article/us-venezuela-politics-gold/venezuela-sold-73-tonnes-of-gold-to-turkey-uae-last-year-legislator-idUSKCN1PV1XE;* and "Gold and Grief in Venezuela's Violent South," International Crisis Group, February 28, 2019, accessed at: *https://www.crisisgroup.org/latin-america-caribbean/andes/venezuela/073-gold-and-grief-venezuelas-violent-south.*

[15] Yalilé Loiza, "La OEA advirtió sobre el incremento de comercio de oro desde Ecuador a China," Infobae, February 1, 2023, accessed at: *https://www.infobae.com/america/america-latina/2023/02/01/la-oea-advirtio-sobre-el-incremento-del-comercio-ilegal-de-oro-desde-ecuador-a-china/.*

[16] For details see: Douglas Farah and Marianne Richardson, "Dangerous Alliances: Russia's Strategic Inroads in Latin America," Institute for National Strategic Studies, National Defense University, Strategic Perspectives 41, December 2022, accessed at: *https://inss.ndu.edu/Portals/68/Documents/stratperspective/inss/strategic-perspectives-41.pdf.*

nent cocaine trafficking organization in Latin America, surpassing the Sinaloa Cartel and other Mexican and Colombian trafficking structures. It now operates in at least 29 of Mexico's 33 states, as well as northern Central America, Ecuador, Colombia, and Venezuela.[17] It is also expanding its operation and corruptive influence in different parts of the world.

In order to achieve this, the CJNG has successfully focused on:

- Expanding its territorial control in multiple jurisdictions in order to control all illicit activities rather than just operating as a cocaine plaza;
- The indiscriminate use of wide-spread violence to combat other cartels, law enforcement, perceived enemies such as journalists, and would-be competitors and successfully targeting high-profile targets;
- A rapid scaling up of its business opportunities inside and outside of Mexico while moving to diversify its portfolio and develop new methodologies for laundering and moving its illicit proceeds.

A primary area of the CJNG's expanded and diversified economic profile now includes a growing dominance in the trafficking of fake medicines and counterfeit pharmaceuticals, a multi-billion illicit industry repeatedly traced back to this cartel. In Mexico, 60 percent of commercially-sold pharmaceuticals are counterfeit, expired, or stolen.[18] Pirated pharmaceuticals are most common in Guanajuato, Jalisco, Guerrero, and Michoacan. The medicines are sold on-line, in the informal economy, and in professional brick-and-mortar pharmacies, where CJNG liaisons force pharmacists and storekeepers to sell and store them alongside real medicine.

Counterfeit pharmaceuticals are often sold for a fifth of the price of real medicine. Fake medicine has included treatments for HIV, cancer, osteoporosis, diabetes, blood pressure, cholesterol, and obesity.[19] Pharmacists who oppose the sale of the counterfeit medicines, do so at risk to their own lives.[20]

The cartels' expanded trafficking in counterfeit pharmaceuticals includes pills that are cut with illegal drugs, notoriously Fentanyl, or Fentanyl disguised as other pharmaceutical products. Many counterfeit pharmaceuticals connected to the CJNG and other cartels contained Fentanyl, including counterfeit Oxycodone, Xanax, and Roxicodone.[21] These pills were milled in pill presses to mimic legitimate pharmaceuticals. Including Fentanyl in the recipe for these drugs makes drug trafficking even more profitable and harder to detect, as cartels can package the substances into ever-smaller bags, spread them among an ever-wider network of distributors, and achieve the same or greater levels of usage.[22] Increasingly, the cartels have also started mixing Fentanyl with Xylazine—a sedative used in cow and horses—and found in many cities across the United States which causes severe skin ulcerations, necrosis, and can result in amputations if left untreated.

The CJNG is sourcing the precursor chemicals for Fentanyl production from the same suppliers—largely Chinese and Indian—used by other cartels, including the Sinaloa cartel.[23] The Asian suppliers sell to precursors to large Mexican companies and primarily imported through the Lázaro Cardenas and Manzanillo ports.

The link between expanded Fentanyl production and supply of precursor chemicals makes controlling ports, especially vital ports such as Lázaro Cardenas and Manzanillo, critical for cartel economic supremacy. Whoever controls the ports has a stranglehold on the production of the new synthetic production line, and related illicit markets.

The Evolution of the MS–13 and PCC Gangs into Transnational Criminal Organizations: Since their emergence in the criminal landscape as prison-based gangs in

---

[17] IISS Armed Conflict Survey, 2022. Data from the Mexico Ministry of Finance and Public Credit.

[18] Castillo Garcia, Gustavo. "Se apodera el 'CJNG' de la produccion de medicinas 'piratas'". La Jornada, 17 March 2020. *https://www.jornada.com.mx/ultimas/politica/2020/03/17/se-apodera-el-cjng-de-la-produccion-de-medicinas-piratas-9877.html.*

[19] "El CJNG extiende sus tentaculos criminales: asi trafica medicamentos piratas en Mexico." Infobae, 17 March 2020. *https://www.infobae.com/america/mexico/2020/03/17/el-cjng-extiende-sus-tentaculos-criminales-asi-trafica-medicamentos-piratas-en-mexico/.*

[20] Castillo Garcia, Gustavo. "Se apodera el 'CJNG' de la produccion de medicinas 'piratas'". La Jornada, 17 March 2020. *https://www.jornada.com.mx/ultimas/politica/2020/03/17/se-apodera-el-cjng-de-la-produccion-de-medicinas-piratas-9877.html.*

[21] Atlanta-Carolinas High Intensity Drug Trafficking Area's 2019 Threat Assessment. *https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AlcoholDrugAbuse/Drug_Trafficking_Threat_Assessment.pdf.*

[22] "La estrategia del CJNG y el Cartel de Sinaloa para inundar Estados Unidos con fentanilo." Infobae, 12 May 2022. *https://www.infobae.com/america/mexico/2022/05/13/la-estrategia-del-cjng-y-el-cartel-de-sinaloa-para-inundar-estados-unidos-con-fentanilo/.*

[23] Asmann, Parker. "Mexico's Sinaloa Cartel, CJNG Share Fentanyl Chemical Suppliers." InSight Crime, 16 November 2022. *https://insightcrime.org/news/mexico-sinaloa-cartel-cjng-chemical-suppliers-Fentanyl/.*

the mid-1990's both the MS–13 (Mara Salvatrucha) in Central America and the PCC (Primeiro Comando da Capital) in Brazil have been identified primarily as street thugs known for their ruthless violence, flashy tattoos, neighborhood extortion rings, and cultural insularity. While that typology was true for many years, both groups have now grown into transnational criminal threats, making the past nomenclature both obsolete and inaccurate.

As I have argued in recent academic publications and policy discussions that this coalescing of transnational criminal groups that have moved beyond gangs to Community Embedded Transnational Armed Groups (CETAGs) in informal and imperfect alliances, pose enormous and little-understood challenges to U.S. strategic interests and the U.S. ability to effectively respond to broadening hemispheric instability. Rooted in their communities, this type of criminal group is likely to expand across the hemisphere.

The MS–13, primarily operating in the Northern Triangle of Central America (El Salvador, Honduras, Guatemala) and the PCC, based in São Paulo (and active in most Brazilian States), are now both tier one criminal/political/military threats to hemispheric stability.[24] The groups—no longer gangs but transnational criminal structures—are becoming more deeply enmeshed in the global drug trade, the body politic, and armed conflicts in the hemisphere. Both structures are rapidly amassing formal political power and seek new alliances with each other and other state and non-state armed actors to achieve their goals of becoming major criminal enterprises embedded in the state. In addition, both groups share important characteristics. These include:

- A hierarchical structure that is both rigid and allows for local autonomy. At the highest levels, the hierarchies are pyramid-shaped. Leaders achieve coordination through bodies known as sintonias (PCC) and ranflas (MS–13), but local groups have significant freedom in implementing the strategic decisions the leadership makes;
- Members aspire to visible trappings of wealth and economic success (weapons, cars, luxury houses, beautiful women, jewelry);
- An increasing reliance on local, retail drug sales (narco menudeo) to create local demand and provide income that allows them to diversify their criminal portfolios and move away from deeply unpopular revenue streams such as extortion in the neighborhoods they control. The retail sales include cocaine, crack cocaine, chemical-laced marijuana called krispy and generate the bulk of revenues for both groups; prostitution; human smuggling and other high-end illicit activities;
- A reliance on territorial control in heavily populated areas such as national and regional capitals, as well as key drug trafficking routes, to gain political and economic leverage and vertically integrate their trafficking structures;

In addition, both groups have reached some understanding with the Maduro regime in Venezuela and allied criminal structures operating in Venezuelan territory to acquire cocaine and weapons, and both rely on territorial control as their primary claim to legitimacy.

These groups have replaced the state as the arbiter of power across most of the areas where they operate; they have more legitimacy in many ways than government institutions.

The MS–13 remains largely confined to northern Central America and the United States, with a growing presence in Mexico. The MS–13 poses an existential threat to the governments of El Salvador and Honduras, both small countries whose primary strategic importance derives from their proximity to the United States. The group is expanding territorial control, infiltrating the police and negotiating pacts with governments that have increased the group's engagement in cocaine trafficking, production, and retail. While moving aggressively to take over cocaine trafficking routes in the region, the MS–13 is far less involved in the transnational drug trade than the PCC. However, most of the MS–13 activities directly impact the United States, making it a more direct challenge.

---

[24] A tier one, or existential threat is considered to be among the most serious of all threats to national security, and has been defined as a threat that would "deprive the United States of its sovereignty under the Constitution, would threaten the territorial integrity of the United States or the safety within U.S. borders of large numbers of Americans, or would pose a manifest challenge to U.S. core interests abroad in a way that would compel an undesired and unwelcome change in our freely chosen ways of life at home." See Louis Jacobson, "Is ISIS an existential threat to the United States," PolitiFact, November 16, 2015.

The MS–13—initially formed in prisons in Los Angeles, California in the 1980's before many were deported back to post-conflict Central America in mid-1990's[25]—has long been recognized as a significant strategic challenge for the United States, in part because of its U.S. roots and on-going proximity and engagement across the United States. In 2012 the group was declared "significant transnational criminal organization" by the U.S. Treasury Department.

While the PCC, unlike the MS–13, does not have operational U.S. branches and does not operate near a U.S. border, this CETAG has a demonstrated capacity to disrupt and destabilize multiple countries in the hemisphere—most notably Paraguay and Bolivia—as well as the operational capacity to deliver cocaine and other illicit products to Brazil, Africa, and Europe. This broad reach, now extending into Colombia, Peru, and Venezuela, in turn, drives massive corruption and is spurring the groundwork for State collapse in multiple countries. The cumulative impact poses a significant strategic threat to the United States and its hemispheric allies.

The Emergence of New Extra-Regional Criminal Structures: For most of the history of large-scale cocaine production and shipments in Latin America, the primary operational groups were Colombian or Mexican, with Caribbean groups and Central American structures playing a lesser role. With the diversification of both markets and products, the face of transnational organized crime in Latin America is growing much more diverse.

Now, operating alongside—and sometimes in competition with—the fragmenting and realigning regional structures, there is a growing presence of Eastern European, Chinese, Turkish, Italian, and Balkan syndicates vying for space.

There are many other indicators of growing extra-regional actors in the region. Albanian, Kosovar, and Greek criminal groups are competing alongside Mexican cartels for power in Ecuador.[26] An Albanian national, reportedly an important link between South American drug trafficking networks and Balkan criminal networks, was shot to death in a restaurant in Guayaquil in late January 2022.[27]

The Ecuadoran media has confirmed at least 6 murders of Albanians since 2019. Turkish organized crime has been developing inroads into Venezuela since at least 2020[28] and in November 2022, Panama's role as a central logistics hub for extra-regional criminal organizations came to light. Authorities arrested 49 people in Dubai, Spain, France, Belgium, and the Netherlands, all with alleged ties to the so-called 'Super Cartel'. Defendants were allegedly coordinating a massive drug trafficking operation out of Panama with support from leading cartels in Ireland, Italy, Bosnia, the Netherlands, and Morocco.[29] According to Panama's attorney general, Panamanian nationals had been helping the Super Cartel move drugs and maintain communications around the world.

Italian organized crime, in particular groups with ties to the 'Ndrangheta, are also active in Argentina and Chile, with ties in Central America along drug trafficking routes to Europe.[30] Cocaine seizures in Portugal in August 2022 also indicate comprehensive collaboration between prominent Brazilian criminal groups, in particular the PCC, and West African groups operating out of Angola and Guinea Bissau.[31]

---

[25] In the mid-1990's, as the civil wars in Central America ended, the Clinton administration began deporting thousands of gang members as they completed their prison terms in the United States, primarily California, flooding the Northern Triangle with thousands of violent felons the reconfigured back into the mirror images of the gangs they had formed in the United States. For a detailed look at the policies and history of the gang deportations and enormous difficulties this policy has caused in Central America, see Ana Arana, "How Street Gangs Took Central America," Foreign Affairs 84, no. 3 (May/June 2005): 98–110.

[26] *https://www.wsj.com/articles/drug-trail-from-europe-to-ecuador-inside-the-hunt-for-elusive-narco-suspect-dritan-rexhepi-11637756980.*

[27] Mistler-Ferguson, Scott. "Albanian drug traffickers jockey for position in Ecuador." InSight Crime, 28 February 2022. *https://insightcrime.org/news/albanian-drug-traffickers-jockey-for-position-in-ecuador/.*

[28] "Turkish organized crime boss: to evade DEA and ship cocaine to middle east, Erkan Yildirim, son of former Prime Minister and Parliament Speaker Binali Yildirim, close friend of Interior Minister Suleyman Soylu, recently established 'New Headquarters' in Venezuela." Memri, 26 May 2021. *https://www.memri.org/reports/turkish-organized-crime-boss-evade-dea-and-ship-cocaine-middle-east-erkan-yildirim-son.*

[29] Ballestin, Raquel. "Panama becomes logistics hub for drug trafficking 'Super Cartel'. InSight Crime, 9 December 2022. *https://insightcrime.org/news/panama-logistics-hub-drug-trafficking-super-cartel/.*

[30] Alvarado, Isaias. "Este pais de America es el nuevo 'paraiso' de carteles y su fama de tranquilo se esta diluyendo." Univision, 25 July 2021. *https://www.univision.com/noticias/narcotrafico/este-pais-es-el-nue*

[31] Ford, Alessandro. "Portugal fighting back against rising tide of cocaine." InSight Crime, August 2022. *https://insightcrime.org/news/portugal-fighting-back-against-rising-tide-cocaine/*

Guinea Bissau has long been identified as a narco-state, with drug kingpins able to live freely and openly outside the capital with no threat from law enforcement.[32]

CONCLUSIONS

Latin America is facing a "host of cross-cutting, transboundary challenges" that directly threaten not only U.S. strategic interests, but the key pillars that have sustained long-standing partnerships across the region to jointly face myriad common issues. As illicit networks expand their territorial control, ecosystems of corruption, political power, and product lines, they are aided and abetted by extra-regional actors such as China, Russia, and Iran who undercut the rule of law and directly challenge U.S. goals and initiatives in the Western Hemisphere.

As traditional transnational organized criminal groups have formed new alliances with non-state extra-regional networks and merged with regional criminalized state actors, the United States is very likely facing an unprecedented loss of key allies and U.S. influence in the hemisphere. The terrain that is lost will likely prove very difficult to regain as states continue to deal with the fallout of the COVID–19 pandemic and the on-going Venezuelan humanitarian crisis.

Russia and China view Latin America as a key theater of great power competition, and act accordingly. The United States must forgo the complacency inherent in having been most of the region's international partner of choice for a century, and seek creative new engagements with its partners. Higher-quality, more comprehensive, and more sustained engagement with the right communities will go far to strengthen democracy, civil society, and regional stability.

The sheer number of violent, criminal networks now controlling territory and wielding political power—some of them protected by member states of the BJCE—mean the desired end-state of stability will prove elusive for many communities. The same forces wield massive corruption networks to undermine rule of law, hollow out state institutions, weaken civil society, and drive violence and irregular migration.

The United States has an underutilized toolbox that can be deployed to reverse these worrisome trends, but new policy initiatives, backed by resources, must be deployed quickly or the costs of these trends will be even higher.

In order to counter the current trends in Latin America, the United States must take short-term actions that support a long-term strategy of re-engagement and partnership. These include:

- Getting U.S. Ambassadors confirmed and in place in key countries across the region would be an important and achievable first step. The lack of Ambassadors feeds the perception that the United States does not prioritize the region and provides less robust engagement at senior policy levels.
- Redefine who the United States is willing to strategically partner with away from the traditional right vs. left paradigm to one that prioritizes democratic governance, rule of law, and anti-corruption efforts. This would open the doors to meaningfully engage with the new governments of Chile and Honduras more robustly while making countries like Argentina and Brazil less central for policy initiatives.
- Fully embrace the Biden administration's twin policies of combatting transnational organized crime and corruption as priorities. This includes funding and implementing unfulfilled and unfunded initiatives to create task forces to work with regional partners on these issues and empower civil society to participate in these struggles.
- As part of the whole-of-Government agenda, refine and prioritize combatting illicit networks, particularly those linked to state actors such as Venezuela and Nicaragua. This not only combats corruption but weakens the criminalized states and their non-state actors.

  Use the Summit of the Americas event in June 2022 to reset U.S. engagement in the region with a clear articulation of priorities, while highlighting the advantages partnership with the United States offers as opposed to the consequences of allying with Russia, China, or Iran.

Mr. PFLUGER. Thank you, Mr. Farah. I now recognize Mr. Urben for your opening statement.

[32] Dalby, Chris. "Record cocaine hauls confirm Guinea-Bissau's 'narco-state' reputation." InSight Crime, 25 September 2019. *https://insightcrime.org/news/analysis/guinea-bissau-colombia-cocaine-hauls/*

STATEMENT OF CHRISTOPHER URBEN, FORMER ASSISTANT SPECIAL AGENT IN CHARGE OF U.S. DRUG ENFORCEMENT AGENCY, DEA, AND MANAGING DIRECTOR, NARDELLO & COMPANY

Mr. URBEN. Chairman Pfluger, Ranking Member Magaziner, and distinguished Members of this subcommittee, thank you for the opportunity to address you today on this important issue. I spent 24 years working for the DEA where I worked as an agent as well as a supervisor to investigate and disrupt and dismantle significant transnational organized crime within the United States and around the world.

During the last several years of my career with DEA, I worked in DEA's Special Operations Division, SOD, with an interagency group to target what we identified as a growing threat. The collaboration between Chinese and Mexican TCOs in the trafficking of Fentanyl and in the money-laundering activities associated with it. It is a development that I and others at SOD dedicated substantial efforts to understanding and addressing. This may be relevant to the subcommittee's consideration as it seeks to address threats to the homeland posed by these TCOs.

To understand how this collaboration works, it's important to understand how it developed in the past. Mexican cartels, including Sinaloa and CJNG have long established control over territory in Mexico and access to supply and distribution chains extending into the United States. This dates from their trafficking time in cocaine and heroin and other drugs that are produced south of the U.S. border and moved into the United States for sale.

The cartels used that control and access to move into the Fentanyl marketplace as the source of supply for these deadly drugs. They became available primarily via precursor chemicals supplied by Chinese TCOs. This development presents an unprecedented challenge by itself.

But there is another part of this growing relationship that helps fuel the success of Fentanyl production and distribution—the growing role of Chinese organized crime that they have taken in the laundering drug proceeds. The Mexican cartels, they laundered these proceeds for the Mexican cartels in a way that's safer, quicker, and more profitable for the cartel.

As reflected by the graphic in exhibit 1 to my testimony that you have, here is how it works. Every day in the United States, Chinese money brokers pick up narcotics proceeds from the sales of Fentanyl and other drugs, such as cocaine and heroin in the form of bulk U.S. cash. A distribution gang, let's say, in New York, or any other city in the United States that owes payment to the Mexican cartel delivers bulk cash to the Chinese broker in the United States. That Chinese broker then sells the U.S. dollars to Chinese customers who want to spend their money in the United States, acquiring real estate, paying for college tuition, gambling, or other investments. These Chinese customers pay in China for the cash they receive in the United States. It doesn't cross borders. Proceeds in China are used to buy goods for exports in Mexico or South America where the goods are sold by Chinese brokers located in Mexico to recoup their funds.

Some of the proceeds are also used to pay for precursor chemicals that enable to cartels to produce more synthetic opioids then bound for the United States. These Chinese brokers accomplish all this with a trusted electronic encryption communications network that allows this to happen instantly. It is called WeChat.

While the threat posed by the collaboration between Chinese and Mexican TCOs is real and growing, more can be done to combat it. More investigative resources such as translators, data scientists, and experienced targeting analysts will enable law enforcement to have the tools needed to detect and investigate these networks, where they operate.

Both the Trump and Biden administrations have authorized the imposition of sanctions or participants in the global trade of Fentanyl and synthetic opioids. Recent sanctions on Chinese brokers of precursor chemicals and Mexican suppliers of synthetic opioids are an encouraging development. But further investments in the sanctions program, along the lines of the effective sanctions program targeting those involved in the Russian aggression against the Ukraine would help address this threat.

In the private sector where I now work on Nardello & Co, the global investigative firm, I am also seeing greater awareness by the business community that needs to understand this emerging threat and develop the tools to address it. More investments in training and detection will facilitate private sector's organization's compliance with anti-money laundering laws and help protect the integrity of our financial system as well as reduce the flow of dangerous synthetic opioids in the United States.

Congress can also play a vital role by providing resources, incentives, and authority for Government and the private sector to work together to combat this threat. Thank you for the opportunity to speak with you today about this important issue.

[The prepared statement of Mr. Urben follows:]

JUNE 7, 2023

PREPARED STATEMENT OF CHRISTOPHER URBEN

Chairman Pfluger, Ranking Member Magaziner, and distinguished Members of this subcommittee, thank you for the opportunity to address you today on this important issue.

I spent 24 years working for the United States Drug Enforcement Administration ("DEA"), where I worked as an agent and supervisor to investigate and disrupt or dismantle significant transnational criminal organizations ("TCOs") within the United States and around the world.

During the last several years of my career with DEA, I worked in DEA's Special Operations Division ("SOD") with an interagency group to target what we identified as a growing threat: the growing collaboration between Chinese and Mexican TCOs in trafficking of Fentanyl and in money-laundering activities. It's a development that I and others at SOD dedicated substantial efforts to understanding and addressing, and that may be relevant to this subcommittee's consideration as it seeks ways to address threats to the homeland posed by TCOs.

To understand how this collaboration works, it's important to understand how it developed. Mexican cartels, including the Sinaloa and Cartel Jalisco New Generation ("CJNG"), have long-established control over territory in Mexico and access to supply and distribution chains extending into the United States. This dates from their time trafficking cocaine, heroin, and other drugs that are produced south of the U.S. border into the United States for sale.

The cartels used that control and access to move into the Fentanyl/synthetic opioid marketplace as the source of supply for these deadly drugs became available, primarily via precursor chemicals supplied by Chinese TCOs. Prior to approximately

2019, the cartels and drug dealers within the United States were receiving Fentanyl in shipments directly from chemical brokers in China and selling it in the United States. Then, the Chinese government started cracking down on the production of pure Fentanyl in mainland China and its shipment and sale into the United States. Now, Mexican cartels increasingly are receiving what are known as precursor chemicals via chemical brokers in China and using them to produce Fentanyl themselves in territory they control in Mexico for distribution into the United States.

The potency of the synthetic opioids created in Mexican cartel-run drug labs has made them particularly dangerous—as the DEA has reported previously, 1 kilogram of pure Fentanyl has enough opioid to kill 500,000 people. Because of the Mexican cartels' powerful existing distribution networks, it's relatively easy for them to smuggle Fentanyl into the United States. Where once the cartels might have had to smuggle tractor trailers full of cocaine, heroin, or other drugs into the United States to supply the market, now just a few kilos smuggled via passenger cars or individual travelers, or via the mail, can supply equivalent potency to local drug trafficking organizations ("DTOs") here in the United States, which mix the Fentanyl with other chemicals for consumption or process them into counterfeit pills for sale on the street or over the internet.

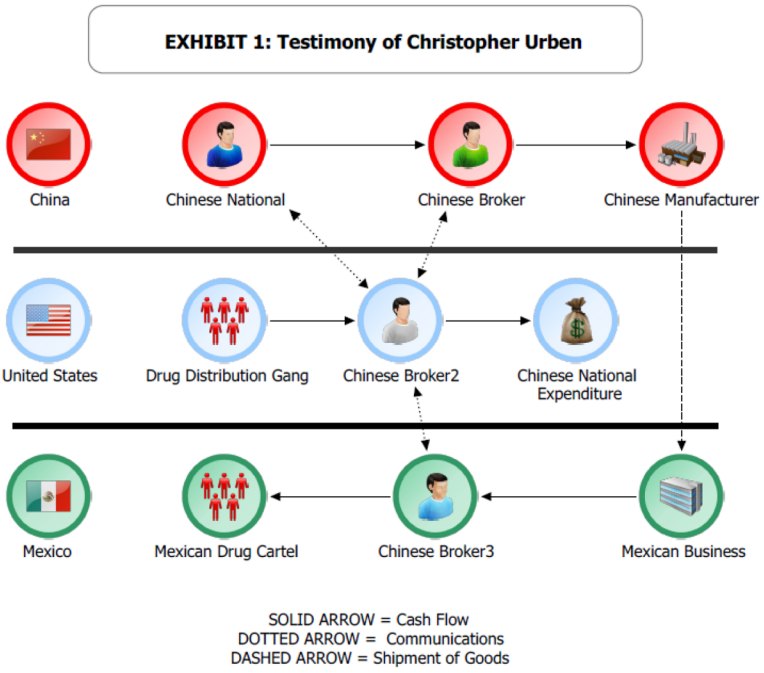
This development presents an unprecedented challenge by itself. But there's another part of this growing relationship that helps fuel the success of synthetic opioid production and distribution: the growing role that Chinese TCOs have taken in laundering drug proceeds for the Mexican cartels in a way that's safer, quicker, and more profitable for the cartels.

The most predominant laundering scheme that had been employed by the Mexican cartels, known as the Black-Market Peso Exchange ("BMPE"), was complex and dangerous, resulting in high transaction costs of 7–10 percent of the total amount laundered and lengthy delays of a week or more. Moreover, because of the BMPE connection to the cartels, laundering involved a constant risk of violence, theft, or law enforcement intervention.

The method used by the Chinese TCOs avoids the costs, delays, and risks of the BMPE by employing brokers in three countries—China, the United States, and Mexico—and by addressing needs of other participants in the global economy that are in China or that do business with China.

As reflected by the graphic in Exhibit 1 to my testimony, here's how it works:

Every day in the United States, Chinese money brokers pick up narcotics proceeds—from sales of Fentanyl and other synthetic opioids as well as heroin, cocaine, and other drugs—in the form of bulk U.S. cash. A drug distribution gang in New York or another U.S. city that owes payment to the Mexican cartel delivers the bulk cash to the Chinese broker. The Chinese broker then sells the U.S. dollars to Chinese customers who want to spend money in the United States, acquiring real estate, paying college tuition, gambling, or making other investments. These Chinese customers pay in China for the cash they receive in the United States. The proceeds in China are used to buy goods for export to Mexico or South America, where the goods are sold by the Chinese brokers in Mexico to recoup their funds. Some of the proceeds also are used to pay for the precursor chemicals that enable the cartels to produce more synthetic opioids. The Chinese brokers accomplish all of this with trusted electronic encrypted communications that allow all of this to happen instantly.



What makes this so effective and hard to detect?

- First, it minimizes movement of funds. Dollars don't leave the United States, pesos don't leave Mexico, and RMB does not leave China.
- Second, it takes advantage of the huge and increasing volume of trade with China, and the existence of capital controls within China, by ensuring a constant stream of customers and making it harder to separate legitimate from illegitimate transactions.
- Third, it uses technology to its advantage, advertising the sale of dollars in internet chat rooms and communicating primarily via WeChat, an encrypted network that is resistant to surveillance by U.S. law enforcement and that facilitates speed and trust within the Chinese organized crime network.

While the threat posed by collaboration between Chinese and Mexican TCOs is real and growing, more can be done to combat it. More investigative resources such as translators, data scientists, and experienced targeting analysts will enable law enforcement to have the tools needed to detect and investigate these networks where they operate. Both the Trump and Biden administrations have authorized imposition of sanctions for participants in the global trade of Fentanyl and synthetic opioids. Recent sanctions on chemical brokers in China for precursor chemicals and Mexican suppliers of synthetic opioids are an encouraging development, but further investments in the sanctions program along the lines of the effective sanctions program targeting those involved in Russian aggression against the Ukraine, would help address the threat. Additional investigative tools and rules addressing this money-laundering scheme also can play an important role.

In the private sector, where I now work for Nardello & Co., the global investigative firm, I am also seeing greater awareness by the business community that it needs to understand this emerging threat and develop tools to address it. More investments in training and detection will facilitate private-sector organizations' compliance with anti-money laundering laws, help protect the integrity of the financial system, and help reduce the flow of dangerous synthetic opioids into the United States.

Congress can play a vital role by providing resources, incentives, and authority for the Government and the private sector to work together to combat this threat. Thank you for the opportunity to speak with you about this important issue.

Mr. PFLUGER. Thank you, Mr. Urben. I now recognize Ms. Ford, for your openingstatement of 5 minutes.

STATEMENT OF MELISSA FORD MALDONADO, POLICY DIRECTOR, TEXAS PUBLIC POLICY FOUNDATION, SECURE AND SOVEREIGN TEXAS CAMPAIGN

Ms. FORD MALDONADO. Chairman Pfluger, Ranking Member Magaziner, and Members of the subcommittee, thank you for the opportunity to testify today. My name is Melissa Ford Maldonado, and I'm a policy director at the Texas Public Policy Foundation; a nonprofit and nonpartisan research institute. We're based in Austin, Texas, but I'm originally from Bolivia.

My work focuses on the relationship between the United States and Mexico. I have done extensive research on Mexican drug cartels and why they pose a huge threat to the United States and Texas.

What I've learned is that cartels have complete control over the Southern side of the border. The border that the United Nations recently labeled the deadliest land crossing in the world. There are record numbers of people dying while attempting to cross in the worst conditions possible, and this is all being orchestrated by cartels.

People who have lived and worked on the border for decades are saying that they have never seen tragedies of this magnitude. Officials in Eagle Pass evening are having to keep a refrigerated truck to hold the bodies of migrants that are drowning in the Rio Grande. Across the river in Piedras Negras, families often report seeing bodies floating under the bridge.

Less than a year ago, a trailer with over 60 migrants locked inside was abandoned by a smuggler near San Antonio, and 53 of them died after being left in the heat.

To cartels, these human beings are just commodities to be exploited and discarded. That's what cartels do; they prey on the vulnerable. Workers that aid migrants at the border estimate that most females encounter some sort of sexual assault on their way to the United States. They're also telling us that there's been a significant rise of sex trafficking cases involving children.

The cartels won't stop. They're richer, and they are bolder than ever, and they will continue to take advantage of our weak border to extend their operations into the United States.

The effect on Texans is just as heartbreaking. We've spoken to ranchers and homeowners who no longer feel safe in their homes, who can't walk around their property unarmed, or let their children play outside because they have encountered armed smugglers on their land, breaking in, stealing, destroying their property, and many have had to move away because of this. Texas communities are also facing a growing number of high-speed car chases.

In March, in Ozona, a 7-year-old girl named Emilia and her grandma were killed, along with 2 of the 11 migrants due to a high-speed car chase that ended in a wreck.

We are also seeing an increase in American teenagers being recruited on social media by cartels to transport migrants. We saw it with a 15-year-old in Mission, and a 12-year-old and 15-year-old in San Antonio, and then with a 15-year-old in El Paso as well. DPS there in El Paso when we were there a few weeks ago told us that is a daily occurrence for them, and sometimes they see multiple of these high-speed car chases in just 1 day.

Another problem we are having is these officers are increasingly assaulted; 248 border agents have been assaulted just this fiscal year. This is all having a huge impact in the quality of life of communities in Texas, but it's not just a Texas problem. Our entire country is feeling the effects of the deadliest drug crisis in history. Texas alone has seized 418 million lethal doses of Fentanyl since 2021. To put that into perspective, that's enough to kill every man, woman, and child in America.

One of the most disturbing parts of this is that the cartels are processing deadly amounts of Fentanyl into pills made to look like any other prescription pill, but they're laced with Fentanyl.

One mother, Rebecca, shared in testimony how both her sons, Kyler and Caleb, 18 and 20, were killed by pain pills that were laced with Fentanyl.

Chairman Pfluger, Ranking Member Magaziner, and Members of the subcommittee, I believe that cartels are the largest threat to the United States right now. Texas is working really hard to fight them, but we need help. This crisis is happening because the Federal Government has failed to do their job to secure the border and protect the people of Texas and the United States. I ask you to be realistic about what we are up against.

We must face the facts that the border is already militarized from the Southern side. Cartels control 30 to 40 percent of Mexico's territory right now. There is extensive evidence of collusion between the state and the cartels. This is a new scenario that demands new solutions; new solutions from policy makers like you who need to understand that the Mexican state as a meaningful partner against cartels is a thing of the past. Therefore, I think we need to use every option on the table to fight back against them. Thank you for your time. I am grateful for your leadership and ready to answer any questions.

[The prepared statement of Ms. Ford Maldonado follows:]

PREPARED STATEMENT OF MELISSA FORD MALDONADO

WEDNESDAY, JUNE 7, 2023

Chairman Pfluger, Ranking Member Magaziner, and Members of the subcommittee, thank you for the opportunity to testify today. My name is Melissa Ford Maldonado, and I am the policy director for Secure & Sovereign Texas, an initiative of the Texas Public Policy Foundation, a nonprofit and nonpartisan research institution based in Austin, Texas.

Much of my work focuses on the relationship between the United States and Mexico, and the center of that relationship, Texas and Mexico. Texas and Mexico not only share a heritage and culture, but also 1,200 miles of common border and a massively important trade alliance. However, this close relationship and proximity has left a door open for illegal activity from Mexico to harm the United States, especially Texas.

The Secure & Sovereign Texas campaign has done extensive research on Mexican transnational criminal organizations, specifically drug cartels, and why they pose a grave and imminent threat to the safety and well-being of families and communities

in Texas and in the United States. I want to share with you what we've seen and learned.

Today, the flow of humans being smuggled, opioids, and poisonous illegal narcotics are driven by Mexican drug cartels. These drug cartels are ruthless, strategic, highly organized money-making entities that continue to evolve in strength and sophistication. They are running a billion-dollar slave trade, and are richer, more armed, and bolder than ever. This is leading to a lot of suffering at the border and beyond the border as well. Texas citizens and communities are being devastated by crime, drugs, a humanitarian crisis, and an unprecedented level of violence.

Smugglers are profiting from pushing people across our border, and it has been heartbreaking to see literally millions of migrants being smuggled—and often abused—across the Texas-Mexico border in the worst conditions possible. Mexican drug cartels have complete control over the southern side of the border. There are record numbers of migrants dying at the U.S.-Mexico border, and a U.N. report recently labeled it the most dangerous and deadliest land crossing in the world.

Maverick County Sheriff Tom Schmerber, who grew up in the area, called the border a graveyard, saying he's been working on the border for almost four decades but has never seen tragedies of this magnitude. Local officials in Eagle Pass, Texas, are having to keep a refrigerated truck to hold the bodies of migrants who drown in the currents of the Rio Grande while trying to cross the border into the United States. Across the river, families having picnics or walking along the waterfront promenade of Piedras Negras, Mexico, say they sometimes see bodies floating by or bobbing among the reeds under a bridge. "We had times when we received four or five bodies a week," said Hugo González, owner of Funerarias González in Piedras Negras. "At one point, there were a lot of corpses and there was nowhere to put them. We just didn't have enough refrigerators at the funeral home."

In the 2022 fiscal year that ended in September, the bodies of more than 890 migrants, a record number, were recovered by U.S. authorities along the border, a 58 percent increase over 2021, and far higher than the 247 to 329 deceased found each year between 2014 and 2020. Unfortunately, the number of actual deaths is likely higher, as other local agencies often recover bodies without involvement from U.S. Customs and Border Patrol.

There are countless heartbreaking stories of cartel-orchestrated human smuggling in Texas. Less than a year ago, a trailer with more than 60 migrants locked inside was abandoned by a smuggler near San Antonio. Fifty-three of them died after being left in the heat. This is terribly sad. The men, women, and children who died in that hot trailer were just looking for a better life, but cartels saw them as disposable commodities to be exploited and discarded. That's why we must work hard to target those that are using them and profiting from their illegal crossings the most.

Regrettably, it is a grim reality that cartels exploit the most vulnerable, specifically targeting women and young girls. Rape, assault, and sexual slavery are everyday life for the women and children who attempt to cross. In our investigations, we have conducted interviews with Border Patrol agents and engaged with individuals involved in supporting and safeguarding female migrants. They estimate that an overwhelming majority of female migrants face some form of sexual assault during their journey toward the United States. Furthermore, they have alerted us to a concerning surge in instances of child sex trafficking.

The impact on the Texas side of the border is equally disheartening. Exploiting the porosity of our border, cartel operatives have expanded their operations into the United States, inflicting turmoil upon our border communities. Texan ranchers and homeowners often find themselves confronted with armed smugglers trespassing on their land, engaging in theft, destruction, arson, and property invasion.

Individuals residing in border towns have shared with us their profound sense of insecurity within their own homes. Many now find themselves unable to roam their properties unarmed, and their children are no longer allowed to play outside. One of these women is Dolores Chacon, whom we met about 3 weeks ago in El Paso. She lives in a small home on the El Paso-Mexico border. In 2008, a fence was erected right behind her home, which she now calls her freedom wall. Before that, she says her property was constantly getting broken into and vandalized, which left her constantly terrified in her own home. Many of her neighbors moved away because of this.

Many Texas communities are also seeing an increasing number of high-speed car chases in usually quiet little towns, placing residents at risk. In March, a human smuggler in Ozona, Texas, killed Emilia, a 7-year-old girl and her 71-year-old grandmother while trying to escape police. The smuggler also killed 2 of the 11 illegal immigrants he was transporting.

Another disturbing trend we are witnessing involves the recruitment of American teenagers by cartels through popular social media platforms such as Snapchat,

Facebook, Instagram, TikTok, and others. These platforms serve as avenues for enticing young individuals with the promise of quick cash in exchange for transporting migrants into the United States.

In February, a 15-year-old led police on a high-speed chase in Mission, Texas, that ended with 7 migrants bailing out of the vehicle on a dirt road. That same month, a 12-year-old and 15-year-old transporting illegal immigrants near San Antonio, Texas, crashed their vehicle while trying to outrun cops in a high-speed chase. Last August, a 15-year-old girl transporting migrants in El Paso led police on a high-speed chase which ended in a multi-vehicle wreck.

The smuggling of migrants is often used as a diversion to overwhelm Border Patrol agents, who are increasingly assaulted doing their job. Since October of last year, 248 Border Patrol agents have been assaulted at the Southern Border.

All these occurrences have a huge impact on the local economy and quality of life of communities in Texas, but it is not just a local issue anymore—this is affecting the entire country.

Mexican drug cartels are responsible for the smuggling not only of humans but of record amounts of illegal drugs into the United States, the former being used to help facilitate the latter.

Whether transported by the criminals themselves or smuggled by the migrants on the orders of their coyotes, drugs are coming across the border in record amounts, and people are dying in record numbers in what has become the deadliest drug crisis in history.

- Texas law enforcement has seized 418 million lethal doses of Fentanyl since the beginning of Operation Lone Star in 2021. That is enough to kill every man, woman, and child in America.
- Over 107,000 Americans died from drug overdoses in the 12-month period ending in January 2022, and we've had more than 1,000,000 American drug overdose deaths since 1999.
- Fentanyl is involved in more deaths of Americans under 50 than any cause of death, including heart disease, cancer, homicide, suicide, and accidents.
- More Americans are dying each year from drugs than were killed in the entire Vietnam War—and the death toll is rising every day.

One of the most disturbing parts of this is that Mexican drug cartels often process deadly amounts of Fentanyl into pills made to look like any other prescription medicine. One mother, Rebecca Kiessling, shared her story when she testified before the Homeland Security Subcommittee on Border Security earlier this year, after both her sons, Caleb, 20, and Kyler, 18, were killed by prescription pain pills that ended up being laced with Fentanyl.

Chairman Pfluger, Ranking Member Magaziner, and Members of the subcommittee, I believe that Mexican criminal organizations are the largest criminal threat to the United States right now. Texas is working hard to fight them with every means possible, but we need help, and it is past time to take decisive action to protect American communities.

I'd like to conclude by making two points:

1. The Federal Government has failed to fulfill its duty to secure the border and protect the people of Texas and the United States.
2. The Mexican state is no longer a partner to the United States. There is irrefutable evidence of extensive collusion between the Mexican state and criminal cartels at all levels of government. Cartels effectively control 30 to 40 percent of Mexico's territory and together, they are conducting a deadly export trade, trafficking in Fentanyl, corruption, and worst of all, literally millions of fellow human beings. This collusion makes it impossible for the United States and Mexico to have a reliable border security partnership.

It is crucial that we approach the border situation with a realistic perspective and respond accordingly. The border is already militarized from the southern side, and the cooperation with the Mexican state ceased a long time ago because the Mexican government would much rather cooperate with cartels than with us. In light of these circumstances, we must implement robust measures and utilize the full strength and capabilities of the United States to effectively address the border crisis.

Thank you for your time. I am grateful for your leadership, and I am happy to answer any questions you may have.

ATTACHMENT

[A copy of the document has been retained in committee files and it can also be accessed at the following: *https://www.texaspolicy.com/wp-content/uploads/2022/*

09/2022-09-RR-SST-Abrazos-no-Balazos-The-Mexican-State-Cartel-Nexus-paper1.-pdf.]

Mr. PFLUGER. Thank you, Ms. Ford. The Chair now recognizes Mr. Blazakis for his opening statement of 5 minutes.

STATEMENT OF JASON BLAZAKIS, PROFESSOR, MIDDLEBURY INSTITUTE OF INTERNATIONAL STUDIES, DIRECTOR, THE CENTER ON TERRORISM EXTREMISM AND COUNTERTERRORISM

Mr. BLAZAKIS. Good afternoon, Chairman Pfluger, Ranking Member Magaziner, and distinguished Members of the committee. Thank you for the opportunity to testify today. I request that my full written statement be put into the record.

Since the beginning of the Trump administration, the U.S. National Security Architecture has pivoted to the challenge of tackling state foreign threats. While there is little question that Russia, China, and Iran pose significant threats to U.S. national security interests, we must not ignore the broad array of transnational actors that seek to harm the United States. This is why your hearing today is so important. It gives us a chance to examine the transnational threat landscape.

Prior to joining the Middlebury Institute as a professor, I worked in the Federal Government for nearly 20 years. Of those years in Government service, I worked across both Republican and Democratic administrations. While in Government, I worked directly on counterterrorism, counter-narcotics, and intelligence issues. These experiences of working in counterterrorism, law enforcement, and intelligence for the U.S. Government really has influenced my views about which policy options are most suitable for countering terrorist groups and criminal organizations like drug cartels.

Today, I was asked to focus my testimony on the question of whether or not the Mexican drug cartels should be designated as foreign terrorists organizations or FTOs for short. It's also very important to emphasize that the question of whether to label the Mexican cartels as FTOs has come up before. In fact, President Trump said that he was going to designate the cartels, but he did not do so.

Here are some of the reasons why I think designating the Mexican drug cartels as FTOs is a bad policy idea. I also like to note in my written testimony there are other reasons that I can't address in my oral.

First, the FTO list is comprised of organizations that are guided by an ideological belief system. The Mexican drug cartels are guided by one thing: A desire to make money. They don't peddle drugs because they want to uproot the powers that be. They have no interest in governing. Simply put, unlike ISIS, they have no interest in creating a caliphate-like structure. They don't have an interest overthrowing the Mexican government.

Second, if the State Department starts designating criminal groups as terrorists, the number of eligible targets that could be added to the FTO list would increase significantly. Hundreds of new organizations would be added to the FTO list, not just a Mexican cartel. Many more would be eligible for listing—Brazilian gangs, Central American gangs, Italian mafia groups, the Yakuza

crime syndicate, and many more. That's a recipe for disaster. It's a recipe for bureaucratic inertia, especially when you consider the amount of work that goes into every FTO designation.

Each FTO designation takes hundreds, or in some cases, thousands of hours to complete. There is one significant advantage, though, to applying the FTO regime against Mexican cartels. Adding the Mexican cartels to the terrorist list would trigger the material support benefits that come with FTO designations. Simply put, that means more time behind bars for those who try to provide material support to the cartels. But on the other hand, there is a negative to this benefit. I can easily imagine scenarios where drug consumers may run afoul of the material support clause when they buy drugs trafficked by a Mexican cartel.

I provide a few examples of such hypothetical scenarios in my written testimony.

Fourth, the designation of the Mexican drug cartels would damage U.S.-Mexico relations. If the U.S. Government pushes the Mexican government on the FTO designation, it does run the risk that Mexico will distance itself from the United States and strengthen relations with countries like China and Russia. For these reasons and for others mentioned in my written testimony, adding the Mexican drug cartels to the FTO list would do very little to solve this immense national security challenge.

There are better alternatives to meaningfully counter the cartels. First, the United States needs to look inwards. The Mexican drug cartels are well-armed. It has been well-documented that the cartels are getting their guns from the United States. The United States should explore arms control options that the diminish the cartels' access to weapons.

Second, the United States should engage in capacity building to build up the Mexican financial sector, not just the governmental sector.

Third, the State Department should make more cartel individuals subject to the Narcotics Rewards Program.

Fourth, we must treat the demand side of this problem. This means investing more in health and educational policies that can cut down America's insatiable appetite for drugs.

Finally, we must not forget the challenge that is posed by groups like ISIS, al-Qaeda, the Wagner Group in Iran's threat network, these transnational actors throw—or pose a significant threat to the U.S. homeland. I look forward to your questions. Thank you.

[The prepared statement of Mr. Blazakis follows:]

PREPARED STATEMENT OF JASON BLAZAKIS

INTRODUCTION

Good afternoon, Chairman Pfluger, Ranking Member Magaziner, and distinguished Members of the committee. Thank you for the opportunity to testify today. I request that this written statement be put into the record.

Since the beginning of the Trump administration, the U.S. national security architecture has pivoted to the challenge of tackling state-borne threats. While there is little question that Russia, China, and Iran pose significant threats to U.S. national security interests, we must not ignore the array of transnational actors who seek to harm the United States. This is why your hearing today is so important—it gives us a chance to examine the transnational threat landscape.

Before diving into the substance, I want to share with you some of my past and current work experiences that qualify me to speak to the issues that I am going to cover in my testimony below.

My name is Jason Blazakis and I am a professor at the Middlebury Institute of International Studies in Monterey, California. I am also the director of Middlebury's Center on Terrorism, Extremism, and Counterterrorism (or CTEC for short). I have served in these dual roles since July 2018. At the same time, I am also a senior research fellow at the Soufan Center, a non-profit and non-partisan think tank based in New York City.

Prior to joining the Middlebury Institute, CTEC, and the Soufan Center, I worked in the Federal Government for nearly 20 years. Of those years in Government service, I worked across both Republican and Democratic administrations. The last 10½ years of my Government service was spent at the Counterterrorism (CT) Bureau at the U.S. Department of State.

Additionally, I was the head of Embassy Kabul's Narcotics Affairs Section (NAS) for much of 2004 and worked at the State Department's Bureau of International Narcotics and Law Enforcement Affairs Bureau (INL). Finally, I spent nearly 4 years in the U.S. intelligence community (USIC). In the USIC, I worked at the Bureau of Intelligence and Research (INR). These experiences working on counterterrorism, law enforcement, and intelligence issues for the U.S. Government influence my views on which policies are most suitable for countering terrorist groups and criminal organizations, like drug cartels.

At the CT Bureau between early 2008 and July 2018, I directed the activities of the Office of Counterterrorism Finance and Designations. Simply put, I, and my team, at the CT Bureau were responsible for evaluating and compiling the underlying evidence that ultimately contributed to the Secretary of State's labeling of Foreign Terrorist Organizations (FTOs) pursuant to the Immigration and Nationality Act. My office was also responsible for recommending which groups or individuals should be designated as Specially Designated Global Terrorists (SDGTs) pursuant to Executive Order (EO) 13224. Furthermore, my team developed the evidence required for listing state Sponsors of Terrorism consistent with various legal statutes. In my time at the Department of State I oversaw the designations of hundreds of individuals, organizations, and countries as terrorists. Simultaneously, my office was responsible for reviewing hundreds of Treasury Department proposed terrorist designations under EO 13224. Finally, I served as the CT Bureau's representative to the U.S. Government's review group responsible for activities related to the Rewards for Justice (RFJ) program, the U.S. Department of State's national security rewards program that was established in 1984.[1]

THE MEXICAN DRUG CARTELS

Today, I was asked to devote a significant portion of my testimony to the question of whether the "Mexican drug cartels should be designated as FTOs." In my time at the CT Bureau at the State Department the issue of whether to designate the "Mexican cartels" as FTOs was raised periodically. Every time the debate arose, I expressed my opposition to leveraging the FTO tool against the "Mexican drug cartels." Before getting into the substance of my reasons for this I want to note two things. First, I was not alone in opposing these designations. Many others at the State Department, Department of Defense, intelligence community, and law enforcement community believed this was a bad idea. This remains the case today. It is also very important to emphasize that this is why the Trump administration did not designate any Mexican drug cartels as an FTO, despite promising to do so.[2] Second, the Mexican drug cartels are not monolithic. As such, when someone calls for designating the drug cartels, we need to inspect what this precisely means. There are dozens of drug cartels based in Mexico. Not all of them are created equal and some, quite frankly, are not significant threats to U.S. national security, much less the homeland. Yet, while I oppose the use of terrorism tools to counter cartels, I want to be clear: several Mexican drug cartels are a threat to the homeland. For example, a recent press release by the Department of Justice noted, "the Sinaloa Cartel is one of the most powerful drug cartels in the world and is largely responsible for the manufacturing and importing of Fentanyl for distribution in the United States."[3]

---

[1] U.S. Department of State. "Program History and Statutory Authorities." *https://rewardsforjustice.net/about/program-overview/*. Accessed on June 1, 2023.

[2] *https://www.npr.org/2019/11/27/783449704/president-trump-says-he-will-designate-mexican-drug-cartels-as-terrorist-groups.*

[3] *https://www.justice.gov/opa/pr/justice-department-announces-charges-against-sinaloa-cartel-s-global-operation#:?:text=The%20Sinaloa%20Cartel%20is%20one,times%20more%20potent-%20than%20heroin.*

The Sinaloa Cartel is a clear and present danger to U.S. national security, especially when you consider that Fentanyl is more than 50 times more potent than heroin and is the leading cause of death for Americans ages 18 to 49.[4]

Nevertheless, designating any of the Mexican drug cartels as FTOs at this time is a bad idea.

Here's why: First, the FTO list is comprised of organizations that are guided by an ideological belief system. The Mexican drug cartels are guided by one thing—a desire to make money. They do what they do, sling drugs, to make money. They don't peddle drugs because they want to uproot the powers that be. They have no interest in governing. Simply put, unlike ISIS, they have no interest in creating a caliphate-like structure. They don't have any interest in overthrowing Mexican President Andres Manuel Lopez Obrador. The U.S. Government must not conflate terrorism and crime. It is a slippery slope when the State Department gets into the business of identifying criminal organizations as terrorist groups. As of June 1, 2023, the FTO list has 68 groups on it. If the State Department starts designating criminal groups as terrorists, the number of eligible targets that could be added to the FTO would significantly increase. Hundreds of new organizations could be added to the FTO list—not just Mexican drug cartels, but Brazilian gangs, Central American gangs, Italian mafia groups, the Yakuza crime syndicate, and many more. That's a recipe for disaster. It's a recipe for bureaucratic inertia, especially when you consider the amount of work that goes into every FTO designation package. Each FTO designation takes hundreds, in some cases thousands, of combined person hours to complete. Each FTO designation package is the equivalent of writing a Ph.D. dissertation. My old office responsible for this work has fewer than 10 people who are exclusively dedicated to sanctioning FTOs. As such, they must carefully prioritize the targets they select for designation. If the CT Bureau at State gets into the business of designating criminal groups as terrorists, it gets out of the business of designating terrorist groups. This is a bad tradeoff.

However, there is one very significant advantage of applying the FTO regime against the Mexican drug cartels. Adding the Mexican cartels to the terrorist list would trigger the material support benefits that come with FTO designations.[5] Simply put, that means more time beyond bars for those who try to provide material support to the cartels.[6] On the one hand, that's a net positive. However, this is also a possible benefit with downsides. I can easily imagine scenarios where drug consumers may run afoul of the material support clause when they buy drugs trafficked by a Mexican drug cartel. I can imagine a scenario where a high school junior, let's name him Henry, buys Fentanyl from a Mexican drug cartel and an overly enthusiastic prosecutor decides to pursue a material support case against Henry because he provided funding to an FTO. Similarly, I can see a college sophomore, let's call her Sally, who goes to spring break in Acapulco and ends up buying drugs from a Mexican cartel. In this scenario, let's assume when Sally returns home from spring break that she has the illicit drugs in her checked bag. This results in Sally being arrested at the airport. She's eventually charged for providing material support to a Mexican drug cartel that had been already designated by the U.S. Department of State as an FTO. These types of theoretical scenarios worry me—and should worry every one of you. Sadly, because of America's drug epidemic, there are a lot of Sallys and Henrys hooked on drugs. I don't think the solution is branding Henry and Sally as terrorists. Yet, adding the Mexican drug cartels to the list of terrorist organizations increases the chances that many more Americans could be prosecuted for terrorism. Their drug addiction is already a tragedy. It seems unnecessary to compound the error, but adding the Mexican drug cartels to the list of terrorist organizations would do just that.

Moreover, a U.S.-driven FTO designation of drug cartels holds a variety of consequences for asylum seekers. For example, victims coerced into carrying out material support are frequently discounted from receiving any humanitarian assistance or asylum.[7] In this way, an FTO designation fails to distinguish those who act willingly on behalf of the cartel from those that are forced to do so. Conversely, an FTO designation could aid those attempting to flee for politically-motivated reasons—an

---

[4] Ibid.

[5] *https://www.latimes.com/opinion/story/2023-03-17/dont-designate-mexican-drug-cartels-as-foreign-terrorist-organizations.*

[6] Many of the cartels are treated as transnational criminal organizations already and as a consequence individuals who support these groups can face stiff prison sentences. Yet, low-level material supporters of FTOs often receive 20 to 25 years behind bars.

[7] *https://michiganlawreview.org/ms-13-as-a-terrorist-organization-risks-for-central-american-asylum-seekers/.*

FTO automatically identifies a terrorist or terrorist group as a political actor.[8] Should civilians speak out against the cartels, they are more likely to obtain asylum for expressing a suppressed political opinion; nonetheless, only a limited group of individuals can receive this benefit. Even those asylum seekers that are capable of resisting recruitment may not be considered "politically persecuted," much less those forced to carry out the cartel's illicit activities.[9]

One of the strengths of the FTO regime is the fact that the designation requires financial institutions to block any assets associated with the designated entity. Because the most dangerous Mexican drug cartels are already designated pursuant to the Foreign Narcotics Kingpin Designation Act,[10] they are already subject to having their property and interests blocked. Of note, hundreds of entities and individuals have been designated as Kingpins and there have been tangible results. According to a 2019 GAO study, OFAC has "reported that it has frozen more than half a billion dollars of sanctioned individuals' or entities assets under the Kingpin Act between 2000 and 2019."[11] Simply put, the FTO designation would bring nothing new to the table when it comes to accessing the wealth of the Mexican drug cartels.

Fifth, one of the benefits of the FTO regime is that it renders individuals associated with the designated terrorist group inadmissible to the United States. According to the same GAO study, one of the consequences of sanctions pursuant to the Kingpin Act is that it provides a basis for denying visa requests. Specifically, "Treasury provides information to State so it can decide whether to cancel existing visas and deny visa applications of Kingpin Act designees."[12] Yet again, an FTO designation would not benefit the U.S. Government when it comes to denying drug traffickers access to the United States. The ability to do that already exists thanks to the Kingpin Act.

Finally, the designation of the Mexican drug cartels would damage U.S.-Mexico relations. In 2019, when the Trump administration explained that it was considering the FTO designation, President Obrador was categorical in his opposition. To counter the Mexican drug cartels, the United States must work with the Mexican government. Foreign Minister Marcelo Ebrard emphasized this point in an Op-Ed earlier this year. He criticized U.S. efforts to seemingly undermine Mexican authority and indicated that an FTO designation would ultimately increase violent and illicit activities within both countries.[13] It is clear that U.S. calls for intervention in Mexico have increased tensions between the two countries writ large; to defend Mexican authority and geopolitical interests, Ebrard stressed that the United States' sheer plethora of available weaponry remains a major contributing factor to increased cartel violence.[14] To maintain our own image and secure our relationships with our Central American partners, it is in the United States' best interest to secure avenues of collaboration—not competition. While Mexico can certainly do much more to fight the drug cartels, we would be mistaken to think that they are sitting on their hands. We would also be mistaken to think that the Mexican drug cartel challenge is only Mexican-made. Some have irresponsibly argued[15] that the designation would allow for more direct U.S. military action against the cartels. This notion is highly problematic, likely would result in a violation of Mexico's sovereignty and poison the well for any cooperation with the Mexican government. Even worse, it could push Mexico further into the orbit of America's fiercest economic (China), military (Russia), and ideological (Iran) opponents.

China's investment in Mexico has grown in leaps and bounds over the last several years. In fact, in 2021, Chinese and Mexican trade exceeded $100 billion.[16] In 2022, Chinese foreign direct investment (FDI) in Mexico was significant at $282 million—indicative of Chinese industry's vested interest in expanding its global reach and overarching sphere of influence.[17] Moreover, evidence of criminal collusion between Chinese chemical companies and the Sinaloa cartel are noteworthy; an unsealed indictment in April revealed that a Chinese company sold illicit Fentanyl-producing ingredients to cartel personnel, thus perpetuating America's burgeoning opioid cri-

---

[8] Ibid.
[9] Ibid.
[10] *https://www.ecfr.gov/current/title-31/subtitle-B/chapter-V/part-598.*
[11] *https://www.gao.gov/assets/gao-20-112.pdf.*
[12] Ibid. Page 12.
[13] *https://www.reuters.com/world/americas/mexicos-top-diplomat-stresses-cooperation-with-us-versus-intervention-2023-03-11/.*
[14] *https://www.wsj.com/articles/mexico-foreign-minister-drug-cartels-bill-barr-ag-91345214.*
[15] *https://www.usatoday.com/story/news/nation/2023/04/16/mexican-drug-cartels-terrorist-organizations-senators-fentanyl-mexico-border/11666432002/.*
[16] *https://www.brookings.edu/on-the-record/how-is-china-involved-in-organized-crime-in-mexico/.*
[17] *https://www.dallasfed.org/research/swe/2023/swe2303.*

sis.[18] A U.S.-driven FTO designation could serve to facilitate and sustain Chinese and Mexican illicit trade routes, should the Mexican and Chinese governments fail to adequately address this expanding criminality. The United States' volatile relationship with the CCP in addition to its mounting tensions with Mexican authorities have the potential to isolate U.S. influence from conversations on mitigating the Fentanyl trade—a trade that ultimately reaps severe consequences among the American public.

Russia similarly continues to cultivate relationships and strategic business ventures in the LATAM region. While limited in quantity, Russia previously supplied Mexico with military equipment and continues to expand its presence among the United States' central and South American neighbors, likely to sow geopolitical discord and sour perceptions of U.S. authorities.[19] Evidently, given growing interest and investment from our adversaries in Mexico, the United States must work to ensure our partnerships in Central America are strong and cooperative in nature. There have also been reports that the notorious Russian mercenary organization, PMC Wagner, tried to establish an office in Mexico prior to the outbreak of COVID–19.

All this to say, if the U.S. Government pushes Mexico on the FTO designation, it runs the risk that Mexico will distance itself from the United States and strengthen relations with countries like China and Russia.

These are but handful of reasons why designating the Mexican drug cartels as terrorist groups would be a mistake. Yet, there is much more that should be done to counter these groups. The next section of my testimony explores some possible ways the U.S. Government can expand its efforts to counter the drug cartels.

WHAT SHOULD BE DONE ABOUT THE MEXICAN DRUG CARTELS?

Militarizing the border, putting U.S. troops into Mexico, and sanctioning the cartels as FTOs are not appropriate policy responses to countering the drug cartels. As noted earlier, the Mexican cartels are not only a Mexican-made problem. The trafficking of arms, ammunition, and other weaponry from the United States across the border into Mexico broadens cartels' breath of resources and facilitates continued violence. Mexican authorities found that approximately 70 to 90 percent of guns found during criminal investigations are linked to the United States.[20] This figure tells us that the availability and accessibility of guns within the United States renders their feasible illicit transfer. Moreover, it indicates U.S. complicity in the cartel's violent crimes. In fact, a gun used to carry out the kidnapping and subsequent murder of two Americans in Mexico during March of this year was trafficked by way of the United States.[21] More recently, in April 2023, a U.S. citizen was caught plundering 5,680 rounds of pistol ammunition from Southern Texas to his home in Mexico.[22] In addition to arms and ammunition, U.S. Customs and Border Control officials uncovered 50,000 pounds of Fentanyl crossing into the U.S. Southern Border in 2022 alone.[23] These examples serve as a snapshot of a much broader problem, implicating both the United States and Mexico in furthering transnational cartel crime. There are no simple solutions to this problem, but one obvious policy is to adopt stricter arms control laws in the United States. Simply put, America is arming the Mexican drug cartels and that must stop.

NARCOTICS REWARDS PROGRAM/REWARDS FOR JUSTICE (RFJ) PROGRAM

When I was at the State Department, I managed the CT Bureau's involvement in the RFJ program that focused on countering terrorists. That program has been used more frequently than the U.S. Department of State's "Narcotics Rewards Program (NRP)." The RFJ program is administered by the Bureau of Diplomatic Security (DS), but the NRP program is administered by the State Department's INL bureau. This is a bureaucratic inefficiency and folding NRP under the authority of the DS Bureau may improve the pace of narcotics-related designations. The NRP should

---

[18] *https://www.washingtonpost.com/health/2023/04/27/fentanyl-china-chemical-companies/.*

[19] *https://www.csis.org/analysis/russia-western-hemisphere-assessing-putins-malign-influence-latin-america-and-caribbean.*

[20] *https://news.harvard.edu/gazette/story/2022/02/stopping-toxic-flow-of-gun-traffic-from-u-s-to-mexico/.*

[21] *https://abcnews.go.com/International/gun-kidnapping-americans-mexico-allegedly us/story?id=98012006.*

[22] *https://www.justice.gov/usao-sdtx/pr/american-living-mexico-caught-trying-export-5680-rounds-ammunition.*

[23] *https://www.nbcnews.com/politics/national-security/fentanyl-gun-smuggling-us-mexico-border-deal-rcna75782.*

be used more. The program is designed to incentivize individuals to provide tips on the activities of drug dealers so that they can be prosecuted for their misdeeds. Adding more individuals from the Mexican drug cartels to the NRP list would be useful. If the program expands, it is very likely that some of the best lead information will come from within the cartels. After all, criminals like their money, especially informants within crime groups. It is important to acknowledge that on April 14, 2023, the U.S. Department of State used the NRP to announce rewards offers for information leading to the arrest and conviction of 27 individuals involved in illicit Fentanyl trafficking. Expanding these efforts would be better than labeling drug cartels as FTOs.

CAPACITY BUILDING

According to the U.S. Department of State, between 2008–2021, the United States spent $3.3 billion in equipment, training, and capacity building for Mexican justice and law enforcement sectors.[24] Much of this security cooperation assistance has focused on assisting Mexican police, prosecutors, and judges' efforts to better track criminals, drugs, arms, and money to disrupt organized crime groups. Moving forward, funds for countering the drug cartels should aim to build Mexico's Financial Intelligence Unit (FIU) capacity. Further, specialized attention and training in the area of anti-corruption is critical. Based on my experience of working in the NAS in Embassy Kabul, building up judiciary and law enforcement capacity is crucial. However, winning the fight against blood money will require an expansion of regulatory efforts, as well as the strengthening of Mexico's FIU and most importantly the private sector. The solution to countering the financing of the cartels will require reinforcing and bolstering Mexico's banking compliance systems. In my experience of countering illicit actor financing, the private sector's buy-in is critical. Like the Financial Action Task Force (FATF),[25] I define private sector broadly, to include accountants, lawyers, precious gem dealers, among many others. In its last Follow-Up Report regarding its FATF mutual evaluation, Mexico scored a "non-compliant" on FATF recommendation 23. As such, the United States should focus on capacity building efforts that aim to strengthen Mexico's Designated Non-Financial Businesses and Professions (DNFBPs). The Mexican drug cartels need accomplished lawyers and accountants to make their money look clean as they try to insert their dirty money back into the formal financial system. Improving Mexico's DNFBPs' abilities to detect and report suspect transactions and money laundering is a cost-effective way to counter Mexico's drug cartels.

SOCIAL, HEALTH, AND EDUCATIONAL POLICIES

As much as the Mexican drug cartels are a national security challenge, the broader challenge of drugs in America is, frankly, more of a health, social, and educational challenge. In my view, the Federal Government is not allocating enough time, money, and resources to health, education, and social policies that can decrease America's appetite for drugs. We must address the demand side of this problem while also countering the suppliers and traffickers.

In the 2022 fiscal year, the U.S. total Federal drug control spending was $41 billion. In response to the increase of substance use disorders, namely the ever-growing Fentanyl crisis, the budget requests for 2023 and 2024 were slightly increased.[26] The misuse of prescription drugs and the opioid epidemic are a major focus of U.S. drug control strategies and spending. The death rates caused by the misuse of opioids and synthetic variants such as heroin continue to rise. From 1999 to 2014, the number of annual deaths caused by Fentanyl overdoses hovered just underneath 3,000 deaths per year. After 2015, there has been a massive spike in Fentanyl overdoses. In 2021, overdoses dramatically increased to 70,601. This jump is alarming—this new potent synthetic opioid is the No. 1 cause of drug-related death in the United States.[27] Yet, when compared to other types of spending, our efforts to fight the drug problem on the demand side can be best characterized as unserious, especially when we compare that $41 billion to the current Department of Defense (DoD) budget. DoD's budget for fiscal year 2023 was over $2 trillion.[28] Simply put, killing,

---

[24] *https://www.state.gov/u-s-relations-with-mexico/#:?:text=The%20United%20States%20and-%20Mexico%20partner%20to%20combat%20transnational%20organized,justice%20and%20-law%20enforcement%20'sectors.*

[25] FATF sets guidelines for countries to follow in countering terrorism financing and money laundering.

[26] *https://www.statista.com/statistics/618857/total-federal-drug-control-spending-in-us/.*

[27] *https://www.statista.com/statistics/895945/fentanyl-overdose-deaths-us/.*

[28] *https://www.usaspending.gov/agency/department-of-defense#:?:text=Each%20year%20Federal%20agencies%20receive,making%20financial%20promises%20called%20obligations%20.*

prosecuting, and sanctioning the supply-side entities and individuals (the Mexican drug cartels) of this problem is not enough. It may not be sexy policy to invest in educational, medical, and social-policy initiatives to fight the drug scourge, but this is an area where lawmakers must invest more financial resources.

OTHER TRANSNATIONAL THREATS

The United States faces a broad array of transnational threats, to include gangs, terrorist groups, and private military companies. In my view, the groups noted below represent the most serious transnational threats to the U.S. homeland.

MS–13

The Mara Salvatrucha (MS–13) originated in the 1970's and 1980's in Los Angeles, California.[29] Formed by Salvadorian immigrants escaping civil war, the transnational street gang now has outreach in El Salvador, Honduras, Mexico, and the United States. Engaging in crimes such as murder, narcotics, weapon trafficking, and extortion, MS–13 continues to pose a serious threat to U.S. security.[30] Despite its American origin, the gang's cultural ties to Central America have enabled their influence to spread rapidly among communities in El Salvador, Honduras, Guatemala, and Nicaragua. Chasing the reputation of being the most murderous gang in the world, MS–13 is on the road to just that: in March 2022 the gang's death toll reached an all-time high of 62 deaths within a 24-hour period.[31] Unsurprisingly, their barbaric practices have become well-known to the U.S. Department of the Treasury, who recently sanctioned members of the gang residing in Nicaragua and Honduras in February 2023. Freezing their property rights and blocking their financial transactions, the U.S. Department of the Treasury hopes their response will prevent further extortion, money laundering, and drug trafficking across the U.S.-Mexico border.[32] MS–13's violence, sadly, is unlikely to end because of these designations, or any designation for that matter. Indeed, MS–13's violence has sparked the flow of refugees—innocents who want to escape the violent world MS–13 has created in Central America. Sadly, as I have previously described, this violence has American roots.

TERRORIST THREATS (ISIS AND AQ)

The Salafi-jihadist threat posed groups like ISIS and al-Qaeda. These groups, while not the potent forces they once were, still have the capacity to inspire homegrown extremists to carry out acts of violence. Frequently, we can still read Department of Justice media releases documenting a new arrest, prison sentence, or guilty verdict for individuals associated with ISIS and al-Qaeda. Recently, not far from where we sit today, in Virginia, the U.S. Government arrested an alleged ISIS supporter. In early May 2023, Virginia resident Mohammed Chhipa was arrested for sending nearly $200,000 overseas to ISIS.[33] Chhipa could face decades behind bars for providing material support to a designated FTO. This underscores that ISIS sympathizers remain active in the United States. Second, it underlines the point that terrorist financing is also a persistent threat to U.S. national security interests. As the February 2023 Annual Threat Assessment of the U.S. Intelligence Community, "ISIS's ideology and propaganda . . . almost certainly will continue to inspire attacks in the West, including the United States."[34] This challenge is likely to intensify because of the ham-fisted way the United States left Afghanistan. This spring, General Michael Kurilla, head of U.S. Central Command, told the U.S. Senate Armed Services Committee that ISIS's province in Afghanistan, ISIS-Khorasan, "can do an external operation against U.S. or Western interests abroad in under six months with little or no warning."[35]

---

[29] *https://insightcrime.org/el-salvador-organized-crime-news/mara-salvatrucha-ms-13-profile/.*

[30] *https://www.ojp.gov/ncjrs/virtual-library/abstracts/ms-13-gang-profile.*

[31] *https://www.bbc.com/news/world-latin-america-60893048.*

[32] *https://apnews.com/article/drug-crimes-crime-caribbean-honduras-central-america-812e435334860ae703110202fa64c008.*

[33] *https://www.fox5dc.com/news/virginia-man-accused-of-sending-money-to-isil-remains-behind-bars-following-court-appearance.*

[34] *https://www.dni.gov/files/ODNI/documents/assessments/ATA-2023-Unclassified-Report.pdf.*

[35] *https://www.usnews.com/news/national-news/articles/2023-03-16/u-s-commander-isis-in-afghanistan-6-months-away-from-foreign-attack-capability.*

Like ISIS, al-Qaeda remains a threat to U.S. national security interests, despite that the group's leader was killed in 2022.[36] Of particular concern is the sanctuary al-Qaeda now has in Afghanistan by virtue of the Taliban[37] taking over the country. As the Annual Threat Assessment of the U.S. intelligence community explains, "al-Qaeda remains committed to attacking U.S. interests." The group also continues to inspire home-grown extremists and the group is well-known for playing the long game. Unlike ISIS, al-Qaeda is more patient. In many ways, this makes the group more difficult to infiltrate and counter. One of many examples of al-Qaeda's careful planning culminated in the group's deadly December 2019 attack at a Naval Air Station in Pensacola, Florida. The perpetrator of the attack was part of the Royal Saudi Air Force and the investigation following the attack revealed operational ties between the attacker and al-Qaeda's affiliate in Yemen.[38]

IRAN'S THREAT NETWORK

The Iranian regime and its many proxies represent a clear threat to the United States. While Iran's proxies, including Hizballah, operate in the United States, Iran's menacing activities are a greater threat to U.S. overseas interests. Nonetheless, Hizballah's U.S.-based terrorist financing schemes have made the group millions of dollars. Iran has also plotted to assassinate Americans, most notably John Bolton. This month the U.S. Department of the Treasury sanctioned Mohammad Reza Ansari and Shahram Poursafi pursuant to E.O. 13224 for their plot to assassinate Americans.[39]

PMC (WAGNER)

Private Military Companies (PMCs), such as the Russia-based Wagner Group represent a threat to U.S. national security interests. Indeed, the Treasury Department emphasized the transnational criminal aspects of the Wagner Group on January 26, 2023, when it designated the group as a transnational criminal organization (TCO) pursuant to Executive Order 13581.[40] In justifying the Wagner Group's criminal designation, the Treasury Department explained, "Wagner personnel have engaged in an on-going pattern of serious criminal activity, including mass executions, rape, child abductions, and physical abuse."[41] While it has been well-documented in numerous reports that the Wagner Group carries out terrorism and criminal acts in Ukraine and throughout the African continent, what is less well-known is that the organization leverages American-made social media tools to recruit U.S. citizens and others to its cause.

In May 2023, *Politico* published an article noting that PMC Wagner was trying to recruit, via Facebook and Twitter, individuals to fill positions as medics, drone operators, and psychologists to assist in the group's war effort in Ukraine.[42] According to Logically, a U.K.-based disinformation-focused research group, the posts were in multiple languages and received more than 120,000 views.[43] The Wagner Group has grand ambitions, and its founder has admitted to meddling in U.S. elections. In a post over Russia social media site VK, Prigozhin explained, "we have interfered in U.S. elections, we are interfering, and we will continue to interfere."[44] The Wagner Group is a threat to the United States. That is why I have argued that the group should be added to the State Department's list of Foreign Terrorist Organizations. It is also why I support the bipartisan HARM Act, which would require the State Department to designate the Wagner Group as an FTO.[45]

---

[36] *https://www.csis.org/analysis/zawahiris-death-and-whats-next-al-qaeda.*

[37] Al-Qaeda is a long-time ally of the Taliban and the ties between the groups remain strong.

[38] *https://www.cnn.com/2020/05/18/politics/pensacola-shooting-al-qaeda/index.htm.*

[39] *https://home.treasury.gov/news/press-releases/jy1513.*

[40] *https://home.treasury.gov/news/press-releases/jy1220.*

[41] Ibid.

[42] *https://www.politico.eu/article/russia-ukraine-war-mercenaries-wagner-group-recruit-twitter-facebook-yevgeny-prigozhin/?utm__campaign=Readbook&utm__medium=K-email&__hsmi=260770258&__hsenc=p2ANqtz-9yPLN20j9Zz7stblBhK5trA8vxwCc-__CH9DJf3B2__dmNWEusDazbwgk4RB8c45f3Dz2MrxkB5kXkdzvFo0hVqrCJYcIw&utm-__content=260770258&utm__source=hs__email.*

[43] Ibid.

[44] *https://www.reuters.com/world/us/russias-prigozhin-admits-interfering-us-elections-2022-11-07/#:?:text=LONDON%2C%20Nov%207%20(Reuters),efforts%20to%20influence%20American%20politics.*

[45] *https://www.Congress.gov/bill/118th-congress/house-bill/506?s=1&r=50.*

CONCLUSION

The threat posed by a broad range of transnational groups remains significant. The drug trafficking organizations, terrorist groups, and mercenaries I have highlighted in my testimony only represent a very small component of the overall threat picture. Books are quite literally written about each one of these dangerous groups. What is contained in the testimony above is a surface-level examination. Moreover, there are many other types of transnational threats that persist, such as the growing threat posed by racially- and ethnically-motivated violent extremists (REMVE). The REMVE threat has become increasingly interconnected with U.S.-based Nazis linked to overseas REMVE groups like the Russian Imperial Movement (RIM). RIM was designated as a terrorist group by the U.S. Department of State on April 7, 2020, pursuant to Executive Order 13224.[46]

I want to close my testimony by emphasizing that while I strenuously oppose the terrorist designation of the Mexican drug cartels, I can understand the desire to label them as FTOs. They are a menace and more must be done to counter them. Congress certainly has an important role in ensuring this is done by holding the Executive branch accountable for failed approaches. While I encourage Congress to not designate the cartels as FTOs, Congress does have every right to pursue that objective. I speak from direct experience when I say that without Congressional pressure, the State Department would not have moved as quickly as it could have to designate Boko Haram and the Haqqani Network as FTOs. In the case of the Mexican drug cartel issue, however, I would encourage all to examine some of the recommended policy approaches I offer instead. Unlike a Mexican cartel FTO designation, these alternative approaches are more likely to impact the cartels' blood-stained wallets.

Mr. PFLUGER. Well, thank you, Mr. Blazakis, for your statement, for all the witnesses' statements. Members will now be recognized by order of seniority for 5 minutes of questioning, and an additional round of questioning may be called after all Members have been recognized. I now recognized myself for 5 minutes of questioning.

Hearing the discussion that the first thing that I'll address is that there's this narrative that seems to be that the problem is in the United States and not with the lack of rule of law at our border and to the south. So immediately I would like to push back on that suggestion that the rule of law and the lack of rule of law, as we see it, is directly responsible for this.

I'll start with Mr. Urben. In April, you testified before the House Oversight Committee and the Accountability Committee. In your testimony, you discussed how Chinese organized crime networks launder money, or Mexican Transnational Criminal Organizations. You stated more needs to be done. What steps can the United States take to undercut this budding relationship between the Chinese organized crime networks and Mexican TCOs?

Mr. URBEN. So it is two-fold. One is certainly on the government-law enforcement side. There's is an opportunity to leverage data that's judicially acquired by law enforcement. One component or an access point or a weakness of Chinese organized crime is that you can hold that data in and map the network out, identify the targets that the Government should go after in terms of prosecution. So that's on the Government side.

Also, on the Government side, we have used the term whole-of-Government approach in the past. What I mean by that is using specific authorities that the Government has that we can leverage to impact the Chinese money-laundering network.

[46] *https://2017-2021.state.gov/united-states-designates-russian-imperial-movement-and-leaders-as-global-terrorists/.*

For example, sanctions. For example, pulling visas of identified Chinese money laundering that we decide we're not going to prosecute. There's a limited amount of resources to prosecute high-valued targets in leadership. So that's on the Government side.

On the private-sector side, I think training, I think enhanced compliance at banks, financial institutions, wire remitters. This is an evolving threat, so I think there needs to be essentially a partnership, to some degree, with Government in the private sector where we provide the intelligence, not sensitive intelligence, but the information that will allow them to enhance their compliance programs to impose what I call cost on Chinese money launderers, make it more difficult for them, whether again through Government, arrest and prosecutions, or on the private-sector side with compliance.

Mr. PFLUGER. Well, thank you, Mr. Urben. I am hearing that strength works best when dealing with these thugs. Ms. Ford, I'll go to you. This narrative that illegal immigration from some of my counterparts on the other side of the aisle has absolutely nothing to do—the wide open borders has nothing to do with the rise of transnational criminal organizations, trafficking of drugs, the trafficking of people. You mentioned the 53 tragic deaths on the tractor south of San Antonio. What is illegal immigration, and the surge, over 5 until since Biden took office, doing to allow the flow of drugs and trafficking of people into in country?

Ms. FORD MALDONADO. Thank you, Chairman Pfluger. A lot of people do say that the problem with legal immigration is sometimes we use the cartels as a guise to go after illegal immigration, right? But I would say two things about that. The problem is not about immigration. This is about border security and national security. I also think that if people care about migrants, they should realize that the most inhumane thing that we can do to them is let things run the course that they're continuing to run. They're being smuggled. They're being abused. They are often being killed at the border. So we need to crack down on the border and crack down on the people that are taking advantage of them, if we want to do something about illegal immigration.

Now, I also think that illegal immigration is posing a threat to what's happening, because we are seeing numbers come in like they've never come in before. We're seeing so much insecurity at the border, and that's taken away a lot of limited resources and attention that should be going toward protecting the homeland.

Mr. PFLUGER. Thank you very much. Mr. Farah, the evidence that links the Sinaloa cartel and Hizballah, has been well-documented by the DOJ through arrest and indictments and the relationship between the two organizations as fueled instability between Latin America and the Middle East for the last decade. Can you describe that relationship to us today?

Mr. FARAH. The Mexican cartels and Hizballah have primarily a financial relationship that allows them to move money to designated terrorist organizations in the Middle East in exchange for access to ports and the import of illegal products or smuggled products or products, counterfeit products into our hemisphere.

I think my work is primarily focused on the tri-border area of Paraguay, Argentina, and Brazil where you see this network of

now Essesay, which is the main gang with Hizballah operatives and with Colombian and Mexican drug cartels moving into ever-expanding circles of collaboration, not out of ideology or religion, but simply for the ability to profit. When I talked about the new groups that are emerging in the hemisphere, it's this type of new specialization that comes in. This ability of Hizballah to provide new things that the cartels didn't have before access to new methodologies, et cetera.

So I think that it is an economic relationship that is primarily going into a different types of specialization, which is being harmful to the countries in place as well as posing an increasing threat to the homeland.

Mr. PFLUGER. Thank you. My time has expired. I now recognize the gentleman from Rhode Island, the Ranking Member, Mr. Magaziner, for 5 minutes of questioning.

Mr. MAGAZINER. Thank you, Chairman. You know, the reality is that because these TCO treats emanate from outside our border, because the violence, the taking advantage of people who are fleeing poverty, fleeing persecution all originates or primarily originates in Central, South America, and beyond. We need to work with our foreign partners in order to crack down on TCO violence. We have to do that. Some of those countries that we must work with are more reliable partners than others. That is the case. It has always been the case. But if we are truly going to get to the root causes of these threats, it requires multilateral coordination.

So on that theme, Mr. Blazakis, you talk about building capacity in our partner countries in your written testimony? Can you expand on what the opportunities are in working with Mexico and ourselves and Central American allies to crack down on TCO activity?

Mr. BLAZAKIS. I would highlight one specific example from my written testimony. I highlighted the need for Mexico for instance, to improve its financial action task force or FATF rating related to recommendation 23, which focuses on designated nonfinancial businesses and professions DNFBPs for short. This area is especially important in Mexico and is one of some countries really that has struggled with trying to strengthen the designated nonfinancial business and professional sector. It is really important to build that up for a lot of reasons, especially in Mexico.

When we're talking about DNFBPs, we're talking about lawyers, accountants, and many others in similar professions who are enabling transactions. The drug cartels can't wash their money in the way that Mr. Urben discussed really eloquently without having some sort of legitimate business or invest in real estate without having an army of enablers. These enablers are areas where the U.S. Government should focus a lot of its capacity building moving forward, in addition to trying to build the capacity of prosecutors, especially in the area of corruption.

Mr. MAGAZINER. Thank you. On a related note, Mr. Farah, I was struck by a portion of your written testimony. You wrote: Russia and China view Latin America as a key theater of great power competition and act accordingly. The United States must forego complacency and see creative new engagements with its partners. Higher quality, more comprehensive, and more sustained engage-

ment with the right communities will go far to strengthen democracy, civil society, and regional stability.

Can you expand on that a bit? In so doing, what can we do? What can we the United States do to motivate our foreign partners to be better partners and more effective partners in tracking down on TCO activity?

Mr. FARAH. Thank you. I think it's a challenging environment because we are now facing numerous governments that have—for example, the government of Argentina, which has declared itself as Russia's doorway to Latin America and has allowed China to come with nuclear programs, deep space stations, et cetera. So I think that there's more constraint space to operate with trusted partners. I think at the same time, the vast majority of folks in the military and in the law enforcement community prefer the United States as their first partner of choice. I think that if you look at—and we mapped this out for SOUTHCOM and others over time—the level of high-level visits by the Russian and Chinese is about 17 times the level of U.S. visits to Latin America. I think that—well, I told them at the time—if Russia can find the time in the middle of a war to send its foreign minister around, we should be able to do a little better. We have a huge disadvantage with Russia in that they have a small cadre of highly experienced Ambassadors that rotate around the region and speak Spanish around all the time. We have major Ambassadors sitting without Ambassadors. In the case of Chile, almost 3 years. Now we're going into Colombia, we're going into the second year.

So I think there are multiple relatively easy fixes that engagement. I think we also need to do a better job of helping to explain the threats to their own democracies and rule of law that the Russian and Chinese involvement bring because they're directly tied to massive corruption and massive destruction of their own institutions.

Mr. MAGAZINER. Thank you. Mr. Blazakis, one final question. You notice that, see is a pattern that is developed at our hearings on the border where Members of both parties talk about the importance of cracking down on human smuggling, cracking down on drug trafficking. But when it comes to trafficking guns, there is a often deafening silence on the other side of the aisle. Can you talk about why this aspect of TCO activity is so important and something that we need to address?

Mr. BLAZAKIS. Just as you mentioned in your opening testimony, there is the illegal export of nearly 600,000 weapons going into Mexico. That's not insignificant. In many ways, it could be perceived as fueling this insurgency that's happening in Mexico that's taken so many civilians' lives in Mexico that Ms. Maldonado, and also the lives of Americans when the drugs come back into the United States. So in this case, we have to improve our border security going outbound as just one example, and using be AI technology, especially could be one way to get at this challenge.

Mr. MAGAZINER. My time has expired. Thank you, all.

Mr. PFLUGER. The gentleman's time has expired. The Chair now recognizes the gentleman from North Carolina, Mr. Bishop, for 5 minutes of questioning.

Mr. BISHOP. Thank you, Mr. Chairman. Mr. Blazakis, is that how you say it or Blazakis?

Mr. BLAZAKIS. Potato, potato. My grandmother will say Blazakis, I say Blazakis.

Mr. BISHOP. Blazakis. Thank you, sir. One point that you've made—you know, it is interesting, as I've listened to the witnesses, I think it sounds like a very tough—to crack. Now I understand this FTO designation thing has been out there for a while. I hope I come to that with you, Mr. Blazakis. But I want to first get at the last thing Mr. Magaziner was referring to and you have in your testimony, that the sentence says that you are to report information from Mexican authorities that—I don't know whether they are reliable or not—I can't tell from without further looking at it, but found that approximately 70 to 90 percent of guns found in criminal investigations are linked to the United States. In your next sentence: This figure tells us that the availability and accessibility of guns within the United States renders their feasible illicit transfer.

So I want to make sure I understand this. So are you saying just the fact that we have broad second amendment rights and Americans have, I have got a Glock 19, is that—I mean, we can't stop Mexican drug cartels because of that?

Mr. BLAZAKIS. That's certainly one component of it. There is no questioning that there are illegal weapons—weapons illegally being moved, and individuals may be purchasing these weapons legally in the United States. So there is a significant access to the weapons. There's no secret about that.

Mr. BISHOP. There certainly is access to guns in the United States. It's Constitutionally protected. The question now that I have for you. What are you saying then should be done about that? I mean, I didn't think it was a great idea when the Obama administration ran guns in the United States. I remember that big controversy. I wasn't here then. So that seems dumb. I think there are ways to stop trafficking guns across the border, southward, I'm for that. So what beyond that are you saying? Do you think we just need to repeal the Second Amendment? I just want to understand what you're proposing.

Mr. BLAZAKIS. No, no, not at all. Not repeal the Second Amendment. But I think careful consideration about who should have access to the guns is particularly important, and what kinds of weapons should be accessible to the American public. I mean, we've time and again, this is a separate issue, school shootings in this country, plaguing us just as the drug epidemic is plaguing us. Access to AR–15s, automatic weapons, you know, some of these things absolutely need to be explored and taken seriously. But in addition to that, as I mentioned before, the challenge of the border, these weapons going illegally, illegally across the border, there are things that you can do short of looking at arms control-related gun laws in America that would be helpful as I mentioned to responding to Mr. Magaziner of the use of AI technology, bolstering our border officials' capabilities to look at what's going outbound. A lot of that requires intelligence as well. Who are going across the border bringing these weapons? That's a thorny issue as well Constitutionally in terms

of the investigation of Americans here. So these are quite a few issues I would explore.

Mr. BISHOP. OK. I hope I have a chance to come back to you. Mr. Urben, I was interested in looking at your model that was on the diagram and your testimony, and I found myself sort-of surprised that with all the advances made, you know, the suspicious activity reports that financial institutions do, and they do them by the ton. That the success we've had in interdicting terrorists moving money, that this is really a model. They can money launder. Chinese money brokers can money launder proceeds from illicit drug transactions in huge quantities in order to supply Chinese who want to use money in the United States. Why are we not having success in breaking that up? It's classic money laundering, isn't it?

Mr. URBEN. I mean, the cash that's here that's bought by Chinese nationals after the Chinese broker receives the proceeds, it is disconnected from the financial system.

Mr. BISHOP. Oh, it does not go through the financial system?

Mr. URBEN. It does, but it's disconnected in a way where it's not linear, where the drug proceeds are smurfed into banks or smuggles or wire transferred. The cash stays in each country or location. So it is not traditionally like it's been required wired or moved or transfer. That's what you're talking about suspicious activity reports. This is the dollars stay in the United States, the pesos stay in Mexico, and RMB stays in China.

Mr. BISHOP. I would think the source of that money in those accounts would be suspicious to a financial institution handling it. So it may be something that acquires deeper than here. I want to get one more question in or one more comment. It does seem—you mentioned WeChat, though.

Mr. URBEN. Yes.

Mr. BISHOP. So you got that social media network. There's an article in the *Wall Street Journal* that comes out today. Instagram connects vast pedophile network. I didn't get a chance to read the entire article. It's really shocking.

Ms. Ford Maldonado, you talked about, of course, child trafficking is a phenomenon that we see—sex trafficking in the United States facilitated by cartels is something we've seen that at higher levels as ever. Maybe I'll ask you, are social media networks contributing to that illegal conduct? I've been concerned about U.S. officials, agencies suppressing free speech on social media networks and have fought that. Speaking of agencies doing that, but we ought to be doing everything we can to stop illegal conduct on Instagram that's promoting pedophilia and so forth, shouldn't we?

Mr. PFLUGER. The gentleman's time has expired, but please, quickly.

Ms. FORD MALDONADO. Yes, 100 percent. I think there's a lot of social media platforms that are very responsible for what's going on. We've also done a lot of search on social media platforms being used to recruit people to take place in trafficking and smuggling and all of the illegal activities.

Mr. PFLUGER. The gentleman's time has expired. The Chair now recognizes the gentleman from New York, Mr. Goldman.

Mr. GOLDMAN. Thank you, Mr. Chairman. I thank our witnesses for being here today. I want to follow up on a line of questioning

that my colleague, Mr. Bishop, was asking, because my experience as a prosecutor of Transnational Criminal Organizations makes it pretty clear to me that these organizations need some mechanism to maintain their power and their authority.

Mr. Blazakis, when you were in your opening testimony, you talked a fair bit about that mechanism being assault weapons. I believe you say based on your research, which I've also seen, that approximately 70 to 90 percent of guns found during—by Mexican authorities during criminal investigations are linked back to the United States. Are you aware of how many legitimate gun stores there are in Mexico?

Mr. BLAZAKIS. I'm unaware, no.

Mr. GOLDMAN. One.

Mr. BLAZAKIS. Very little.

Mr. GOLDMAN. One. So there are nearly 500,000 guns that go across the border from the United States to Mexico illegally as you point out.

Mr. Urben, I am grateful for your service in the DEA with whom I worked with many of your colleagues. What impact do you think that the cartels having access to assault weapons and other weapons of war has on their ability to control the border, to control human smuggling, to control the opioid and Fentanyl trade?

Mr. URBEN. Well, certainly, the access of weapons by the cartels is a paramilitary organization, many of them are former members of the Mexican military, enables them to impose themselves in violence throughout the country and to determine how they want to smuggle drugs across the border. So the weapons obviously facilitate that.

Mr. GOLDMAN. Right. Without those weapons of war to maintain that control at the border, is it your experience—or based on your experience, would you believe that the Mexican government with support from the United States and other countries would be able to curtail the authority and power of the cartels?

Mr. URBEN. Is it concerns just weapons or in general, a joint partnership or relationship?

Mr. GOLDMAN. Well, right, I'm trying to understand the impact of this influx of assault weapons from the United States to Mexico, especially to the cartels, how that impacts the Mexican government's ability to crack down on the cartels as well.

Mr. URBEN. Sure. Them being well-armed makes it difficult to control them.

Mr. GOLDMAN. Would you say—and I'll turn to Ms. Ford Maldonado—you know, the Executive Order signed by the President in 2021 lays out Executive Order 14060 in December 2021 lays out objectives and mechanisms to fight these cartels and to fight the Fentanyl trafficking. What's your sense of how that has been implemented and whether that has had a material impact on the cartels across the border?

Ms. FORD MALDONADO. I think unfortunately the situation that we're seeing at the border is only getting worse and worse. So something new needs to happen, and we need to address the new problems that we're facing. I believe that every option should be on the table to fight these cartels. Because they're not a small threat anymore. I think they're the largest criminal threat to the United

States right now, and I think we should have every option on the table. Right now, I mean, we have a very strong robust military. They're employed in different missions around the world, which is honestly necessary. But our governance is threatened because we are not using the full force and weight of the United States to protect our own border and fight those that are coming in and basically declaring war against Americans. So we should be——

Mr. GOLDMAN. Well, I do think that, you know, one of the things that we are talking about here—and I'm sorry to interrupt you, I'm about out of time—you know, to the extent that my colleagues on the other side talk a lot about the control that the cartels have over the Fentanyl trade, over human smuggling, we have to look at this outflow of American-made guns to the Mexican cartels, which give them the control at the border and the power to oversee these trafficking networks. With that, I yield back.

Mr. PFLUGER. The gentleman's time has expired. The Chair now recognizes the gentleman from New York, Mr. D'Esposito.

Mr. D'ESPOSITO. Thank you, Mr. Chairman. Thank you to the panel for being here this afternoon sharing your time with us. Since the Biden administration's taken office, encounters at our Southwest Border have hit record numbers. The latest statistics of monthly border encounters on our Southwest Border show that the number of encounters is 10 times more than they were in 2020. To reach across our Southwest Border, illegal immigrants often rely on smugglers and cartels working for TCOs. The FAA recently signed off on plans to open a migrant shelter in a warehouse at JFK International Airport, just blocks from my Congressional district.

Ms. Ford Maldonado, what sort of risks are associated with housing unvetted migrants at a major international airport?

Ms. FORD MALDONADO. I can tell you that the problem is no longer just people coming in and looking for a better life. I have a stat right here. In the last 26 months, we've seen 6 million total encounters from 171 different countries, and we've had 1.7 million total gotaways. So we don't even know what threats they're posing to our country.

But I can tell you that it's not a victimless crime, right? The immigration that's going on, it's coming in. It's taking away from our resources that should be used to defend our country from all of these threats coming in.

In just the first 26 months of this administration, CBP has apprehended over 80,000 criminals at the border with the very few resources that are at the border right now. What's especially scary about that is 90 percent of our border resources aren't even on the front lines.

So I think that, among the 80,000 criminals, if you think about it, there were murderers. There were rapists, pedophiles, gang members. There's even a term, "angel families," for all the people that have lost their sons, their daughters, their family members to crime coming in from illegal immigration because we don't have control over our borders.

So I think—I think it's a massive threat. I think we need to get it into control. I think we've handed complete operational control at the border to the cartels, and we have no idea what else is coming in.

Mr. D'ESPOSITO. I agree. You know, not only is it a failure of the administration; it's a failure of our Secretary of Homeland Security. It's a failure of the American people, but it's also a failure of those seeking the American dream.

I've always said that I support people coming into this country but coming through the front door. Nobody comes to this country for a better way of life because they want to be stored in a vacant building at JFK Airport.

TCOs are decentralized and depend on multiple illicit businesses' support from adversarial and lawless nation-states and work together with other TCOs. Human traffickers use new technology such as cryptocurrencies to hide and obscure payments while trafficking these humans coming across our Southern Border.

The first question is, what techniques have law enforcement used to keep up with the evolving networks and techniques that are employed to traffic humans covertly? I'll leave that to anybody.

Mr. BLAZAKIS. I'll take that question.

I think the Department of Justice Federal investigators have done an excellent job charting the cryptocurrency flows, whether it's Bitcoin, Ethereum, you name the crypto. The Government has worked with groups like Chainalysis in the private sector and Ciphertrace amongst others to be able to track cryptocurrency.

Cryptocurrency is not anonymous. It's pseudonymous. There is a great capability that exists within the Government to track crypto as a general matter. We have seen billions of assets frozen of transnational groups who have thought that they were able to have secure transactions via crypto, and they've lost those forfeited funds to the United States.

So we are doing some good work in the crypto space. Great technology being leveraged by Department of Justice in conjunction with the law enforcement community and the private sector in this space.

Mr. D'ESPOSITO. Thank you.

Mr. Chairman, I yield back.

Mr. PFLUGER. The gentleman yields.

The Chair now recognizes the gentleman from Arizona, Mr. Crane, for 5 minutes of questioning.

Mr. CRANE. Thank you, Mr. Chairman. Thank you guys for coming. I appreciate you all being here.

I am going to start with Mr. Urben. Sir, why do you think—why do you think the cartels purchase chemicals necessary for the production of Fentanyl from China?

Mr. URBEN. There's obviously a budding relationship there, and there's an ease to get them, as well as there's a tremendous amount of chemical companies in China that produce the precursors that they need.

Mr. CRANE. That's a pretty long trip from China to Mexico, isn't it, sir? Doesn't that increase costs, shipment costs?

Mr. URBEN. Sure. It certainly would increase shipping costs. But, again, it's obvious that they are successful in acquiring the precursors from China, so they continue to do it.

Mr. CRANE. Thank you.

In a Communist-run country like China, you would think that they would be able to crack down if they wanted to on the supply

that's coming over and killing so many Americans. Would you agree with that? Or maybe do a better job of cracking down?

Mr. URBEN. I believe they can, yes.

Mr. CRANE. Sir, have you ever read the book "Unrestricted Warfare"?

Mr. URBEN. I have.

Mr. CRANE. What about anybody else on the panel?

Mr. Farah, have you read "Unrestricted Warfare"?

Ms. Maldonado.

Ms. FORD MALDONADO. No.

Mr. CRANE. Sir on the end?

It was written and published in 1999, authored by two PLA senior colonels, and it talks about China's plan to, you know, dominate and take out the United States of America using economic warfare, cyber warfare, elite capture, corporate espionage, intellectual property theft, asymmetric warfare on almost every aspect of our social, economic, and political life. Basically, take out the United States of America without firing a shot, if possible.

Does that sound—does that sound familiar to anybody on the panel?

Does that sound like something you're seeing in the headlines, Mr. Urben?

Mr. URBEN. I mean, certainly, they are finding ways to undermine various aspects of our country. In terms of my investigative efforts when I was with DEA, those investigative efforts took place outside of mainland China.

Mr. CRANE. Now, obviously this is a Homeland Security Committee, and we're talking about border security.

Reading that list and just knowing a little bit about the Chinese Communist Party, do you think it's feasible that they might use Fentanyl and the ingredients for deadly drugs to kill our own citizens?

Mr. URBEN. Again, in terms of my investigative efforts, I did not tie it back to mainland China and the CCP.

In terms of the question itself, is it feasible?

Mr. CRANE. Yes.

Mr. URBEN. I guess it is feasible.

Mr. CRANE. But you would acknowledge that ingredients are coming from China, right?

Mr. URBEN. Oh, I certainly—they are coming—precursor chemicals are coming from China to Mexico.

Mr. CRANE. OK. Thank you.

Ms. Maldonado, you were talking about the cartels—how effective they are, how powerful they've become. I think we can all acknowledge that. But I want to ask you a question.

Do you think that that's what initiated this surge that we're seeing on the Southern Border? What do you think the cause of what we're seeing on the Southern Border—what do you think initiated that surge that we're seeing right now?

Ms. FORD MALDONADO. The surge of immigrants?

Mr. CRANE. Yes.

Ms. FORD MALDONADO. I think it's a lot of reasons. Actually, I was just in Juarez about 3 weeks ago on the Mexican side of the border, and I was able to talk to a lot of the migrants that were

there. I think a big part of it is they're hearing that the border is open, right?

So people are traveling—I mean, there was people there that traveled 8,000 miles with no water, no medical care because they're hearing that the border is open. They're hearing that their family members, their friends got in. That's what's taking them straight into the hands of the cartels. So I think a lot of it is word of mouth.

Mr. CRANE. Yep.

Ms. FORD MALDONADO. They're hearing that there's an open invitation to come into the United States. Unfortunately, they're having to make it through incredibly difficult and horrendous circumstances to try and get here.

Mr. CRANE. Yes, ma'am. Do you think something that might contribute to that is when the future President of the United States says in a 2019 Democratic primary debate, "The United States is a country that tells people struggling under oppression or poor conditions," quote, "you should come"? "They deserve to be heard. That's who we are. We are a Nation that says you want to flee and you're fleeing oppression, you should come"?

Do you think that that's something that might initiate some of the surge that we're seeing?

Ms. FORD MALDONADO. I think absolutely. I think that that's what we're seeing happen. It hasn't always been the same problem that it is now. It's a problem that's continuously increasing, and it's being orchestrated by the cartels because they're making more money than ever.

But I think that a different policy would have different results, and that's why we need to look at new avenues that haven't been thought of before.

Mr. CRANE. I agree. I also think we should go back to some of the policies that were working in the past.

My time is up. I yield back. Thank you, Mr. Chairman.

Mr. PFLUGER. Thank you. The gentleman's time has expired.

We will now enter a second round of questioning and do the same process between Republicans and Democrats for 5 minutes.

I'd like to highlight the fact that I think I finally agree with one of my colleagues on the control of the border. When my colleague from New York mentioned that the cartels do in fact have control of the border, I do agree with that statement. They do have control of the border.

I'd also like to remind my colleagues on the other side of the aisle that Operation Fast and Furious under the Obama-Biden administration put hundreds of thousands of weapons into Mexico. One of those—two of those weapons actually were found at the crime scene where U.S. Border Patrol Agent Brian Terry was murdered.

So maybe this narrative that we need to turn our Border Patrol northward to protect Mexico from U.S. weapons—maybe we should just take a deep breath and protect the United States from the illegal and illicit activities that are entering our country.

I'd like to focus your attention on this chart. On the bottom rung is the year 2020, and then it goes 2021, 2022, and 2023. These are in pounds of drugs—illicit drug seizure by weight every single year from 2020 in red, to 2021 in gray, 2022 in blue.

Mr. Urben, with your 25-plus years in DEA, why do we see a doubling, tripling of the amount of drug seizures here in the United States that are coming from Mexico? I mean, is it—are these—is this success here, or is this actually an indicator of failed policies?

Mr. URBEN. Well, I mean, I'm not going to comment on the policy aspect in terms of—it's obviously an indication of more drugs coming across the border and more seizures. That's the way I look at it. So, to some degree, there is some success there if you're seizing the drugs.

With the amount of drugs coming over and the amount of deaths associated with overdoses or murder for taking, you know, pills that are laced with Fentanyl, that's not success.

Mr. PFLUGER. That's not success. I agree.

So what are the policies that need to be implemented to prevent the hundreds of thousands of deaths?

Mr. URBEN. It's obviously a broad question. I think the first component to that is there needs to be a joint cooperative relationship with Mexico in some way where you can action law enforcement or the military down there against the cartels. For us to disrupt the Mexican cartels, we have to start down there. That's, again, a broad issue. It's a State Department issue. It's a negotiated issue. But that's something that would have to happen to disrupt their capabilities.

In terms of the homeland, I think—again, what I talked about earlier was data, right? We need data analytics to leverage data for insight for law enforcement against the Mexican cartels and Chinese money launderers.

Mr. PFLUGER. You know, you have all mentioned working with the Mexican Government.

Mr. Farah, do you see this administration doing anything to have accountability or relationships with the Mexican Government to push back?

Mr. FARAH. I think the relationship with Mexico as well as Colombia and many other countries is much more fraught than it was previously. I think we have fewer and fewer interlocutors that can be trusted that we can deal with.

I think—as I talked about the criminalized state structure emerging as different governments—and I think the AMLO government in Mexico is certainly moving this direction—they become more aligned on a strategic level with cartels than with United States and other groups, as I think Colombia will do under President Petro and as we've seen in Venezuela and as we've seen in Nicaragua.

You're facing an outlook where you have fewer levers because we have, over time, allowed those relationships—and I'm not saying—I think it goes back a decade at least—those relationships to deteriorate, and we have not been successful in engaging in on-going training because those—the units we train and work with are consistently dismantled. When different governments come in, they are more aligned with the criminal groups.

So you have well-trained, well-meaning people that are then dispersed to the wind. I think that that has made it more and more difficult over time to engage people who want to talk with us be-

cause they're not going to last in their own structures and for us to have people we can talk to down there.

Mr. PFLUGER. Thank you.

I look at one of the agreements that we had from 2016—or really 2017 to 2020—and that was migrant protection protocols, MPP, otherwise known as Remain in Mexico. I can't help but draw a distinction between the numbers that we're seeing here in 2020 in a policy like that that does limit the amount of malign activity that a cartel can do, that they can use people.

I have been to the border a dozen times. I've seen the destruction. I've seen what Ms. Ford Maldonado has described. The assaults, the sexual assaults, the amount of money that they're charging.

Ms. Ford Maldonado, what do you think about reinstatement and an actual implementation from this administration of MPP, Remain in Mexico? Would that have an effect on the amount of drugs that we're seeing come into this country?

Ms. FORD MALDONADO. I think it's possible. I think it would definitely have an effect on what's happening at the border. I think we also need to explore new avenues as to how we can secure the border and how we can stop the inhumane things that are happening.

You were just saying, we've also heard stories from Border Patrol who have interviewed little girls who were raped multiple times on their journey to Mexico. Little girls that came across with the morning-after pill because their parents sent them across expecting them to be assaulted on their journey.

So I think something needs to be done, not just because of what's happening at the border but what's happening beyond the border. I mean, Fentanyl is affecting absolutely everyone. I think that the most recent numbers we've seen is 107,000 people that were killed in the year ending in January 2022. That's 9,000 people every 30 days. That is the equivalent of a fully loaded 747 crashing into a mountain every single day of people that are dying because of this.

Mr. PFLUGER. It's tragic. Thank you for your testimony. My time has expired.

I recognize the gentleman from Rhode Island, Mr. Magaziner.

Mr. MAGAZINER. Thank you, Chairman. I have to—I wish that some of our colleagues were still here.

On this discussion about guns illegally trafficked across the Southern Border to the cartels, there are solutions here. They don't need to be partisan solutions. I wish our colleagues were here for this conversation.

But, you know, listen. I know that our colleagues across the aisle are not going to support an assault weapons ban. They're not going to support a high-capacity magazine ban. I support those things. They don't. Fine. Leave that conversation for another day.

As Mr. Blazakis said, the issue here is firearms often being purchased legally and then trafficked to the cartels illegally. There are things that we can do to crack down on that, like universal background checks; closing the gun show loophole so that when a gun is sold to an individual, wherever they are in whatever setting, there is a criminal background check to make sure that that firearm is not being sold to somebody with a record that suggests that they can't be trusted with it.

I have introduced a bill—or I'm introducing a bill soon to stiffen penalties for dealers that fail to conduct background checks that they are legally required to conduct. Because, unfortunately, right now, under our current laws—and this is not the vast majority of gun shop owners, most of whom follow the law and do the right thing—but those that don't, when they knowingly fail to perform a background check, get a slap on the wrist over and over again.

So there are things that are common sense that ought to be bipartisan that we ought to do, and we cannot minimize the fact that the source of the power of these TCOs, of these cartels, is their ability to inflict acts of violence on people because they are heavily armed, and that is part of the equation.

I also want to build off of something that Ms. Ford said correctly when she was asked—correctly, I believe. Why are people coming here? The obvious answer is, well, because they think they'll have an easy time getting across. One of the reasons that they think they have an easy time getting across is because the cartels and the traffickers are lying to them and telling them that U.S. asylum laws will let anybody come across; you'll have an easy time getting asylum, getting a green card, whatever the case may be.

So, again, one of the remedies to this is, let people apply for asylum at U.S. consulates or from their home countries so that they can see whether they are eligible or not. When people see themselves that they're not eligible, they'll be less likely to believe the lies that the cartels are telling them and make that dangerous, often deadly journey.

So, again, there are things here that ought to be common-sense, bipartisan solutions, and I do hope that——

Mr. PFLUGER. Will the gentleman yield? I'll give you additional time.

Mr. MAGAZINER. Sure.

Mr. PFLUGER. Is that not currently happening where you can apply for asylum at U.S. consulates? Is that not the standard protocol?

Mr. MAGAZINER. My understanding is that the legislation that the House just passed restricts the ability of people to use the CBP One app to get applications to have their asylum claims considered, that the number of places in other countries where people can apply for asylum in person is limited.

Again, I think, under the current administration, some of those policies are changing. I think that's a positive thing. But I do think that needs to be part of the conversation. We need to make it harder for the cartels to lie to people about their eligibility.

Mr. PFLUGER. Yes. I just think we need to check that—you know, the specificity of that particular asylum—when you're seeking asylum and doing it in another country, I think it is pretty much standard protocol that that happens, and I'm not sure that the law has been changed to reflect any difference.

You still have 2 minutes left. So I yield back.

Mr. MAGAZINER. Thank you. All right. Switching gears here.

We've focused most of our attention today on Mexican, Central American, and South American TCOs, and rightfully so because I think we are all in agreement that those are the TCOs that pose the most immediate risks to the homeland and to our citizens.

But there are other groups out there, some of which are operating in the United States that are dangerous, and I believe Mr. Farah and others have mentioned them. ISIS, the Iranian transnational network.

Can we just—and I'll open it up to any of you with my last couple minutes here. Would anyone like to spend a little bit more time highlighting the risks posed by some of those organizations and what we, as policy makers, should do to crack down on them?

Mr. FARAH. I think one of the real issues that we're seeing across the region is not just the traditional like Hezbollah threat network, Iranian threat network. It's—the Albanian mafia is now there. There are multiple parts of the Italian mafia structure now plugged in.

Because the market is—the cocaine market is shifting while our synthetic market here is rising. So the cocaine market in Europe and Russia and the former Soviet republics is much more lucrative than it is in the United States. Our cocaine consumption has been down while our synthetic consumption has been way up.

So I think that there are numerous new types of violence being introduced, numerous new types of money laundering being introduced. Numerous new types of trafficking structures are being introduced. It introduced these groups that have been in this hemisphere to a whole new set of African, European, Asian, and former Soviet republic structures that allow everyone to make a lot more money and make it much more difficult for us to crack down.

There's one case I'm sure Mr. Urben is familiar with. The case of the Gayane, which is a ship that ended up being busted in Philadelphia with 17 tons. That was—those are Eastern European crews, loading off the coast of Chile, passing through with a different group that switched—that loaded the cocaine in the Panama Canal and moved to Philadelphia. It was all external actors in a 17-ton cocaine shipment, which was busted almost by luck in Philadelphia. So I think that's the issue.

Mr. MAGAZINER. Would anyone else like to weigh in on any other TCOs that we should be focused on as well as a committee? Again, ISIS, Iran.

Mr. Blazakis.

Mr. BLAZAKIS. I'll just say, on the ISIS front, I think it's particularly important that we keep our eye on Afghanistan. We've had multiple senior officials within the Biden administration speak with great alarm regarding a possible resurgence of the so-called ISIS Khorasan Province in Afghanistan, so much to the point where the administration said that they worry about that group having the external operations capability within 6 months. That statement was from a senior Department of Defense official about 3 months ago.

I think it's particularly important that we continue to invest some level of resources as it relates to tracking ISIS Khorasan in Afghanistan, especially.

Mr. MAGAZINER. Thank you all.

Mr. PFLUGER. The gentleman's time has expired.

The Chair now recognizes the gentlelady from Nevada, Ms. Titus, for her questioning.

Ms. TITUS. Thank you very much.

I'd like to talk about an issue that maybe many people don't think of as connected to homeland security, but it's becoming more and more entwined with some of the issues that we have internationally. It's affecting major metropolitan areas, especially in a district like mine, which is Las Vegas. That's organized retail crime.

We've seen that it involves targeted, large-scale organized theft. It's run through international criminal networks. I think the Department of Homeland Security Investigations Unit issued a report saying the average American family will pay more than $500 annually in additional cost due to the impact of organized retail crime, which has been used to finance on-going illicit operations like human trafficking and drug trafficking.

There was another DHS report that noted organized retail crime is leading to more brazen, more violent attacks in retail stores throughout the country, and many of the criminal rings orchestrating these thefts are also involved in other serious activities.

So I wonder—it's an incredibly complex issue, but should—can you make some suggestions of how we can better address it with more interaction among—across Government agencies or with different levels of government? Anybody?

Mr. URBEN. I mean, the first thing you'd want to do is prioritize it and put funding into that and have a local, State, and Federal response set up a task force to do—whether it be undercover operations to engage—you know, they're going to sell these products after they steal them.

Ms. TITUS. Right.

Mr. URBEN. There's a process associated with this, and they're doing it continually again and again and again.

The other component is if you could intercept their electronic communications. Obviously, if it's an international or a sophisticated organized crime group, they're communicating amongst other members. So I think that's the first thing.

I also think a deterrent—however you want to work with the private sector—to have a deterrent at that store, at that location, so it's not as easy to steal the goods.

Ms. TITUS. That was going to be my question.

Do you think a Federal task force would be something that would be useful in the Department of Homeland Security?

Mr. URBEN. On this specific topic? Yes. I do think the more sophisticated actors that are operating beyond State—from State to State doing—multiple States—I think a Federal task force would be the answer. Again, encompassing State and local resources and expertise.

Ms. TITUS. I've got a bill that's bicameral and bipartisan called Combating Organized Retail Crime to give more resources to Homeland Security to go after this. So we should look at having a task force as part of those resources.

Mr. URBEN. I've had task forces that I've supervised, and if you have proper leadership and resources, they can do amazing things. So I think the threat that you're discussing and you're talking about—that would be a solution with properly—properly resourced up.

Ms. TITUS. Thank you.

We could look at that, Mr. Chairman, Mr. Ranking Member.

Anybody else want to comment on that? I mean, they're stealing everything from eyelashes to power saws, you know, and reselling it, and then that money goes into other nefarious operations.

Well, let me ask you another question. This goes back to Mr. Goldman's talk about guns and—U.S. guns go to Mexico, and that's where they are used in the involvement of a lot of crime.

Mr. Blazakis, could you address how we could work better with Mexico to address this issue?

Mr. BLAZAKIS. So one of the most important things that we need to do with the government in Mexico is engage with them as it relates to implementing the bicentennial framework that was put in place by the Biden administration in agreement with the Mexican government.

On this front, it's still early days. But, in particular, there are three pillars where I think it's particularly important to spend our time. That is in the area of jointly working on a challenge of public health-related issues, which obviously is an impact that comes from the cartel work.

Doing more in the area of shoring up the border, particular in the context of using technology. I'm not a believer of building walls and moats. I think that's—you know, from times in the past, it didn't help the Chinese particularly when it comes to the creation of the Great Wall of China. It's certainly not going to work in the contemporaneous time that we live in today.

There's a cyber component to this that we have to explore to pursue these criminal networks as well, and I think the bicentennial framework is an important place to do this work.

But we can't alienate the Mexican government. I do think we run the risk of doing so if we consider certain other kinds of policy options, whether it's the FTO designation of the cartels, whether it's the use of authorized military force against cartel members across the border.

I think these things will push AMLO into the arms of our economic adversaries like China, our ideological enemies like Iran, and our military foes like the Russian Federation.

Ms. TITUS. Thank you.

Thank you, Mr. Chairman.

Mr. PFLUGER. The gentlelady's time has expired.

I'd like to thank the witnesses for your valuable testimony and for Members on this committee for your questions.

Just to close with a couple of thoughts, I mean, I think you heard Members on both sides of the aisle asking very similar questions. We may disagree on a couple of tactical points, but on the strategic problem that we have right now, the fact that Fentanyl—the trafficking of the opioids, the problem that we see in the United States is massive, and it's tragic.

I hope that, as a result of this hearing, what we will see is a push—not just in a bipartisan way but more in a whole-of-Government way, that we take your testimony, that we take your answers and your experience professionally, and that we're able to push this into action.

Because—on a point of personal privilege, my 12-year-old daughter was here listening to this. I have a classmate from the Air

Force Academy here with his daughter. I see many young people in the audience here today. The reason that we're having this hearing is to preserve the next generation from being inundated with—whether it's Fentanyl or other opioids crime or whatever else it may be.

I hope that the work on this subcommittee will really get at the heart of this, that our country can come together in a way that we can lower those numbers. Whatever the cause may be, this is not and should not be a partisan solution. It should be a bipartisan, bicameral—as Ms. Titus mentioned in her bill—solution to get after this and to see our communities safe.

The Members of the subcommittee may have additional questions for the witnesses, and we would appreciate and ask the witnesses to respond to these in writing. Pursuant to the committee rule VII(D), the hearing record will be open for the next 10 days.

Without objection, this subcommittee stands adjourned.

[Whereupon, at 3:33 p.m., the subcommittee was adjourned.]

4334

THE BORDER CRISIS: IS THE LAW BEING FAITHFULLY EXECUTED?

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

WEDNESDAY, JUNE 7, 2023

Serial No. 118–25

Printed for the use of the Committee on the Judiciary



Available via: *http://judiciary.house.gov*

U.S. GOVERNMENT PUBLISHING OFFICE

52–733 WASHINGTON : 2023

COMMITTEE ON THE JUDICIARY

JIM JORDAN, Ohio, *Chair*

DARRELL ISSA, California
KEN BUCK, Colorado
MATT GAETZ, Florida
MIKE JOHNSON, Louisiana
ANDY BIGGS, Arizona
TOM McCLINTOCK, California
TOM TIFFANY, Wisconsin
THOMAS MASSIE, Kentucky
CHIP ROY, Texas
DAN BISHOP, North Carolina
VICTORIA SPARTZ, Indiana
SCOTT FITZGERALD, Wisconsin
CLIFF BENTZ, Oregon
BEN CLINE, Virginia
LANCE GOODEN, Texas
JEFF VAN DREW, New Jersey
TROY NEHLS, Texas
BARRY MOORE, Alabama
KEVIN KILEY, California
HARRIET HAGEMAN, Wyoming
NATHANIEL MORAN, Texas
LAUREL LEE, Florida
WESLEY HUNT, Texas
RUSSELL FRY, South Carolina

JERROLD NADLER, New York, *Ranking Member*
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
STEVE COHEN, Tennessee
HENRY C. "HANK" JOHNSON, JR., Georgia
ADAM SCHIFF, California
ERIC SWALWELL, California
TED LIEU, California
PRAMILA JAYAPAL, Washington
J. LUIS CORREA, California
MARY GAY SCANLON, Pennsylvania
JOE NEGUSE, Colorado
LUCY McBATH, Georgia
MADELEINE DEAN, Pennsylvania
VERONICA ESCOBAR, Texas
DEBORAH ROSS, North Carolina
CORI BUSH, Missouri
GLENN IVEY, Maryland
Vacant

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

TOM McCLINTOCK, California, *Chair*

KEN BUCK, Colorado
ANDY BIGGS, Arizona
TOM TIFFANY, Wisconsin
CHIP ROY, Texas
VICTORIA SPARTZ, Indiana
JEFF VAN DREW, New Jersey
TROY NEHLS, Texas
BARRY MOORE, Alabama
WESLEY HUNT, Texas

PRAMILA JAYAPAL, Washington, *Ranking Member*
ZOE LOFGREN, California
J. LUIS CORREA, California
VERONICA ESCOBAR, Texas
SHEILA JACKSON LEE, Texas
DEBORAH ROSS, North Carolina
ERIC SWALWELL, California

CHRISTOPHER HIXON, *Majority Staff Director*
AMY RUTKIN, *Minority Staff Director & Chief of Staff*

C O N T E N T S

WEDNESDAY, JUNE 7, 2023

OPENING STATEMENTS

Page

The Honorable Tom McClintock, Chair of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of California 1
The Honorable Pramila Jayapal, Ranking Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Washington 3
The Honorable Jerrold Nadler, Ranking Member of the Committee on the Judiciary from the State of New York 4

WITNESSES

The Hon. Chad Wolf, Executive Director and Chief Strategy Officer, America First Policy Institute
Oral Testimony 7
Prepared Testimony 10
Aaron Reichlin-Melnick, Policy Director, American Immigration Council
Oral Testimony 21
Prepared Testimony 23
Joseph Edlow, Managing Member, The Edlow Group
Oral Testimony 35
Prepared Testimony 37
Steve Bradbury, Distinguished Fellow, The Heritage Foundation
Oral Testimony 40
Prepared Testimony 51

LETTERS, STATEMENTS, ETC. SUBMITTED FOR THE HEARING

All materials submitted for the record by the Subcommittee on Immigration Integrity, Security, and Enforcement are listed below 00

Materials submitted by the Honorable Jeff Van Drew, a Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of New Jersey, for the record
- An articles entitled, "Influx of migrants in Massachusetts continues to overwhelm state resources—and more may be on the way," May 10, 2023, The Boston Globe
- An articles entitled, "1,500 Miles From The Southern Border, Immigration Fight Disrupts Michigan Town," Sept. 14, 2021, NPR
- An articles entitled, "City of Portland, social services organizations overwhelmed by surging number of asylum seekers," Jan. 26, 2022, News Center Maine
- An articles entitled, "Like NYC, Chatanooga, Tenn. overwhelmed by migrant surge from Texas," Aug. 16, 2022, New York Post

A case document entitled, "Third Presentment of the Twenty-First Statewide Grand JuryRegarding Unaccompanied Alien Children (UAC)," Mar. 29, 2023, Supreme Court of Florida, submitted by the Honorable Tom Tiffany, a Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Wisconsin, for the record

IV

Page

Materials submitted by the Honorable Pramila Jayapal, Ranking Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Washington, for the record
- A decision entitled, "Legality of Service of Acting Secretary of Homeland Security and Service of Senior Official Performing the Duties of the Deputy Secretary of Homeland Security," Aug. 14, 2020, U.S. Government Accountability Office (GAO)
- A memorandum opinion, *Casa de Maryland* v. *Chad Wolf*, Sept. 11, 2020, United States District Court for the District of Maryland
- A memorandum & order, *Batalla Vidal* v. *Wolf*, *State of New York* v. *Trump*, Nov. 14, 2020, United States District Court of Eastern, New York
- A statement from the Church World Service (CWS)
- A statement from Human Rights First, Jun. 7, 2023

A letter from Chad Mizelle, Senior Official Performing the Duties of the General Counsel of the Department of Homeland Security, Aug. 17,2020, submitted by the Honorable Tom McClintock, Chair of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of California, for the record

An article entitled, "Listen to Children Who've Just Been Separated From Their Parents at the Border," June 18, 2018, ProPublica, submitted by the Honorable Veronica Escobar, Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Texas, for the record

QUESTIONS AND RESPONSES FOR THE RECORD

Materials submitted by the Honorable Tom McClintock, Chair of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of California, for the record
- Questions and responses from Steven G. Bradbury, Distinguished Fellow, The Heritage Foundation
- Questions for Joseph Edlow, Managing Member, The Edlow Group
- Questions and responses from the Hon. Chad Wolf, Executive Director and Chief Strategy Officer, America First Policy Institute

THE BORDER CRISIS: IS THE LAW BEING FAITHFULLY EXECUTED?

Wednesday, June 7, 2023

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

COMMITTEE ON THE JUDICIARY

Washington, DC

The Subcommittee met, pursuant to notice, at 2 p.m., in Room 2141, Rayburn House Office Building, Hon. Tom McClintock [Chair of the Subcommittee] presiding.

Present: Representatives McClintock, Buck, Biggs, Tiffany, Roy, Van Drew, Nehls, Moore, Hunt, Jayapal, Lofgren, Correa, Escobar, Jackson Lee, Ross, Swalwell, and Nadler.

Mr. MCCLINTOCK. The Subcommittee will come to order.

Without objection, the Chair will be authorized to declare a recess at any time.

The Subcommittee convenes today to examine the enforcement of our immigration laws. Prior to inauguration day, the border was secure. The laws were being enforced. The border wall was nearing completion. The Remain in Mexico policy had slowed illegal immigration to a trickle, and court ordered deportations were being enforced.

Of course, all that changed when the new administration took office and immediately canceled the border wall, ended the Remain in Mexico policy, and ordered ICE to stop enforcing deportation orders.

Since then, we have seen more than two million illegal immigrants deliberately released into this country, a population the size of the entire State of Nebraska. Meanwhile, more than million and a half known gotaways have also entered illegally, an additional population the size of Hawaii.

Our previous hearings have documented the unfolding human tragedy of the border crisis. For Americans, it means classrooms flooded with non-English-speaking students, hospitals overwhelmed with illegal immigrants demanding care, fentanyl poisoning our young people, catastrophic strains on the social safety net meant to help Americans in need, criminal cartels and their affiliated gangs introduced into our communities, working wages suppressed by a flood of cheap illegal labor. Now we observe the irony of offi-

cials in so-called sanctuary cities, like New York and Chicago, and sanctuary States, like California, warning that they cannot handle this influx.

For the illegal immigrants, it means a harrowing ordeal subjecting them to exploitation by the criminal cartels, including sex trafficking, drug trafficking, and labor trafficking, even of small children. Many arrive in physical distress, destitute, and deeply in debt to their human smugglers. Thousands never make it. They die horrific deaths along the way.

Well, now we raise the question why. Clearly our immigration laws are not being enforced by this administration. That fact is self-evident when we compare this administration to the last one.

The law specifically provides that any asylum claimant shall be detained while their claim is heard. This is now routinely ignored.

The law specifically provides that parole is to be granted only on a case-by-case basis for urgent humanitarian reasons or significant public benefit. This law is now being ignored, while parole is granted en masse to release many tens of thousands of immigrants illegally into our country.

The law requires deportation orders to be enforced, yet, despite record numbers of illegal entries, we see the lowest rate of deportations in our history with more than a million deportation orders simply ignored.

Federal courts have ordered this administration to enforce the law, yet time and again the administration seems reluctant to do so. Without enforcement, there is no immigration law. Without immigration law, there are no borders, and, without borders, we have no country.

This crisis now reaches into every community and constitutes a clear and present danger to our national sovereignty, prosperity, and security.

We Americans have always prided ourselves as being a Nation of laws and not of men, and yet it appears that our immigration laws are now routinely ignored, altered, or perverted by the whims of individuals within this administration. It's important in the inquiry today that we separate out policy differences from actual violations of law. The Founders anticipated that foolish people would sometimes occupy the offices of our government, and they left it to voters to correct maladministration at the ballot box. Lincoln put it this way: The voters are everything. If the voters get their back sides too close to the fire, they'll just have to sit on the blisters awhile.

Mayor Eric Adams of New York City seems to be a poster child for this phenomenon.

The more troubling question arises if this unprecedented illegal migration results not from incompetence and folly, but rather from a deliberate and calculated violation and subversion of the laws of the land.

We need to determine what laws have allowed this calamity to befall our Nation. As the Legislative Branch of government, it's our duty to correct them. We also need to determine what laws are being willfully violated by those commanded to faithfully execute them. In that case, we need to identify who is responsible and what remedies are available within our system of checks and balances.

With that, I am now pleased to recognize the Ranking Member for her opening statement.

Ms. JAYAPAL. Thank you, Mr. Chair.

Well, another week, another immigration hearing on the border. After using harmful rhetoric and fearmongering that ending the Title 42 public health policy would result in a high number of migrants coming to the border, we have seen a month where border numbers are down over 70 percent from their peak. As *Politico* put it, it is, quote: "The migrant crisis that still hasn't arrived."

Unable to stoke media fears any further around the end of Title 42, it appears that my Republican colleagues have shifted their focus to the next attention-grabbing headline, laying the groundwork for the impeachment of Secretary Mayorkis.

Despite this being our fifth immigration hearing in about five months, the majority is yet to call any witness from the current administration to testify before this Committee. It is no surprise that my colleagues have shifted to discussing if Secretary Mayorkis should be impeached. After all, extreme MAGA Republican Representative Marjorie Taylor Greene said just last week, in exchange for voting for the debt limit deal, she wanted some, quote, "sides and desserts." Her, quote, "beautiful dessert" was that—and this is a quote from her: "Somebody needs to be impeached." She specifically singled out Secretary Mayorkis as the, quote, "lowest-hanging fruit."

Of course, my colleagues jumped at the chance to cater to the extreme MAGA Republicans in their party, and before the vote on the debt ceiling had even occurred, they noticed this hearing.

According to a report from *CNN* just a few weeks ago, the Chair of this Committee, which would be tasked with launching impeachment proceedings, and GOP leadership have an understanding that the impeachment of Mayorkis is inevitable. According to the article, quote: "It is not a matter of if; it is a matter of when."

Anyone who tuned into last April's Judiciary Committee hearing where Secretary Mayorkis testified as part of his oversight duties would not be at all surprised. Republicans on this Committee made their intentions quite clear. Mr. Johnson of Louisiana stated that Secretary Mayorkis had committed, quote, "impeachable offenses." He went on to say, quote: "My advice to you is to begin your search for a different career very soon because there will be an election."

Mr. Biggs of Arizona stated: "You should be impeached."

Earlier this year, Mr. Biggs followed through on that statement and became the second Republican to file Articles of Impeachment against Secretary Mayorkis. That resolution is cosponsored by multiple Members of this Committee, including Mr. Gaetz and Mr. Nehls.

Mr. Roy of Texas, who is not one of those cosponsors, even has a 13-page memo from October 2021 entitled, "Case for Impeachment of Secretary Mayorkis."

Representative Ben Cline from Virginia, who serves on the Full Committee, told *CNN* that he has communicated to Chair Jordan that, quote: "We need to start the process as soon as possible."

Last, when our Chair, Mr. Jordan, was asked in an interview in October of last year if the Secretary should be impeached, he said:

"Mayorkis deserves it." More recently, he said: "The Committee thinks it is," quote, "warranted."

Now, of course, the idea of impeaching the Secretary is ridiculous. You do not impeach a Cabinet Secretary over policy disagreements. The border is not, quote, "open." No administration has ever had complete, quote, "operational control of the border, detained every asylum seeker, or not used parole in some form."

As a former Chair of the House Committee on Homeland Security, Chair McCaul of Texas said: "Well, we talk a lot about operational control, and that's having a better understanding of who's coming in and who's leaving and what that threat really is. We're never really going to get that."

The Biden Administration is continuing to try to clean up the mess left by the previous administration. They're putting forward real workable solutions to manage migration and expand legal pathways. On top of the parole programs created by the Biden Administration earlier this year, the administration announced the creation of additional legal pathways that are intended to relieve pressure at the border.

Now, it's not all perfect. In fact, some of my colleagues would argue that some of the administration's policies are too heavy-handed. Recently, the administration put forward a regulation which limits asylum, something many people within our Democratic Caucus are justifiably concerned about.

Unfortunately, today's hearing appears to be the start of a sad new chapter for this Committee. Certainly, I look forward to hearing from all our witnesses today and the perspectives they bring on this issue.

I yield back.

Mr. MCCLINTOCK. The gentlelady leads back.

The Chair notes the presence of the Ranking Member of the Full Committee, Mr. Nadler, and recognizes him for an opening statement.

Mr. NADLER. Thank you, Mr. Chair.

Mr. Chair, it took just over five months, but the day that so many of my Republican colleagues have waited for has finally arrived. Today Judiciary Republicans are laying the groundwork to impeach the Homeland Security Secretary Alejandro Mayorkis.

To be clear, they do not allege wrongdoing or malfeasance of any kind. They are simply catering to the most extreme Members of their caucus who have demanded impeachment of somebody, anybody, as the price of their support for the Speaker. They have decided to make their first target Secretary Mayorkis. Why? Because they have policy disagreements. No matter how much they may dislike him, that is not a basis for impeachment.

Republicans are so desperate to begin impeachment, however, that they're evening jockeying for position on who gets to take the lead. Today's hearing, just like the first immigration hearing we held, appears to be the latest spat in the ongoing turf war between Chair Jordan and Chair Green of the Homeland Security Committee.

Just a couple of weeks ago, Homeland Security noted that they are taking a lead role in building the case for impeachment

through a quote, "five-phase accountability plan before handing it off to the Judiciary Committee."

In furtherance of this plan, just this morning, they noticed the Full Committee hearing entitled, quote, "Open Borders, Closed Case: Secretary Mayorkis Dereliction of Duty on the Border Crisis." Not to be outdone, Chair Jordan raced to announce this hearing to ensure that we beat the Homeland Security Committee by a few days.

This is not a serious process. As Ranking Member Jayapal noted, we have still not had a single government witness come before the Committee on the issue of immigration. Instead, my Republican colleagues continue to hide behind the use of transcribed interviews to talk to agency officials, seemingly afraid to have public hearings. Despite all the evidence to the contrary, we are still hearing the same claims that we heard at our first immigration hearing this year, that the southern border is open, that President Biden and Secretary Mayorkis opened it deliberately, that it is mostly migrants who are smuggling drugs across our southern border.

Yet, as my colleagues and I have discussed for months, none of these statements are true. Far from having an open border, the Biden Administration used Title 42 to expel migrants with no due process for significantly longer than many of my colleagues on the committee felt was appropriate.

The administration also has recently enacted a new asylum regulation that we are concerned limits access to asylum. That regulation even earned the administration rare praise from Chair Jordan. These are not the policies of an open border. They are the opposite.

My Republican colleagues have not once let facts get in the way of their *Fox News* talking points, certainly not the fact that encounters at the border have plummeted by 70 percent in recent weeks, thanks to new policies put in place.

There is a lot that the Biden Administration is doing with immigration that I support. For example, the use of parole, expansion of legal pathways, revamping of the refugee program, and opening new regional processing centers in the hemisphere are all positive steps to repairing a broken immigration system.

There are some policies I do not like, but that is the point: We have policy disagreements.

You do not impeach a Cabinet Secretary because you do not like his policies. You work to pass legislation. You conduct oversight. You try to work in a constructive manner to convince your colleagues that you have the better argument. We need to work in bipartisan way to fix the immigration system, not just messaging bills that have no chance of being enacted into law and embark on a purely political impeachment process.

I would note that we now know for certain that the Republicans' extreme, cruel, and unworkable border bill cannot pass the Senate. As part of the time agreement to ensure that we did not default for the first time in history, Senate Republicans demanded a vote on H.R. 2, the Republicans' border bill. The bill got 46 "yes" votes and 51 "no" votes, encountering bipartisan opposition. That bill is a nonstarter. Are my colleagues on the other side ready to sit down and discuss how we move forward with bipartisan immigration legislation?

As I noted in our first hearing, Judiciary Committee Democrats stand ready to work on meaningful solutions to serious problems. Unfortunately, instead, it appears that the next side show is beginning today. Make no mistake, as the Ranking Member noted, it is clear that Chair Jordan and Members of the Committee have already made up their minds. Instead of serious solutions to solve complex problems, we will simply engage in more political theater.

I look forward to hearing from our witnesses today, and I yield back the balance of my time.

Mr. MCCLINTOCK. All right. Just to put my Democratic colleagues at ease, administration witnesses could be called by the Committee Democrats. To date, they have chosen not to do so. I believe Mr. Mayorkis is scheduled to appear before the Full Committee in late July. It is a very, very big leap for merely asking why our laws are not being enforced to advocating something like impeachment.

I would remind my friends that they are not our teachers. I, for one, would not seek to invent grounds for impeachment as the majority—or the former majority did in several proceedings. We're here to ask a very simple question: Why are our laws not being enforced?

Now, I will introduce today's witnesses.

The Honorable Chad Wolf is the Executive Director and Chief Strategy Officer at America First Policy Institute. He's also Chair of the Center for Homeland Security and Immigration at AFPI. Secretary Wolf was the Acting Secretary of the Department of Homeland Security. He's also a veteran of both Capitol Hill and the private sector. Secretary Wolf is a recipient of the U.S. Secretary of Transportation 9/11 Medal, the U.S. Secretary of Homeland Security Distinguished Service Medal, and the National Intelligence Distinguished Service Medal.

Mr. Joseph Edlow is the founder of the Edlow Group, a visiting fellow at the Heritage Foundation, and a former Acting Director of U.S. Citizenship and Immigration Services. Prior to that he served as the USCIS Chief Counsel and a Deputy Assistant Attorney General in the Office of Legal Policy at the Department of Justice. He is a veteran of Capitol Hill, serving as counsel on this Subcommittee and counsel to Congressman Raul Labrador. He began his immigration-related career as a trial attorney in the Baltimore Immigration Court. Mr. Edlow has a J.D. from the Case Western Reserve University School of Law and completed his undergraduate degree at Brandeis University in Waltham, Massachusetts.

Mr. Steven Bradbury is a distinguished fellow at the Heritage Foundation and was the general counsel of the U.S. Department of Transportation from November 2017–January 2021, where he oversaw all of DOT's rulemaking and enforcement actions. He is also Acting Deputy Secretary of Transportation and briefly served as the Acting Secretary of Transportation. He was the Principal Deputy and Acting Assistant Attorney General for the Office of Legal Counsel at the U.S. Department of Justice during the George W. Bush Administration. Mr. Bradbury is a veteran of private practice and served as a clerk on the Supreme Court of the United States, as well as on the U.S. Court of Appeals for the D.C. Circuit.

He earned a J.D. at Michigan Law School and a B.A. from Stanford University.

Finally, Mr. Aaron Reichlin-Melnick is currently the Policy Director at the American Immigration Council, where he has also served as Policy Counsel and a staff attorney. Prior to that, he was a justice fellow in the Immigrant Justice Corps and the Legal Aid Society in New York. He earned a J.D. from Georgetown University Law Center and a B.A. from Brandeis University.

I'd like to welcome all our witnesses today and thank them for appearing here. We'll begin by swearing you in.

Would you please rise and raise your right hand.

Do you swear or affirm, under penalty of perjury, that the testimony you are about to give is true and correct to the best of your knowledge, information, and belief, so help you God?

Let the record reflect the witnesses have answered in the affirmative. Thank you.

Please be seated.

Please know that your written testimony will be entered in the record in its entirety. Accordingly, we would ask that you summarize your testimony in five minutes.

Mr. Wolf, we'll begin with you.

STATEMENT OF THE HON. CHAD WOLF

Mr. WOLF. Chair McClintock, Ranking Member Jayapal, thank you for the opportunity to testify today.

Today's hearing is titled, "The Border Crisis: Is the Law Being Faithfully Executed?" Unfortunately, the answer by any objective measure or metric is a resounding no. I understand the difficulty and the complexity of running the Department of Homeland Security, so I do not say this lightly. The U.S. Constitution requires the administration to, quote, "take care that the immigration and border security laws be faithfully executed."

It is clear to me and to millions of Americans that the Biden Administration has failed to do so.

Today's border security system is unrecognizable from the America First policies of the Trump Administration or even what was in place during the administrations of Presidents Clinton, Bush, or Obama.

In all candor, the Biden Administration is the first administration of either political party to deliberately take steps to diminish the security along our southern border. Therefore, it is my opinion that new leadership is needed at the department.

In contrast, under President Trump's leadership, the department established the most secure southern border in my lifetime by building the most advanced border wall system, reaching historic diplomatic agreements with Nations, and putting in place across-the-board policies that deterred illegal immigration, disrupted the Mexican cartels, disincentivized the deadly flow of fentanyl, and enforced the laws enacted by Congress.

I think the results are clear. During the Trump Administration, fraudulent asylum claims declined, those who qualified for humanitarian relief faster. Lives were saved as migrants stopped taking that dangerous journey North when they realized they would not be allowed and released into American communities.

In stark contrast, today we see a border not only in chaos but in crisis because the Biden Administration has dismantled all the proven policies. Recommendations and concerns by career Border Patrol experts were ignored, and political correctness and rank ideology supplemented common sense and adherence to our immigration laws.

To be clear, these laws did not change between the Trump Administration and the Biden Administration, just the decision by this one not to follow those laws. They have embraced destructive and unlawful policies that have made American communities dangerous and have enriched the Mexican drug cartels.

Here are a few examples:

Nationwide catch and release. The Biden Administration has intentionally decided to ignore its legal mandate to detain illegal aliens or to make them wait in Mexico throughout their immigration court proceedings, and a Federal District Judge has struck down this practice.

DHS was then unable to process the volumes of illegal aliens fast enough under this catch-and-release scheme, so it resorted to issuing Notices to Report. These are essentially an honor system document that asks illegal aliens to self-report to a local ICE office when they reach their final destination. Again, the courts have blocked the implementation of this practice.

Next, a de facto amnesty. On day one, the Biden Administration issued a 100-day deportation freeze on all illegal aliens, including those with criminal convictions. Let me say that again: Including those with criminal convictions. Again, a Federal judge has blocked the nullification of this interior enforcement.

Another de facto amnesty of this administration is when the DHS Secretary's enforcement priorities exempt 99 percent of illegal aliens from the threat of deportation, including the declaration that being here unlawfully is no longer grounds for removal.

Perhaps the most egregious example of violating the law is the unlawful use of parole authority. The INA could not be clearer that parole is a remarkably narrow authority and only allowable on a case-by-case basis. The numerous unlawful categorical parole programs that the department has implemented are not new, safe, or legal pathways, but a diversion of illegal aliens between ports of entry to ports of entry.

It is very clear that the current administration is lying to the American people about the severity of the problem, so here's the reality. Large-scale catch-and-release policy has resulted in more than 4.5 million illegal aliens, including 1.5 million gotaways, being allowed into American communities. That is a population larger than every major U.S. city, except for New York City. There have been more than 200 known or suspected terrorists apprehended at the southern border in the last two years, compared to just 11 during the four-years of the Trump Administration. The border is effectively controlled by the Mexican cartels who crave these open border policies to further their business model. More migrants have been found dead in the desert or have drowned in the river during the journey than ever before. According to *The New York Times*, the Biden Administration has lost contact with more than 85,000 children after releasing them to sponsors here in the U.S.

These are the results of a process that the administration calls safe, orderly, and humane. To whom exactly? Not to the migrants being abused, extorted, or dying along the journey, not to the American communities that have been overrun, and not to Border Patrol officers who have been assaulted. Instead, the processes that have been created over the last two years can be more accurately described as dangerous, corrupt, and inhumane. These policies are unlawful, and this is a crisis by design.

Thank you. Look forward to the questions.

[The prepared statement of the Hon. Wolf follows:]

4347

10

HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

THE BORDER CRISIS: IS THE LAW BEING FAITHFULLY EXECUTED?

JUNE 7, 2023

WRITTEN TESTIMONY OF CHAD WOLF
EXECUTIVE DIRECTOR, CHIEF STRATEGY OFFICER, & CHAIR OF THE CENTER FOR HOMELAND SECURITY & IMMIGRATION
AMERICA FIRST POLICY INSTITUTE

Chairman McClintock and Ranking Member Jayapal:

Thank you for the opportunity to testify today before the House Judiciary's Subcommittee on Immigration Integrity, Security, and Enforcement.

Today's hearing is titled, "The Border Crisis: Is the Law Being Faithfully Executed?" Unfortunately, **the answer, by any objective measure or metric, is a resounding *No***. As someone who understands the difficulty and complexity of running the Department of Homeland Security (DHS), I do not say this lightly. It is clear to me and millions of Americans that the Biden Administration has failed in its constitutional duty to "take Care that the [immigration and border security] Laws be faithfully executed."[1]

I have reached this inescapable conclusion after having had the distinct privilege of serving at DHS at its inception under President Bush and throughout President Trump's Administration, including the last 14 months as Acting Secretary of Homeland Security. For the last 27 months since I left office, I have followed closely the national security and humanitarian crisis unfolding along the southern border and have been publicly critical of the Biden Administration's policies and operations. That criticism is not expressed because we are from different political parties but rather, it comes from my own experience as Acting Secretary and the apparent and deliberate destruction of what was, not so very long ago, the most effective border security in recent memory.

One of my philosophies as Acting Secretary was based on one simple axiom: If you do not have borders, you do not have a country. Sovereignty does not exist if you are not sovereign over your own borders—territorial, maritime, or aerial.

To that end, today's border security system is unrecognizable from the America First border security policies of the Trump Administration or even the border security apparatus in place during the administrations of Presidents Clinton, Bush, and Obama. In all candor, the Biden Administration is the first administration of either political party to actively take steps to diminish the security along our southern border.

In contrast, under President Trump's leadership, a talented group of professionals and I helped implement a body of policies that established the most secure southern border in my lifetime. In addition to building the most advanced border wall system, we put in place across-the-board policies that

[1] U.S. CONST. ART. II, § 3 (cleaned up).

deterred illegal immigration, disrupted the Mexican cartels, disincentivized the flow of deadly fentanyl, and enforced the laws enacted by Congress.

In fact, when confronted with caravans of illegal aliens surging to the southern border in 2018-2019, we were honest with the American people that it was a crisis. So, we went straight to work to restore order and maintain America's sovereignty.

The Trump Administration utilized previously untapped legal authority found at section 235(b)(2)(C) of the Immigration and Nationality Act (INA) to put in place the highly successful Remain in Mexico policy, or Migrant Protection Protocols;[2] and President Trump struck historic Asylum Cooperative Agreements with the Northern Triangle countries to redirect illegal aliens to seek asylum closer to their home country under the authority provided by section 208(a)(2)(A) of the INA.[3] The Trump Administration also issued a third-country transit regulation under section 208(b)(2)(C) of the INA to thwart asylum forum shopping, bolstered internal relocation guidance for adjudicators,[4] streamlined asylum cases at the border to speed up deportations of those found ineligible, and restored the definition of refugee[5] to Congress's intent of requiring persecution by a government actor on one or more of the protected grounds. No Presidential Administration can do more under existing law—and none should do any less.

These policies were necessary because economic migrants and human traffickers were exploiting the loopholes in our laws by making fraudulent asylum claims to block their quick deportation under expedited removal.[6] Only between 10-15% of illegal aliens apprehended at the southern border who claim asylum actually qualify for this humanitarian relief.[7] The rest, to put it mildly, are trying to game the system. Under the Immigration and Nationality Act (INA), they need to—but they cannot—satisfy the appropriately rigorous "well-founded fear of persecution" standard in order to obtain humanitarian relief.[8] Such artful circumvention of the law is the same as breaking the law. And every President has a *bona fide* duty to stop the lawbreakers. Anything short is a contravention of the laws Congress has gone to all the trouble of enacting—repeatedly.

---

[2] 8 U.S.C. 1225(b)(2)(C).
[3] 8 U.S.C. 1158(a)(2)(A).
[4] *See* 8 C.F.R. 208.13(b)(3).
[5] 8 U.S.C. 1101(a)(42).
[6] 8 U.S.C. 1225(b)(1)(A)(i).
[7] *See* DEPART OF JUSTICE, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, Asylum Decision and Filing Rates in Cases Originating with a Credible Fear Claim, *available at* https://www.justice.gov/eoir/page/file/1062976/download.
[8] 8 U.S.C. 1101(A)(42).

The Trump Administration utilized the fullest extent of its legal authority to combat this asylum fraud by making aliens wait in Mexico or detaining them in the U.S., the only two options permissible under section 235 of the INA and, importantly, quickly returning them when an immigration judge denies their claim. We never forgot the violence that illegal immigration cruelly inflicts on defenseless women and children, who are raped, trafficked, and scarred for life by the lawbreakers.

The evidence speaks for itself. During the Trump Administration: fraudulent asylum claims declined, those who qualified got humanitarian relief faster, lives were saved as migrants stopped taking the dangerous journey north when they realized they would not be allowed into American communities.

In stark contrast, today we see a border in chaos and crisis because the Biden Administration ideologically and arbitrarily **dismantled ALL of these successful policies** on Day One and sidelined career Border Patrol experts who continued to warn that a historic surge of illegal aliens would overwhelm the border in the absence of any deterrent policies. Political correctness and rank ideology supplanted common sense and the clear command of our immigration laws.

And even as the warnings of career Border Patrol experts came to pass, the Biden Administration sat idly by and did little to curtail this crisis. The result is that since President Biden was sworn into office, **nearly 5.5 million illegal aliens**—and counting—have unlawfully come into our country plus at least another 1.5 million "gotaways" who completely bypassed the Border Patrol and made it into American communities.[9]

To be clear - the laws didn't change between administrations, just the refusal of the current one to follow their legal obligations. Instead, they embraced destructive and unlawful policies that have made American communities less safe and enriched the Mexican cartels to new heights because open borders is a lucrative business.

But the abuse of the law doesn't end there. Here are some additional, non-exhaustive examples:

- **Nationwide Catch-and-Release:** The Biden Administration *intentionally* decided to ignore its legal mandate to detain illegal aliens or make them wait in Mexico throughout their immigration court proceedings. Instead, this Administration re-implemented the

[9] *See* https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters.

dangerous catch-and-release policies ended by President Trump and instead began mass releasing illegal aliens into American communities.

Federal District Court Judge Wetherell struck down this practice, writing "The Court finds in favor of Florida because, as detailed below, the evidence establishes that [the Biden Administration] have effectively turned the Southwest Border into a meaningless line in the sand and little more than a speedbump for aliens flooding into the country by prioritizing 'alternatives to detention' over actual detention and by releasing more than a million aliens into the country—on 'parole' or pursuant to the exercise of 'prosecutorial discretion' under a wholly inapplicable statute—without even initiating removal proceedings."[10]

- **Issuing Notices to Report (NTRs)**: Unable to process the volume of illegal aliens out of DHS custody fast enough under catch-and-release, DHS early on under the Biden Administration resorted to issuing Notices to Report—essentially an honor-system document that asks illegal aliens to self-report to a local Immigration and Customs Enforcement (ICE) office when they reach their destination.

  Unsurprisingly, few reported and now these illegal aliens lack immigration court dates because they were not issued a Notice to Appear (NTA), the formal charging document. This means that removal proceedings will not even begin until ICE encounters them in the future, further prolonging the amount of time these illegal aliens remain in the U.S. This process was discontinued for some time but as the administration scrambled to deal with the expiration of Title 42, they attempted to resume NTRs.

  Again, the court blocked the implementation of this policy, holding that it "appears that DHS is preparing to flout the Court's order," noting that this policy "sounds virtually identical" to the catch-and-release policy he blocked in March 2023. The judge further explained, "In both instances, aliens are being released into the country on an expedited basis without being placed in removal proceedings and with little to no vetting and no monitoring."[11]

- **Canceling Notices to Appear (NTAs)**: For those illegal aliens who received NTAs, their court dates are multiple years down the road because the volume of illegal aliens the Biden Administration allowed

[10] State of Florida v. U.S., Case No. 3:21-cv-1066-TKW-ZCB (N.D. Fl. Mar. 8, 2023).
[11] State of Florida v. Mayorkas, Case No. 3:23-cv9962-TKW-ZCB (N.D. Fla. May 11, 2023).

into the U.S. has overwhelmed the immigration courts. Instead of ending catch-and-release and reinstating deterrence policies, the Biden Administration unilaterally canceled thousands of NTAs which removes them from the immigration court backlog. These illegal aliens still lack a lawful right to be in the U.S. and this unlawful action by the Biden Administration makes their future deportation nearly impossible.

As a broader point, such travesty of the Rule of Law dishonors not only our Nation and our law-abiding citizens—it also makes light of the sacrifices borne by countless *lawful* immigrants who patiently stood in line to come to this country the legal way. This Administration's message could not be more unambiguous—those who waited their turned, filled out applications, and paid fees for visas were foolish for obeying our immigration laws. The Biden Administration tells lawful immigrants that the enormous sacrifices they and their families made in coming to America by following the law count for nothing. When the current Administration arbitrarily excuses the contravention of our laws by some, it is diminishing and demeaning to us all.

- **Nullifying Interior Enforcement**: On Day One, the Biden Administration issued a 100 Day deportation freeze for all illegal aliens, including those with criminal convictions. Federal District Judge Drew Tipton enjoined this non-enforcement policy on the grounds that it was "arbitrary and capricious" and that the policy "fails to provide any concrete, reasonable justification for a 100-day pause on deportations."[12] DHS has since issued "enforcement" priorities that exempt 99% of illegal aliens from the threat of deportation. The Biden Administration has sidelined ICE agents and effectively accomplished the goals of the extremist "Defund ICE" movement.

- ***De Facto* Amnesty**: President Biden campaigned on granting amnesty to all illegal aliens—a policy that even the previous Congress rejected. But the President was undeterred. Ignoring the Constitution's grant of the legislative power to the *Congress* (and not to the President), he decided to achieve in practice what Congress did not permit him to achieve in principle. As a result, the DHS Secretary implemented a *de facto* amnesty when he declared that being here unlawfully is not grounds for removal. The obvious remedy corresponding to a violation of the law was arbitrarily taken off the table.

  This edict directly and incontestably contradicts the law and mocks our Nation's time-honored immigration court system. In keeping with that

[12] Texas v. United States, Civil Action No.: 6-21-cv-00003 (S.D. Tex. Feb. 24, 2021).

policy choice, the current Administration's claims of prioritizing limiting resources are disingenuous, perhaps flatly risible. After all, there are over 1 million aliens with final orders of removal who are still in the U.S.; yet, the Biden Administration has removed the *lowest* levels of illegal aliens, including criminal aliens, in modern history.[13]

- **Giving USCIS Asylum Officers Jurisdiction over Border Asylum Claims**: Through an unlawful regulation, the Biden Administration has given U.S. Citizenship and Immigration Services asylum officers the ability to decide the asylum claims of illegal aliens apprehended at the border. Congress created DHS through the Homeland Security Act of 2002, with much—but not all—immigration jurisdiction that was held by the former Immigration and Naturalization Service within the Department of Justice transferred to DHS.[14] By this authorizing statute, only immigration judges have the legal authority to hear asylum claims of aliens in removal proceedings as this authority was not delegated to DHS.[15] It is apparent that the Biden Administration made this unlawful move under the belief that USCIS employees will be more like to grant relief. DHS data shows that USCIS asylum officers are granting asylum at nearly twice the historical rate of immigration judges.[16].

- **Categorical Parole**: Perhaps the most egregious example of violating the law is the DHS Secretary's unlawful use of the parole authority. Section 212(d)(5) of the INA could not be clearer that the right to grant this kind of parole comes from a remarkably narrow sliver of statutory authority, only allowable on a case-by-case basis for: (1) urgent humanitarian reasons or (2) significant public benefit.[17] DHS has ignored the statutory requirements and turned this limited authority into an override of the legal immigration system.

  You know the law is not in your favor when you suddenly discover a slender reed in some old statutory provision that, *only* when it is totally divorced from context, gives you the slightest hope. That's why, as the Supreme Court reminded us less than a year ago in *West Virginia v. EPA*, when the Executive Branch "claims to discover in a long-extant

[13] See U.S. Immigration and Customs Enforcement, ICE Annual Report Fiscal Year 2022, fig. 20 (Dec. 30, 2022), available at https://www.ice.gov/doclib/eoy/iceAnnualReportFY2022.pdf.
[14] Homeland Security Act of 2002, Pub. L. 107-296 (Nov. 25, 2002).
[15] *Id.*; *see also* Arthur, Andrew & Law, Robert, Public Comment Re: Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protections by Asylum Officers (Oct. 18, 2021), *available at* https://cis.org/sites/default/files/2021-10/JNPRM_Asylum_Procedures_FINAL_submitted_10-18-2021.pdf
[16] *See* Department of Homeland Security, Asylum Processing Rule Cohort Reports, *available at* https://www.dhs.gov/immigration-statistics/special-reports/asylum-processing-rule-report
[17] 8 U.S.C. 1182(d)(5).

statute an unheralded power representing a transformative expansion in its regulatory authority," that's usually a sign of desperation because the President and/or the agency know in their heart of hearts that they do not have the statutory authority they are claiming.[18] Everyone else knows it as well. As if that Supreme Court prescription wasn't enough, the Court in *West Virginia* also said that when the Executive suddenly "locate[s] [its] newfound power in the vague language of an ancillary provision of the [law]," its claimed authority is on conspicuously shaky, and presumptively unsound, ground.[19]

So too here. The mass parole system devised by the Biden Administration turns our immigration law framework on its head. After all, statutes have to be interpreted, to the extent possible, as a harmonious whole, so why would Congress have enacted the rest of the INA if Presidents, operating whimsically, could circumvent it by issuing paroles *ad nauseam*? This question, like all such questions, answers itself.

Just think: The parole program for Cubans, Haitians, Nicaraguans, and Venezuelans allows up to 360,000 illegal aliens per year to fly into American communities and the separate unlawful program using the CBP One app near the southern border are not new, safe, lawful pathways but a diversion of illegal aliens from between ports of entry to the ports of entry. It is clear that these illegal categorical parole programs are designed to hide the optics of the border crisis from the American people.

What is more, this Administration's abuse of the parole authority isn't limited to the border. After the Biden Administration's disastrous withdrawal from Kabul DHS unlawfully paroled into the U.S. nearly 100,000 unvetted Afghans, most of whom were military-aged males.

You needn't take my word for it. Even the Inspectors General of both DHS and the Department of Defense have issued scathing reports on the national security vulnerabilities the homeland has been exposed to because of this reckless, senseless, dangerous, and of course unlawful decision.[20] There are a number of instances where these Afghan parolees have committed heinous crimes, include rape.

---

[18] 142 S. Ct. 2587, 2610 (2022) (cleaned up and alterations made).
[19] *Id.* (cleaned up and alterations made).
[20] *See, e.g.*, U.S. DEPARTMENT OF DEFENSE INSPECTOR GENERAL, Evaluation of the Screening of Displaced Persons from Afghanistan, Report. No. DODIG-2022-065 (Feb. 15, 2022), *available at* https://media.defense.gov/2022/Feb/17/2002940841/-1/-1/1/DODIG-222-065.PDF.

> By embarking on this nullification of immigration law by executive fiat, the Biden Administration is allowing into the U.S. millions of illegal aliens who do not qualify for a visa and thus creating a subclass of aliens who have no avenue for a legal immigration status and are in perpetual uncertainty and agony. That is not American leadership or humanity at its finest. Instead, this is just cynical, crass treatment by the current cadre of Executive Branch leadership and is the direct result of the Biden Administration's circumventing our border security and immigration laws.

In conclusion, I would suggest that one of the most important duties as the DHS Secretary is to be transparent and honest with the American people about security issues affecting the homeland. It is very clear to me that the current administration is lying to the American people about the severity of the problem, while at the same time absurdly attempting to lay blame on the Trump Administration, on Congress, or some other entity for their failed strategy.

Here is the reality:

- The border is not secure, it is in fact open to illegal aliens by the hundreds of thousands.
- A historic number of illegal aliens – nearly 5.5 million –have been apprehended at the southern border during the Biden Administration with approximately 3 million allowed into American communities—a population larger than every major U.S. city except for New York City and Los Angeles.
- Another 1.5 million observed "gotaways" who bypassed Border Patrol and pose severe national security and public safety threats.
- More than 200 known or suspected terrorists apprehended at the southern border compared to just 11 during the Trump Administration—and these are just the ones caught because they didn't realize we had them in the FBI database.
- The border is effectively controlled by Mexican cartels – who crave the predictability of these policies for their business model.
- More migrants have died during their journey than ever before.
- More Border Patrol agents have been assaulted by so-called asylum seekers than ever before.
- The Biden Administration has lost contact with more than 85,000 children after releasing them to sponsors, according to The New York Times.[21]

[21] Dreier, Hannah, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, NEW YORK TIMES (Feb. 25, 2023).

- The Biden Administration is aware of tens of thousands of children being subjected to abusive work conditions, according to The New York Times.[22]
- And there is no operational control over large portions of the border. This is not just my assessment, but that of outgoing Border Patrol Chief Ruiz and other career U.S. Customs and Border Protection officials when questioned by Congress or in litigation challenging Biden Administration policies.

These are the results of a process the Biden Administration calls "safe, orderly, and humane." But to whom exactly? Not to the migrants dying along the journey; not to the migrants abused, extorted or worse by the Mexican cartels; not to American communities that have been overrun by this influx of illegal aliens and lethal fentanyl; and not to Border Patrol officers who have been assaulted and have pleaded with political leadership to solve this crisis.

Instead, the process that has been created over the last two years can be more accurately described as **dangerous, corrupt, and inhumane**. After 9/11, DHS was created to secure the homeland and protect our Nation's citizens. I was there to help get DHS up and running. Yet the actions of the Biden Administration have done the opposite of adhering to the DHS mission by eroding our institutions and diminishing the Rule of Law. **This is a crisis by design**.

Finally, a singular quote from Supreme Court Justice Louis Brandeis' from almost a century ago still rings true today:

> Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperil[]ed *if it fails to observe the law scrupulously.* Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. ... *If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.*[23]

[22] Dreier, Hannah, *As Migrant Children Were Put to Work, U.S. Ignored Warnings*, NEW YORK TIMES (Apr. 17, 2023).
[23] 277 U.S. 438, 485 (dissenting opinion) (emphases added).

Unfortunately, this is a message lost on the Biden Administration. Anarchy, I regret to say, is what we see today with the strategic refusal to implement our border security laws. Unless we course-correct immediately, our Rule of Law is in somber danger of being lost forever into the oblivion of history. That *is* a message worth remembering, and re-committing ourselves to, if we are to remain a nation of laws. Or even a nation at all.

Thank you and I look forward to answering your questions.

Mr. MCCLINTOCK. Thank you for your testimony.
Next is Mr. Reichlin-Melnick.

STATEMENT OF AARON REICHLIN-MELNICK

Mr. REICHLIN-MELNICK. Chair McClintock, Ranking Member Jayapal, and distinguished Members of the Subcommittee. My name is Aaron Reichlin-Melnick, and I'm Policy Director at the American Immigration Council, a nonprofit organization dedicated to the belief that immigrants are part of our national fabric and to ensuring that the United States provides a fair process for all immigrants, including those seeking protection.

I'm grateful for the opportunity to be here today to help provide some perspective on the complicated reality of the application of immigration law at the border.

At the council, we have long brought attention through research, advocacy, and litigation to ways in which the Executive Branch carries out immigration enforcement. We are intimately familiar with the complex legal and practical considerations involved in the processing of migrants and have brought successful litigation against both Democratic and Republican Administrations to ensure that DHS is following the law.

The Constitution charges the President with faithfully executing the laws. Unfortunately, for the President, Congress often passes law which impose competing legal requirements on the Executive Branch. Some laws are easier to execute than others, especially in a world of limited resources. These challenges are readily apparent for immigration enforcement.

As Justice Kavanaugh noted at oral arguments in *Texas* v. *U.S.* last November, there are never enough resources to detain every person who should be detained, arrest every person who should be arrested, or prosecute every person who's violated the law.

Because of this hard reality, immigration officials have always been imbued with broad legal authority and with broad discretion in carrying out immigration enforcement. None other than Justice Scalia said in 1999 that, at each stage of the removal process, the Executive has the discretion to abandon the endeavor.

At the border, these countervailing concerns are critical. CBP officers are charged with simultaneously carrying out enforcement laws and humanitarian laws such as asylum, and not every person can be treated the same. There is no one-size-fits-all legal process for migrants. For example, the options available for processing a single adult arriving from Mexico arriving alone are different than those available for processing an asylum seeker from Cuba arriving with a baby. Some people can be rapidly issued an order of removal and deported. Others may require a full asylum screening, which takes time and resources.

Beyond the law, Congressional appropriations are finite, so there are logistical limits that are just as important as legal mandates. The use of detention is a perfect example of this. Despite laws which on their face seemly mandate detention, Congress has never provided sufficient resources to detain every person who might be subject to mandatory detention. As a result, if there are 10 people who the law says should be detained and only five ICE detention beds available, CBP must by necessity release the other five. Thus,

immigration officials under Republican and Democratic Administrations alike have released some migrants, because, while a single law might suggest they be detained, the laws in total provide alternate options.

These limitations apply to all administrations. For example, data produced by the Department of Homeland Security revealed that over 1.1 million migrants were released under the Trump Administration in total, including over 500,000 released at the border by CBP. Like today, these releases do not represent a failure to execute the law; rather, they are a natural and lawful byproduct of competing legal and logistical considerations that all law enforcement agencies grapple with.

Faced with a growing global displacement crisis, the Biden Administration has undoubtedly struggled to manage with the resources they have. This struggle is not unique to the Biden Administration, nor is it a sign of administration undermining the law. Instead, it is a result of outdated laws and a funding model that is badly out of balance. There are two million cases in the immigration court backlog, yet today we spend $8 on immigration enforcement for every $1 we spend on immigration adjudication.

The last administration spent $15 billion on a border wall. That's enough to pay for 17.5 years of the current immigration court budget. So, it's not a surprise then that the system is not functioning as designed and that it takes years for the government to determine who qualifies for asylum and who does not.

Moving forward, I urge Congress to undertake the difficult challenge of updating our immigration laws and providing enough resources to our adjudication systems to ensure that chaos at the border becomes a thing of the past. Congress cannot tell the Executive Branch to do three things, give them enough money to do none of them adequately, and then blame the Executive if it doesn't like the result.

Thank you. I look forward to your questions.

[The prepared statement of Mr. Reichlin-Melnick follows:]

American Immigration Council

U.S. House of Representatives
Committee on the Judiciary
Subcommittee on Immigration Integrity, Security, and Enforcement
"The Border Crisis: Is the Law Being Faithfully Executed?"

June 7, 2023

Testimony of Aaron Reichlin-Melnick
Policy Director
American Immigration Council

Chairman Jordan, Chairman McClintock, Ranking Member Jayapal, and distinguished members of the Subcommittee:

My name is Aaron Reichlin-Melnick, and I currently serve as the Policy Director for the American Immigration Council, a non-profit organization dedicated to the belief that immigrants are part of our national fabric and to ensuring that the United States provides a fair process for all immigrants, including those who are seeking protection at the border. The Council works to strengthen America by shaping how America thinks about and acts toward immigrants and immigration and by working toward a more fair and just immigration system that opens its doors to those in need of protection and unleashes the energy and skills that immigrants bring.

The Council has long brought attention through research, advocacy, and litigation to ways in which the Department of Homeland Security ("DHS") has responded to migrants at the border and inside the United States. Under the Obama administration, we helped bring a successful lawsuit against the Border Patrol's Tucson Sector challenging unconstitutional conditions of confinement for adults and children.[1] Under the Obama and Trump administrations, we helped bring a successful lawsuit against U.S. Customs and Border Protection ("CBP") for its unlawful policy of turning away asylum seekers at ports of entry, in part through a practice known as "metering."[2] And under the Biden administration, we helped bring a lawsuit against Immigration and Customs Enforcement ("ICE") for adopting policies preventing people in immigration detention from accessing their attorneys.[3]

I am grateful for the opportunity to be here today to help provide some perspective on the complicated reality of the application of immigration law at the southwest border.

---

[1] American Immigration Council, "Challenging Unconstitutional Conditions in CBP Detention Facilities," https://bit.ly/2PhdT0z.
[2] American Immigration Council, "Challenging Customs and Border Protection's Unlawful Practice of Turning Away Asylum Seekers," https://bit.ly/32E04z5.
[3] American Immigration Council, "Challenging the Government's Barriers to Access to Counsel in Immigration Detention Centers," https://www.americanimmigrationcouncil.org/litigation/challenging-government-barriers-access-counsel-immigration-detention-centers.

Releases at the Border are Lawful and the Result of Longstanding Resource Limitations and Competing Legal Obligations

The Constitution charges the President with faithfully executing the laws. But Congress has passed laws which impose competing legal requirements on the Executive Branch, requiring federal agencies to navigate a complicated web of statutory and Constitutional obligations. And some laws are easier to execute than others, especially in a world of limited resources.

Nowhere is this more true than in immigration law and enforcement. As Justice Kavanaugh said at oral arguments in *Texas v. United States* in November, "there are never enough resources or almost never enough resources to detain every person who should be detained, arrest every person who should be arrested, [or] prosecute every person who's violated the law."[4]

Because of this fact, the Supreme Court and Congress have both empowered the Executive Branch with significant discretion to manage migration and migrants. As Justice Kennedy wrote in 2012, "A principal feature of the removal system is the broad discretion exercised by immigration officials."[5] Congress itself not only acknowledged this "principal feature," but it has expressly approved of it. The Homeland Security Act of 2003 provides that a core function of the Secretary is to "establish[] national immigration enforcement policies and priorities."[6]

The discretion granted to immigration officials includes the decision whether to arrest a person who is removable, whether to initiate removal proceedings following an arrest, whether to detain someone, and even whether to let a person stay. Indeed, Justice Scalia himself wrote in 1999 that "at each stage [of the removal process] the Executive has discretion to abandon the endeavor."[7]

At the border, this discretion is critical. DHS has the difficult job of satisfying the legal obligations imposed on it by Congress as well as it can, given finite resources. These legal obligations include both the obligation to carry out both immigration enforcement and humanitarian laws. Indeed, for nearly half a century, DHS has been legally required to provide individuals crossing the U.S.-Mexico border with the opportunity to seek asylum or similar humanitarian protections.[8] This duty, arising from the United States accession to the 1967 United Nations Protocol on Refugees, was first codified into U.S. law in the Refugee Act of 1980. It is also a core component of the 1984 United Nations Convention Against Torture, which has also been signed and ratified by the United States.

As the Supreme Court has held, "deportation is a particularly severe 'penalty,'"[9] and Congress has long ensured that those facing deportation have rights that immigration officials must respect. The Constitution itself also applies key due process protections for individuals facing removal, including migrants arriving at the border. Thus, when processing a migrant for enforcement purposes, immigration officials are required to choose between different legal options available—some of which may not be

[4] Transcript of Oral Argument at 147, *United States v. Texas*, No. 22-58 (Nov. 29, 2022).
[5] *Arizona v. United States*, 567 U.S. 387, 396 (2012).
[6] 6 U.S.C. § 202(5).
[7] *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999).
[8] 8 U.S.C. § 1158(a).
[9] *Padilla v. Kentucky*, 559 U.S. 356, 365 (2010).

possible to carry out due to factors outside of the official's control. And where it is impossible to meet those obligations, or where the law makes multiple options available, discretion comes into play.

Detention is the classic example of this. Despite Congress's passage of laws which would seem to mandate detention,[10] in a world where there are 10 people who the law says should be sent to detention and only five detention beds available, border authorities must by necessity pick and choose which five people get locked up and which five must be set free. This does not represent a failure to execute the law. Rather, it is a natural byproduct of the competing legal and logistical concerns that all law enforcement agencies grapple with.

The question of who to detain and who to release is itself governed by competing legal restrictions and equities. For example, Congress has mandated the detention of certain individuals while providing DHS with statutory authority to release others. But even mandatory detention is not always mandatory, as here, too, questions of resources and humanitarian concerns may come into play.[11]

If an immigration officer is deciding how to process two noncitizens subject to mandatory detention, one with a serious criminal history and one who has committed no crime, the officer may determine that it is in the public interest to allocate limited detention resources to detaining only the person with a conviction. This kind of decision is made by immigration enforcement officials every single day across the country; how to carry out their duties as best as they can in a world of limited resources. In addition, given the unique humanitarian and foreign affairs concerns implicated by immigration enforcement, over the last century the Executive Branch has always decided to pursue some cases more vigorously than others.

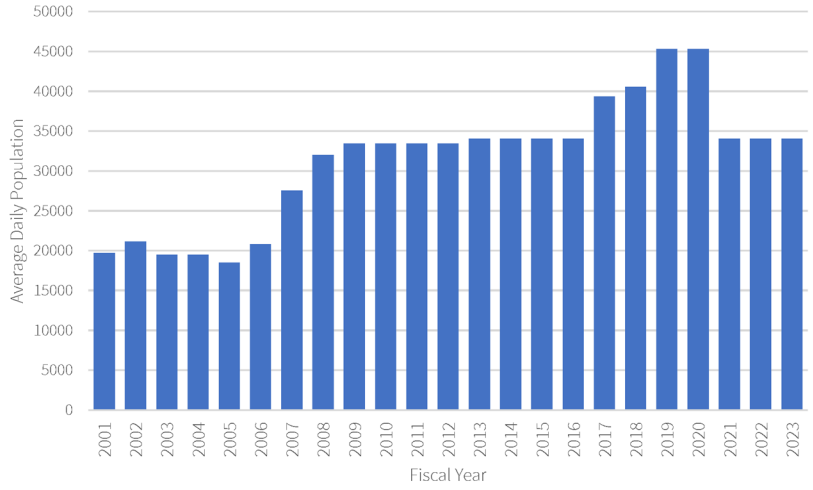
Crucially, at no point in history has Congress ever provided sufficient funds to detain every person who falls within the category of "mandatory detention," let alone all migrants crossing the border. As a result, under Republican and Democratic presidential administrations dating back decades, immigration officers have been required to release some migrants instead of sending them to detention.

Over the last 20 years, the maximum number of average daily detention beds authorized by Congress was 45,274, in Fiscal Years (FY) 2019 and 2020 (see Figure 1). In FY 2019 alone, an average of 83,550 people were arrested by DHS each month, accounting for over a million arrests in total.[12] The average length of stay for a person held in ICE detention that year was 34.3 days, meaning that the average detention bed

[10] See 8 U.S.C. § 1225(b)(1)(B).
[11] *See* American Immigration Council, "Council Files Amicus Brief Supporting the Release of Individuals from Immigration Detention During the COVID-19 Pandemic," May 12, 2020, https://www.americanimmigrationcouncil.org/amicus_brief/council-files-amicus-brief-supporting-release-individuals-immigration-detention-during.
[12] U.S. Border Patrol, "Nationwide Encounters Fiscal Years 1925 – 2020" (2021), https://www.cbp.gov/sites/default/files/assets/documents/2021-Aug/U.S.%20Border%20Patrol%20Total%20Apprehensions%20%28FY%201925%20-%20FY%202020%29%20%28508%29.pdf; U.S. Immigration and Customs Enforcement, "U.S. Immigration and Customs Enforcement Fiscal Year 2019 Enforcement and Removal Operations Report" (2020), https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf.

only became available 10.6 times that year.[13] Thus, even in the year where ICE detention reached record capacity, it would still have been literally impossible to detain all migrants.

Figure 1: Average Daily Beds Authorized by Congress for Immigration Detention
Fiscal Years 2001 to 2023

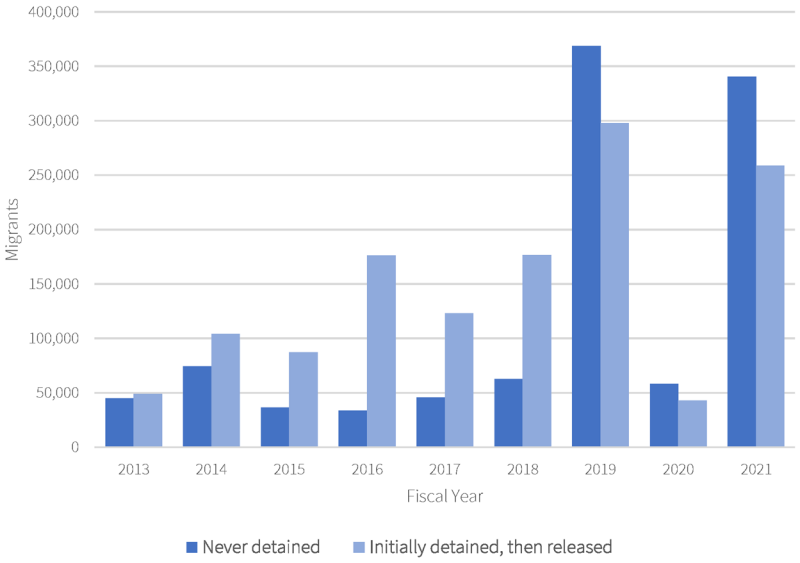


Indeed, data produced by the DHS Office of Immigration Statistics reveals that in each of the last three presidential administrations, tens of thousands of migrants encountered at the southwest border were released directly from CBP custody without ever being detained by ICE. In every year from FY 2013 to FY 2021, at least 33,000 people were directly released after crossing the southwest border (See Figure 2).[14]

From FY 2017 through FY 2020, over 1.1 million people encountered at the U.S.-Mexico border were eventually released into the United States, including over 500,000 people who were never detained and over 600,000 people who were initially detained and then subsequently released.[15]

[13] U.S. Immigration and Customs Enforcement, "ICE Detention Data, FY2019," https://www.ice.gov/doclib/detention/FY19-detentionstats.xlsx.
[14] Dep't of Homeland Security, Office of Immigration Statistics, "FY 2021 Enforcement Lifecycle Report Appendix Tables," *available at* https://www.dhs.gov/immigration-statistics/special-reports/enforcement-lifecycle.
[15] Ibid. The latter figure includes unaccompanied children who were initially put in Office of Refugee Resettlement custody.

Figure 2: Migrants Encountered at the Southwest Border and Released into the United States
Fiscal Years 2001 to 2023



At the border, CBP officers are required to abide by more than just the laws relating to detention and removal. Multiple competing legal requirements and concerns apply, including legal obligations relating to the treatment of people in CBP custody. For example, DHS is required by law to transfer unaccompanied children to the care of the Office of Refugee Resettlement within 72 hours of taking them into custody.[16] CBP agents are also bound by the 2015 National Standards on Transport, Escort, Detention, and Search (TEDS), which provide that "Detainees shall generally not be held for longer than 72 hours in CBP hold rooms or holding facilities."[17] TEDS also mandates certain other standards around medical care, food, hygiene, and basic needs, all of which create additional resource and staffing requirements that may impact other aspects of border processing.

The Constitution also sets minimum standards for treatment of migrants in CBP custody, including the right to basic hygiene, medical assessments, and bedding.[18] As a result, there are hard limits to the number of migrants that the US government can detain in Border Patrol facilities before they become dangerously overcrowded and the government begins to violate its legal and constitutional obligations.

[16] 8 U.S.C. 1232(b)(3).
[17] U.S. Customs and Border Protection, National Standards on Transport, Escort, Detention, and Search (2015), at 4.1.
[18] *See Unknown Parties v. Nielsen*, 611 F. Supp. 3d 786 (D. Ariz. 2020).

When cells are overcrowded, the risk of people dying in custody increases significantly. This is not idle speculation; this is what has happened repeatedly in the past. In spring 2019, the DHS Office of Inspector General found multiple violations of government policy due to "dangerous overcrowding," including people being held in "standing-room-only conditions for weeks."[19] That spring, multiple people died in Border Patrol custody, including several children. In circumstances such as those, DHS is well within its legal rights to release people from custody through parole or through another authority to alleviate the serious risk of death involved with overcrowding at the border. The recent tragic death of 8-year-old Anadith Danay Reyes Alvarez is a reminder that these concerns are very real and the health and safety of vulnerable children must not be taken lightly.[20]

In addition, Border Patrol officials deciding how to process a migrant must take into consideration whether the person is seeking asylum. The asylum process provides extensive rights to individuals taken into custody at the border, which can't simply be overridden at DHS's whim. Limited resources play a role here as well, given that there are simply not enough asylum officers available to place every person seeking asylum through the credible fear process, requiring some people to be sent directly to court. As a result, it is no surprise that in times of high migration, Border Patrol officials often release migrants, either to alleviate overcrowding or because there are no other options available.

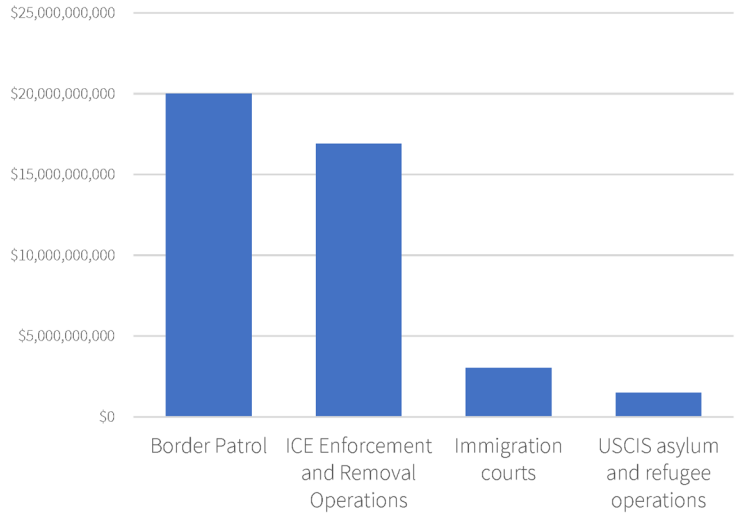
Congress itself has acknowledged the inevitability of releases and provided resources to respond to them. The "Alternatives to Detention" program has been congressionally authorized for decades and has been used for migrants apprehended inside the United States and at the border. Congressional funding for the program tripled from 2017 to 2020 under the Trump administration, coinciding with a significant increase in migrant encounters. And in 2019, Congress first authorized the provision of Federal Emergency Management Agency (FEMA) grant-based funding for migrants "released from the custody of the Department of Homeland Security."[21]

Ultimately, it is only Congress which can fundamentally change how individuals are processed at the border. The current funding model is out of balance. Congress has poured billions of dollars into the front-end enforcement apparatus while systematically neglecting the back-end adjudication systems. In the last four years alone, Congress has authorized $36.9 billion to Border Patrol and ICE's Enforcement and Removal Operations, eight times more than the $3.5 billion authorized for the immigration court systems and for U.S. Citizenship and Immigration Services' Refugee, Asylum, and International Operations Directorate (See Figure 3). The end result of this is skyrocketing immigration court backlogs, delayed asylum adjudications, and ever-growing delays due to resource limitations. Unsurprisingly, the choice to spend eight dollars on immigration enforcement for every one dollar spent on immigration adjudication has led to a system which does not function properly.

---

[19] Dep't of Homeland Security, Office of Inspector General, "Management Alert - DHS Needs to Address Dangerous Overcrowding Among Single Adults at El Paso Del Norte Processing Center (Redacted)," OIG-19-46 (May 30, 2019).
[20] U.S. Customs and Border Protection, "Update: Death in Custody of 8-Year-Old in Harlingen, Texas," June 1, 2023, https://www.cbp.gov/newsroom/speeches-and-statements/update-death-custody-8-year-old-harlingen-texas-0.
[21] Pub. L. 116-26, Emergency Supplemental Appropriations for Humanitarian Assistance and Security at the Southern Border Act, 2019, 133 STAT. 1018, 1020 (2019).

Figure 3: Cumulative Appropriations and Spending Authorization, Fiscal Years 2020 - 2023



The end result of this spending mismatch is that instead of an orderly, humane, and consistent approach to humanitarian protection and border management, we have been left with a dysfunctional system that serves the needs of no one: not the government, border communities, or asylum seekers themselves. Thankfully, it won't require a radical overhaul of U.S. immigration law to restore our humanitarian protection systems.

What's needed most is a major shift in thinking and policymaking. We must abandon a fantasy of short-term solutionism and acknowledge that only sustained investment over a period of time can realistically address these 21st century challenges. Rather than focus reactively only on temporary reductions of the number of people crossing the border, we need to address the longstanding shortfalls of the system and make the fixes necessary to bring order to the system in the long term.

Processing Pathways Available to CBP Officers Come with Constraints on Use

Broadly speaking, CBP officers who have taken a migrant into custody at the border have five "processing pathways" available to them under the law. As indicated in Table 1 and described in detail below, each of these processing pathways come with significant constraints on their use, including logistical/resource-based constraints, diplomatic constraints, policy-based constraints, and humanitarian constraints. As this table demonstrates, executing the law at the border requires consideration of not just the bare words in the Immigration and Nationality Act, but also the reality of carrying out those words in a complex world.

Table 1: Processing Pathways Available to CBP Officers and Constraints on Their Use

Pathway	Legal Authority	Constraints on use (Logistical, Diplomatic, Policy, Humanitarian-Based)
Expedited Removal	8 U.S.C. § 1225(b)(1)	- Some countries may not accept the return of their nationals following the issuance of an order of expedited removal. - Individuals placed into expedited removal who express a fear of persecution must be provided a credible fear interview. - The credible fear process, including immigration judge review, is likely to extend beyond seven days. During that time, DHS generally must hold the person in custody, either CBP or ICE. Both agencies have limited detention space and cannot hold an unlimited number of people for credible fear interviews. - There are a limited number of asylum officers to carry out credible fear interviews and a limited number of immigration judges to carry out appeals.
Issuance of a Notice to Appear (NTA)	8 U.S.C. § 1229a, *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520 (BIA 2011)	- Logistical constraints include processing time (90 minutes). - Eliminates the ability to use expedited removal. - Issuing NTA puts people into lengthy court backlogs.
Parole	8 U.S.C. 1182(d)(5)	- May only be used on a "case-by-case basis for urgent humanitarian reasons or significant public benefit," which has for decades included situations where officials determine that serious overcrowding represents an urgent humanitarian crisis. - Eliminates the ability to use expedited removal. - Parole backloads the issuance of a notice to appear onto ICE after the person checks in with ICE, which may lead to logistical problems at ICE due to limited capacity at ICE ERO.
Contiguous territory return (Remain in Mexico)	8 U.S.C. 1225(b)(2)(C)	- Requires the cooperation of a contiguous territory such as Mexico, which may impose its own numerical limitations. - Migrants expressing a fear of persecution must be provided a screening to avoid nonrefoulment, which requires both detention space to hold this screening and asylum officers to carry out the screenings. - Providing court hearings to migrants in Mexico requires subsequent extensive and disruptive multi-agency collaboration to provide mandated court hearings. - Subject to extensive litigation risk when used on a programmatic basis. - Human rights concerns led to extensive internal pushback among asylum officers required to carry out screenings.
Release on order of recognizance/ notice to report	Inherent prosecutorial discretion authority. *See Reno v. Am.-Arab Anti-Discrimination Comm., 525 U.S. 471, 483 (1999).*	- NTR issuance backloads the issuance of a notice to appear onto ICE after the person checks in with ICE, which may lead to logistical problems at ICE due to limited capacity at ICE ERO. - Notices to report are likely to lead to increased failures to appear because they do not provide individuals with a clear process by which to reconnect with DHS.

First, CBP officers can put a person through the "expedited removal" process, which was created by Congress in 1996.[22] Under expedited removal, an individual CBP officer can issue a removal order within hours. But expedited removal has its own significant limitations. By law, those who are subject to expedited removal who express a fear of persecution must be screened for asylum.[23] Credible fear screenings generally take place in DHS custody, requiring an available bed to hold the person during the screening. DHS has never had sufficient detention bed space to hold all individuals who request asylum in detention for credible fear interviews.

Credible fear screenings also require an available asylum officer to carry out the interview and an available immigration judge to carry out any requested review of a denial. As with detention resources, in the last decade, DHS has consistently been unable to hire sufficient asylum officers to carry out credible fear interviews for every migrant crossing the border who wishes to seek asylum.

In addition, some individuals may come from countries which do not accept the return of their own nationals (so-called "recalcitrant countries"), making some orders of expedited removal difficult, if not impossible, to carry out. These factors, among others, significantly constrain the use of expedited removal at the border.

Second, CBP officers may choose instead to bypass the expedited removal process and instead issue a notice to appear in court. As the Board of Immigration Appeals held in 2011, the use of expedited removal is not mandatory, and DHS maintains the inherent authority to issue a notice to appear to individuals who are amenable to placement in expedited removal proceedings.[24] Once a person is in removal proceedings, the individual is permitted to remain in the United States until the conclusion of their removal proceedings. The issuance of notices to appear to individuals seeking asylum at the border has occurred for decades, even before the creation of expedited removal. Individuals issued notices to appear at the border are generally released, as has repeatedly occurred in 2014, 2016, 2018, 2019, and since 2021.

The primary constraint on the use of NTAs is time. According to Biden administration officials, issuance of a notice to appear may take roughly 90 minutes for a CBP officer. Although this may not seem like a significant amount of time, in times of high migration when thousands of migrants are crossing the border and seeking asylum, there may be significant staffing challenges involved in issuing notices to appear to all individuals while simultaneously ensuring that CBP facilities do not become overcrowded.

Third, CBP officers may choose to issue humanitarian parole to individuals in custody. Parole is an authority that the Executive Branch has long held which allows some individuals to temporarily enter the United States for urgent humanitarian reasons or for significant public benefit.[25] As the Supreme Court has noted, this authority may be used on individuals who would otherwise be subject to expedited

[22] American Immigration Council, "A Primer on Expedited Removal," July 22, 2019, https://www.americanimmigrationcouncil.org/research/primer-expedited-removal.
[23] 8 U.S.C. § 1225(b)(1)(B).
[24] *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520 (BIA 2011).
[25] American Immigration Council, "The Use of Parole Under Immigration Law," January 10, 2023, https://www.americanimmigrationcouncil.org/research/use-parole-under-immigration-law.

removal.[26] Immigration officers have long considered the health and safety concerns raised by overcrowding as an urgent humanitarian reason authorizing the use of parole.

Since at least 1992, various administrations have authorized the use of parole for arriving asylum seekers in certain circumstances.[27] The most extensive programmatic use of parole of the border occurred from 1995 to 2017, under the so-called "Wet Foot/Dry Foot" parole policy, which provided that nearly all Cuban nationals who managed to set foot on U.S. soil would be granted parole.[28]

The use of parole is also subject to some constraints, including the limitation on the use of parole only to circumstances involving significant public benefit or urgent humanitarian reasons. In addition, those granted parole must eventually be placed into immigration court proceedings, requiring ICE to dedicate its own limited resources to the issuance of notices to appear to individuals paroled at the border. Delays in issuing notices to appear may also make it more difficult for asylum seekers to meet the one-year filing deadline or obtain work authorization as an asylum applicant.

Fourth, CBP officers have the statutory authority to return individuals to Mexico through the contiguous territory return authority in 8 U.S.C. § 1225(b)(2)(C). This discretionary authority was first exercised on a broad programmatic basis under the Trump administration through the controversial "Remain in Mexico" program. As the Supreme Court recently held, the use of the authority requires the affirmative consent of Mexico.[29]

The Remain in Mexico program was subject to very high constraints throughout its use. Mexico strictly limited the number of individuals who could be returned to that country each day and limited the nationalities of those who could be returned. As a result, throughout the program's first iteration, in no month were more than 20 percent of migrants crossing the border returned to Mexico. In addition, the program was subject to extensive litigation as to whether it was a valid exercise of the authority in 8 U.S.C. § 1225(b)(2)(C) and whether it provided sufficient protections for the vulnerable migrants put through it.

The program also significantly strained border immigration courts, with one Trump administration official telling Congress in June 2019 that the program had "broken the courts."[30] The program also required significant logistical support from USCIS asylum officers, who were required to carry out "nonrefoulment" screenings for individuals who expressed a fear of persecution or torture in Mexico. In addition, the

---

[26] *See Jennings v. Rodriguez,* 138 S. Ct. 830, 834 (2018) ("There is also a specific provision authorizing temporary parole from § 1225(b) detention 'for urgent humanitarian reasons or significant public benefit.'").
[27] Memorandum from Gene McNary, Commissioner, Immigration and Naturalization Service, Subj: Parole Project for Asylum Seekers at Ports of Entry and INS Detention (Apr. 20, 1992).
[28] Congressional Research Service, "Rescission of the Wet-Foot/Dry-Foot Policy as to Aliens from Cuba Raises Legal Questions," January 18, 2017, https://sgp.fas.org/crs/row/wetfoot.pdf.
[29] *See Biden v. Texas*, 142 S. Ct. 2528, 2543 (2022) ("The Executive […] cannot unilaterally return […] migrants to Mexico").
[30] Mica Rosenberg, Kristina Cooke, Reade Levinson, "Hasty rollout of Trump immigration policy has 'broken' border courts," *Reuters*, September 10, 2019, https://www.reuters.com/article/us-usa-immigration-courts-insight/hasty-rollout-of-trump-immigration-policy-has-broken-border-courts-idUSKCN1VV115?fbclid=IwAR0NTN4KhE6UZ_GVAsuqghaH09EYAq4OsIRiXfoRtcZ3zqrwdwnwY6Kv2Mo/.

human rights concerns caused by sending people back to dangerous border towns in Mexico led to extensive internal pushback within DHS and externally among human rights advocates.

Fifth, CBP officers may in some circumstances choose to directly release individuals without placing them in removal proceedings, expedited removal, or parole (although individuals placed through this pathway are still subject to security screenings). Notices to report are the fastest means by which CBP officers can process and release an individual at the border in times of dangerous overcrowding. Releases on orders of recognizance or through the "notice to report" process rely on the inherent discretionary authority acknowledged by Justice Scalia in 1999.[31]

As with releases on parole, the use of this authority at the border shifts the responsibility for issuance of a notice to appear onto ICE, which imposes its own significant logistical challenges. In addition, those who are released without an appointment to check in with ICE may not be aware of how to proceed with their case and may fall through the cracks.

While the majority of individuals released through the temporary use of the Notices to Report process in 2021 did eventually check in with ICE,[32] the confusion caused by this program cautions against its use.

Conclusion

For generations, the United States has prided itself on being a beacon of safety and freedom for refugees around the world. In 1980, Congress passed the Refugee Act, codifying basic refugee protections into law and enshrining a global commitment to asylum which emerged from the tragedy of the Holocaust. Since that point, nearly 4 million people have been granted permanent status either through the U.S. Refugee Admissions Program or through our asylum system. These people have strengthened communities around the nation, contributed economically, and enriched our national fabric.

Today, a global displacement crisis is affecting nearly every country in the world. Over 100 million people are displaced worldwide, with more than 42 million outside their countries of origin. In the Western Hemisphere, authoritarianism, assassinations, natural disasters, powerful transnational criminal organizations, climate change, and the global socioeconomic shocks of the COVID-19 pandemic have caused millions of people to pick up and move to seek safety and better opportunities. The end result is humanitarian migration at levels far above what the 20th century system can handle.

Faced with a 21st century displacement crisis, the Biden administration has undoubtedly struggled to manage with the resources they have. But this struggle is the result of Congress's consistent failure to provide the resources necessary to fund a functioning humanitarian protection system. Crucially, there is still hope. Rebuilding a functional system does not require a radical overhaul of U.S. immigration law. Nor

[31] *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999).
[32] *See* U.S. Government Accountability Office, "Southwest Border: Challenges and Efforts Implementing New Processes for Noncitizen Families," GAO-22-105456, September 28, 2022, https://www.gao.gov/products/gao-22-105456 ("As of March 1, 2022, about 75% of these family members had reported to ICE as required.").

will it lead to open borders. Instead, creating and funding a flexible, orderly, and safe asylum system will reduce both irregular entries and unjust outcomes.[33]

Moving forward, I urge Congress to have a serious conversation about undertaking the difficult challenge of updating our immigration laws and providing sufficient resources to our adjudication systems to ensure that the chaotic situations we see at the border today are a thing of the past.

[33] For more information, read the American Immigration Council's report "Beyond a Border Solution: How to Build a Humanitarian Protection System That Won't Break," available at: https://www.americanimmigrationcouncil.org/research/beyond-border-solutions.

Mr. MCCLINTOCK. Thank you very much.
Next is Mr. Edlow.

STATEMENT OF JOSEPH EDLOW

Mr. EDLOW. Thank you.

Chair McClintock, Ranking Member Jayapal, and distinguished Members of this Subcommittee, thank you for the opportunity to present testimony regarding the ongoing crisis threatening the integrity of our immigration system.

As this Committee explores the underlying causes of the crisis, the question posed today can be answered only with a resounding no. The Biden Administration has seen fit to ignore the law, instead favoring poorly conceived and poorly executed policy decisions. Their actions, through Executive Orders, departmental memos, and rules, upend the INA and Congressional intent, have eroded our immigration system, and propelled the crisis to current levels.

Section 102 of the INA charges the Secretary of Homeland Security with administration and enforcement of the act and further vests in the Secretary the power and duty to control and guard the boundaries and borders of the United States against the illegal entry of aliens. The massive number of encounters recorded by CBP, the small number of alien removals by ICE, and the ever-increasing USCIS backlog, however, suggests that this Secretary has failed to faithfully execute the laws entrusted to him.

The sharp rise in unlawful entries and attempts along the Southwest border provide a critical litmus test of the crisis's scope, but it's an outgrowth of the departmental actions. Additionally, media often focuses on the border to the detriment of the other actions and inaction by ICE and USCIS, which we must also focus on.

Since day one of the administration, the department has taken aggressive action to undermine immigration enforcement. Nowhere is that clearer than Secretary Mayorkis' September 30, 2021, memorandum which outlined the appropriate instances in which DHS was authorized to take action against aliens either unlawfully present or lawfully present but removable.

Secretary Mayorkis outlined three main buckets for removal: Threats to national security, threats to public safety, and threats to border security. While in theory this would seem to encompass many aliens, in reality, the numerous carve-outs, loose definitions, and required factors for consideration made it nearly impossible for ICE to move forward with most enforcement actions. These poorly defined categories gave even some of the most serious of criminal aliens a free pass in the interest of equity.

This and other memos sought to redefine immigration enforcement by creating fictional priorities with no basis in law. Categorical prosecutorial discretion is not discretion at all. The department's failure to enforce the full INA in the name of prioritization and discretion is a dereliction of duty.

So, too, the department's regulatory agenda seeks to upend the credible fear process in the name of orderly processing. Starting with the presumption that every economic migrant is entitled to protection, in 2022, DHS issued an interim and final rule on credible fear screening. Under the new process, a positive credible fear

determination by an asylum officer will lead to a nonadversarial asylum interview before another DHS asylum officer. This impermissibly changes the process and undermines Congressional action by shifting adjudication authority from DOJ to DHS.

Even more concerning, written summary of the original credible fear interview doubles as an alien's asylum application rendering the requirement that an alien file one moot. This shifts the burden and also provides a path for fraud and renders anti-asylum fraud measures moot.

A second final rule issued last month appears to be tough on illegal border crossers making them eligible for asylum. However, the number of exceptions and the easily rebuttable presumption belie its stated purpose. This rule will have the opposite effect as it will ultimately incentivize aliens to make the dangerous trek northward with families in tow.

I would be remiss to not mention parole abuse. Regardless of the plain language of the statute limiting parole to case-by-case matters, parole has become a favorite tool of this administration. While first used as an alternative to detention, parole programs have subsequently played a large role in artificially decreasing border numbers. The expanded categorical parole programs that we're seeing now are wholly unlawful.

Last, vast number of pending matters presently before USCIS will only increase if border prioritization for adjudicators is not stopped. While the agency claims to want to reduce this number, actions speak louder than words. It was recently reported that USCIS adjudicators were being shifted from their assigned work to support operations along the Southwest border.

The Biden Administration has taken many measures in the past 2.5 years aimed at addressing the border crisis. However, it appears that no one thought to simply enforce the law as it is written. Instead, the department has, through its own actions, created the worst border crisis in American history.

A return to the rule of law is the only cure at this point, and it is incumbent on Congress to use its oversight and lawmaking authority to repair the damage done by the department.

Thank you. I looked forward to your question.

[The prepared statement of Mr. Edlow follows:]

HOUSE JUDICIARY HEARING
SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT
THE BORDER CRISIS: IS THE LAW BEING FAITHFULLY EXECUTED?
JUNE 7, 2023

PREPARED TESTIMONY OF
JOSEPH B. EDLOW
FOUNDER, THE EDLOW GROUP LLC

Chairman Jordan, Ranking Member Nadler, Subcommittee Chairman McClintock, Ranking Member Jayapal, and distinguished members of this subcommittee, thank you for the opportunity to present testimony regarding the ongoing crisis threatening the integrity of our immigration system.

As this committee explores the underlying causes of the crisis, the question posed in this hearing's title can be answered only with a resounding "No." This Administration has seen fit to ignore the law, instead favoring poorly conceived and even more so poorly executed policy decisions. The actions through executive orders, departmental memos, and rules seemingly upend the Immigration and Nationality Act (INA) and congressional intent. These decisions, implemented at each immigration agency, have eroded this country's immigration system and have propelled the crisis to its current levels.

The sharp rise in unlawful entries and attempted entries along the southwest border provides a critical litmus test of the crisis' scope but is an outgrowth of Administration and Departmental actions. The focus on the overwhelming numbers does not, in and of itself, provide insight into the reasons for the crisis. Additionally, media often focuses on the border to the detriment of the other actions and inaction by Immigration and Customs Enforcement (ICE) and U.S. Citizenship and Immigration Services (USCIS). Regardless of the specifics, it is plainly obvious that since President Biden was inaugurated in January 2021, this country has witnessed an unprecedented border crisis.

Executive Order and Memos

Beginning on Day 1 of the Biden Administration, the Department of Homeland Security's (DHS) Acting Secretary, David Pekoske, halted all deportations for 100 days.[1] This was predicated on interim enforcement priorities that the Department wanted ICE to implement. In its view, the only way to

[1] Memo. from David Pekoske, *Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities* (Jan. 20, 2021), available at: https://www.dhs.gov/sites/default/files/publications/21_0120_enforcement-memo_signed.pdf.

sufficiently update priorities was to reset the entire system by halting all enforcement actions. This was followed up by ICE Acting Director Tae Johnson's memo of February 18, 2021. This memo was the first step to implement the priorities and included reporting requirements for enforcement actions and the need to justify any action to superiors through a pre-approval process.[2]

At the White House, on February 2, 2021, President Biden issued his "Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans."[3] The order required DHS, in conjunction with the Department of Justice and the Department of State to "identify barriers that impede access to immigration benefits and fair, efficient adjudications of these benefits and make recommendations on how to remove these barriers."[4] This was followed with an executive order that, among other things, created the battle cry of the Administration – removing barriers to immigration.

To that end, on September 30, 2021, Secretary Alejandro Mayorkas issued a memorandum entitled "Guidelines for the Enforcement of Civil Immigration Law" which outlined the appropriate instances in which DHS was authorized to take action against aliens either unlawfully present or lawfully present but removable.[5] [6] Specifically, Secretary Mayorkas outlined three main buckets for removal – 1) threats national security; 2) threats to public safety; 3) threats to border security. While, in theory, this would seem to encompass many aliens who should properly be targeted for enforcement actions by ICE, in reality, the numerous carve-outs, loose definitions, and required factors for consideration make it nearly impossible to move forward with most enforcement actions. These poorly defined categories could be seen to give even the most serious of criminal aliens a free pass in the interest of equity and "justice."

On April 3, 2022, ICE's Principal Legal Advisor, Kerry Doyle, issued a memo on prosecutorial discretion, aligning ICE action in immigration court with the Mayorkas Memo.[7] The April Memo provided that ICE attorneys were to exercise

---

[2] Memo. from Tae D. Johnson, *Interim Guidance: Civil Immigration Enforcement and Removal Priorities* (Feb. 18, 2021), available at: https://www.ice.gov/doclib/news/releases/2021/021821_civil-immigration-enforcement_interim-guidance.pdf

[3] Exec. Order No. 14012, 86 Fed. Reg. 8277 (Feb. 5, 2021).

[4] *Id.*

[5] Memo. From Alejandro N. Mayorkas, *Guidelines for the Enforcement of Civil Immigration Law* (Sept. 30, 2021), available at: https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf.

[6] On June 10, 2022, the U.S. District Court for the Southern District of Texas vacated this memorandum.

[7] Memo. from Kerry E. Doyle, *Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion* (Apr. 3, 2022), available at: https://www.ice.gov/doclib/about/offices/opla/OPLA-immigration-enforcement_guidanceApr2022.pdf.

prosecutorial discretion in cases that were not deemed priority cases. This could include dismissal as well as administrative closure (pausing the case indefinitely).

These memos all seek to redefine immigration enforcement by creating fictional priorities with no basis in law. Neither the INA's section on inadmissibility nor its section on removability suggest a prioritization of grounds for enforcement. Instead, it enumerates a list of grounds of inadmissibility and removability that the Department of Homeland Security is required to enforce. Its failure to do so in the name of prosecutorial discretion is a dereliction of duty and cannot be permitted to continue.

The results of these memos speak for themselves. In Fiscal Year 2022, ICE recorded a little more than 72,000 alien removals from the United States.[8] While that may appear to be large number, the Executive Office for Immigration Review (the immigration courts) reports that in just the first quarter of 2023, immigration judges have ordered almost 47,000 people removed and have affirmed credible or reasonable fear denials in more than 4,000 matters.[9]

During the period that these memos were in effect, and beyond, the number of encounters along the southwest border steadily climbed. In Fiscal Year 2022, U.S. Customs and Border Protection (CBP) recorded a staggering and unprecedent 2,378,944 encounters.[10] Thus far in Fiscal Year 2023, CBP has already recorded 1,431964 encounters as of the end of April.[11] These are just the known and reported numbers and do not account for the thousands of "got aways" who were able to elude Border Patrol agents.

The numbers simply do not add up and even with the bulk of the Mayorkas and Doyle memos not in effect, the result is still lopsided enforcement compared to the record number of aliens entering.

The Regulations

Under the guise of removing barriers, the Department, along with the Department of Justice, engaged in several rulemakings purportedly aimed at creating efficiency and expediency at the border.

---

[8] U.S. Immig. and Customs Enforcement, *ICE releases FY 2022 annual report* (Dec. 30, 2022), available at: https://www.ice.gov/news/releases/ice-releases-fy-2022-annual-report.
[9] Exec. Off. For Immig. Review, *FY2023 First Quarter Decision Outcomes* (Jan. 16, 2023), available at: https://www.justice.gov/eoir/page/file/1105111/download.
[10] U.S. Customs and Border Protection, *Southwest Land Border Encounters* (May 17, 2023), available at: https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters.
[11] *Id*.

Under section 235(b)(1) of the Immigration and Nationality Act (INA)[12], aliens apprehended by CBP entering illegally along the border or without proper documents at the ports of entry are subject to "expedited removal", meaning that they can be quickly removed without receiving removal orders from an immigration judge (IJ).

If an arriving alien claims to fear harm or asks for asylum, however, CBP must hand the alien over to an asylum officer (AO) in U.S. Citizenship and Immigration Services (USCIS) for a "credible fear" interview.[13] Credible fear is a screening process to assess whether the alien may have an asylum claim, and thus proving credible fear is easier than establishing eligibility for asylum.[14] If an AO finds that the alien does not have credible fear (makes a "negative credible fear determination"), the alien can ask for a review of that decision by an IJ.[15] If the IJ upholds the negative credible fear determination, the alien is to be removed immediately.

When an AO or IJ makes a "positive credible fear determination", on the other hand, the alien is placed into removal proceedings to apply for asylum before an IJ.[16] Most aliens who have claimed a fear of return in the past received a positive credible fear assessment (83 percent between FY 2008 and FY 2019)[17], but less than 17 percent of those who received a positive credible fear assessment were ultimately granted asylum.[18]

In 2022, DHS issued an interim final rule entitled "Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers."[19] Under the new process, a positive credible fear determination by a DHS asylum officer will lead to a non-adversarial asylum interview before another DHS asylum officer. Asylum officers who find an alien eligible for a form of protection lesser than full-fledged asylum, such as statutory

---

[12] Section 235(b)(1) of the INA, *available at*: https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1225&num=0&edition=prelim.
[13] Section 235(b)(1)(A)(ii) of the INA, *available at*: https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1225&num=0&edition=prelim.
[14] *See* section 235(b)(1)(B)(v) of the INA (defining "Credible fear of persecution"), *available at*: https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1225&num=0&edition=prelim.
[15] Section 235(b)(1)(B)(iii)(III) of the INA, *available at*: https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1225&num=0&edition=prelim.
[16] Section 235(b)(1)(B)(ii) of the INA, *available at*: https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1225&num=0&edition=prelim.
[17] Credible Fear and Asylum Process: Fiscal Year (FY) 2008 – FY 2019, U.S. Dep't of Justice, Executive Office for Immigration Review (generated Oct. 23, 2019), *available at*: https://www.justice.gov/eoir/file/1216991/download.
[18] *Id*.
[19] Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers, 87 Fed. Reg. 18078 (Interim Final Rule Mar. 29, 2022) (to be codified at 8 C.F.R. parts 208, 212, 235, 1003, 1208, 1235, and 1240).

withholding of removal[20] or protection under the Convention Against Torture[21], must still refer the matter to a DOJ immigration judge who may consider the entire case. That is hardly streamlining the process.

Even more concerning was that the written summary of the original credible fear interview doubles as an alien's asylum application, rendering the requirement that an alien file an asylum application moot. This shifts the burden to present and prepare a meritorious claim for protection. Aliens may rely on first-made claims of their story, changing or including relevant details in advance of the asylum interview or court proceeding, but without having to affirmatively file an application. While this, in and of itself, does not ensure an asylum grant, it certainly provides a path for fraud. It also renders a key anti-asylum fraud measure moot.

In addition to the practical problems associated with this rule, it impermissibly shifts authorities from the Department of Justice to the Department of Homeland Security. As Congress was creating the new DHS, it specifically determined which functions would be enumerated. [22] Regarding asylum officers, or USCIS in general, Congress specified which immigration functions would be transferred to the new created department.[23] Section 451 of the HSA established the Bureau of Citizenship and Immigration Services and provided its function as transferred from the DOJ.[24] By including a catchall provision for any functions that may have been missed in the paragraphs 1 through 4, it is apparent that the intent was to ensure that whatever adjudicative functions were being performed by INS

[20] Statutory withholding of removal specifies that an alien may not be removed "to a country if the Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social, or political opinion." 8 U.S.C. § 1231(b)(3)(A).

[21] Following the U.S. ratifying its signing of the Convention Against Torture in 1994, Congress implemented CAT protections in Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 aimed at not effecting the removal of a person who would be subjected to torture upon such removal. *See* Foreign Affairs Reform and Restructuring Act of 1998 (FARRA), Pub. L. 105-277, Div. G, Tit. XII, chap. 3, subchap. B, section 2242(a) (1998).

[22] Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002).

[23] *Id.*

[24] *Id.* at §451(b), 116 Stat. 2135, 2196 (2002). ("(b) Transfer of Functions from the Commissioner. – In accordance with title XV (relating to transition provisions), there are transferred from the Commissioner of Immigration and Naturalization Services the following functions and all personnel, infrastructure, and funding provided to the Commissioner in support of such functions immediately before the effective date specified in section 455:

(1) Adjudications of immigrant visa petitions.
(2) Adjudications of naturalization petitions.
(3) Adjudications of asylum and refugee applications.
(4) Adjudications performed at service centers.
(5) All other adjudications performed by the Immigration and Naturalization Service immediately before the effective date specified in section 455.")

prior to the transfer, would be continued by USCIS subsequent to it. Nothing in the provision suggests that any further functions be transferred.

As additional evidence that EOIR functions were not transferred, the HSA affirmatively established EOIR within DOJ. This section, ultimately codified in INA, states:

> (1) *In general.* – The Attorney General shall have such authorities and functions under this Act and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, on the day before the effective date of the Immigration Reform, Accountability and Security Enhancement Act of 2002.[25][26]

This provision makes clear that the Attorney General retained the functions of EOIR to include the authority to order deportation from the United States. Nowhere in the HSA nor in the INA is there any reference to USCIS, exercising authority to order removal. As the former INS did not exercise such authority, and no such functions were specifically transferred to USCIS, the statute is not ambiguous or silent on the matter. Congressional intent is clear that such quasi-judicial functions would remain with EOIR where such functions have been exercised exclusively since 1983.

Accordingly, DHS, through USCIS, now taking on additional authorities aimed at processing in aliens faster and getting them full-fledged asylum interview, in a non-adversarial manner, without the benefit of immigration court or ICE trial attorney's input. This is rulemaking run amok as it is contrary to statute, contrary to long-existing policy, and directly encroaches on the Department of Justice.

Relevant to the border, a notice of proposed rulemaking was published on February 23, 2023.[27] Starting with the name, "Circumvention of Lawful Pathways," the proposed role is an ineffective measure and empty gesture. Despite its perceived enforcement provisions, this rule, if implemented, would allow most aliens to arrive at or between ports of entry, make fraudulent claims of fear to enter the U.S. or continue to utilize unlawful mass parole programs to accomplish the same. As the Biden Administration continues to steadfastly grip to its executive

[25] 8 U.S.C. 1103(g).
[26] The Immigration Reform, Accountability and Security Enhancement Act of 2002 (S. 2444; 107th Cong.) was introduced in May of 2002 but was never passed. This language was retained for the Homeland Security Act of 2002, Pub. L. No. 107-296, § 1102, 116 Stat. 2135, 2273-2274 (2002).
[27] Circumvention of Lawful Pathways, 88 Fed. Reg. 11704 (proposed Feb. 23, 2023) (to be codified at 8 C.F.R. parts 208 and 1208).

order on removing barriers to immigration,[28] this rule, finalized on May 16, 2023 will do exactly that.[29]

The rule may be framed as an enforcement tool to limit the number of aliens who will ultimately be able to receive asylum, however we are hard-pressed to find any examples of classes of aliens who will actually be kept out of the process under this rule.

The crux of the rule is the concept that a presumption of asylum ineligibility exists for any alien entering the United States who does not meet certain criteria. Specifically, the proposed rule requires that to be eligible for asylum one of three criteria must be met: (1) the alien must have appropriate documentation; (2) must present at a port of entry with a prescheduled appointment through the CBP ONE App; or (3) must have sought protection in a third country and received a final determination. The last criteria is akin to the Third Country Transit Rule, which likewise largely prohibited asylum eligibility for a non-contiguous alien who did not apply for protection in a country where such processes are available.[30]

The similarities to the previous rule end there, however. While this appears to be a strong measure to control migration along the southern border, it becomes apparent that the exceptions swallow the rule. We are left with the question of to whom this rule will actually apply once implemented. Of the three criteria, the one that we presume will most often be utilized is the prescheduled appointments. It is not likely that many aliens will suddenly obtain legitimate documentation and, if they were able to do so, they likely would not be applying for asylum but would be entering on a type of visa. This is an important distinction because credible fear procedures would not apply to an admitted alien (i.e. one that actually has a valid authorization). The third criterion may be used more often than the first but it is unclear to the extent that an alien would avail themselves of protection in Mexico and other nations in Central and South America. Whether they are being smuggled to the United States or make the journey on their own, the lack of resources and familiarity with the law will also make this criterion rarely met.

The rule is clearly encouraging aliens to use the second criterion. A prescheduled appointment through the CBP ONE App is the most available option

---

[28] Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans, 86 Fed. Reg. 2877 (Feb. 5, 2021).

[29] Circumvention of Lawful Pathways, 88 Fed. Reg. 31314 (Final on May 16, 2023)(to be codified at 8 C.F.R. parts 208 and 1208).

[30] Circumvention of Lawful Pathways, 88 Fed. Reg. 11704, 11750-11752 (proposed Feb. 23, 2023) (to be codified at 8 C.F.R. parts 208 and 1208).

for aliens with access to smart phones or other technology allowing them to contact the system. However, even this criterion is waived if the alien can demonstrate that "it was not possible to access or use the…system due to language barrier, illiteracy, significant technical failure, or other ongoing and serious obstacle."[31] In essence, everything must align perfectly for this criterion to be the basis for the presumption of ineligibility. Relying on technology is itself a risky proposition as factors such as bugs within the app or lack of available cellular service or a reliable internet connection could all hamper an alien's ability to successfully schedule an appointment. Additionally, while we do not have statistics on literacy rates of migrants, it would be fairly common to find migrants without a strong grasp of the English language. If language and literacy are included as prerequisites, this will likely include a far larger population of migrants who would overcome the rule's presumption. Lastly, the catchall of "other or ongoing and serious obstacle" is left undefined in the regulatory text. As asylum officers and immigration judges will be trained on identification of the presumption, leaving a catchall which will seemingly be within the discretion of the adjudicator will allow virtually any reason to pass muster. This will result in the presumption being raised against hardly any alien crossing into the United States.

For those few aliens against whom the presumption will be raised, the rule has fashioned it as a rebuttable presumption. Again, the exceptions and now the rebuttals swallow the rule itself. An alien may rebut the presumption when proving that the alien has a medical emergency, "faces an imminent and extreme threat to life or safety," or meets the statutory definition of trafficking victims.[32] Of the three, the most concerning is the threat to life or safety. It is well-established that the trek to the United States is dangerous with more migrants killed or kidnapped each year. The dangers of the journey are further exacerbated with the influence of cartels and other criminal organizations that view smuggling migrants as a for-profit business without regard to their safety. From FY17 through FY21, CBP has reported over 1,700 migrant deaths.[33] FY21 had the most in a single year with 568 deaths.[34] Additionally, in that same time period, Border Patrol rescued over 8,400 individuals.[35] FY21 again saw the most rescues in a single year with

[31] Circumvention of Lawful Pathways, 88 Fed. Reg. 11704, 11750 (proposed Feb. 23, 2023) (to be codified at 8 C.F.R. parts 208 and 1208).
[32] *Id*.
[33] U.S. Customs and Border Protection, *Border Rescues and Mortality Data* (Feb. 6, 2023), https://www.cbp.gov/newsroom/stats/border-rescues-and-mortality-data.
[34] *Id.*
[35] *Id.*

3,423.[36] These numbers only represent the deaths and emergencies reported by CBP, not other federal, state, and local agencies and it is unknown how many bodies have never been discovered. The journey to the southern border of the United States is inherently a journey where an alien will face extreme threats to life and safety from beginning to end. To add this as an exception is to exempt the entire population of migrants that have traveled with the assistance of smugglers and other criminal enterprises.

While the rule claims to disincentivize illegal border crossers, the Department's provisions have instead created additional incentives to make the perilous journey either as unaccompanied children or with children in tow. In addition to the fact that the NPRM does not apply to unaccompanied children, the Department of Justice rule requires granting asylum despite ineligibility in an effort to preserve family unity. In a relevant portion, the Department of Justice's regulation states that "[w]here a principal asylum applicant is eligible for withholding…and would be granted asylum but for the presumption…and where an accompanying spouse or child …does not independently qualify for asylum or other protections…the presumption shall be deemed rebutted."[37] Caselaw has long held that grantees of withholding of removal cannot receive derivative benefits for their spouses and children.[38] This provision seeks to sidestep that issue by granting full asylum status to the principal and family even if the principal alien cannot otherwise rebut the presumption.

Parole Abuse

While the Department claims that a lack of available pathways has made the aforementioned rules necessary, that lack has not stopped the Department from abusing its parole authority. For a section of law meant to be used sparingly and in exceptional circumstances, the Department has relied heavily on its parole powers to permit aliens to enter the counter *en masse*, many without a notice to appear before an immigration judge. Section 212(d)(5) of the INA authorizes parole of aliens "into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit…"[39] Additionally, the legislative history of parole authority, cited by the former INS in its initial regulation, makes clear that the

[36] *Id.*
[37] Circumvention of Lawful Pathways, 88 Fed. Reg. 11704, 11752 (proposed Feb. 23, 2023) (to be codified at 8 C.F.R. parts 208 and 1208).
[38] *Matter of A-K-*, 24 I. & N. Dec. 275 (BIA 2007).
[39] 8 U.S.C. § 1182(d)(5).

intent was to exercise the authority in a narrow and restrictive manner. The original rule stated:

> The drafters of the Immigration and Nationality Act of 1952 gave as examples situations where parole was warranted in cases involving the need for immediate medical attention, witnesses, and aliens being brought into the United States for prosecution. H. Rep. No. 1365, 82nd Cong., 2d Sess. at 52 (1952). In 1965, a Congressional committee stated that the parole provisions 'were designated to authorize the Attorney General to act on an ***emergent, individual, and isolated situation***, such as the case of an alien who requires immediate medical attention, and not for the immigration of classes or groups outside the limit of the law.' 5 Rep. No. 748, 98th Cong., 1st Sess. at 17 (1965).[40]

Regardless of the plain language of the statute and the legislative history, parole has become a favorite tool of the Biden Administration. While first used as an alternative to detention, parole programs have subsequently played a large role in artificially decreasing numbers along the border.

When reviewing the Border Patrol monthly disposition and transfer statistics, it becomes apparent that parole was the path of choice to quickly process and move aliens northward. Border Patrol monthly disposition and transfer statistics for fiscal years 2022 and 2023 demonstrate just how commonplace parole has become. While Border Patrol suggestions that the "processing disposition decision related to each apprehension is made on a case-by-case basis…"[41] the raw numbers belie that disclaimer. In fiscal year 2022, parole numbers steadily rose to culminate in over 95,000 paroles granted in September 2022.[42] That trend has continued in this fiscal year as Border Patrol recorded over 130,000 paroles in December 2022.[43]

Moreso than individual aliens, the Department has gone farther astray as it has implemented parole programs, contrary to law, for nationals of certain countries. Beginning in October, 2022, the Department announced that it was

---

[40] Detention and Parole of Inadmissible Aliens; Interim Rule with Requests for Comments, 47 Fed. Reg. 30044 (Jul. 9, 1982) (codified in 8 C.F.R. parts 212 and 235) (emphasis added).
[41] Customs and Border Protection, *Custody and Transfer Statistics FY2023* (May 19, 2023), available at: https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics.
[42] Customs and Border Protection, *Custody and Transfer Statistics FY2022* (Nov. 14, 2022), available at: https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics-fy22.
[43] Customs and Border Protection, *Custody and Transfer Statistics FY2023* (May 19, 2023), available at: https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics.

utilizing new pathways to "create a more orderly and safe process for people fleeing the humanitarian and economic crisis in Venezuela."[44] This was augmented in January, 2023, when the Department announced expanded parole programs for nationals of Nicaragua, Cuba, and Haiti.[45] The program permits nationals of those countries, and their immediate relatives, to seek parole when sponsored by someone with lawful status in the United States. It is worth noting that the sponsor need not be a relative of the beneficiary.

The result of these parole programs was a drop in border numbers and a marked decrease in parole utilized by Border Patrol. This is all smoke and mirrors however as it is supplanting one form of illegal entry for another. This is not to suggest that parole is akin to an illegal entry but a recognition that parole usage in this fashion, is unlawful.

The Legal Immigration Backlog

This committee is well aware of the vast number of pending matters presently before USCIS. As of December 31, 2022, USCIS reported a pending caseload of 8,841,152 matters. While the agency claims to want to reduce this number, actions speak louder than words. It was recently reported that USCIS adjudicators were being shifted from their assigned work in order to support operations along the southwest border.

While the extent of this shift is still relatively unknown, it is clear that any shift will have significant consequences for the adjudication of affirmative asylum cases as well as applications and petitions for immigration benefits. It is also important to remember that the latter group pays the fees that keep USCIS operational. Essentially, USCIS is taking resources away from the adjudications that fund the agency and thereby applicants for benefits are primarily funding, not their own adjudications, but the adjudication of credible fear matters along the border.

Conclusion

The Department of Homeland Security has taken many measures in the past two and a half years aimed at addressing the border crisis however it appears that no one thought to simply enforce the law as written. In an effort to remove barriers

[44] Dep't of Homeland Sec., *DHS Announces New Migration Enforcement Process for Venezuelans* (Oct. 12, 2022), available at: https://www.dhs.gov/news/2022/10/12/dhs-announces-new-migration-enforcement-process-venezuelans.

[45] Dep't of Homeland Sec., *DHS Continues to Prepare for End of Title 42; Announces New Border Enforcement Measures and Additional Safe and Orderly Processes* (Jan. 5, 2023), available at: https://www.dhs.gov/news/2023/01/05/dhs-continues-prepare-end-title-42-announces-new-border-enforcement-measures-and.

and to create a subjectively orderly system, the Department has conflated law and policy and ensured that when the two were in conflict, that policy won the day. The memos that undermine grounds of inadmissibility and removability, the rules that undermine congressional action and established authorities, and the parole programs that are simply incongruous with the law paint a clear picture. The Department has, through its own actions, created the worst border crisis in American history. A return to the rule of law is the only cure at this point and it is incumbent upon Congress to use its oversight authority, in addition to its legislative authority, to repair the damage done by the Department.

Mr. MCCLINTOCK. Great. Thank you for your testimony.
Finally, Mr. Bradbury.

STATEMENT OF STEVE BRADBURY

Mr. BRADBURY. Thank you.

Chair McClintock, Ranking Member Jayapal, Mr. Nadler, and distinguished Members of the Committee. Far from faithfully carrying out its enforcement duties, the Biden Administration, with Secretary Mayorkis at the point, is flagrantly violating numerous provisions of our immigration laws, laws critical to the safety and security of the American people.

Here are some specific examples of the Secretary's violations of law. The use of parole to release tens of thousands of inadmissible aliens en masse into the U.S. each month violates INA's Section 212's express restrictions on parole, and it unlawfully circumvents the established procedures for refugee admissions under Section 207.

Further, because of lax vetting at our ports and an overstretched border force, there's no way to know how many of the millions allowed into the U.S., let alone the huge volume of gotaways who have evaded our Border Patrol, fall within the categories of dangerous aliens prohibited entry under Section 212.

Secretary Mayorkis has also ignored the mandatory detention and removal requirements of INA Section 235, and his directions to ICE not to take enforcement action against most deportable aliens defies Section 237. Under his watch, deportations have fallen to historic lows, while illegal immigration is at a record high.

In recent months, DHS has shifted to a new process equally unlawful of pre-registering aliens outside the U.S. for fast-track entry and release using the CBP One mobile app. This CBP One escort service is a shell game. It's a device for funneling the flow of illegal immigration through our ports of entry instead of between them. Meanwhile, unlawful entry overall remains unabated.

The claim that illegal border crossings have fallen 70 percent is a manipulated, distorted figure. It's a comparison to the highest week in the history of our country for illegal crossings, the week before the Title 41 program ended, when 10,000 illegals were encountered at the border. That's the comparison that gets to the 70-percent figure. It's false.

In sum, the Secretary is asserting power to overturn the laws Congress has enacted and replace them with new immigration pathways, as he calls them, of his own design, entirely new visa-like pipelines through which is streaming into our country an ever-rising flood of illegal immigration. This is a vast usurpation of law and of Congressional power by the Executive. These policies cannot be justified as an exercise of enforcement discretion.

Secretary Mayorkis' own actions have caused the crisis, and he's refused to employ the full scope of resources available to him, shuttering detention facilities, ending cooperation with border States, and abandoning the Remain in Mexico program. Not to be overlooked, he has also flouted his statutory duty as Secretary to protect the most vulnerable of migrant children from the scourge of human trafficking and abuse.

Together these violations of law have produced a colossal humanitarian disaster and a catastrophe for America. The victims include a sea of vulnerable migrants caught up in the horrendous grip of the cartels, the exploited children who are enslaved and abused within our own neighborhoods, and the everyday Americans across our land whose communities are ravaged by violence and crime, strained to the breaking point by unforeseen economic burdens, and infested with fentanyl. It's a grim picture for sure but one the American people must see.

We should all be grateful to you, Mr. Chair, for shining a bright light on these violations of law.

Thank you.

[The prepared statement of Mr. Bradbury follows:]

Prepared Statement

For Hearing Entitled:

"The Border Crisis: Is the Law Being Faithfully Executed?"

Before the

Subcommittee on Immigration Integrity, Security, and Enforcement

of the

Committee on the Judiciary

U.S. House of Representatives

June 7, 2023

Steven G. Bradbury
Distinguished Fellow
The Heritage Foundation

Chairman McClintock, Ranking Member Jayapal, and distinguished Members of the Committee, my name is Steve Bradbury, and I am a Distinguished Fellow at The Heritage Foundation.

Before joining Heritage, I served in the Trump administration as the Senate-confirmed General Counsel of the U.S. Department of Transportation, as the Acting Deputy Secretary of Transportation, and briefly as the Acting Secretary of Transportation.

Previously, during the administration of George W. Bush, I served as the Acting Assistant Attorney General and Principal Deputy Assistant Attorney General for the Office of Legal Counsel in the U.S. Department of Justice. In my position at the Justice Department, I advised the president and heads of executive departments on the requirements of federal law, including laws relating to immigration and homeland security.

The views I express in this statement and in my testimony before the Committee are my own and should not be construed as representing any official position of The Heritage Foundation.

I am grateful to the Committee for the opportunity to speak with you today about the important legal issues raised by the border security and immigration enforcement policies of the Biden administration.

Introduction

Far from faithfully executing the laws they are charged with enforcing, Secretary Alejandro Mayorkas and the Biden administration have repeatedly violated and persist in violating numerous provisions of law central to the operation of our nation's immigration system and critical to the safety and security of the American people. No adverse court decision seems able to put an effective stop to these violations.

Through their ultra vires policies, Secretary Mayorkas and the president have arrogated to themselves the power to overturn the laws enacted by Congress and replace them with new and wholly unauthorized immigration "pathways" through which is streaming into our country an ever-rising flood of illegal immigration. Together, these violations have produced a colossal humanitarian disaster at our southern border and a generational catastrophe for communities across America.

Not to be overlooked, on top of his sweeping violations of the immigration laws, Secretary Mayorkas has also flouted his statutory duty to protect the most vulnerable of migrant children from the scourge of human trafficking and exploitation.

The Available Pathways and Requirements for Lawful Immigration Are Defined by Congress, Not by the Executive Branch.

Under Article I, section 8 of our Constitution, it is for Congress, not the executive branch, to establish the legal requirements governing immigration. Through enactment of the immigration laws, primarily the Immigration and Nationality Act, or INA, as amended by later enactments, Congress has established and defined the available pathways for lawful immigration. The executive branch does not have authority to create new pathways for foreign migrants to enter the U.S. that have not been expressly authorized by Congress. Rather, it is the duty of the executive faithfully to enforce the requirements of the immigration laws enacted by Congress.[1]

Congress has created various visa programs and defined other legal requirements for non-U.S. nationals to be allowed entry into the United States. Aliens seeking to enter the U.S. must have a visa or other proper documentation and must present themselves at a designated port of entry and be screened by officers of the Customs and Border Protection service, or CBP, of the Department of Homeland Security (DHS). Under sections 212 and 235 of the INA, if the alien does not have proper immigration documents or a legal basis for entry or if the alien attempts to cross the border illegally between ports of entry, the alien is inadmissible and must be turned away or removed from the United States.[2]

Under INA section 212(a), certain categories of aliens, including minors, who pose risks to the safety of Americans or to the security of the United States are inadmissible and, subject to very narrowly circumscribed waiver authorities, may not be granted entry even if they have proper immigration documents or a credible basis to claim asylum. These include, among others, persons with communicable diseases, violent criminals, gang members, repeat offenders, certain other categories of criminals, suspected terrorists, drug traffickers, smugglers, human traffickers, war

[1] *See Kleindienst v. Mandel*, 408 U.S. 753, 766 (1972) (holding that Congress—not the president or executive branch officials—has the "complete and absolute power" over the subject of immigration and "plenary power" over the admission and exclusion of aliens).

[2] 8 U.S.C. §§ 1182(a)(6)(A)(i), 1182(a)(7)(A)(i), & 1225(b)(1).

criminals, those who have committed immigration fraud or previously violated the immigration laws, and those affiliated with a Communist or other totalitarian party.[3]

Regarding *asylum*, under INA section 235(b)(1), any alien at the border who seeks to enter the U.S. by applying for asylum or by otherwise claiming a fear of persecution in his home country must be interviewed by an asylum officer, and if the officer finds that the alien lacks a credible fear of persecution within the meaning of the INA, the alien must be removed from the United States without further hearing, unless the alien appeals the credible-fear determination to an immigration judge.[4] Pending resolution of the alien's asylum proceeding, the alien is subject to "*mandatory detention*"—specifically, section 235(b)(1)(B) declares that the alien "*shall be detained* pending a final determination of credible fear of persecution and, if found not to have such a fear, *until removed*."[5]

If the alien claiming asylum has arrived by land from a foreign territory contiguous to the U.S., such as Mexico, the Secretary "*may return the alien to that territory" pending the resolution of the alien's asylum proceeding*.[6] This provision is the source of authority for the Migrant Protection Protocols (MPP), or so-called "Remain in Mexico Program," put in place by the Trump administration and now largely abandoned by the Biden administration.

In contrast, aliens who are not already within the United States or physically at the U.S. border are not eligible to claim asylum status as a basis for entering the U.S. Rather, non-U.S. nationals who are outside the United States and who wish to enter based on claims that they face a fear of persecution in their home countries must apply for admission as *refugees*. In other words, asylum applicants and refugee applicants must both prove a similar fear of persecution, but the procedures available to each are different.

To be admitted to the U.S. as a refugee, the alien who is outside the U.S. must satisfy the established protocols for refugee admissions authorized by Congress under section 207 of the INA.[7] The U.S. Refugee Admissions Program (USRAP) is jointly administered by the Department of State and DHS, which work together with

---

[3] *See* 8 U.S.C. § 1182(a).

[4] 8 U.S.C. § 1225(b)(1)(iii)(I).

[5] 8 U.S.C. § 1225(b)(1)(iii)(IV) (emphasis added).

[6] 8 U.S.C. § 1225(b)(2)(C) (emphasis added).

[7] *See* 8 U.S.C. § 1157(c).

the United Nations High Commissioner for Refugees, at locations around the world to identify, interview, and adjudicate applications for refugee protection.[8] Under the USRAP protocols, aliens applying for refugee protection are only allowed to travel to the U.S. and enter as refugees after they have been vetted by several law enforcement and intelligence agencies and DHS has granted their refugee applications. Generally, refugee admissions are subject to annual numerical limits, and, in addition to establishing the requisite fear of persecution, refugee applicants typically must show that they cannot secure safe haven in a third country.

Much has been made of the *parole* authority available to the Secretary of Homeland Security. Under INA section 212(d)(5)(A), the Secretary is given a very narrow authority to "parole" individual aliens into the United States for temporary periods but "*only on a case-by-case basis for urgent humanitarian reasons or significant public benefit*."[9] The recognized grounds for parole include, for example, situations where a particular alien needs to come into the United States temporarily to receive critical medical care or is needed to testify in the U.S. as a witness in an important criminal trial. These are situations, typically, where the alien parolee does not have time to obtain a visa.

Section 212(d)(5)(B), moreover, expressly prohibits the Secretary from paroling into the U.S. any alien who is a refugee—that is, who claims a right to enter the U.S. based on a fear of persecution—unless the Secretary determines that "*compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee*."[10]

Finally, for aliens found within the interior of the country, INA section 237 governs *removal and deportation*. Section 237(a)(1) provides that any alien who is present in the U.S. in violation of the immigration laws or any alien found to have committed several types of crimes, terrorist activity, drug or human trafficking, or other misconduct "*is deportable*."[11] Immigration and Customs Enforcement, or ICE, is the component of DHS responsible for arresting such aliens and initiating removal or deportation proceedings. Under section 236, ICE is required to take certain cate-

[8] *See* U.S. Department of State, "Refugee Admissions: U.S. Refugee Admissions Program," https://www.state.gov/refugee-admissions.

[9] 8 U.S.C. § 1182(d)(5)(A) (emphasis added).

[10] 8 U.S.C. § 1182(d)(5)(B) (emphasis added).

[11] 8 U.S.C. § 1227(a)(1) (emphasis added).

gories of deportable aliens into custody, including after they have served any sentence of incarceration, and is prohibited from releasing such aliens pending removal or deportation proceedings except in very narrow circumstances.[12]

The Biden Administration Is Deliberately Violating Numerous Provisions of the Immigration Laws.

Acting in pursuit of the President's immigration policy agenda, Homeland Security Secretary Alejandro Mayorkas has purposefully violated and continues to violate every one of the INA provisions described above, including by purporting to create expansive new "pathways" for immigration that are illegal because they have never been approved by Congress and conflict with the express terms of the statutes Congress has enacted.

Violations of INA Section 212's Restrictions on the Scope and Use of Parole

Let's take parole first. Under Secretary Mayorkas's supervision and at his direction, DHS has released and continues to release tens of thousands of aliens every month into the United States through mass parole in violation of the express requirements of INA section 212(d)(5)(A).

Among other questionable uses of categorical parole, Secretary Mayorkas created "Operation Allies Welcome" as a means of paroling 73,000 Afghan evacuees directly into the U.S. in the wake of the Biden administration's chaotic abandonment of Afghanistan, rather than relocating them to a safe third country where they could apply for refugee protection through the USRAP process.[13] Even if there were urgent humanitarian reasons and significant public benefits associated with the mass parole of Afghan evacuees, the Afghan parole program was not administered in a manner that would advance those interests. The DHS Inspector General reported that the Afghans were not adequately screened,[14] despite Secretary Mayorkas's contrary assurances to Congress and the American public, and that DHS failed to track Afghan parolees who were allowed to walk away from the military bases where they

[12] *See* 8 U.S.C. § 1226(c).

[13] *See* Department of Homeland Security, "Operation Allies Welcome," https://www.dhs.gov/allieswelcome.

[14] Department of Homeland Security, Office of Inspector General, "DHS Encountered Obstacles to Screen, Vet, and Inspect All Evacuees During the Recent Afghanistan Crisis (Redacted)," OIG-22-64, September 6, 2022, https://www.oig.dhs.gov/sites/default/files/assets/2022-09/OIG-22-64-Sep22-Redacted.pdf.

were initially housed.[15] The Inspector General further reported that DHS did not attempt to locate all Afghans who left the bases to verify their compliance with parole conditions.[16]

Following the flawed model used for the Afghan evacuees, Secretary Mayorkas created five additional nationality-based mass-parole programs to bring other large populations of aliens into the U.S. First, in April 2022, DHS announced the "Uniting for Ukraine" parole program, with a commitment to allow 100,000 Ukrainians entry into the U.S.[17] Then, in October 2022, DHS created a "Parole Process for Venezuelans" for up to 24,000 beneficiaries, modeled on the Uniting for Ukraine parole process.[18] Most recently, in January 2023, DHS established mass parole programs for Cubans, Haitians, and Nicaraguans, which, combined with the program for Venezuelans, was intended to bring to the U.S. up to 30,000 aliens per month from the four countries.[19] Even apart from the January announcement, CBP reported that it was already paroling many tens of thousands of aliens into the U.S. each month (designated as "humanitarian release"), including more than 140,000 in December 2022 alone.[20]

Secretary Mayorkas does not have authority to create what are effectively new visa programs for hundreds of thousands of aliens annually from Cuba, Haiti, Nicaragua, Venezuela, and elsewhere. Only Congress has such authority. These parole programs violate the law because they fail each of section 212(d)(5)(A)'s three required limiting factors: The parole decisions are not made for individual aliens on a case-by-case basis, they involve no real assessment of humanitarian need, let alone an urgent need, and they advance no significant public benefit. The purposes they

---

[15] Department of Homeland Security, Office of Inspector General, "The Unified Coordination Group Struggled to Track Afghan Evacuees Independently Departing U.S. Military Bases," OIG-22-79, September 29, 2022,

[16] *Ibid.*

[17] Department of Homeland Security, "Uniting for Ukraine," https://www.dhs.gov/ukraine.

[18] Notice, Department of Homeland Security, "Implementation of a Parole Process for Venezuelans," 87 Federal Register 63507 (October 19, 2022), https://www.federalregister.gov/documents/2022/10/19/2022-22739/implementation-of-a-parole-process-for-venezuelans.

[19] Department of Homeland Security, Press Release, "DHS Continues to Prepare for End of Title 42; Announces New Border Enforcement Measures and Additional Safe and Orderly Processes," January 5, 2023, https://www.dhs.gov/news/2023/01/05/dhs-continues-prepare-end-title-42-announces-new-border-enforcement-measures-and.

[20] U.S. Customs and Border Protection, "Custody and Transfer Statistics FY2023," https://www.cbp.gov/node/380450.

serve are inconsistent with section 212: Mayorkas created these new streamlined channels, unauthorized by Congress, for the purpose of quickly processing vastly increased numbers of inadmissible aliens into the U.S. in furtherance of the Biden administration's policy goals.

In the course of an opinion addressing termination of the Remain in Mexico Program (a decision reversed on other grounds by the Supreme Court), the U.S. Court of Appeals for the Fifth Circuit condemned Secretary Mayorkas's parole policies in December 2021, calling them "the opposite of *case-by-case* decision-making,"[21] and concluding that they "ignor[e] the limitations Congress imposed on the parole power" and are best described as "*mis*enforcement, suspension of the INA, or both."[22] Notwithstanding the Fifth Circuit's strong condemnation, Secretary Mayorkas has continued to rely upon and, indeed, to expand his unlawful use of mass parole.

Texas and 20 other states have now filed suit challenging DHS's mass parole programs for Haitians, Cubans, Venezuelans, and Nicaraguans. The 21 states are seeking to enjoin these programs as a violation of law, and the case is currently scheduled for a bench trial in federal district court at the end of the summer.[23]

Violation of INA Section 212's Restrictions on Parole of Refugees

Secretary Mayorkas is also mass-paroling aliens he himself characterizes as refugees or asylum seekers, in direct violation of section 212(d)(5)(B)'s prohibition on the parole of any refugee into the U.S. unless there are "*compelling reasons*" requiring that "*that particular alien*" be admitted by parole rather than going through the USRAP process for refugee admissions under INA section 207—a process Secretary Mayorkas is deliberately circumventing.

By treating the masses of aliens who illegally enter the U.S. as *de facto* refugees—calling them "asylum seekers" and "people fleeing humanitarian

---

[21] *Texas v. Biden*, No. 21-10806 (5th Cir. 2021), p. 4 (emphasis in original).

[22] *Ibid.*, pp. 105-06 (emphasis in original).

[23] *See Texas v. U.S. Department of Homeland Security*, Case No. 6:23-cv-7 (S.D. Tex. 2023), https://www.courtlistener.com/?type=r&q=docket_id:66754800; *see also* https://www.courtlistener.com/docket/66754800/156/state-of-texas-v-us-department-of-homeland-security/ (latest joint proposed scheduling order).

crises"[24]—but without taking the steps necessary to establish that they actually qualify as refugees within the requirements of the INA, Secretary Mayorkas created the humanitarian disaster we have seen unfold at our southern border over the past two-plus years.

Publicly telegraphing that almost any alien coming to our border, particularly unaccompanied children,[25] would be welcomed into the U.S. if they asserted a fear of returning to their home countries, he personally encouraged millions of men, women, and children, including hundreds of thousands of unaccompanied minors, to make the dangerous trek to and through Mexico, putting themselves at the mercy of drug cartels, smugglers, and human traffickers.

Just as bad, he has telegraphed to millions of aliens who may consider making this trek in the future that they can enter the U.S. "lawfully" if they claim a fear of returning to their home country, thereby encouraging asylum fraud.[26] As the Secretary well knows, the overwhelming majority of the millions of illegal aliens encountered at our southern border due to the Biden administration's policies[27] have come to the U.S. for economic reasons, not from any fear of persecution.[28]

Other countries have already offered and provided some of these same aliens safe haven, making them unlikely to qualify as refugees even if they had a true fear of persecution. For example, Ukrainians have been offered safe resettlement and

---

[24] Secretary Alejandro Mayorkas, Remarks, "Secretary Mayorkas Delivers Remarks on DHS's Continued Preparation for the End of Title 42 and Announcement of New Border Enforcement Measures and Additional Safe and Orderly Processes," January 5, 2023, https://www.dhs.gov/news/2023/01/05/secretary-mayorkas-delivers-remarks-dhss-continued-preparation-end-title-42-and.

[25] Alejandro Mayorkas, Interview with Chris Wallace, Fox News Sunday, March 21, 2021, https://www.foxnews.com/transcript/trump-administration-dismantled-safe-border-policies-biden-rebuilding-process-dhs-chief-mayorkas.

[26] Secretary Mayorkas stated that these parole programs "create additional safe and orderly processes for people fleeing humanitarian crises to lawfully come to the United States." *Ibid.*

[27] Santiago Perez and Michelle Hackman, "Record Numbers of Migrants Arrested at Southern Border, With Two Million Annual Total in Sight," *The Wall Street Journal*, August 15, 2022, https://www.wsj.com/articles/illegal-immigration-arrests-hit-record-reasons-for-border-crossings-changing-11660599304.

[28] U.S. Department of Justice, Executive Office for Immigration Review, "Adjudication Statistics: Asylum Decision and Filing Rates in Cases Originating with a Credible Fear Claim," data generated October 13, 2022, https://www.justice.gov/eoir/page/file/1062976/download.

employment authorization in eastern European countries;[29] Chile and Brazil provided resettlement and documentation to Haitians for years.[30] Yet many Ukrainians bypassed eastern Europe for the U.S., and other aliens discarded their South and Central American resettlement documents after crossing our border to claim a fear of returning to their home countries, knowing that doing so was the way to enter and remain in the U.S. under Secretary Mayorkas's policies.

And some of these parolees have undoubtedly come for malign and illicit reasons, including drug trafficking for the powerful Mexican and Latin drug cartels, human trafficking, or terrorist purposes, which would render them inadmissible regardless of any claim of persecution.

In short, an overwhelming percentage of the aliens who have entered the U.S. under Mayorkas's parole programs neither qualify as refugees nor meet the strict standards for case-by-case parole into the U.S.

In deliberately paroling every month tens of thousands of illegal and inadmissible aliens he calls asylum seekers, Secretary Mayorkas is flagrantly violating section 212(d)(5)(B), and all decisions and actions taken to advance these mass-parole programs are unlawful.

Other Violations of INA Section 212

Because he is not conducting adequate individualized vetting of the huge volume of mass-released aliens, Secretary Mayorkas is also violating the provisions of INA section 212(a) that declare various categories of dangerous aliens "inadmissible." There is simply no way of knowing how many of the millions of aliens Mayorkas has released into the U.S. (or of the estimated 2 million "got-aways" who have illegally crossed the southern border and evaded Border Patrol during Mayorkas's tenure[31]) fall into these categories of dangerous aliens that Congress has prohibited from entering the U.S.

---

[29] Andreea Ofiteru, "Thousands of Ukrainians Seek Safety in Romania, Moldova, and Poland, as They Flee Russian Invasion," Radio Free Europe, February 25, 2022, https://www.rferl.org/a/ukraine-refugees-russian-invasion-poland-romania-moldova/31723527.html.

[30] Juan Montes and Santiago Perez, Haitian Migrants, Rebuffed by U.S., Cause Crisis for Mexico," *The Wall Street Journal*, September 23, 2021, https://www.wsj.com/articles/haitian-migrants-rebuffed-by-u-s-now-cause-crisis-for-mexico-11632430460.

[31] Stephen Dinan, Border Numbers Worsened in October; Historic Number of Gotaways, *The Washington Times*, November 5, 2022, https://www.washingtontimes.com/news/2022/nov/5/border-numbers-wor-

For example, Secretary Mayorkas has repeatedly stated that unaccompanied alien minors will not be turned back from our border.[32] These statements have encouraged historic numbers of illegal alien minors to cross unaccompanied,[33] including teen-aged MS-13 gang members, who are then released into the U.S. One such 17-year-old gang member allowed into the country under Mayorkas's policies was arrested for strangling 20-year-old Kayla Hamilton to death in July 2022, only months after being released into the U.S.[34]

In fiscal year (FY) 2022, the U.S. Border Patrol encountered 98 aliens on the Terrorist Screening Dataset (TSDS) between the ports of entry.[35] In just the first seven months of FY2023, the Border Patrol has encountered 96 such aliens on the southern border and 2 on the northern border.[36] In FY 2021, the Border Patrol encountered 16 aliens on the TSDS.[37] By comparison, the Border Patrol had encountered only 3 in FY 2020.[38] Mayorkas must know that his policies have allowed some number of suspected terrorists to come into America's communities.

Similarly, in FY 2022, CBP arrested 40,359 individuals with criminal convictions or who were wanted by law enforcement,[39] and in FY 2021, CBP made 28,213 such arrests.[40] By comparison, CBP arrested 18,609 criminal aliens in FY

---

sened-october-historic-number-go/. Many additional got-aways have crossed the southern border since this article was published.

[32] CBS This Morning, Interview of Secretary Alejandro Mayorkas, March 18, 2021; Brooke Singman, "Biden DHS Secretary Promises US will Not Expel Unaccompanied Minors," Fox News, March 18, 2021, https://www.foxnews.com/politics/biden-dhs-secretary-promises-us-will-not-expel-unaccompanied-minors.

[33] U.S. Customs and Border Protection, "Southwest Land Border Encounters," https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters.

[34] Jon Feere, "MS-13 Member Suspect Entered as a UAC," Center for Immigration Studies, January 22, 2023, https://cis.org/Feere/Scoop-MS13-Murder-Suspect-Entered-UAC.

[35] U.S. Department of Homeland Security, U.S. Customs and Border Protection, "CBP Enforcement Statistics Fiscal Year 2023."

[36] *Ibid.*

[37] *Ibid.*

[38] *Ibid.*

[39] U.S. Department of Homeland Security, U.S. Customs and Border Protection, "CBP Enforcement Statistics Fiscal Year 2023."

[40] *Ibid.*

2020.[41] Mayorkas knows or should know that he is allowing an increasing number of dangerous criminals to pass over the border and infiltrate cities and towns across our nation, putting America's families at risk.

Violations of INA Section 235

Secretary Mayorkas's policy of treating illegal aliens encountered at our southern border as asylum seekers, while knowing most are not eligible for asylum under the law, and his policy of promptly releasing these same aliens into the U.S. without restraint[42] defy the mandatory detention and removal requirements of section 235 and treat the statute with contempt.

The results of these policies are predictable. In just his first year in office, Secretary Mayorkas authorized the release of at least 47,000[43] known illegal aliens who were required to be detained under the INA, and he did so with certain knowledge that not all detention resources were being used and that those released aliens would disappear into the United States and would not likely be removed. Objective observers can only conclude that that was his intention. As of early this year, CBP reported that it was paroling tens of thousands of aliens with alternatives to detention (ATD) each month, including over 95,000 in September 2022.[44]

DHS itself has reported that illegal aliens who are continuously detained by DHS are highly likely (97%) to be successfully removed from the U.S.,[45] while the

---

[41] *Ibid.*

[42] Memorandum to Tae D. Johnson, Acting Director, U.S. Immigration and Customs Enforcement; Troy Miller, Acting Commissioner, U.S. Customs and Border Protection; Ur Jaddou, Director, U.S. Citizenship and Immigration Services; Robert Silvers, Under Secretary, Office of Strategy, Policy, and Plans; Katherine Culliton-Gonzalez, Officer for Civil Rights and Civil Liberties, Office for Civil Rights and Civil Liberties; and Lynn Parker Dupree, Chief Privacy Officer, Privacy Office, from Alejandro N. Mayorkas, Secretary, "Subject: Guidelines for the Enforcement of Civil Immigration Law," U.S. Department of Homeland Security, September 30, 2021, https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf (hereafter "Mayorkas Memorandum, September 30, 2021").

[43] Anna Giaritelli, "47,705 Migrants Released with Instructions to Report to Ice Have Gone Missing Under Biden," *Washington Examiner*, January 11, 2022, https://www.washingtonexaminer.com/news/47-705-migrants-released-with-instructions-to-report-to-ice-have-gone-missing-under-biden.

[44] U.S. Customs and Border Protection, "Custody and Transfer Statistics FY2022," https://www.cbp.gov/node/374051/printable/print.

[45] Department of Homeland Security, "Fiscal Year 2021 Enforcement Lifecycle Report," November 2022, p. 3, https://www.dhs.gov/sites/default/files/2022-12/2022_1114_plcy_enforcement_lifecycle_report_fy2021.pdf; Department of Homeland Security, "Fiscal Year 2020 Enforcement Lifecycle Report," December 2020, pp. 17-18,

vast majority (82%) of those who are not removed directly by CBP or continuously detained by ICE end up remaining in the U.S. for years.[46] DHS has further reported that illegal aliens who are not removed within 12 months of being encountered are "rarely repatriated after that."[47]

In March of this year, in a suit brought by the state of Florida, the U.S. District Court for the Northern District of Florida invalidated DHS's "Parole Plus Alternatives to Detention" policy, concluding that it was an unlawful attempt to evade the mandatory detention requirements of section 235.[48]

In its opinion, the district court pointed out that even the witnesses for the Biden administration had acknowledged that "there is nothing inherently inhumane or cruel about detaining aliens pending completion of their immigration proceedings," and the court found that detention "is the surest way"—in many cases, the only way—to guarantee that aliens "will not abscond" before the proceedings are finished.[49]

The court determined that the immigration policies pursued by the Biden administration, including the mass release of aliens, "were akin to posting a flashing 'Come In, We're Open' sign on the southern border."[50] This was an "appropriate analogy," the court stated, "not only because it is a fair characterization of what" the administration is doing, but also because DHS had argued at trial that it "could not simply hang a 'Closed' sign on the border"—a claim the court found "disingenuous," since federal law "specifically authorizes the President to 'suspend the entry of all aliens' whenever he finds that their entry would be 'detrimental to the interests of the United States.'"[51]

According to the court, the evidence showed that the "unprecedented 'surge' of aliens that started arriving … almost immediately after President Biden took office and that has continued unabated over the past two years is a predictable

---

https://www.dhs.gov/sites/default/files/publications/immigration-statistics/Special_Reports/Enforcement_Lifecycle/2020_enforcement_lifecycle_report.pdf.

[46] Fiscal Year 2021 Enforcement Lifecycle Report, p. 3.

[47] *Ibid.*

[48] *Florida v. United States*, Case No. 3:21-cv-1066 (N.D. Fla. Mar. 8, 2023), https://www.courtlistener.com/docket/60493921/157/state-of-florida-v-united-states/.

[49] *Ibid.*, p. 8.

[50] *Ibid.*, p. 18.

[51] *Ibid.*, p. 18, footnote 12.

consequence of these actions."[52] As the chief of the Border Patrol had testified at trial, such surges in immigration occur "when there are no consequences" to illegal entry and when aliens know "they will be released into the country."[53] In this way, the court found, the Biden administration's policies themselves had "incentivized" the mass influx of illegal migration to the U.S.[54]

DHS urged that the huge increase in the number of aliens being released was "attributable to something other than a change in policy (such as the post-pandemic increase in migration)," but the court found that claim "simply not credible" and "contrary to the weight of the evidence."[55]

DHS also claimed that it was forced to release huge numbers of aliens because of a lack of sufficient detention capacity. This argument echoed Secretary Mayorkas's own often-repeated refrain that our nation's immigration system is "broken" because our laws, including section 235's mandatory detention requirement, are outdated and were not designed to handle today's immigration crisis. On that basis, Mayorkas and the Biden administration have asserted the ultra vires power to rewrite those laws.

But the district court in Florida found that, in contrast to the Trump administration, which had submitted budget requests for increased detention space, the Biden administration has been steadily closing detention facilities and reducing the appropriations requested for detention facilities. The court concluded that it was hard to take the claim of impossibility seriously when DHS had "elected not to use one of the tools provided by Congress" and had "continued to ask for less detention capacity." As the court reasoned:

> "The fact that DHS must make those 'tough decisions' does not mean that it has free rein to adopt policies that contravene the clear mandates in the INA or create 'processing pathways' that contort statutory language to effectuate its preferred policy of 'alternatives to detention' over actual detention."[56]

---

[52] *Ibid.*, pp. 18-19.

[53] *Ibid.*, p. 19.

[54] *Ibid.*, p. 21.

[55] *Ibid.*, p. 38.

[56] *Ibid.*, p. 12.

DHS also assured the court that "it is screening arriving aliens … to determine if they are a public safety threat," but the court found that "the more persuasive evidence establishes that DHS cannot reliably make that determination." "DHS has no way to determine if an alien has a criminal history in his home country," the court found, "unless that country reports the information to the U.S. government or the alien self-reports." So DHS was "mainly only screening aliens at the border to determine if they have previously committed a crime *in the United States*"—a question of little to no value, since "many of these aliens are coming to the United States for the first time."[57]

Following the court's order, DHS attempted to put a variation of the challenged policy, relabeled "Parole with Conditions," back into place. Florida quickly challenged it, and the district court entered an injunction blocking the replacement policy based on the reasoning of the court's earlier decision.[58] DHS has now appealed both rulings to the Eleventh Circuit.

Creating Unlawful Immigration Pathways Using the CBP One Mobile App

In recent months, Secretary Mayorkas has shifted to an even more unlawful process of pre-registering aliens outside the U.S. for mass entry and release using the "CBP One" mobile app. Through this app, DHS has orchestrated the pre-registration of tens of thousands of these aliens, including with the assistance of non-governmental organizations (NGOs) and foreign governments.[59] The aliens who have pre-registered using the app are then left to find their way to a U.S. point of entry, including along the southern border, in many cases presumably still with the assistance of drug cartels or smugglers.

Contrary to the Secretary's misleading rhetoric, this new process is not an "enforcement measure."[60] Instead, it furthers and facilitates Mayorkas's existing policies of non-enforcement. While it has allowed Mayorkas and the White House to claim an improvement in the crisis at the border and a lessening of the strain on Border Patrol agents between the ports, as a legal matter, the CBP One process has

---

[57] *Ibid.*, p. 35 (emphasis in original).

[58] *See Florida v. Mayorkas*, Case No. 3:23-cv-9962 (N.D. Fla. May 16, 2023), Preliminary Injunction, https://www.courtlistener.com/docket/67367309/30/state-of-florida-v-mayorkas/.

[59] *See* Todd Bensman, *Biden's Immigration Magic Trick*, Newsweek, January 24, 2023.

[60] *See* DHS Press Release, "Unlawful Southwest Border Crossings Plummet Under New Border Enforcement Measures," January 25, 2023.

only *institutionalized* DHS's violations of law by creating a new channel for attracting and enabling an ever-increasing stream of illegal immigration in violation of INA sections 212 and 235, which now must be handled by CBP inspectors at ports of entry.

Through this channel, tens of thousands of aliens from all over the world continue to flow into the U.S. each month without the procedures and individualized assessments required by law—albeit now they are coming via official ports of entry. And they continue to be released *en masse* into the interior, either by parole or as asylum applicants.[61] Once released, most are still being transported surreptitiously by DHS or through the agency of NGOs to every part of our nation, with no consideration for the effects this dispersion is having on the safety and resources of local communities.

The illegal flow of aliens into the U.S. remains unabated and, in fact, is increasing,[62] while the appearance of a more orderly processing system gives Mayorkas a greater ability to conceal his actions and the effect of his policies from the American people.[63]

It is clear that DHS will be applying this mass-release, pre-registration process to many more aliens than the four national groups (Cubans, Haitians, Nicaraguans, and Venezuelans) cited in the Department's January 25 press release.[64]

In proposing its recent rule misleadingly entitled "Circumvention of Lawful Pathways,"[65] DHS announced that it intended to apply a rebuttable presumption that an alien is ineligible for asylum in the U.S. if the alien had traveled through a third

---

[61] *See* Andrew R. Arthur, "What's Biden Doing with Migrants at the Ports of Entry?," Center for Immigration Studies, May 30, 2023, https://cis.org/Arthur/Whats-Biden-Doing-Migrants-Ports-Entry.

[62] *See* https://datavisualizations.heritage.org/immigration/illegal-alien-encounters-surge-and-shift-under-biden/ (charts displaying the rising tide of illegal alien encounters at the U.S. border).

[63] *See* Mark Krikorian, "Biden hides the truth at the border—he's letting in thousands," *New York Post*, May 31, 2023, https://nypost.com/2023/05/31/biden-hides-the-truth-at-the-border-hes-letting-in-thousands/.

[64] *Ibid. See* Camilo Montoya-Galvez, "U.S. plans to admit nearly 40,000 asylum-seekers per month through mobile app," *CBSNews.com*, May 31, 2023, https://www.cbsnews.com/news/asylum-seekers-cbp-one-mobile-app-u-s-plans-admit-nearly-40000-monthly/; Andrew R. Arthur, *'CBP One' App Will Have Real Blood on Its Metaphorical Hands,* Center for Immigration Studies, January 26, 2023, https://cis.org/Arthur/CBP-One-App-Will-Have-Real-Blood-Its-Metaphorical-Hands.

[65] https://www.federalregister.gov/documents/2023/02/23/2023-03718/circumvention-of-lawful-pathways.

country on his way to the U.S. without seeking asylum protection unless one of several exceptions applies. Among the exceptions: the alien used the CBP One app to schedule an appointment for processing at a port of entry or the alien was unable to access the CBP One app because the app was not functioning properly or the alien had no mobile phone.

This rulemaking announcement confirms that DHS plans to rely on the CBP One channel as the main pipeline (or, as Mayorkas likes to say, "pathway") through which it will unlawfully funnel into the U.S. the mass flow of aliens of any nationality that Mayorkas has described as "asylum seekers," in addition to parolees.

For this reason, on May 23, 2023, the state of Texas filed a new lawsuit aimed at challenging the legality of DHS's use of the CBP One app by challenging the "Circumvention of Lawful Pathways" rulemaking under the Administrative Procedure Act.[66] Similarly, 18 other states have filed a parallel suit in the U.S. District Court for the District of North Dakota, also challenging the Circumvention rule because of its key reliance on parole and the CBP One app—the so-called "orderly pathways" of immigration that DHS claimed in proposing the rule "are authorized separate from this rulemaking."[67]

The indirect nature of the Texas and Indiana challenges to the CBP One process and the reliance on parole demonstrate how DHS under Secretary Mayorkas has persistently attempted to evade legal challenges to its immigration policies by not issuing those policies as formal agency actions that would be subject to immediate review in court. It is easy to see why: almost every time Mayorkas's policies have been addressed in a court challenge, they have been rejected or condemned as unlawful. But through all his various judicial slap downs, Secretary Mayorkas remains a man on a mission, ever pushing forward the Biden administration's open-border policies.

Violations of INA Section 237

Secretary Mayorkas has also restricted ICE personnel from initiating removal or deportation proceedings against most deportable aliens who are in the U.S. He

---

[66] *See* Rebecca Santana, "Texas sues Biden administration over asylum rule, saying phone app encourages illegal immigration," *APNews.com*, May 24, 2023, https://apnews.com/article/texas-paxton-cbpone-immigration-border-asylum-5ad591deb956bb192f84c13b64620fc0.

[67] *Indiana v. Mayorkas*, Case No. 1:23-cv-106 (D.N.D. 2023), Complaint, p. 34 (quoting 88 Fed. Reg. at 31,410), https://ago.mo.gov/docs/default-source/press-releases/lawful-pathways-filed-complaint.pdf?sfvrsn=f7a3f46f_2.

issued a directive, the "Mayorkas Memorandum," ostensibly based on "prosecutorial discretion," taking the position that the fact that an alien is "removable" under the immigration laws "should not alone be the basis of an enforcement action against" the alien.[68] And he authorized and encouraged ICE attorneys to misuse prosecutorial discretion to dismiss or administratively close cases to avoid pursuing deportations and removals.[69] These actions have contradicted the plain terms of INA section 237(a)(1).

Mayorkas's enforcement (or, rather, non-enforcement) directives had the intended effect: During Fiscal Year 2021, ICE carried out only 59,000 deportations,[70] the lowest total since 1995, even though the number of illegal aliens apprehended reached record highs in FY 2021.

The U.S. District Court for the Southern District of Texas invalidated the Mayorkas Memorandum in relevant part in June 2022,[71] but Mayorkas later replaced it with a new ICE "prosecutorial discretion" directive[72] that appears, based on deportation numbers, to achieve much the same result, allowing most removable aliens to remain indefinitely in the U.S.

While the number of deportations in FY 2022 rose to 72,177 following the adverse court ruling,[73] that number was still historically low. In FY 2020, for example, ICE deported 185,884 aliens, itself an unusually low number because of the COVID-19 pandemic.[74] Despite Mayorkas's claim that he prioritizes DHS

---

[68] Mayorkas Memorandum, September 30, 2021.

[69] Memorandum for All OPA Attorneys from Kerry E. Doyle, Principal Legal Advisor, "Subject: Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion," U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, April 3, 2022, https://www.ice.gov/doclib/about/offices/opla/OPLA-immigration-enforcement_guidanceApr2022.pdf.

[70] U.S. Immigration and Customs Enforcement, "ICE Annual Report Fiscal Year 2021," March 11, 2022, p. 9, https://www.ice.gov/doclib/eoy/iceAnnualReportFY2021.pdf.

[71] *Texas v. United States*, No. 6:21-cv-0016 (S.D. Tex 2022)

[72] U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, "Prosecutorial Discretion and the ICE Office of the Principal Legal Advisor," https://www.ice.gov/about-ice/opla/prosecutorial-discretion.

[73] U.S. Immigration and Customs Enforcement, "ICE Annual Report Fiscal Year 2022," December 30, 2022, p. 18, https://www.ice.gov/doclib/eoy/iceAnnualReportFY2022.pdf.

[74] U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, *ICE Annual Report Fiscal Year 2020*, December 23, 2020, p. 4, https://www.ice.gov/doclib/news/library/reports/annual-report/iceReportFY2020.pdf.

resources for the removal of the most serious criminal offenders, the number of removals of convicted felons dropped under his tenure from 36,000 in FY 2020 to 27,000 in FY 2021,[75] and his lax enforcement policies resulted in a 71% decline in removals of deportable aliens who came to ICE's attention as a result of a local criminal arrest.[76]

Secretary Mayorkas has championed all of these results publicly, touting that his policies have "fundamentally changed" interior immigration enforcement.[77] Indeed, Despite the court order vacating his underlying enforcement memorandum, Mayorkas has continued to encourage ICE attorneys to misuse prosecutorial discretion rather than prosecute cases, thereby ignoring Congress's will in section 237 and the intent of the court order.

De Facto Suspensions of the Laws

Through these various policies, President Biden and Secretary Mayorkas have, in effect, arrogated to themselves a sweeping power to suspend key provisions of the immigration laws they are entrusted with faithfully enforcing. There is no justification for the Biden administration's lawlessness.

The Department of Justice has tried to defend Mayorkas's policies against challenge in court by arguing that he is acting within the scope of his enforcement discretion because of the extraordinary volume of illegal aliens attempting to enter the U.S., the humanitarian issues presented, and the Secretary's need to allocate and manage limited resources in response. But, as the U.S. District Court for the Northern District of Florida held, these arguments are unavailing.

It is Secretary Mayorkas's own actions that have attracted the record high number of inadmissible and deportable aliens to our border and that have enabled and facilitated the dispersion of this wave of illegal aliens into and throughout the U.S. Furthermore, he has closed down detention facilities and stopped cooperating with border states, thus making no effort to use the full scope of enforcement resources available to him. And, of course, the Biden administration's decisions to

---

[75] Jessica M. Vaughan, "Interior Immigration Enforcement Decline Under Biden: State and Local Statistics," Center for Immigration Studies, December 8, 2022, https://cis.org/Report/Interior-Immigration-Enforcement-Decline-Under-Biden-State-and-Local-Statistics.

[76] *Ibid.*

[77] Camilo Montoya-Galvez, "After 1 Year and Many Changes, Biden's Immigration Record Frustrates Opponents and Allies Alike," *CBSNews.com*, updated January 20, 2022, https://www.cbsnews.com/news/immigration-biden-first-year-title-42-ice-texas/.

terminate the Remain in Mexico Program and to stop construction on the southern border wall have contributed greatly to the huge volume of asylum seekers who are subject to mandatory detention under INA section 235.

In requiring executive officers to carry out their legal duties "faithfully," our Founders rejected any notion that the president or the heads of executive departments like Secretary Mayorkas could ever claim such power to suspend the laws they are responsible for enforcing when those laws are perfectly constitutional.

Violation of INA Section 103

Secretary Mayorkas has also acted in contravention of section 103(g) of the INA, which states:

> "The Attorney General shall have such authorities and functions under this Act and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, or by the Attorney General with respect to the Executive Office for Immigration Review, on the day before the effective date of [the Homeland Security Act]."[78]

Since before enactment of the Homeland Security Act in 2002, the Executive Office for Immigration Review within the Department of Justice has been the agency with jurisdiction to review asylum officers' findings of credible fear. The Homeland Security Act retained that jurisdictional arrangement. Notwithstanding the clear requirements of section 103, Mayorkas approved the promulgation of an interim final rule asserting asylum officer jurisdiction over asylum officer's findings of credible fear, removing immigration judges, ICE attorneys, and the adversarial process from credible fear asylum cases.[79] In the interim final rule, Mayorkas generally adopted the discussion in his notice of proposed rulemaking, where he

[78] 8 U.S.C. § 1103(g)(1); H.R. 5005, Homeland Security Act of 2002, Public Law 107-296, 107th Congress, November 25, 2002.

[79] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, and U.S. Department of Justice, Executive Office for Immigration Review, "Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers," Interim Final Rule, *Federal Register*, Vol. 87, No. 60 (March 29, 2022), pp. 18078–18226, https://www.govinfo.gov/content/pkg/FR-2022-03-29/pdf/2022-06148.pdf.

used his own policy-created border crisis and surge of asylum cases to justify a need to "streamline" the credible fear asylum process.[80]

Without an adversarial process, the predictable outcome of this statutory and jurisdictional violation will be increased grants of asylum by DHS, which will encourage even more illegal aliens to submit fraudulent asylum claims.

Secretary Mayorkas Has Violated Section 235 of the Trafficking Victims Protection Reauthorization Act of 2008.

Finally, it is no stretch to conclude that Secretary Mayorkas has acted in contravention of section 235 (entitled "Enhancing Efforts to Combat the Trafficking of Children") of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (the TVPRA).[81] Among other things, that provision commands the Secretary of Homeland Security, along with the Secretary of Health and Human Services (HHS), the Attorney General, and the Secretary of State, to "establish policies and programs to ensure that unaccompanied alien children in the United States are protected from traffickers and other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity."[82]

Every time a child who has been brought into the country under his lax enforcement policies has become the victim of abuse and exploitation by sex traffickers or other criminals, Mayorkas has failed faithfully to carry out his obligations under the TVPRA.[83]

Although he likes to label his policies "humane," Mayorkas well knows (or has willfully blinded himself to the fact) that these policies have enticed an uncontrolled stream of illegal aliens to cross into the U.S., including a record number of unaccompanied children. In FY 2021, CBP encountered approximately 147,000

---

[80] *Ibid.*, p. 18079. *See* U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, and U.S. Department of Justice, Executive Office for Immigration Review, "Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers," Notice of Proposed Rulemaking, *Federal Register*, Vol. 86 (August 20, 2021), pp. 46906, 46907-46909.

[81] H.R. 7311, Public Law No. 110-457, 110th Cong., December 23, 2008, https://www.congress.gov/110/plaws/publ457/PLAW-110publ457.pdf.

[82] *Ibid.*, p. 35, 122 Stat. 5077.

[83] *See* Kelly Laco, "HHS 'Knowingly' Transferred Migrant Children to Criminals, Sex Traffickers, GOP Senators Charge," Fox News, December 6, 2022, https://www.foxnews.com/politics/hhs-knowingly-transferred-migrant-children-criminals-sex-traffickers-gop-senators.

unaccompanied children,[84] and in FY 2022, more than 152,000.[85] By comparison, CBP encountered just over 33,000 in FY 2020.[86]

It appears evident that there has been insufficient care exercised by DHS and HHS in the handling and placement of migrant children and little or no adequate follow up to ensure that those children who have been granted entry and placed with guardians in the U.S. are not becoming the victims of abuse in violation of the TVPRA. Quite distressingly, there is a growing body of evidence suggesting that many are.[87]

One whistleblower from HHS recently testified before this Committee that tens of thousands of migrant children "are being trafficked through a sophisticated network" that starts in their home countries and continues when they are smuggled to a DHS port of entry and then delivered by the Biden administration to sponsors in the U.S.—some of whom "are criminals and traffickers and members of Transnational Criminal Organizations" who "view children as commodities and assets to be used for earning income," which is "why we are witnessing an explosion of labor trafficking."[88] She concluded that the U.S. government seems to have "become the middleman in a large scale, multi-billion-dollar, child trafficking operation run by bad actors seeking to profit off the lives of children."[89]

Regrettably, Secretary Mayorkas is only making this horrible problem worse. Under his leadership, CBP has now ended the practice, introduced by the Trump administration, of conducting DNA testing of migrant families at the border to

[84] U.S. Department of Homeland Security, U.S. Customs and Border Protection, "Southwest Land Border Encounters," https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters..

[85] *Ibid.*

[86] *Ibid.*

[87] *See* Hannah Dreier, "As Migrant Children Were Put to Work, U.S. Ignored Warnings," *New York Times*, April 17, 2023, https://www.nytimes.com/2023/04/17/us/politics/migrant-child-labor-biden.html; Hannah Dreier, "Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.," *New York Times*, February 25, 2023 (updated February 28, 2023), https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html.

[88] Testimony of Tara Lee Rodas, Presented to the Subcommittee on Immigration Integrity, Security, and Enforcement of the House Committee on the Judiciary, April 26, 2023, https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/rodas-testimony.pdf.

[89] *Ibid.*

identify instances of family fraud.[90] Without this testing, DHS will inevitably fail to catch cases—all too common—where child traffickers have paid or forced adult migrants to smuggle an unrelated child into the U.S. for abuse and exploitation.

Conclusion

The long string of clear violations of law laid out above add up to something far more egregious than a mere zealous effort to push the bounds of statutory discretion. Rather, the Biden administration, with Secretary Mayorkas at the point, is obviously committed to a much vaster and more activist enterprise.

They are working every switch and lever to explode the established controls on immigration enacted by Congress and to outrun the latest judicial decree. The purpose is to construct all-new channels of their own design (visa-like "pathways"), crafted to achieve the maximum unrestrained inflow of extra-legal immigration for the duration of the president's term in office. It is nothing short of a usurpation of law and congressional power by the executive.

And there is no true humanitarian objective in these policies. The victims of the enterprise include a sea of vulnerable migrants caught up in the horrendous realities of human chaos and exploitation under the grip of the cartels, the migrant children who are enslaved and abused within our own neighborhoods, and the untold cost on the everyday citizens of America whose communities are ravaged by violence and crime, strained by unforeseen economic burdens, and infested with fentanyl.

The picture is grim and disturbing, but I want to thank you, Mr. Chairman, for shining a bright light on these issues.

That concludes my statement, and I am happy to respond to questions from the Committee.

* * *

[90] John Solomon, "Biden to end familial DNA testing at border, key deterrent to fraud and child trafficking," *Just The News*, May 23, 2023, https://www.sgtreport.com/2023/05/biden-to-end-familial-dna-testing-at-border-key-deterrent-to-fraud-and-child-trafficking/.

Disclosure Regarding The Heritage Foundation

The Heritage Foundation is a public policy, research, and educational organization recognized as exempt under section 501(c)(3) of the Internal Revenue Code. It is privately supported and receives no funds from any government at any level, nor does it perform any government or other contract work.

The Heritage Foundation is the most broadly supported think tank in the United States. During 2021, it had hundreds of thousands of individual, foundation, and corporate supporters representing every state in the U.S. Its 2021 operating income came from the following sources:

Individuals 82%
Foundations 12%
Corporations 1%
Program revenue and other income 5%

The top five corporate givers provided The Heritage Foundation with 1% of its 2021 income. The Heritage Foundation's books are audited annually by the national accounting firm of RSM US, LLP.

Mr. MCCLINTOCK. Thank you.

We'll now proceed to questions from the Members.

We'll begin under the five-minute rule with Mr. Biggs.

Mr. BIGGS. Thank you, Mr. Chair.

I have to go fast because I think there's just so much that Secretary Mayorkis is responsible for and culpable for.

So, I will start with you, Mr. Bradbury. At the direction of Secretary Mayorkis, DHS has released and continues to release tens of thousands of aliens every month into the U.S. through mass parole and now categorical parole.

Is this a violation of law?

Mr. BRADBURY. Yes, it violates INA Section 212(d)(5)(A).

Mr. BIGGS. Secretary Mayorkis is also mass paroling aliens he himself characterizes as refugees or asylum seekers without demonstrating that there are compelling reasons requiring that particular alien may be admitted by parole rather than going through the USRAP process for refugee admissions.

Is that a violation of law?

Mr. BRADBURY. Yes.

Mr. BIGGS. What law?

Mr. BRADBURY. It's a violation of INA Section 212(d)(5)(B).

Mr. BIGGS. Because he's not conducting adequate individualized vetting of the huge volume of mass-released aliens, there's simply no way of knowing how many of the millions of aliens Mayorkis has released into the U.S. fall into these categories of dangerous aliens.

Is that a violation of law?

Mr. BRADBURY. Yes, of Section 212(a).

Mr. BIGGS. Secretary Mayorkis has instituted, as you've talked about and all of you have mentioned as the CBP One, preregistration, trying to funnel these illegal migrants to the U.S. ports of entry along our southern border.

Is that a violation of law?

Mr. BRADBURY. Yes, of 212, of 235, and I would say of 207.

Mr. BIGGS. All right. So, what's happened here, of course, is that just in this past week the U.S. Court of Appeals for the Eleventh Circuit halted two DHS efforts to release massive members of illegal migrants into the U.S. on parole.

So, this is what one of the judges said, this opinion right here, that what—his violations of the law. Secretary Mayorkis' violations of the law are, quote, akin to posting a flashing, "Come in, we're open sign" on the southern border. The unprecedented surge of aliens that have started arriving at the Southwest border almost immediately after President Biden took office, that has continued unabated over the past two years, was a predictable consequence of these actions. Indeed former—and I'll say "former"—former Border Patrol Chief Raul Ortiz credibly testified based on his experience that, "there have been increases in migration when there are no consequences and migrant populations believe they will be released into the country," close quote. I won't go into the additional case as well.

I'm going to ask Mr. Wolf this question. We've established that Secretary Mayorkis has engaged in conduct that violates his oath of office and the law. My question for you is, do you believe Sec-

retary Mayorkis is violating the law intentionally, willfully, or is it just some oversight on his part?

Mr. WOLF. So, I'm going to have to guess. I think it's all the above. I think they know exactly what they're doing; "they" being the department. This construct that they have put in place is not by happenstance or by chance. It's by design, and I think it's been very clear over the last two years.

So, everything that's going on at the border and the crisis that we see unfolding there was completely predictable, and we had talked to the incoming administration about some of the challenges that we had in the Trump Administration and warned them that, if they did half of what was campaigned on during 2020, that they would see a crisis at the border. So, presumably they knew that; presumably they heard that. Yet, they still went for it.

Mr. BIGGS. The Secretary of the new administration heard that, incoming Secretary. Right?

Mr. WOLF. Numerous briefings, again, mainly with transition staff.

Mr. BIGGS. OK. Mr. Edlow, I wanted to ask you this question, and it's related to testimony we heard yesterday about what's going on at the border and the impact on Border Patrol agents and morale, et cetera.

What are you hearing about what's going on because of the arrangements of this Secretary?

Mr. EDLOW. Sir, I've heard that morale is at an all-time low throughout Border Patrol and throughout other enforcement entities. I've spoken to some people who have been at the border recently. They've seen that exact same thing, that people are just very unhappy. They don't know whether they should be doing the job or whether they are supposed to be ignoring the law. A lot of it's being run by memos that are—or just oral guidance being passed on.

Mr. BIGGS. I'm going to ask you the same question that I asked, and this is with regards to Secretary Mayorkis, and that is, do you believe that what he's doing is intentional, willful, or is it just he's just an incompetent buffoon and can't learn his lessons?

Mr. EDLOW. I don't think he's incompetent, Congressman. Looking at the memos, looking at the departmental actions, the regulatory actions, this is all part and parcel of an intentional action.

Mr. BIGGS. Yes, I agree with that, and I think it's long past time for him to be impeached.

I yield back.

Mr. MCCLINTOCK. The Chair recognizes the gentlelady from Washington State, Ms. Jayapal for five minutes.

Ms. JAYAPAL. Thank you. Thank you, Mr. Chair.

Clearly, there is an agenda here, and it is about impeaching Secretary Mayorkis.

I want to take a step back and just say that it is quite stunning to have some of the witnesses here today that have the audacity to come before this Subcommittee and attack the current Homeland Security Secretary.

Mr. Wolf, who was Chief of Staff to Secretary Kirstjen Nielsen, was a key architect of the universally panned by majorities of Americans across the political spectrum, that very cruel and un-

lawful family separation that was perpetuated by the Trump Administration. Further, according to a Federal judge and the Government Accountability Office, Mr. Wolf served unlawfully as the Acting Homeland Security Secretary.

Mr. Edlow, as Acting Director of U.S. Citizenship and Immigration Services, helped to run that agency into the ground, to the point that it almost had to furlough over 13,000 USCIS employees. On his watch, USCIS also ignored the Supreme Court's decision in June 2020 stating that the Trump Administration's attempt to rescind DACA was unlawful, holding new DACA applications at processing facilities even after the Supreme Court mandate was formally entered.

These are the witnesses that the majority brings to this Subcommittee to discuss if, quote, "the laws are being faithfully executed"? Forgive my skepticism or, more bluntly, give me a break.

Mr. Reichlin-Melnick, let me turn to you. I want to discuss mandatory detention. As discussed in your testimony, Section 235(b)(1)(B) of the Immigration and Nationality Act states that if an officer determines an individual has credible fear of persecution, that person, quote, "shall be detained for further consideration of the application for asylum."

That makes it sound like asylum seekers must be detained. Can you explain why all asylum seekers are, in fact, not detained?

Mr. REICHLIN-MELNICK. Thank you, Congresswoman.

I think the main reason is resource based, though there's both resource and legal authorities I should note. The biggest issue here is resources. For example, if 50,000 asylum seekers show up at the border in any given month and every one of them asks for protection, there are not 50,000 detention beds. Even in 2019 when detention was at its highest, there were 55,000 detention beds, and that year 891,000 were encountered by the Border Patrol. If even half of those were seeking asylum, it would not have been physically possible to detain all of them, which is why, under the Trump Administration, hundreds of thousands of asylum seekers were released straight to court without going through the credible fear process.

So, at the end of the day, it is a resource issue. I will also note it is a legal issue because there are always exceptions to mandatory detention because Congress, generally speaking, can't enforce the Executive to enforce the law in certain circumstances where that is literally impossible.

Ms. JAYAPAL. Has any administration, Democratic, Republican, ever been able to detain every single individual as required by the section of the Immigration and Nationality Act?

Mr. REICHLIN-MELNICK. No. In fact, when Congress first passed that provision in 1996, there were actually fewer than 10,000 detention beds, and this is at a time when there were routinely 1.6–1.7 million Border Patrol apprehensions a year. So, it was not possible when Congress passed the law. It's not been possible anytime over the last 27 years. It's still not possible today.

Ms. JAYAPAL. It's correct, isn't it, that even at our highest levels of detention under the Trump Administration, it was never close?

Mr. REICHLIN-MELNICK. That's right. In 2019, the Trump Administration maxed out detention beds, about 55,000 in August 2019.

That month, there were more than 55,000 people who arrived. We also have to note that the average time that a person spent in detention was over a month, so the average detention bed in ICE detention only turned over about 10.7 times a year. So, there was a max capacity that they could hold, even at 55,000 beds, of less than a half a million, and that year about 900,000 people showed up. So, that's why the Trump Administration, in fact, released hundreds of thousands of people.

Ms. JAYAPAL. So, that's a lot of numbers. Let me just ask you bluntly. Many of my colleagues on the other side of the aisle like to claim the Trump Administration ended what they call catch and release and detained all asylum seekers or sent them back to Mexico.

Let me just ask you again, is that accurate? Just a simple "yes" or "no" answer is fine. If not, you've already given us some of the reasons, but is that accurate?

Mr. REICHLIN-MELNICK. It's not accurate. Even in 2020, after Title 42 went into effect, several thousand people were released according to data from DHS.

Ms. JAYAPAL. From your testimony, it appears there's a detailed chart which shows that the Trump Administration released over 500,000 migrants at the border during his four years as President. Is that correct?

Mr. REICHLIN-MELNICK. That is correct. That's directly from the border, and additional were released—were held in ICE detention and then released.

Ms. JAYAPAL. Thank you.

Mr. Chair, I yield back.

Mr. MCCLINTOCK. The gentlelady's time has expired.

Mr. Van Drew.

Mr. VAN DREW. Thank you, Mr. Chair.

Thank you all for being here today.

There's a very, very old saying of wisdom: You reap what you sow. God help us what we have reaped. It all started with the sanctuary cities, and they were wonderful. Everybody loved them. They were—not everybody, for God's sake. All these big city mayors and other folks thought, yes, this is a great idea to have sanctuary cities. Not so much anymore. We don't even know what to do in our big cities. From Portland, Maine, to San Francisco, California, the lack of leadership at having these sanctuary cities is now creating huge problems that even Democrats will recognize.

What else? What else is it that we've reaped? Well, we've done catch and release all throughout our Nation. Then the people who are listening here who are not in this room, but are around literally the country, they know that around the country there are people being released. We're paying for transportation. We're paying for healthcare. We're paying for a great deal of things that we don't even take care of our own people in the United States of America well enough.

Mr. Reichlin-Melnick, I respect you, but you said that immigration is part of the fabric of the United States of America. It is, legal immigration. I don't understand what is so difficult to understand about the difference of legal and illegal. Illegal means it's not true.

We talk about Mr. Mayorkis, and you could spend an hour and a half on his case. What I remember, I remember asking him when he was under oath—and behind him was almost like a green screen, one of these screens—and I said: "Is everything OK at the border? Is everything good? Do we have our borders intact?" He said: "Absolutely, Congressman."

You looked at the pictures, you looked at the video, and you saw little kids being thrown over to try to get them into the United States, so that these adults would also be able to make their way in. You saw huge lines. You saw disease. You heard about fentanyl coming into our country, which it has. What are we doing to our country, man? Seriously. Sit down and think about this. What are we doing to the United States of America?

We used—no more, no more do we immediately expedite people back when you can. No more do we have Remain in Mexico. We misuse asylum for things it was never to be used for. Asylum doesn't mean, gee, I don't like where I live, and I don't make as much money as I would like, and it's a little bit tough going. I feel bad for those people. I feel bad for most of the world. If that's going to be our standard, then let's open every border everywhere in the United States of America and accept every human being who doesn't like their country, if you really want to do it if you think that's right.

We talked about impeaching Mayorkis. Well, you know what? He didn't tell the truth under the oath. He committed perjury. That alone really truly means something. He should be impeached. You're supposed to tell the truth or, for God's sake, at least want to tell the truth, try to tell the truth.

No more Title 42, and we didn't do a damn thing to try and save it, change it, or make it more applicable if it wasn't good the way that it was. What's happening to these children and babies, not only in our families, not only our children that are dying of fentanyl, the kids that are being brought across and now are beholden to the drug cartel forever, and the drug cartels establishing facilities, establishing a presence in the United States of America.

This is all true. Nobody is making this up. The statistics show it. We know we have millions upon millions, upon millions. What is it? Five million-plus?

Just some articles I would like for the record: "Influx of migrants in Massachusetts Continues to Overwhelm State Resources," *Boston.com*. "1,500 Miles from the Southern Border, Immigration Fight Disrupts Michigan Town." "Portland Overwhelmed By Growing Number of Asylum Seekers" in the *newscentermaine.com*. "Chattanooga, TN, Overwhelmed By Migrant Surge from Texas." California decides unannounced illegal immigrant arrivals aren't so much fun, aren't so easy, and maybe it's not such a good idea to have sanctuary cities after all.

Come on. Everybody, let's really look at this in the eye and see what we've got here. We are out of control. Yes, we should review our immigration laws, and we should make them better. Yes, we should do more work.

I want to ask Mr. Wolf a question, and I'm going to ask it really quickly—

Mr. MCCLINTOCK. No.

Mr. VAN DREW. No, I'm not. Sorry.

Mr. MCCLINTOCK. The gentleman's time has expired.

Mr. VAN DREW. Man, I'm mad, and I'm tired of it. How about that? That's how I'm going to end.

Thank you, Mr. Chair.

Mr. MCCLINTOCK. The Chair recognizes the Ranking Member, Mr. Nadler.

Mr. NADLER. Thank you, Mr. Chair.

I want to followup on the Ranking Member's comment earlier and just note, not only did Mr. Wolf serve unlawfully as Acting Homeland Security Secretary and as the Chief Architect of the Unlawful Family Separation policy which literally kidnapped children from their parents, he also unlawfully defied a Congressional subpoena in September 2020 and refused to testify before the House Homeland Security Committee.

It is just shocking that my Republican colleagues who claim to believe so strongly in Congressional oversight would invite a witness who has so brazenly violated the law and so flagrantly violates our authority.

Mr. Reichlin-Melnick, I want to turn to you to discuss the issue of parole. Use of parole has become a big topic among my Republican colleagues. Can you discuss the history of parole and its bipartisan use over the last 70-plus years, and where's the authority for the Executive Branch to use parole?

Mr. REICHLIN-MELNICK. Parole has been part of the immigration law since 1952, so it has been around for decades. For many years, especially prior to the passage of the Refugee Act, parole was the primary way by which the U.S. admitted refugees. So, for example, from 1962–1969, more than 690,000 people came to the United States under parole from Cuba through various different parole programs.

Since then, Republican and Democratic Administrations alike have used parole to allow people to come to the United States in various categories that fit the national interest. These have been nearly every Presidential Administration, including the Bush Administration, the Obama Administration, and even under the Trump Administration, tens of thousands of people were admitted under various parole programs that were then extant when he took office.

Mr. NADLER. Some have criticized the Biden Administration for its use of parole saying it's not being done on a case-by-case basis.

Would you agree with that statement? If not, why not?

Mr. REICHLIN-MELNICK. I don't agree with that statement for the primary reason that they misunderstand what "case by case" means. A case-by-case adjudication just means taking every application on its own. It doesn't mean that you can only give it to a few people. In fact, in 1996 when Congress passed IRA, IRA which included the case-by-case requirement, the Congress actually rejected an amendment which would have made parole into a much more narrower program.

I think the best example of this is to sort of look at this as a metaphor. If I want to create a scholarship program, and I say this scholarship program is open to every child whose parents earn less than $100,000 who can show compelling need for it, that is case by

case because each student has to individually show that they have a compelling need whereas if it just said this program is open to every person who earns less than $100,000, that would be categorical. There would be no case by case involved.

Mr. NADLER. So, it appears that the administration is merely saying that certain categories of people are eligible to be considered for parole. Is that correct?

Mr. REICHLIN-MELNICK. That's right. I think very similarly the wet-foot/dry-foot parole program that ran from 1995–2017, under which about 40,000 Cubans came in through the border, that was also a similar circumstance.

Mr. NADLER. They still undergo a case-by-case determination to see if parole is appropriate?

Mr. REICHLIN-MELNICK. That's right. Every parole memo has required it to be case by case.

Mr. NADLER. Both Republican and Democratic Administrations have made use of categorical parole programs in the past?

Mr. REICHLIN-MELNICK. Well, I wouldn't call them categorical, but I would say parole programs that were open to certain individuals based on, for example, their nationality or their job.

Mr. NADLER. Did the Trump Administration use parole?

Mr. REICHLIN-MELNICK. Yes. I think the most prominent one is the Military Families Parole in Place program which operated under the Trump Administration.

Mr. NADLER. Now, the Trump Administration continued the use of parole as part of the Cuban Family Reunification Parole program. That sounds like a categorical program that my colleagues on the other side of the aisle have complained about.

Mr. REICHLIN-MELNICK. Yes. Cuba has in particular had multiple parole programs in use for their nationals over the last 20 years.

Mr. NADLER. Is this parole program similar to other family reunification parole programs recently announced by the Biden Administration for Colombia, El Salvador, Guatemala, and Honduras?

Mr. REICHLIN-MELNICK. My understanding, per DHS' announcements last week, is that the new parole programs will be virtually the same as the Cuban Family Reunification Parole program.

Mr. NADLER. Can you explain how those programs work? Who's eligible? Are these still granted parole on a case-by-case basis as the law requires?

Mr. REICHLIN-MELNICK. Yes.

So, the family reunification parole programs are open to individuals from certain countries who have family members who have pending immigrant visa applications already. So, they have been approved for a visa, but they are just in a backlog.

So there, if those individuals are invited to apply for the program from the National Visa Center, then they have to submit an application. They have to go through a vetting process. Then it is the exercise of discretion of the United States to determine whether or not to admit the person through this parole program.

Mr. NADLER. Thank you. I yield back.

Mr. MCCLINTOCK. Mr. Tiffany.

Mr. TIFFANY. Mr. Reichlin-Melnick, so the expansion of parole is legal?

Mr. REICHLIN-MELNICK. In my opinion, yes.

Mr. TIFFANY. Mr. Wolf, it says you served unlawfully. You want to share with us whether you served this country unlawfully?

Mr. WOLF. So, I've spent seven and a half years with the Department of Homeland Security. I was there shortly after 9/11 when they stood it up. I was there all four years during the Trump Administration. I've held eight executive positions at the department, including an assistant secretary position, an undersecretary position confirmed by the U.S. Senate, a deputy chief of staff position, a chief of staff position, and an acting secretary position.

I've been to the border dozens and dozens and dozens of times. I've talked to the men and women of the Border Patrol, ICE agents, and USCIS personnel.

So, my expertise in this, whether you want to call me an acting secretary, you want to call me a dogcatcher, my expertise is what it is. I was also very proudly part of an administration that actually secured the border, put policies in place to bring back the rule of law and to secure the border.

Mr. TIFFANY. So, we just heard that the Trump Administration paroled people into this country.

Did you parole over a million people into this country during the Trump years?

Mr. WOLF. No, we did not.

Mr. TIFFANY. Mr. Bradbury, I believe we have the largest human trafficking operation perhaps in the history of the world that is going on at this point.

Do you think the American people are aware of the role of NGO's driving these, running the pipeline to our border?

Mr. BRADBURY. No. I think that role has been sort of surreptitiously concealed by the way the administration has handled this. They are contracting with nongovernmental organizations to transport illegal aliens from the border to every district in the country.

Mr. TIFFANY. Do you think some people that donate to some of these sometimes faith-based organizations, NGO's, do you think they're aware that their money is being used as an accessory for human exploitation and trafficking?

Mr. BRADBURY. I seriously doubt most people are aware. They should be.

Mr. TIFFANY. Yes. I urge people that contribute to faith-based organizations, you should ask them.

In fact, I would say to you, Mr. Chair, I think we should have the head of Catholic Charities come before this Committee and explain what they're doing down on the border to facilitate this illegal immigration that's going on in this country.

Great work has been done by many of these faith-based organizations. I think the American people should fully understand what's going on there.

Mr. Bradbury, recent Florida lawsuits against the Biden Administration have shed considerable light on DHS, but also the Office of Refugee Resettlement and what they're doing.

Can you briefly explain how the NGO's and ORR are facilitating this unprecedented human trafficking, especially of migrant children?

Mr. BRADBURY. Well, of course, under the Trafficking Victim Protection Reauthorization Act there are special duties, that the Sec-

retary of Homeland Security has to ensure that migrant children who are brought into the country not from Mexico, but from other countries—are placed with guardians in a way through HHS that ensures that they're not abused, they don't become the victims of sex trafficking or forced labor. Unfortunately, we know that this is happening.

Mr. TIFFANY. Are you familiar with the—yes, it is happening. Are you familiar with the—let's see here—the Third Presentment of the Twenty-First statewide Grand Jury in Florida where they talked about trafficking children?

Mr. BRADBURY. I'm not. I'm sorry.

Mr. TIFFANY. I'd like to enter this into the record, if we may, Mr. Chair.

Everyone should read this about the horrific human trafficking that's going on that the State of Florida has identified.

Mr. TIFFANY. Have the court orders been followed by this Administration when they've been told they need to follow the law, Mr. Wolf?

Mr. WOLF. In several instances they have not.

Mr. TIFFANY. So, Mr. Chair, I would just close with this. We heard from the other side that these are just policy differences that we have between the two sides.

Tell that to Erin Rachwal from Pewaukee, Wisconsin, who was here a couple months ago. Remember her? Remember her son took, I think it was like a Percocet pill, something like that, Mr. Chair? Died in his dorm room.

Tell that to Kayla Hamilton's mother. She was just here in the last month, wasn't she, Mr. Chair? Strangled to death, autistic young woman, by someone who was here illegally.

Tell that to all the angel families out there.

I urge everyone here—a Democrat candidate for President just was at the border in the last couple days in Yuma, Arizona, and stood with farmers and said this cannot go on.

I urge Democrats who are of good faith across the United States of America to join us in supporting the Secure the Border Act. You can do that. It turns out there actually is a Presidential candidate you can follow if this issue is important to you to secure the border. You do have a candidate that will help us do it.

Yield back.

Mr. MCCLINTOCK. The gentleman's time has expired.

Ms. JAYAPAL. Mr. Chair?

Mr. MCCLINTOCK. The Ranking Member has a unanimous consent request.

Ms. JAYAPAL. Thank you, Mr. Chair.

I ask unanimous consent to enter into the record two district court decisions and a decision from the U.S. Government Accountability Office stating that Mr. Wolf served unlawfully as Acting Secretary of Homeland Security.

Mr. MCCLINTOCK. Well, you've lived down to all my expectations, my dear friend. Your ad hominem attacks have become quite common here. I will not—

Ms. JAYAPAL. Mr. Chair—

Mr. MCCLINTOCK. I will not object.

Ms. JAYAPAL. Mr. Chair, since you—

Mr. MCCLINTOCK. There ain't no objection.

Ms. JAYAPAL. Since you did reference my behavior, I would like to say that was a unanimous consent request to enter into the record factual documents. This is not a matter of opinion. This is a matter of fact.

Thank you, Mr. Chair.

Mr. MCCLINTOCK. Without objection, we will enter them into the record.

Mr. MCCLINTOCK. Ms. Lofgren.

Ms. LOFGREN. I think it looks to me that this hearing has been held to come up with some rationale for an impeachment of the Secretary for doing his job.

If the Congress—it's never been the case that every single person who's entered the United States without inspection is incarcerated. It's never happened.

If that's what the Congress wants to do, they ought to look in the mirror, because the estimate is it would cost $35.7 billion to do that, and the Trump Administration requests 3.1 billion for detention.

So, we have the Immigration and Nationality Act, which is a law, but the appropriations process, that yields a bill, that's also the law. So, it is impossible to accomplish something, Congress needs to address that itself.

Getting back to the issue of parole, which I think is very interesting, that's been a part of the law for a very long time. I was thinking about its use, and sometimes its use depends on what's happening in the world.

I remember when Saigon fell, hundreds of thousands of Vietnamese fled communism. They had been our allies in the war. The bulk of them were admitted using parole authority. It was case by case, but it was a class of people who were escaping from communism.

Is that correct, Mr. Melnick?

Mr. REICHLIN-MELNICK. That's right. I believe the ultimate total is about 360,000 Indochinese came following the fall of Vietnam.

Ms. LOFGREN. Thinking back on other uses—and again, it's categories, that you look at each case within a broad category. We have tended, and I think appropriately so, to want to protect people who are fleeing from communism.

If you take a look at the Cuban Family Reunification Parole Program, those were people who had applications made for family members who were suffering under the yoke of communism. One by one, there was a determination on whether they should be given advanced parole to escape from that communist regime and join mainly American spouses.

Is that correct, Mr. Melnick?

Mr. REICHLIN-MELNICK. That's right. Parole has often been in fact a response to Cuba, because of course with Cuba, they do not accept deportations. So, we have had very little option for when Cubans arrived at our borders but to parole them in. We have created multiple parole programs under the Clinton Administration, the Bush Administration, and prior administrations for Cubans in particular.

Ms. LOFGREN. We have individuals even today, we have totalitarian regimes in Central America, including communist regimes in El Salvador and in Venezuela, and people are fleeing from communist oppression.

Now, not every person who's leaving that's the reason. So, it has to be case by case. You would agree with me that what's going on in Venezuela is a communist-like totalitarian regime, is it not?

Mr. REICHLIN-MELNICK. Venezuela and Nicaragua both, which I believe is what you were referring to, are both countries as well that do not accept, generally speaking, the returns of their nationals. One in four people have left Venezuela in the last decade.

Ms. LOFGREN. So, if we were looking at it on a case-by-case basis of people who were fleeing those regimes, it would really be in keeping with the proud tradition of this country of helping people who are fleeing from communist oppression. Wouldn't that be correct?

Mr. REICHLIN-MELNICK. I believe so, yes.

Ms. LOFGREN. I just wanted to mention one other thing.

There was parole in place for certain military families. As I recall, that was really stimulated by an American soldier who was killed in Afghanistan, and then his mother was going to be deported along with his wife. People, especially in the veteran's community, became outraged at that, the mother of this soldier who died for our country would be removed, wouldn't even be able to visit the grave of her son.

I think every recent administration, including the Trump Administration, has utilized the parole authority to take a look at the family members of American soldiers.

So, isn't that case, that this has been the modern tradition?

Mr. REICHLIN-MELNICK. That's right. Since 2010, the military family Parole in Place program has been in effect. Twenty thousand people under the Trump Administration were paroled in under that program—or, sorry, were granted parole in place under that program. Crucially, in 2020, in the National Defense Authorization Act, Congress said it was the sense of Congress that this program was valid and lawful.

Ms. LOFGREN. My time is up. I yield back.

Mr. MCCLINTOCK. The gentlelady's time has expired.

Without objection, the Chair would ask unanimous consent to include in the record the Homeland Security letter, August 17, 2020, refuting claims that Acting Secretary Wolf was acting or was appointed unlawfully, and providing the legal justification for his appointment. Without objection.

Mr. MCCLINTOCK. The Chair now recognizes Mr. Roy for five minutes.

Mr. ROY. I thank the Chair.

Mr. Reichlin-Melnick, let me ask you a question.

Is Joe Manchin, the Senator from West Virginia, is he is racist?

Mr. REICHLIN-MELNICK. I can't comment on that.

Mr. ROY. OK. What about Mark Kelly from Arizona?

Mr. REICHLIN-MELNICK. Similarly, cannot comment on that.

Mr. ROY. Maggie Hassan, Senator from New Hampshire?

Mr. REICHLIN-MELNICK. Also, cannot comment.

Mr. ROY. OK. Can't comment on their being a racist or not.

How about Senator Raphael Warnock from Georgia.

Mr. REICHLIN-MELNICK. Similarly, I'm not familiar.

Mr. ROY. OK. How about Catherine Cortez Masto from Nevada?

Mr. REICHLIN-MELNICK. Likewise, Mr. Roy.

Mr. ROY. OK. Can't comment on whether they're racist or not?

Mr. REICHLIN-MELNICK. I don't have an opinion as to the matter.

Mr. ROY. OK. Because you called me a racist, and you called me a racist because I said that Title 42 should be enforced—something, by the way, that this administration did to the tune of over a million people.

Mr. REICHLIN-MELNICK. I believe it's about 2.5 million people actually.

Mr. ROY. Right. So, this administration is racist?

Mr. REICHLIN-MELNICK. I believe this administration has made a number of failures on the racial justice front.

Mr. ROY. So, the Biden Administration is racist?

Mr. REICHLIN-MELNICK. I can't comment as to the administration in general.

Mr. ROY. Interesting. Good to know. Good to know the Biden Administration is racist and get that on the record.

The fact is, people who want to enforce Title 42 believe that there was a reason that Title 42 was put in place, but they also recognize that Title 42 is, in fact, a band-aid on a very broken system where the laws were not being enforced otherwise. To throw around words like racist—let me ask you a question.

Is my friend Henry Cuellar, is he a racist?

Mr. REICHLIN-MELNICK. I can't comment on that.

Mr. ROY. Right, because Henry Cuellar said the border community is very concerned about Title 42 being lifted. This message of lifting Title 42 is going straight to criminal organizations.

He stood up and said that Title 42 should be enforced. The administration stood up. The Senators I just listed said that Title 42 should have stayed in place.

Now, my personal view is that Title 42 wasn't the thing that needed to stay in place, that what ought to be in place is an actual border security that secures the border.

Mr. Wolf, in your position at the head of the Department of Homeland Security, notwithstanding what my colleagues want to throw around with the ad hominem attacks, you were, in fact, charged with securing the homeland, right, that was actually your task securing the homeland at the Department of Homeland Security?

Mr. WOLF. Yes. That's correct.

Mr. ROY. Right. Did you do that?

Mr. WOLF. Yes.

Mr. ROY. Right. Is the current administration securing the homeland?

Mr. WOLF. No.

Mr. ROY. No. In any measure, in any way, shape, or form, is the current Secretary of Homeland Security carrying out his duty faithfully under the Constitution to secure the homeland of the United States?

Mr. WOLF. He is not. As I've outlined in my written testimony and oral testimony, there's numerous instances where he is not faithfully executing the law as written.

Mr. ROY. I thank you, Secretary Wolf.

What I would say is, if you go back to April 2022, in a Judiciary Committee hearing, I read word for word the statutory definition of operational control under the Secure Fence Act. I read it sitting right over here. There was a chart.

I put up the chart, I put up the text, and the text says,

> "Operational control" means the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.

I asked Secretary Mayorkas, "Do you have operational control?" His response was,

> I do. And, Congressman, I think the Secretary of Homeland Security would have said the same thing in 2020 and 2019.

In March 2023, however, at a Senate hearing, Secretary Mayorkas said,

> With respect to the definition of operational control, I do not use the definition that appears in the Secure Fence Act, and the Secure Fence Act provides statutorily that operational control is defined as preventing all unlawful entries to the United States. By that definition, no administration has ever had operational control.

Just two weeks prior, United States Border Patrol Chief Raul Ortiz answered, "No, sir," when asked by Homeland Security Chair Mark Green, "Does DHS have operational control of the entire southwest border?"

So, the United States Border Patrol Chief Raul Ortiz says we do not have operational control of the border. He answered straight up truthfully, "No, sir."

Why was it that the Secretary of Homeland Security, when I asked him that question, he said, "Yes, we have operational control"? He said, "I do," to be more precise. Then in the Senate he comes back and says,

> Oh, but no, I'm sorry, if you use that definition, you know the one in the statute, no, no one has ever had operational control.

What is your response to that, and how would you characterize having operational control of the border, as you would say in the previous administration, compared to current?

Mr. WOLF. Well, I would certainly talk about my time in the Trump Administration. If I were to get asked that question, whether we had operational control, the answer was, no, we did not. Neither was the border secure. I think words matter here. Those are very definitive statements.

I always talked about how we were making the border more secure, or it was the most secure in our lifetime. To say that you have complete operational control, to say that the border is closed, to say that it is secure, you're hiding the ball from the American people. You're not being transparent. It's for a purpose, I think you can only guess a political purpose.

It also defies what the men and women of the Border Patrol and others are doing down there. When they see their political leadership make these sorts of statements, it's so bad it's hard to find

words. They don't know what to think. Because they are on the line. They are on that border every single day, watching the hundreds of thousands of individuals walk past them that they have to process. They see that someone is saying that this border is secure. Or you see the 200 known or suspected terrorists that have come across this border in the last two years, that somehow that border is closed, it's secure, I don't understand it.

Mr. ROY. Yes. Kind of like accusing people of whipping migrants at the border.

I yield back.

Mr. MCCLINTOCK. I'm sorry. Your time's up.

Mr. Correa.

Mr. CORREA. Thank you, Mr. Chair.

Mr. Melnick, is the Secretary doing his job, Mr. Mayorkas?

Before you answer that, let me just say that General Kelly, former Secretary of Homeland Security, heard him say a couple of times that border security does not end or begin at the border. Today, as you look at the world, it's pretty safe to say, post-COVID, economies around the world are devastated. The only real game in town is the United States. Our economy, world record low unemployment rate, shortage of workers. Even China, I must say, is struggling to get back on their feet economically.

We have a worldwide refugee crisis.

[Chart.]

Mr. CORREA. If you look at this chart behind me from the U.N. Refugee Agency, it shows the number of displaced people just in the Americas alone. You can see countries across the region struggling.

It's not a U.S. problem, it's a regional problem. Mexico is dealing with this problem. Canada is dealing with this problem. Guatemala is feeling the effects and, of course, Europe.

Further South, Colombia. If you look at this chart, Colombia is really struggling.

I must say, refugees are braving that trip North, perilous situation.

I want to show you the picture of a little girl struggling to continue North through the Darien Gap. This little girl lost her mother, and another refugee going North is trying to help her survive.

If refugees are willing to do this, you can imagine the challenges at home.

Let me say, Title 42, we all talk about Title 42, I have to remind folks here, Title 42, the party in charge in Congress today, House of Representatives, voted to end the COVID–19 pandemic, and by operation of law they lifted Title 42.

Let me repeat. Party in charge voted to lift Title 42. Let me say, I agree with them. Title 42 should not be an immigration tool, but a health issue.

The administration has taken steps to prepare for Title 42's lifting. I was at the border numerous times before Title 42 was lifted. I would ask those officers in green and blue, "Are you ready?" They would tell me, "We're as ready as can be."

It wasn't just CBP. It was DHS, State Department, and the administration who did a pretty good job in anticipation of the lifting of Title 42.

In fact, if you look at the next chart, these are the numbers reported publicly by Border Patrol Chief Raul Ortiz: Fifty percent drop, 50 percent drop in the encounters after 42 was lifted. Unexpected.

It's not over, folks. The world is still suffering from major economic challenges, and these numbers may be temporary.

The fact of the matter is, we've got to focus on getting economies around the world back on their feet, and we also have to focus on the other issue, which is immigration reform.

Whether you like it or not, America is a massive draw, a big draw for workers from around the world. Fifty percent of our farm workers are undocumented. Every time one of those undocumented goes to a farm, to a ranch, they find a job.

We are also part of the problem, meaning we must pass immigration reform. Otherwise, we'll continue to be in the same situation.

Mr. Melnick, I asked you earlier, is the Secretary doing the job? We hear about operational control of the border. Was does that mean?

Mr. REICHLIN-MELNICK. There's a colloquial definition of operational control, which I think is—and then there's a legal statutory definition under the Secure Fence Act of 2006. As Mr. Wolf just noted, it's not anything that any administration has ever reached. In fact, the way Congress wrote the statute, it is physically impossible for any administration to ever get operational control.

Mr. CORREA. So, when we ask is there operational control at the border, the answer is there never has been operational control at the border.

Mr. REICHLIN-MELNICK. Statutorily, no. There are obviously opinions that some people may have as to their own views from a colloquial sense. Under the statutory definition, no, no administration has ever had it and none ever will.

Mr. CORREA. A political conclusion based on the times?

Mr. REICHLIN-MELNICK. Again, the reality is the job of DHS Secretary is extraordinarily complicated and difficult, especially today with more people arriving from countries further away, as you noted with Colombia and other migrants coming.

Under the Trump Administration, three out of every four migrants arriving came from four countries, Mexico, Guatemala, Honduras, and El Salvador. Today, in Fiscal Year 2023, less than half came from those countries. That is a hugely challenge for any Presidential administration, regardless of party.

Mr. CORREA. Thank you, Mr. Chair. I yield.

Mr. MCCLINTOCK. Mr. Moore.

Mr. MOORE. Thank you, Mr. Chair.

I appreciate the witnesses being here today.

I've said it before, and I'll say it again: A controlled border is a compassionate border. We had Sheriff Daniels actually testify here in this Committee, and he said in four decades, Mr. Wolf, that he had never seen the border as secure as it was in 2018 and never as broken as it is now.

So, tell me, in just a few months, 24–25 months, what changed dramatically, and what do you think the reason we're having such an influx of encounters and others cross the border?

Mr. WOLF. Well, I think easy answer, Congressman, is everything. Everything changed. It started really from day one of this administration where they had a very successful border security regime in place that we had perfected over four years. We didn't get everything right the first time. Over four years, we put a regime in place that held individuals accountable for illegally breaking the law, that got those who needed those asylum protections under U.S. law, we got them those protections quicker than they have ever gotten before.

This administration, for a variety of different reasons, said, "No, we don't like it." So, what did they do? They stopped border wall construction, which I should just mention, when you talk about operational control, that's actually in the Secure Fence Act.

So, Congress back in 2006 thought that you would gain operational control by putting physical infrastructure along the border. Nevertheless.

You would also—they tore done MPP, or the Remain in Mexico Program, our asylum cooperative agreements, and the list goes on and on and on.

So, it doesn't take a rocket scientist to figure out what happens when you tear down those programs. You had the former Chief of the Border Patrol telling the administration at the time: This is what's going to happen when you tear down these programs and you don't put other deterrent immigration border security programs in place. This is what's going to happen.

Mr. MOORE. So, they gave them a heads-up, they said this is what's going to happen if you undo policies in place?

Mr. WOLF. I think numerous individuals did, yes.

Mr. MOORE. I say if you've got a water leak, you don't turn the pressure on to the house. It seems like in a lot of ways, we had some problems with immigration, and we have turned a tremendous amount of pressure on our border agents. Really now they're concierge. They're not really agents. They're there, but they're just processing people through, and they can't keep up.

Mr. Bradbury, I've heard that people South of the border are paying the cartel from four to five, six thousand just South of the border. Syrians were 20,000. Russians were paying 19,000, and I think Chinese nationals were paying $80,000.

The administration, in my opinion, has basically created twofold for people coming across the border. That's why I say it's compassionate to have it controlled. Because you're either a drug mule, you're trafficking heroin, cocaine, or fentanyl. You're wearing carpet shoes. That's how you pay your passage into this country. Or you become an indentured servant, and you make installment payments.

Have you heard that as well?

Mr. BRADBURY. Yes, from some of the experts on immigration in the Heritage Center, of course, border security. What I understand is the cartels really effectively control our border at this point, certainly everything up to the border.

Mr. MOORE. So, the operational control is actually—the cartel has operational control. It's not us.

Mr. BRADBURY. Yes, more likely that than our government. They are making as much or more money off human trafficking now than the drug trafficking.

Mr. MOORE. That's my understanding.

So, Mr. Edlow, I've got one question for you as well, sir.

Considering this administration, do you think they're using the prosecutorial discretion correctly?

Mr. EDLOW. I do not. My colleague up here talked about how Justice Scalia in an opinion talked about prosecutorial discretion and how that is something that is useful and that every prosecutor and every police agency has. That is true. However, it is done on a case-by-case basis. We're back to talking about case-by-case bases.

A prosecutorial discretion done as a categorical prosecutorial discretion is not actual discretion. That's categorically saying we're not going to go after a group of people. That's not a case-by-case determination. When Justice Scalia was talking about it, he was talking about at any stage in the process for an individual, not for a group of people.

Mr. MOORE. Mr. Melnick, does your organization plan on suing the Biden Administration?

Mr. REICHLIN-MELNICK. We have sued the Biden Administration, as we have sued every administration going back 30 years.

Mr. MOORE. Thank you.

With that, Mr. Chair, I yield back.

Mr. MCCLINTOCK. Ms. Escobar.

Ms. ESCOBAR. Thank you, Mr. Chair.

I'd like to inform the witnesses that I am the only Member of Congress on this Subcommittee that actually lives on the border. I represent El Paso, Texas. I'm a third-generation border resident. My children are fourth-generation border residents.

I don't live hundreds of miles from the border. I live on the border literally. Nobody wants an orderly immigration process more than those of us who have built our lives on the border.

I'll tell you one way we're not going to get there. It's with performative hearings such as these.

If we truly want to address our Nation's immigration challenge and opportunity, we would do that through reasonable legislation, through compromise, and through comprehensive immigration reform.

I'd like to invite all my colleagues on this Subcommittee to look at a bipartisan immigration bill, the Dignity Act, that my colleague Maria Elvira Salazar and I introduced. That would be a first—a good way to begin talking about this.

Instead, here we are engaging in what is my Republican colleagues' first step in impeaching Secretary Mayorkas, not because of any reason that they have laid out, but simply because this is Speaker McCarthy's gift to the extremists in his conference.

Let's look realistically at the numbers.

Mr. Reichlin-Melnick, thank you so much, because the American Immigration Council actually has produced this great chart. I've altered it a little bit.

[Chart.]

Ms. ESCOBAR. What I'd like for the public, for the American public and our panelists to note is that actually numbers started increasing long before President Biden took office, long before the election even. There was only one time when there was a precipitous drop in immigration, in apprehension, and that was right when COVID–19 hits. That's when the border was shut down.

The chart that the American Immigration Council put together shows—and, Mr. Reichlin-Melnick, I believe you got these numbers directly from the Department of Homeland Security—and it demonstrates that not any of the deterrence measures that were put forth by the Trump Administration actually deterred immigration. COVID did, but shortly after the border was reopened those numbers started climbing right back up.

That would tell us that we should be acting together in a bipartisan way on reasonable solutions. Instead, again, here we are focused on performance.

Mr. Chair, I'd like unanimous consent to enter into the record a *ProPublica* article about family separation.

Mr. MCCLINTOCK. Yes. Without objection.

Ms. ESCOBAR. I'd actually like to play the audio included in this article.

Mr. MCCLINTOCK. You're welcome to do with your time as you please.

Ms. ESCOBAR. OK. All right. Well, I'll play it from my phone.

[Audio recording played.]

Ms. ESCOBAR. Mr. Wolf, do you recognize this audio?

Mr. WOLF. I recall that audio, yes.

Ms. ESCOBAR. You were working at DHS at the time that this audio was taken. Is that correct?

Mr. WOLF. I was at the department, yes.

Ms. ESCOBAR. This is audio from the horrific Trump Administration policy of separating children from their parents at the border, a policy that has caused immeasurable trauma on children.

Mr. Wolf, was Ms. Nielsen, when she was the Secretary and implemented this horrific policy, did the Republican Party attempt to impeach her?

Mr. WOLF. So, I would disagree with the premise of that question.

Ms. ESCOBAR. Is that yes or no? No?

Mr. WOLF. It's not a policy.

Ms. ESCOBAR. So, I will reclaim my time.

No, the Republican Party never tried to impeach her, nor did they try to impeach you, despite the fact that you were an architect of this policy, despite the fact that you were in place when the insurrectionists took over our Capitol.

You resigned because of the illegitimacy of the acting secretary role that you were playing on behalf of the Trump Administration, yet no one tried to impeach you.

I yield back.

Mr. MCCLINTOCK. The gentlelady's time has expired. Since that was an ad hominem attack, I'll give Mr. Wolf—

Mr. WOLF. Can I respond to that?

Mr. MCCLINTOCK. Yes.

Mr. WOLF. So, I think it's a useful conversation. So, let's talk about children. Let's talk about protecting children. Let's talk about the 360,000 children that have come across this border in the last two years.

Mr. NADLER. Point of order. On whose time is he speaking?

Mr. MCCLINTOCK. She made an attack on him.

Mr. NADLER. Point of order. On whose time is Mr. Wolf speaking?

Mr. MCCLINTOCK. Ms. Escobar's time.

Mr. NADLER. Ms. Escobar yielded back her time.

Ms. ESCOBAR. I yielded back.

Mr. NADLER. She yielded back her time.

Mr. MCCLINTOCK. She made an ad hominem attack on Mr. Wolf, and I thought it was important to give him an opportunity to respond.

Mr. NADLER. She yielded back her time. He can speak on someone else's time.

Mr. MCCLINTOCK. I will recognize the gentleman's point well taken and proceed to Mr. Nehls.

Mr. NADLER. Thank you.

Mr. NEHLS. Thank you, Mr. Chair.

I just want everybody in this room to know, everybody, every Member on this panel, this Committee, to know that I'm the only one, I'm the only one that has arrested an illegal alien, that has been deported six previous times, for killing one of my senior citizens when I was sheriff of Fort Bend County, Texas. I just want everybody to know that.

All right. I have several different things I would like to discuss in my five minutes.

Mr. Melnick, I'm paraphrasing some of your testimony. You said that in to effectively execute our immigration laws Congress must provide additional resources. Is that correct?

Mr. REICHLIN-MELNICK. That's right, especially when it comes to adjudication with a two million case backlog. We are not funding the immigration courts enough.

Mr. NEHLS. Today, I believe—I'll paraphrase again—I'm here to talk about complicated reality of enforcing immigration laws at the border.

Mr. REICHLIN-MELNICK. That's right.

Mr. NEHLS. What's complicated about 212(f)?

Mr. REICHLIN-MELNICK. Well, 212(f), in particular, is quite complicated because it cannot be applied to the border to turn away asylum seekers. The Trump Administration tried that in fall of 2018. That was struck down by a court in California, upheld by the Ninth Circuit, and the Supreme Court declined to overturn that decision.

Mr. NEHLS. We talk a lot about Title 42, and we talk about that Title 42 went away. It's my understanding—anybody on the panel can pipe in if you would like—Title 42 dealt with the COVID, the pandemic, public health emergency. Is that right?

Mr. REICHLIN-MELNICK. That's right. Title 42 was a CDC policy invoked in March 2020 when the pandemic hit.

Mr. NEHLS. Yes. When I look at 212(f)—and I guess I'm just a simple man—when I look at 212(f), it's been around since, I guess,

1956. It's been used many, many times. Actually, 1952. Every President since 1981 has used it at least once. Trump used it. They beat up on Trump when he did his little travel ban, but the Supreme Court upheld that and said he can do that, and he did.

It's been used by Trump. He used it in the first week of office. Obama used it 19 times, Bush used it six, Clinton used it 12, Bush before used it once, Reagan used it five times.

When you look at what that 212(f) is, this is it. Everybody takes a look at it. Let me read it. Section 212(f) of the INA:

> Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he deems necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions that he may deem appropriate.

It was used several times, 69 times in the past several years, dating back to 1980.

Mr. Wolf, how do you feel about 212(f)? Instead of providing all these resources and asking for more support, why can't we just say let's get 212(f), the Supreme Court has ruled that Trump used it when he had his travel ban, let's just shut down the border, use 212(f), until we can get some operational control?

Mr. WOLF. Well, Congressman, the Trump Administration, particularly when we talked about the travel restrictions, used 212(f) effectively to make sure that we got more information sharing than we ever got from basically every other country around the world.

Look, I think the conversation that I continue to hear is we need more resources, and we need Congress to fix this crisis, and that is just not correct.

This administration has all the authority and all the power that it needs to secure the border today. I know that because we did it during the Trump Administration.

It wasn't perfect. I'm not saying that it was. We did it effectively, and it became the most secure border in our lifetime.

So, they can talk about more resources. You can talk about how it's difficult and how it's hard and how we don't have enough resources. That does not mean that you exempt whole classes of individuals from law or you categorically parole individuals into the country.

If all these individuals that they are paroling in really need asylum protections, why aren't they bringing them in as asylees or refugees? They're bringing them in as parolees.

Mr. NEHLS. Yes. I've gotten 10 seconds. Thank you, Mr. Wolf.

I will say this. Donald Trump has been the best President in my lifetime. When he comes back in 2024, 212(f) needs to be used. We need to shut down our southern border until we have operational control and save America.

I yield back.

Mr. MCCLINTOCK. Ms. Jackson Lee.

Ms. JACKSON-LEE. I thank the Chair.

I have a lot of friends in this room, and some are all on one side and many are on the other side. I have heard some shocking things in here that will literally take my breath away, adding to the Canadian fires, literally take my breath away.

Someone offered up the Catholic Charities. The Republicans are known to introduce legislation and try to pass legislation to penalize the Pope, Catholic Charities, and other nonprofits for simply doing what the scriptures in their faith tell them to do.

In addition, the kind of self-righteous testimony that I've heard—and it is not ad hominem of anybody, I've said it generically—is unbelievable. It is simply unbelievable.

I've been on Homeland Security since 9/11, helped create the Committee and the department. I could turn around and blame the victims who jumped out of the building. That's how outrageous this testimony has been.

As it relates to Title 42, since it was lifted the number of unlawful crossings at the southwest border has dropped nearly 65 percent per the Biden Administration. The administration in the last two fiscal years, DHS has seized more fentanyl and arrested more criminals for committing crimes related to fentanyl and precursor chemicals than any previous five years combined. Fentanyl seizures are even higher in Fiscal Year 2023. I really don't know what you're talking about.

The administration has strategically placed more than 24,000 Border Patrol agents, officers, thousands of troops, and contractors, to the concern of many various positions, and over a thousand asylum officers along the border.

Let me be very clear. The Chair of this Committee said, as it relates to the impeachment of the Secretary, it's not a matter of if, it's a matter of when.

Someone tell me how we're going to, in a bipartisan way, do the job that the American people want us to do. We are all concerned.

The misrepresentation of what Border Patrol agents are saying, I don't know what you all are hearing. When I go, they are both collegial, congenial, factual, compassionate, and reasonable. They love their job. They believe that a lot of work is being done by Congress to give them resources. Someone just said they need no resources.

When there are issues that need to be addressed, we do need to address them in a bipartisan way, as opposed to condemnation.

For every visit you've been to the border, I've probably doubled it. I've walked the streets and seen the despair. I've been in the nonprofits. Yes, I have seen the horrors of the Trump Administration snatching children away from their parents and the complete disconnect that the children got in only months of separation when they tried to reunite them and the children were looking in shock at the mother and would not even go to the parent. That's how dysfunctional they had become.

I have a short time, Mr. Reichlin-Melnick. I know you have three names, but forgive me. Give me just a quick snippet of the fact that the world has changed with the amount of migration and people moving, *i.e.*, Venezuela, and it is enormous. Just quickly, because I have another question quickly for you.

Mr. REICHLIN-MELNICK. Yes. This is the big difference between the Biden Administration and the Trump Administration, is who is coming.

The Trump Administration, it was mostly Mexicans and Central Americans. Now, we are seeing far greater flows from other parts

of the Western Hemisphere, in particular, Venezuela, Cuba, and Nicaragua, which pose very different challenges to processing.

Ms. JACKSON-LEE. For those who say we're doing nothing, I know that the American Immigration Council has done some work on this.

Can you discuss what you found as it relates to arrests by Customs and Border Protection of individuals trafficking fentanyl?

Can you quickly distinguish—there is something called human smuggling, which is what the bulk of activity is going on with the cartels and the smugglers. It is different from human trafficking. I am a champion against human trafficking.

Please explain the fentanyl issue that you've been able to determine and how smuggling and trafficking is different, and how it is human snuggling that is going on at the border, and that the administration has its hand on trafficking, yes, sir.

Let me say Reichlin-Melnick. Thank you.

Mr. REICHLIN-MELNICK. Yes, really quickly, smuggling is usually people pay a smuggler to smuggle themselves. Trafficking is people who are being trafficked involuntarily, against their own will.

When it comes to fentanyl, I think there I look to what the law enforcement agencies say. CBP, ICE, his, the DEA, and the FBI all say the overwhelming majority of hard drugs, such as fentanyl, come into the U.S. at ports of entry, smuggled usually in passenger cars and most often by U.S. citizens.

Ms. JACKSON-LEE. They're catching them?

Mr. REICHLIN-MELNICK. The fentanyl seizures have increased every year, and I believe the deployment of nonintrusive inspection technology increases year by year.

Mr. MCCLINTOCK. The gentlelady's time has expired.

Mr. Hunt.

Ms. JACKSON-LEE. Thank you. I yield back, Mr. Chair.

Mr. HUNT. We are a Nation of laws, or we are not a Nation at all. We already have laws on the books that can prevent the catastrophic border crisis that we are seeing every single day today.

We know they work. Do you know how we know they work? Because they worked under President Trump. They worked because he and his administration—and you, Mr. Wolf—chose to enforce those laws.

Now, is this merely a failure to act, or is this intentional?

President Biden and Mayorkas act as if their hands are tied, like nothing can be done to fix this border crisis. Interestingly enough, almost every policy this administration has attempted to implement has been roughly a failure. Biden's Afghan withdrawal, Biden's foreign policy, Biden's economic agendas, failures.

Except for the border crisis. The border crisis is their only success. I say that because they have successfully created a chaotic situation to carry out a radical agenda. Problem. Reaction. Solution.

The administration created this problem, listened to the reaction, and I suspect they will present a solution. That solution, ladies and gentlemen, in the future will be an attempt at mass amnesty. There, I said it.

The real solution would have been to prevent this crisis from happening in the first place. The Biden Administration could have

done just that if we'd have kept simple laws on the books and enforced the laws of this country. Simple as that.

Do you know that over 200 people on the terrorist watch list have been arrested at the border since President Biden took office? That should be terrifying for you to hear. That's just the ones that we know of. How many have escaped into the interior of the United States?

Now, I served my country in combat, and I was actually a West Point cadet when 9/11 happened. My classmates and I stood about 60 miles North, just up the Hudson River, New York City, and watched 3,000 innocent lives evaporate from our world in 90 minutes. My fear is that, with our porous border, another 9/11 is imminent, and it will happen because this administration won't fulfill its basic responsibility, which is to secure our homeland.

The Biden Administration is making a deliberate choice to not secure our border. Do you know how I know this is a fact? Because three years ago we weren't having this conversation.

My first question is for you, Mr. Wolf. What has changed between these administrations that has caused this crisis to explode to what we've seen lately?

Mr. WOLF. It's the intentional destruction of a lot of effective policies that were put in place during the Trump Administration. Happy to name those one by one by one.

We've heard a lot of talk about detention capability. What I will say is, yes, it's difficult, it's hard to detain individuals. If you actually want to remove individuals from this country, you need to detain them. Under the Biden Administration, they have removed the lowest number of individuals in, I would say, decades, 39,000 removals of criminal illegal aliens. That is a drop of over 62 percent from Fiscal Year 2020, which was during COVID.

So, there's a lot of different policies that they have decided to tear down, very effective policies, and they did that without any analysis. They did it because they didn't like it. They didn't like the President. They didn't like whoever at the time. Forget about whether they were actually protecting Americans or they were protecting American communities.

I think lost in this whole discussion is what is best for Americans on our border security policy, our immigration policy. It's not what is best for illegal aliens. It's what is best for Americans. That should be our first duty.

Yes, we need to make sure that those that are coming here seeking protections, that qualify for our protections under law, get those protections. Absolutely. We need to think about Americans first, and I think that's where this administration is falling short.

Mr. HUNT. Another question for you, sir. If you were running the Department of Homeland Security right now the same way that Secretary Mayorkas is doing right now, what do you think President Trump would have done to your job?

Mr. WOLF. I would no longer be there.

Mr. HUNT. I kind of tend to agree with you on that, sir.

I want people to understand this. We've had over six million people, illegal aliens, enter our country since Biden's taken office—six million. We have conceded our border to the cartels. Fentanyl has killed enough Americans—enough fentanyl has poured into this

country to kill every single American five times. We have sworn enemies on the terrorist watch list in the United States, and we don't even know where they are.

If President Biden does not secure this border, we're going to have another 9/11. That's how serious this is. We must do our job and protect the American citizens.

Thank you all for being here, and God bless you.

Mr. MCCLINTOCK. Thank you.

Ms. Ross.

Ms. ROSS. Thank you, Mr. Chair.

I just want to do a little reset here. To be very clear, President Biden inherited a disaster of a border from former President Trump. We all watched it on TV aghast. He did it in the middle of a global pandemic.

Now, the Biden Administration is not perfect, and I'm not here to defend every single thing that they've done. What they have done is work to correct course, to tighten security, while also expanding pathways to legal immigration.

These have been good faith attempts to enforce the law, which former President Trump rarely tried to do in a way that helped our immigration policy.

It was the Trump Administration that allowed unaccompanied children to cruelly be held in detention far longer than allowed by the law. It was his administration that designed and boasted about family separation. It was his administration that wasted resources illegally on inefficient enforcement mechanisms like the construction of the border wall.

Countless reports have demonstrated how the militarization of border security increases the number of unauthorized immigrants who remain in the United States because it disrupts historically circular-flowing migration and results in a net undocumented inflow.

This hearing is yet another example of my Republican colleagues' preference for partisan political hearings over engaging in good faith discussions about solutions that could actually work. There are bipartisan proposals for this on both the House and Senate side, yet we've had zero hearings on those.

As we've heard in the days after Title 42 ended, Border Patrol encounters have gone down. So, it is particularly ironic that we are having this hearing now. Now is the time that we should be working together on solutions.

We need legislation that enhances border security. Several of us recently visited the border, and we got lots of great suggestions about how to do that from the people who deal with this every single day.

We also need legislation that expands pathways to legal residency and citizenship and strengthens our economy.

You might have seen me step out briefly about a half an hour ago to meet with the home builders from North Carolina. One of their priorities for their legislative agenda is comprehensive immigration reform. Same priority for most of the businesses in my district in North Carolina, same priority for the agricultural community, same priority for the hospitality industry. Yet, we haven't had one hearing on doing that.

For two sessions of Congress, I've introduced bipartisan, bicameral legislation to help people who came to this country legally as dependents of visa holders. Because we have such a broken immigration system, they're being forced to self-deport and leave their families and the only country that they know because this Congress does not have the will to take that bill up.

Now, to the credit of the last Congress, it passed the House in two different vehicles.

We have a broken immigration system on many levels. It is time to get about the business of having hearings on real legislation that will solve real problems and help real people.

Thank you, Mr. Chair, and I yield back.

Mr. MCCLINTOCK. Thank you.

Mr. Wolf, when you were Acting DHS Secretary the border was secure, was it not, for all intents and purposes?

Mr. WOLF. We worked every day to secure it, every day, every week, every month.

Mr. MCCLINTOCK. We had reached a very low number of illegal border crossings, had we not?

Mr. WOLF. I think by a number of different metrics, and that's certainly one, the number of apprehensions fell.

Mr. MCCLINTOCK. Since then, of course, we have seen a mass migration of unprecedented proportions, millions and millions flooding into the country.

Were there changes in law that occurred to account for this, or is it entirely a matter of not enforcing the law?

Mr. WOLF. There's been no changes in law that I'm aware of.

Mr. MCCLINTOCK. Mr. Edlow, there have been a lot of instances now when the administration's been called out by the courts for failing to enforce the law. What's been the administration's response to these court orders?

Mr. EDLOW. Well, with the exception of the September 30 memo, which was enjoined and vacated in June 2022, to the extent that the administration has been able to get around the court orders, they have.

Mr. MCCLINTOCK. Has anybody challenged them on that in court?

Mr. EDLOW. Some States have challenged them, yes.

Mr. MCCLINTOCK. Has any court come back and issued a criminal contempt citation for failing to—

Mr. EDLOW. Not that I'm aware.

Mr. MCCLINTOCK. Are there any pending?

Mr. EDLOW. I couldn't answer that, sir.

Mr. MCCLINTOCK. All right.

Mr. Wolf, any thoughts on that?

Mr. Bradbury?

Mr. BRADBURY. I don't believe there are any pending. Obviously, Mr. Chair, it is difficult for a court to impose contempt.

Mr. MCCLINTOCK. Right. What I'm trying to do is determine the difference between simple maladministration and deliberate violation of law. I think that's a very bright line that we need to define.

We spoke of detention. I think Mr. Reichlin-Melnick made a very good point. You've have ten illegal aliens, you have beds to detain five, what do you do with the other five?

Is that what's actually going on, Mr. Wolf?

Mr. WOLF. So, not only should you be detaining, but if you're unable to detain, then you can certainly have them wait, such as what we did under MPP.

I think that's an interesting point that was missed in this whole debate. We started talking about detention and how that's never achievable. I'm not here saying that you can detain everyone, but there is another option that Congress in the INA tells you to do. So, if you can't do that, then you can hold them in a third country, as we did under the Migrant Protection Protocols. Again, interesting that was not brought up.

So, there are other ways that you can enforce the law. This idea that if you can't detain them, that simply they're released into American communities, is not the law, and we shouldn't pretend that it is. Yet, that is what is occurring, what's been occurring for the last several years.

Mr. MCCLINTOCK. Well, is this actually a violation of law or is it just a very poor decision?

Mr. WOLF. I would say it's both.

Mr. MCCLINTOCK. Mr. Edlow, I'm told that all the capacity that we have right now isn't being used, and yet illegal aliens are being released into the country.

Mr. EDLOW. I don't believe it is being used, Congressman. For the most part there are more interest right now in—it was in paroling people, and now it's giving notices to appear at the border and letting people go along their way. There is not an interest in detaining as far as I can see.

Mr. MCCLINTOCK. Let's talk about parole authority. Congress did tighten the criteria for paroles back in the mid-1990's precisely because it was being abused in the manner that Mr. Reichlin-Melnick outlined.

Is it true that 20,000 mass paroles were done under the Trump Administration, Mr. Wolf?

Mr. WOLF. So, there are a number of parole programs that we administered, obviously, that we began—or we continued to administer that was going on during the Obama Administration and the like. Again, the important point here is, are you trying to secure the border, and are you trying to hold people accountable, and are you trying to get them the protections they need?

So, as they parole people into the United States, there's no asylum protections for them. They're not in asylum proceedings. So, if they truly need asylum, why aren't they being put into asylum proceedings? Instead, they're simply paroling them into the country to, again, have this status for a year, perhaps even two years at a time. It doesn't make any sense. It's a little smoke and mirrors of what the administration is trying to do at the border.

Mr. MCCLINTOCK. OK. Asylum hearings are designed to be adversarial in nature. They're presided over by immigration judges bound by the law. How does that differ from the administration's replacement of this process with USCIS asylum officers?

Mr. Bradbury?

Mr. BRADBURY. Well, it's completely different now because they're reviewing their own appeals of their own decisions. It's not an adversarial process.

Mr. MCCLINTOCK. Is there a provision of law that gives them this authority?

Mr. BRADBURY. No. It's in violation of Section 103 of the INA. It's the Attorney General and the immigration judges that have to hear those appeals.

Mr. MCCLINTOCK. Well, I see my time has expired.

I see Mr. Swalwell has arrived, so I recognize him for five minutes.

Mr. SWALWELL. Why is this hearing happening within the same week that we just learned that the Department of Homeland Security announces the average daily unlawful border crossings are down sharply relative to the period before Title 42 ended? We're seeing record number of fentanyl being seized by Border Patrol—seized, not getting passed them but successes because our law enforcement are doing their job and showing up every day. We don't congratulate them. Instead, we use that as a political tool to try and hit the Biden Administration.

Why is this hearing happening? It's because it's a part of a corrupt bargain, a dirty deal that allows Speaker McCarthy to stay in power. He's on an installment plan. He's got to pay an installment every week. He's got to give Tucker Carlson the January 6th sensitive police footage. He has to put Marjorie Taylor Greene on the Committee of Homeland Security, even though she said January 6th was a 1776 for our country and she goes and visits the terrorists of January 6th at the D.C. jail and dishonors the police officers. Another installment is we have to defund the effort to help Ukraine to satisfy the Putin bloc that is across the aisle.

This is an installment that Ms. Taylor Greene openly admitted when she said she's voting for the crazy idea that we pay America's bills to lift the debt ceiling because she's going to get some dessert out of it. That's what she said. She said: "I'm going to get some dessert out of this shit sandwich."

Those are her words. This is her dessert. We all have to sit here for her dessert.

Mr. MCCLINTOCK. The gentleman will suspend for a moment.

The gentleman is warned not to use vulgarities in this Committee room, and the gentleman is warned to restrain from making attacks on the motivations of Members.

Ms. JAYAPAL. Mr. Chair, point of order.

Mr. MCCLINTOCK. The gentlemen will proceed in order.

Mr. SWALWELL. Mr. Chair, I apologize for quoting your colleague.

Mr. MCCLINTOCK. Point of order. The gentlelady will State the point of order.

Mr. SWALWELL. No, no, Chair. I apologize for quoting your colleague. I won't quote her again if that's offensive to you.

Mr. MCCLINTOCK. You will refrain from questioning the motives of Members.

Mr. SWALWELL. So, we're here because that was a promise that my colleague told the public was made, that we get to impeach Mayorkis. So, this is the predicate to bring impeachment proceedings against the Secretary of Homeland Security who just announced last week that daily unlawful border crossings are down sharply.

Look, Kevin McCarthy may have the title of Speaker, but it's clear to me, because of this hearing today, he doesn't have the job. The job is by the person who's getting her dessert here today.

I also think, Chair, it's quite rich that the title of today's hearing is whether the law is being faithfully executed because your principal witness was declared to have been an unlawful Acting Secretary of Homeland Security and, on September 17, 2020, failed to honor his own subpoena, which puts him in good company because the Chair of our Committee is 400 days in to not honoring his own subpoena. We're calling this hearing a question of whether the laws are being faithfully executed with a witness who didn't honor a subpoena Chaired by a Committee Chair who did not honor his subpoena, very rich.

So my question, Mr. Reichlin-Melnick, is, considering that border crossings are down, we're trying our best with a party that doesn't want competence at the border—they want chaos; they want to declare there's open borders to try and incite people to come to the United States—do you see grounds at all, any predicate that would summarize why an impeachment of Secretary Mayorkis would be justified?

Mr. REICHLIN-MELNICK. Congressman, I'm not an expert on impeachment, but what I do know is that it's been 33 years since we last updated our illegal immigration laws and 27 years since we last updated our asylum laws.

We are operating a 20th century system, a system that in some cases came around before the worldwide web, and it's not a surprise that in, a 21st century global displacement crisis, the United States is struggling very hard to keep up.

So, I think what this shows is that we need to fix and update our laws, give the system the resources it needs to work, and ensure that the DHS can actually carry out the laws in a way that today in many ways it struggles with.

Mr. SWALWELL. Thank you.

I think the summary here is people want competence, they don't want chaos, on immigration, on the debt ceiling, on anything else.

I yield back.

Mr. MCCLINTOCK. Thank you.

I think they also would like civility.

This concludes today's hearing. I want to thank allour witnesses for appearing before the Committee. I want to apologize on behalf of the Committee for the ad hominem attacks that were directed at several of our guests today.

Without objections, all Members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record. I know I will have quite a few.

Without objection, the hearing is adjourned.

[Whereupon, at 4:04 p.m., the Subcommittee was adjourned.]

All materials submitted for the record by Members of the Subcommittee on Immigration Integrity, Security, and Enforcement can be found at the following links: *https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=116066.*

○

4440

OPEN BORDERS, CLOSED CASE: SECRETARY MAYORKAS' DERELICTION OF DUTY ON THE BORDER CRISIS

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

JUNE 14, 2023

Serial No. 118–17

Printed for the use of the Committee on Homeland Security



Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

54–093 PDF WASHINGTON : 2023

COMMITTEE ON HOMELAND SECURITY

MARK E. GREEN, MD, Tennessee, *Chairman*

MICHAEL T. MCCAUL, Texas
CLAY HIGGINS, Louisiana
MICHAEL GUEST, Mississippi
DAN BISHOP, North Carolina
CARLOS A. GIMENEZ, Florida
AUGUST PFLUGER, Texas
ANDREW R. GARBARINO, New York
MARJORIE TAYLOR GREENE, Georgia
TONY GONZALES, Texas
NICK LALOTA, New York
MIKE EZELL, Mississippi
ANTHONY D'ESPOSITO, New York
LAUREL M. LEE, Florida
MORGAN LUTTRELL, Texas
DALE W. STRONG, Alabama
JOSH BRECHEEN, Oklahoma
ELIJAH CRANE, Arizona

BENNIE G. THOMPSON, Mississippi, *Ranking Member*
SHEILA JACKSON LEE, Texas
DONALD M. PAYNE, JR., New Jersey
ERIC SWALWELL, California
J. LUIS CORREA, California
TROY A. CARTER, Louisiana
SHRI THANEDAR, Michigan
SETH MAGAZINER, Rhode Island
GLENN IVEY, Maryland
DANIEL S. GOLDMAN, New York
ROBERT GARCIA, California
DELIA C. RAMIREZ, Illinois
ROBERT MENENDEZ, New Jersey
YVETTE D. CLARKE, New York
DINA TITUS, Nevada

STEPHEN SIAO, *Staff Director*
HOPE GOINS, *Minority Staff Director*
NATALIE NIXON, *Chief Clerk*
SEAN JONES, *Legislative Clerk*

CONTENTS

Page

STATEMENTS

The Honorable Mark E. Green, a Representative in Congress From the State of Tennessee, and Chairman, Committee of Homeland Security:
Oral Statement 1
Prepared Statement 6
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security:
Oral Statement 9
Prepared Statement 11

WITNESSES

Mr. Chad Wolf, Executive Director & Chief Strategy Officer, American First Policy Institute; Former Acting Secretary of Homeland Security:
Oral Statement 14
Prepared Statement 15
Mr. Joseph B. Edlow, Managing Member, The Edlow Group; Former Acting Director for U.S. Citizenship and Immigration Services:
Oral Statement 20
Prepared Statement 22
Mr. Rodney S. Scott, Senior Distinguished Fellow for Border Security, Texas Public Policy Foundation; Former Chief of U.S. Border Patrol:
Oral Statement 29
Prepared Statement 31
Ms. Eleanor Acer, Director, Refugee Protection, Human Rights First:
Oral Statement 34
Prepared Statement 36

FOR THE RECORD

The Honorable Mark E. Green, a Representative in Congress From the State of Tennessee, and Chairman, Committee of Homeland Security:
DHS Order of Secession 12
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security:
GAO Decision, August 14, 2020 48
GAO Decision, August 21, 2020 54
Article 56
The Honorable J. Luis Correa, a Representative in Congress From the State of California:
Press Release 59
The Honorable Marjorie Taylor Greene, a Representative in Congress From the State of Georgia:
Memo from Customs and Border Protection 79
The Honorable Yvette D. Clarke, a Representative in Congress From the State of New York:
Report From the Haitian Bridge Alliance 86

OPEN BORDERS, CLOSED CASE: SECRETARY MAYORKAS' DERELICTION OF DUTY ON THE BORDER CRISIS

Wednesday, June 14, 2023

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
WASHINGTON, DC.

The committee met, pursuant to notice, at 10:02 a.m., in room 310, Cannon House Office Building, Hon. Mark E. Green [Chairman of the committee] presiding.

Present: Representatives Green, McCaul, Higgins, Guest, Bishop, Gimenez, Pfluger, Garbarino, Taylor Greene, Gonzales, LaLota, Ezell, D'Esposito, Lee, Luttrell, Strong, Brecheen, Crane, Thompson, Jackson Lee, Payne, Swalwell, Correa, Carter, Thanedar, Magaziner, Ivey, Goldman, Garcia, Ramirez, Menendez, Clarke, and Titus.

Chairman GREEN. The Committee on Homeland Security will come to order.

Without objection, the Chair may declare the committee in recess at any point.

Without objection, the gentlewoman from Texas, Ms. De La Cruz, is permitted to sit on the dais and ask questions to the witness.

Before I start my opening comments today, I would like to make a few administrative notes.

First, and most importantly, today is the United States Army's birthday. We have purchased a birthday cake to the United States Army and it is in the joint room for both parties, Members, and staff to enjoy. Please, as you are having a piece of cake, reflect on the 248 years of men and women who have served our great Nation in the United States Army.

Also, before we start today, I want to point out that this is an oversight hearing, and it is the beginning of several that will follow. I am guessing that the party that holds the White House will differ in their opinions to the party not in the White House. That is OK. I am certain we can all conduct ourselves without disrupting the decorum of this committee by using unparliamentary words to attack an individual's character. You can attack behavior, you can attack decisions, you can engage in debate, you can say doing this or that makes no sense, you can even say something is stupid, but you just can't say that an individual is stupid. I understand that it is a subtle difference, but it has been the standard of this committee for many Chairmen before me and it will be enforced by me too.

Last, next week we will hold our first joint meeting of all the cyber-related subcommittees. The intent is to begin a paradigm shift in how we approach cybersecurity in a bipartisan, multi-committee fashion. We need a whole-of-Government approach. We need to break down the silos in Government and in Congress, industry, and especially the administrations. Cyber folks love this idea. All Members of our Cyber Subcommittee should attend. It is a breakfast and we will host some of the Nation's brightest cybersecurity experts. I encourage all Members of the Committee of Homeland Security to engage and attend. The cyber border is just as important as any other border.

In July we are going to hold—another administrative note here—we are going to hold a substantive markup that we also hope will be bipartisan, tentatively aiming for the first week back in session in July. We need to move early in July to deal with the reauthorization of the Chemical Facility Anti-Terrorism Standards Statute, or CFATS. It is my hope we can do this and other legislation in a bipartisan way.

Now for the business of the day. The purpose of this hearing is to receive testimony on Secretary Mayorkas' dereliction of duty.

I now recognize myself for an opening statement.

On February 2, 2021, Alejandro Mayorkas was sworn in to be the United States Secretary of Homeland Security. He swore an oath to support and defend the Constitution of the United States and faithfully discharged the duties of his office. Since then, the American people have suffered from a national security, humanitarian, and public safety disaster at the Southwest Border. A disaster that has turned every city into a border city, and every State into a border State.

In just over 2 years, under Secretary Mayorkas, more people have entered our country illegally than in the 12 years of the Obama and Trump administrations combined. This includes more than 5.2 million apprehensions at the Southwest Border, more than 6.1 million apprehensions, factoring in America's Northern and Maritime Borders, and at least 1.5 million known gotaways, illegal aliens who slip across our border without being caught and are now at large in the United States. This should terrify every American.

Based on Border Patrol statistics of criminal aliens they do catch, those gotaways could include as many as 1,180 aliens guilty of DUIs, 285 guilty of sexual assault, and more than 3 dozen guilty of murder. Last fall, an illegal alien struck and killed Florida Sheriff's Deputy Mike Hartwick before fleeing the scene. The alien had entered the country illegally in October 2021 in Texas, and was sent back to Mexico. But at some point reentered our country as a gotaway.

An unknown number of national security threats are pouring across our border each and every day. Since October of last year, Border Patrol has reported nearly 10,000 arrests of Chinese nationals that have illegally crossed the Southwest Border, and the number continues to increase every month. I have confirmed that some of the Chinese nationals coming in have ties to the Chinese Communist Party and the People's Liberation Army. They have been released into the United States.

That is all I can share at this point. We will be holding a Classified briefing in the near future on this for all Members.

DHS has no way to verify the identities and backgrounds of these individuals. They are almost always quickly released into the interior of our country to do who knows what. This is the height of madness. Releasing unvetted individuals from our Nation's most dangerous adversaries into our local communities. That is what Secretary Mayorkas is doing with each and every one of these individuals Mayorkas is putting our national security at risk. U.S. law states that one of the foremost duties of the Secretary of Homeland Security is to control and guard the borders of the United States, but Secretary Mayorkas has surrendered control of our Southwest Border to the Mexican cartels. Today nothing comes in or out without the cartel's knowledge and tacit approval. They have seized full control, pushing not just historic numbers of illegal aliens across, but record amounts of drugs like fentanyl, which killed more than 71,000 Americans in 2021. A horrific new record. Fentanyl is now the leading cause of death for Americans ages 18 to 49. American children are attending the funerals of their friends who have died of fentanyl poisoning. According to one recent study, more than 1,500 kids under the age of 20 died from fentanyl poisoning just in 2021, more than 4 times as many as in 2018.

Secretary Mayorkas has put all families at risk, even families visiting from overseas. The Lavenir family from France tragically lost their 19-month-old daughter Enora to fentanyl poisoning when on vacation in Florida. This beautiful little girl was exposed to fentanyl left behind by the previous occupant of their rental unit. How can any family in America feel safe when a stay in a hotel or an Airbnb could end up with the death of a child?

The devastating consequences don't stop there. Some other highlights of the Secretary's open borders policy include the following: more than 350,000 encounters of unaccompanied minors. The administration has since lost control of at least 85,000 of these children. Tragically, many of them are being trafficked, abused, and exploited. According to a damning *New York Times* investigation, many of these children are being forced to do dangerous jobs that violate the U.S. child labor laws, all because of Mayorkas' decision to stop vetting the sponsors. From October 1 to 2020 to March 2023, Border Patrol recorded nearly 28,000 arrests of illegal aliens with criminal backgrounds, approximately 6,000 more total arrests than the previous 4 physical years combined. These numbers do not include data from States like Texas, which has apprehended hundreds of thousands of illegal aliens and recorded more than 27,000 arrests of criminal illegal aliens itself. In fiscal year 2021, Border Patrol discovered 568 dead migrants at the Southwest Border, nearly double the 254 found in fiscal year 2020. In fiscal year 2022, the number jumped to 853. More than 1,700 migrants have died on U.S. soil while trying to enter this country illegally on Mayorkas' watch—people he encouraged to make the journey. Mayor Adams of New York recently stated that more than half of the hotel rooms in New York City are now filled with illegal aliens. Cities like Chicago are putting illegal aliens ahead of their own citizens, allocating millions of dollars to house and care for those arriving to their city, infuriating residents and neighbors like

South Shore, who won't get those resources. In May, Chicago Mayor Lightfoot stated, we simply have no more shelters. Medicaid spending on emergency medical services for illegal aliens more than doubled in fiscal year 2020 to fiscal year 2021, from around $3 billion to more than $7 billion. This suffering and death falls squarely on the shoulders of the Secretary of the Department of Homeland Security, Alejandro Mayorkas, a man who has been derelict in his duty to protect America.

Since his first day in office, Secretary Mayorkas has intentionally undermined America's immigration laws and meaningful border security enforcement and in its place, implemented an extreme agenda of open borders. The vast majority of those crossing our borders illegally are coming not because of COVID–19, climate change, or because CBP doesn't have enough funding. They are coming for economic reasons, and they are coming in record numbers because Mayorkas left the door open, unlocked. Those individuals typically possess no legitimate claim to asylum, and under prior administrations, both Democrat and Republican, most would have been quickly deported. The difference now, Mayorkas and his policies. Yet not once has he taken responsibility for this mess.

The mountain of evidence this committee has gathered proves that Alejandro Mayorkas has been derelict in his duty as the Secretary of the Department of Homeland Security. Upon assuming office, he immediately went to work reversing and tearing down the effective border policies of the last two administrations, replacing them with an open borders policy of mass catch-and-release. He has also repeatedly violated laws passed by this Congress. To date, our investigation has uncovered nearly a dozen violations of statutes and court orders. Consider just a few examples. The evidence shows that Mayorkas has repeatedly violated the law that prohibits mass parole of aliens into the country. The statute makes clear parole is only to be granted on a case-by-case and temporary basis for an urgent humanitarian reason or significant public benefit. Instead, Mayorkas has done the opposite, directing and overseeing a release of hundreds of thousands of aliens via mass parole in just 2 years through various programs, including, more recently, his CBP One App. The evidence also shows Mayorkas has violated the clear language of the Immigration and Nationality Act, requiring illegal aliens to be detained while their claims are resolved. At his direction, millions of illegal aliens have been released into the country through a program called Alternatives to Detention, via other mass parole, or with a notice to appear in court. DHS's own data shows that when illegal aliens are not detained at all, or are only detained for a short time, then released into the interior, they are almost never removed.

Mayorkas and his defenders like to claim that we simply don't have detention space for the historic number of illegal aliens being drawn to the border by his disastrous policies, which is the epitome of circular reasoning. You don't get to break the law in order to fix the consequences of your reckless decisions.

The evidence further shows Mayorkas has also violated the laws regarding the deportation of illegal aliens. Illegally entering the United States is a criminal deportable offense. Mayorkas has decided enforcing that law is just optional. Passed by Congress but

he can just make it optional. First, he has issued guidance making it harder for ICE to detain and deport the vast majority of illegal aliens in this country. As a result, deportations have plummeted, and the number of illegal aliens on ICE's non-detained docket has grown by more than 2 million people in just 2 years. It gets worse. Mayorkas has flagrantly violated the laws requiring him to detain criminal illegal aliens. His own acting ICE director, Tae Johnson, told Congress in April that ICE had actually been releasing hundreds of criminal illegal aliens into the country, into our communities.

When I last checked, the United States was a Nation of laws. We expect our leaders to follow the laws that Congress passes, and those who fail to do so should be exposed and face the consequences. The Constitution is clear. Congress writes the laws, and officers like Mr. Mayorkas are sworn to enforce them. No one is above the law, not even the Secretary of Homeland Security. His failure to uphold his oath and follow the law has been the driving force behind the disaster at the border.

Mayorkas has consistently made statements to Congress and the American people that demonstrate either dishonesty or gross incompetence, perhaps even both. He said at least 19 separate times some variation of the border is secure, even telling Members of this committee in 2021 that the border was no less secure than previous. He also claimed to have operational control of the border per the definition of the Secure Fence Act of 2006. Border Patrol Chief Raul Ortiz confirmed to this committee in March that DHS, in fact, did not have operational control of the border. Only after this did Mayorkas backtrack and tell the Senate later in March that no Secretary has ever had such control per the definition.

Mayorkas has claimed his policies are not responsible for the crisis, but they are. He claimed he was handed a dismantled system—he wasn't. He claimed that DHS is promptly expelling illegal aliens—they aren't. Our investigation has unearthed nearly 80 occasions on which Mayorkas has been outright dishonest or misleading, and other instances in which he has displayed unacceptable ignorance about the basic aspects of the on-going crisis.

Dereliction of duty is a serious matter. I spent 24 years in the Army, I know what it means. It means someone has either wilfully or negligently failed to do their duty or has done such a poor job that there is no reasonable excuse. When that individual is the Cabinet Secretary who swore to defend the Constitution in the homeland, the charge is even more serious.

Again, today marks the United States Army's 248th birthday. As a West Point graduate, as I said, I served 24 years. I know what dereliction of duty is when I see it and as a commissioned officer, I was responsible for holding those guilty of it accountable. There is zero doubt in my mind that Secretary Mayorkas has been derelict of his duty.

As the people's elected representatives, this committee has a duty to investigate Mayorkas and bring any wrongdoings to the American people. What we have found thus far is damning. To date, our investigation has discovered that he has violated the laws of the United States, abused the authority of his office, and betrayed the public trust through repeated dishonest and misleading

statements to Congress and the American people, while also demonstrating gross incompetence. I cannot imagine why President Biden, who is charged with defending the American people as Commander-in-Chief, would continue to tolerate this.

Our investigation will show the President why he should fire Mayorkas immediately or own this failure himself.

This isn't about politics or policy or disagreements, it is about law and order and the safety of the American people. It is about whether a Cabinet Secretary has followed the law, upheld his oath, and been faithful to the public trust. The American people want answers to this crisis. They deserve the truth. Unfortunately, Alejandro Mayorkas has been derelict in his duty as the United States Secretary of Homeland Security. The cartels are thriving, migrants are suffering, and Americans are dying. Their blood is on Secretary Mayorkas' hands. I hope every Member of this committee works together to fix this disaster.

[The statement of Chairman Green follows:]

STATEMENT OF CHAIRMAN MARK E. GREEN, M.D.

SETTING THE STAGE

On February 2, 2021, Alejandro Mayorkas was sworn in as the United States Secretary of Homeland Security. He swore an oath to support and defend the Constitution of the United States and faithfully discharge the duties of his office. Since then, the American people have suffered from a national security, humanitarian, and public safety disaster at the Southwest Border—a disaster that has turned every city into a border city and every State into a border State.

RECORD CROSSINGS AND CONSEQUENCES

In just over 2 years under Secretary Mayorkas, more people have entered our country illegally than in the 12 years of the Obama and Trump administrations combined. This includes:

- More than 5.2 million apprehensions at the Southwest Border;
- More than 6.1 million apprehensions factoring in America's Northern and Maritime Borders; and
- At least 1.5 million known gotaways—illegal aliens who slip across our border without being caught and are now at large in the United States.

This should terrify every American.

Based on Border Patrol's statistics of criminal aliens they DO catch, those gotaways could include as many as 1,180 aliens guilty of DUIs, 285 guilty of sexual assault, and more than 3 dozen guilty of murder.

Last fall, an illegal alien struck and killed Florida sheriff's deputy Mike Hartwick before fleeing the scene. The alien had entered the country illegally in October 2021 in Texas and was sent back to Mexico, but at some point re-entered the country as a gotaway.

An unknown number of national security threats are pouring across our border each and every day. Since October of last year, Border Patrol has reported nearly 10,000 arrests of Chinese nationals that have illegally crossed the Southwest Border, and the number continues to increase every month. I've confirmed that some of the Chinese nationals coming in have ties to the Chinese Communist Party (CCP) and the People's Liberation Army (PLA).

That's all I can share at this point, but we'll be holding a Classified briefing in the near future on this for all Members. DHS has no way to verify the identities and backgrounds of these people. They are almost always quickly released into the interior of our country to do who knows what.

This is the height of madness—releasing unvetted individuals from our Nation's most dangerous adversaries into our local communities. That's what Secretary Mayorkas is doing.

With each and every one of these individuals, Mayorkas is putting our national security at risk.

CARTELS AND FENTANYL

U.S. law states that one of the foremost duties of the Secretary of Homeland Security is to control and guard the borders of the United States. But Secretary Mayorkas has surrendered control of our Southwest Border to the Mexican cartels. Today, nothing comes in or out without the cartels' knowledge and tacit approval.

They have seized full control, pushing not just historic numbers of illegal aliens across, but record amounts of drugs like fentanyl, which killed more than 71,000 Americans in 2021—a horrific new record. Fentanyl is now the leading cause of death for Americans ages 18–49. American children are attending the funerals of their friends who have died of fentanyl poisoning. According to one recent study, more than 1,500 kids under the age of 20 died from fentanyl poisonings in 2021, more than four times as many as 2018.

Secretary Mayorkas has put all families at risk—even families visiting from overseas. The Lavenir family from France tragically lost their 19-month-old daughter Enora to fentanyl poisoning when on vacation in Florida. This beautiful little girl was exposed to fentanyl left behind by a previous occupant of their rental unit.

How can any family in America feel safe when a stay in a hotel or Airbnb could end up in the death of their child!

OTHER CONSEQUENCES

The devastating consequences do not stop there. Some other "highlights" of this Secretary's open borders policies include the following:

- More than 350,000 encounters of unaccompanied minors. The administration has since lost track of at least 85,000 of these children. Tragically, many of these children are being trafficked, abused, and exploited.
- According to a damning *New York Times* investigation many of these children are being forced to do dangerous jobs that violate U.S. child labor laws. All because of Mayorkas' decision to stop vetting sponsors.
- From October 1, 2020, to March 2023, Border Patrol recorded nearly 28,000 arrests of illegal aliens with criminal backgrounds, approximately 6,000 more total arrests than the previous 4 fiscal years combined.
- These numbers do not include data from States like Texas, which has apprehended hundreds of thousands of illegal aliens, and recorded more than 27,000 arrests of criminal illegal aliens itself.
- In fiscal year 2021, Border Patrol discovered 568 dead migrants at the Southwest Border, nearly double the 254 found in fiscal year 2020.
- In fiscal year 2022, the number jumped to 853. More than 1,700 migrants have died on U.S. soil while trying to enter the county illegally on Mayorkas' watch—people he encouraged to make the journey.
- Mayor Adams of New York City recently stated that more than HALF of the hotel rooms in New York City are now filled with illegal aliens.
- Cities like Chicago are putting illegal aliens ahead of their own citizens, allocating millions of dollars to house and care for those arriving in the city, infuriating residents of neighborhoods like South Shore who won't get those resources. In May, Chicago Mayor Lightfoot stated, "We simply have no more shelters."
- Medicaid spending on emergency medical services for illegal aliens more than doubled in from fiscal year 2020 to fiscal year 2021, from around $3 billion to more than $7 billion.

MAYORKAS IS RESPONSIBLE

This suffering and death fall squarely on the shoulders of the Secretary of the Department of Homeland Security—Alejandro Mayorkas, a man who has been derelict in his duty.

Since his first day in office, Secretary Mayorkas has intentionally undermined America's immigration laws and ended meaningful border security enforcement, and in its place implemented an extreme agenda of open borders.

The vast majority of those crossing our borders illegally are coming not because of COVID–19, "climate change," or because CBP doesn't have enough funding.

They're coming for economic reasons, and they're coming in record numbers because Mayorkas has left the doors of our country unlocked and wide open.

These individuals typically possess no legitimate claim to asylum and under prior administrations—both Democrat and Republican—most would have been quickly deported.

The difference now?

Mayorkas and his policies. Yet, not once has he taken responsibility for this mess.

MAYORKAS' POLICIES/VIOLATIONS OF LAW

The mountain of evidence this committee has gathered proves Alejandro Mayorkas has been derelict in his duty as the Secretary of the Department of Homeland Security.

Upon assuming office, he immediately went to work reversing and tearing down the effective border security policies of the last two administrations, replacing them with an open-borders policy of mass "catch and release."

He has also repeatedly violated laws duly passed by Congress.

To date, our investigation has uncovered nearly a dozen violations of statutes and court orders.

Consider just a few examples:

(1) The evidence shows Mayorkas has repeatedly violated the law that prohibits mass parole of aliens into the country. The statute makes clear parole is only to be granted on a case-by-case and temporary basis, for an urgent humanitarian reason or significant public benefit.

Instead, however, Mayorkas has done the opposite, directing and overseeing the release of hundreds of thousands of aliens via mass parole in just 2 years through various programs, including most recently his CBP One mobile app scheme.

(2) The evidence also shows Mayorkas has violated the clear language of the Immigration and Nationality Act requiring illegal aliens to be detained while their claims are resolved.

(3) At his direction, millions of illegal aliens have been released into the country through a program called "Alternatives to Detention," via other mass parole, or with a notice to appear in court. And DHS's own data shows that when illegal aliens are not detained at all or only detained for a short time and then released into the interior, they are almost never removed.

Mayorkas and his defenders like to claim that we simply don't have detention space for the historic number of illegal aliens being drawn to the border by his disastrous policies, which is the epitome of circular reasoning. You don't get to break the law in order to fix the consequences of your reckless policy decisions.

(4) The evidence further shows Mayorkas has also violated the laws regarding the deportation of illegal aliens. Illegally entering the United States is a criminal, deportable offense. Mayorkas has decided enforcing that law is optional.

First, he has issued guidance making it harder for ICE to detain and deport the vast majority of illegal aliens in this country.

As a result, deportations have plummeted, and the number of illegal aliens on ICE's Non-Detained Docket has grown by more than 2 million in just 2 years.

It gets worse. Mayorkas has flagrantly violated the laws requiring him to detain criminal illegal aliens. His own acting ICE director, Tae Johnson, told Congress in April that ICE had actually been releasing hundreds of criminal illegal aliens into the country! Into our local communities!

When last I checked, the United States was a Nation of laws. We expect our leaders to follow the laws that Congress passes, and those who fail to do so should be exposed and face consequences. The Constitution is clear—Congress writes the laws, and officers like Mayorkas are sworn to enforce them. No one is above the law, not even the Secretary of Homeland Security.

His failure to uphold his oath and follow the law has been the driving force behind the disaster at the border.

MAYORKAS HAS BEEN DISHONEST

Mayorkas has consistently made statements to Congress and the American people that demonstrate either dishonesty or gross incompetence. Perhaps even both.

He has said at least 19 separate times some variation of "the border is secure," even telling a Member of this committee in 2021 that the border is "no less secure than it was previously."

He has also claimed to have operational control of the border per the definition of the Secure Fence Act of 2006. Border Patrol Chief Raul Ortiz confirmed to this committee in March that DHS in fact did NOT have operational control of the border.

Only after this did Mayorkas backtrack and tell the Senate later in March that no Secretary has ever had such control per that definition.

Mayorkas has claimed his policies are not responsible for the crisis—THEY ARE.

He claimed he was handed a "dismantled" system—HE WASN'T. And he claimed that DHS is promptly expelling illegal aliens—THEY AREN'T.

Our investigation has unearthed nearly 80 occasions on which Mayorkas has been outright dishonest or misleading, and other instances in which he has displayed unacceptable ignorance about basic aspects of the on-going crisis.

CONCLUSION

Dereliction of duty is a serious matter. It means someone has either willfully or negligently failed to do their duty or has done such a poor job that there is no reasonable excuse.

When that individual is the Cabinet Secretary who swore an oath to defend the Constitution and the homeland, the charge is even more serious.

Today marks the United States Army's 248th Birthday. As a West Point graduate, I proudly served for 24 years.

I know dereliction of duty when I see it, and as a commissioned officer, I was responsible for holding those guilty of it accountable.

There is ZERO doubt in my mind that Secretary Mayorkas has been derelict in his duty!

As the people's elected representatives, this committee has a duty to investigate Mayorkas and bring any wrongdoings to the American people. What we have found thus far is damning.

To date, our investigation has discovered that he has violated the laws of the United States, abused the authority of his office, and betrayed the public trust through repeated dishonest and misleading statements to Congress and the American people, while also demonstrating gross incompetence throughout his public statements.

I cannot imagine why President Biden, who is charged with defending the American people as commander-in-chief, would continue to tolerate this.

Our investigation will show the President why he should fire Mayorkas immediately or own this failure personally.

This isn't about politics or policy disagreements. It's about law and order, and the safety of the American people.

It's about whether a Cabinet Secretary has followed the law, upheld his oath, and been faithful to the public trust.

The American people want answers to this crisis. They deserve the truth.

Unfortunately, Alejandro Mayorkas has been derelict in his duty as the United States Secretary of Homeland Security.

The cartels are thriving. Migrants are suffering. And Americans are dying. Their blood is on Secretary Mayorkas' hands.

I hope every Member of this committee works together to fix this disaster.

Chairman GREEN. I now recognize the Ranking Member, the gentleman from Mississippi, Mr. Thompson, for his opening statement.

Mr. THOMPSON. Thank you very much, Mr. Chairman.

Mr. Chairman, Americans have gotten used to political theater from Congressional Republicans, but this hearing is a new low. You don't have to look further than the title to know that the hearing is a sham. Calling a hearing and saying case closed before you have heard any testimony is not legitimate oversight. It is obvious this hearing isn't really about border security. It is not even really about Secretary Alejandro Mayorkas or the Department of Homeland Security. It is about partisan politics. It is about House Republican leadership catering to its most extreme MAGA members who want to impeach someone, anyone at all. It is about trying to make good on GOP backroom deals to elect a Speaker, raise the debt ceiling, and stave off of mutiny in the Republican ranks.

If the hearing title alone doesn't make it obvious, just look at who the Majority has invited to testify. The last time this committee called Mr. Wolf to testify, he was serving in a role as Acting Secretary of Homeland Security. He was asked to testify to the committee's annual hearing on threats to the homeland, but he refused to appear. He was subpoenaed and ultimately defied that subpoena, Mr. Wolf was a no-show at a hearing to inform Congress on terrorist threats facing our Nation. But he comes to the Hill

twice in the last week to appear before the Judiciary Committee and here today to engage in political gamesmanship. Perhaps Mr. Wolf is also trying to distract from his abysmal tenure at DHS, a tenure that included the Department's intentionally taking children from their parents at the border, changing and delaying a report on Russian interference in the 2020 election, and misusing DHS personnel to crack down on peaceful protesters in Portland. As it turns out, he was even serving unlawfully as Acting Secretary, having been appointed outside the Department's succession orders. In fact, Mr. Wolf was the fifth person to run DHS and the second to do so unlawfully in less than 3 years under President Trump. A stark reminder of the chaos and dysfunction of that administration.

I expect that today's Republicans will try to rewrite the history of the Trump administration and its border security and immigration policies. But the truth is, under the last administration, DHS took children from their parents, forced individuals fleeing violence and persecution to wait in Mexico, and expelled unaccompanied children at our border. The truth is, the last administration dismantled our lawful immigration system to the point where it could barely function. The policies were not only terribly cruel, but also incredibly ineffective. They didn't address fundamental border security challenges, fix our broken immigration system, or respond to the on-going global migration phenomenon. Instead, they made the problem worse. For example, the number of encounters at the border jumped sharply after President Trump implemented Title 42, and they made vulnerable people suffer. That is the mess the Biden administration inherited. That is what Secretary Mayorkas has had to deal with since taking office.

Mr. Chairman, legitimate oversight follows the facts. The facts are that the Biden administration's plan to address these challenges are working. The number of Border Patrol encounters have plummeted by 70 percent since the Biden administration ended Title 42 last month, the number of overall border encounters have dropped by 50 percent in that time, due in large part to DHS's hard work under Secretary Mayorkas' leadership. The Biden administration has re-established lawful pathways for migrants to access the asylum system. It has also utilized parole on a case-by-case basis for those fleeing certain totalitarian or communist regimes in our hemisphere. At the same time, it has made clear that our borders are not open and those arriving outside lawful pathways will be sent home. Recent deportation and removal numbers reflect that hard reality for many.

Unlike its predecessor, the Biden administration is enforcing border and immigration laws in an orderly, humane way, consistent with precedents set by prior administrations of both parties. Some may not like that, but those are policy differences and nothing more. You don't impeach a Cabinet Secretary because you don't like their policies and you certainly don't impeach a Cabinet Secretary to appease extreme members of your political party. Secretary Mayorkas is fulfilling his duty under the law and to the American people. If the Republican Majority doesn't like what he is doing, they should work with Democrats to pass bipartisan border security and immigration reform legislation. Apparently, they

prefer political theater and sloppy, inaccurate, "report" instead. Mr. Chairman, I yield back.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JUNE 14, 2023

Americans have gotten used to political theater from Congressional Republicans, but this hearing is a new low. You don't have to look further than the title to know this hearing is a sham. Calling a hearing and saying "case closed" before you've heard any testimony is not legitimate oversight. It's obvious this hearing isn't really about border security. It's not even really about Secretary Alejandro Mayorkas or the Department of Homeland Security. It's about partisan politics.

It's about House Republican leadership catering to its most extreme MAGA Members, who want to impeach someone—anyone at all. It's about trying to make good on GOP backroom deals to elect a Speaker, raise the debt ceiling, and stave off a mutiny in the Republican ranks.

If the hearing title alone doesn't make that obvious, just look at who the Majority has invited to testify. The last time this committee called Mr. Wolf to testify, he was serving in the role of Acting Secretary of Homeland Security. He was asked to testify at the committee's annual hearing on threats to the homeland, but he refused to appear. He was subpoenaed and ultimately defied that subpoena.

Mr. Wolf was a no-show at a hearing to inform Congress on terrorist threats facing our Nation. But he's come to the Hill twice in the last week to appear before the Judiciary Committee and here today to engage in political gamesmanship. Perhaps Mr. Wolf is also trying to distract from his abysmal tenure at DHS—a tenure that included:

- the Department intentionally taking children from their parents at the border,
- changing and delaying a report on Russian interference in the 2020 election,
- and misusing DHS personnel to crack down on peaceful protestors in Portland.

As it turns out, he was serving unlawfully as Acting Secretary, having been appointed outside the Department's succession order.

In fact, Mr. Wolf was the fifth person to run DHS and the second to do so unlawfully in less than 3 years under President Trump—a stark reminder of the chaos and dysfunction of that administration.

I expect that today Republicans will try to rewrite the history of the Trump administration and its border security and immigration policies. But the truth is, under the last administration, DHS took children from their parents; forced individuals fleeing violence and persecution to wait in Mexico; and expelled unaccompanied children at our border. The truth is, the last administration dismantled our lawful immigration system to the point where it could barely function.

These policies were not only terribly cruel, but also incredibly ineffective. They didn't address fundamental border security challenges, fix our broken immigration system, or respond to the on-going global migration phenomenon. Instead, they made the problem worse—for example, the number of encounters at the border jumped sharply after President Trump implemented Title 42. They made vulnerable people suffer. That is the mess the Biden administration inherited, and that is what Secretary Mayorkas has had to deal with since taking office.

Legitimate oversight follows the facts, and the fact is that the Biden administration's plans to address these challenges are working. The number of Border Patrol encounters have plummeted by 70 percent since the Biden administration ended Title 42 ended last month. The number of overall border encounters have dropped by 50 percent in that time, due in large part to DHS's hard work under Secretary Mayorkas' leadership.

The Biden administration has reestablished lawful pathways for migrants to access the asylum system. It has also utilized parole on a case-by-case basis for those fleeing certain totalitarian or communist regimes in our hemisphere. At the same time, it has made clear that our borders are not open and those arriving outside of lawful pathways will be sent home. Recent deportation and removal numbers reflect that hard reality for many.

But unlike its predecessor, the Biden administration is enforcing border and immigration laws in an orderly, humane way, consistent with precedent set by prior administrations of both parties. Some may not like that, but those are policy differences and nothing more.

You don't impeach a Cabinet Secretary because you don't like their policies. You certainly don't impeach a Cabinet Secretary to appease extreme Members of your

political party. Secretary Mayorkas is fulfilling his duty under the law and to the American people.

If the Republican Majority doesn't like what he's doing, they should work with Democrats to pass bipartisan border security and immigration reform legislation. Apparently, they prefer political theater and a sloppy, inaccurate "report" instead.

Chairman GREEN. Thank you, Ranking Member.

Other Members of the committee are reminded that opening statements may be submitted to the record.

I would like, without objection, to enter into the record the DHS Order of Secession, which shows that Mr. Wolf had the authority to serve as Secretary.

Without objection, so ordered.

[The information follows:]

Order Designating the Order of Succession for the Secretary of Homeland Security

(a) By the authority vested in me as Acting Secretary of Homeland Security, including the Homeland Security Act, 6 U.S.C. § 113(g)(2), and notwithstanding any Department of Homeland Security (DHS) prior delegation, directive, instruction, policy, or any other document of any kind, including without limitation DHS Delegation No. 00106, I hereby designate the order of succession for the Secretary of Homeland Security as follows:

Order of Succession for the Secretary of Homeland Security
Pursuant to Title 6, United States Code, Section 113(g)(2)

1. Deputy Secretary of Homeland Security;

2. Under Secretary for Management;

3. Administrator of the Federal Emergency Management Agency;

4. Administrator, Transportation Security Administration;

5. Under Secretary for Strategy, Policy, and Plans;

6. Commissioner of the U.S. Customs and Border Protection.

(b) No individual who is serving in an office listed above in paragraph (a) in an acting capacity, by virtue of so serving, shall act as Secretary pursuant to this order.

(c) DHS Orders of Succession and Delegations of Authorities for Named Positions, Delegation No. 00106, Annex A, is hereby amended to reflect the officials listed in order in the above designated order of succession for the Secretary of Homeland Security. Further the title for Annex A shall be amended to state as follows:

"Order of Succession for the Secretary of Homeland Security"
"*Pursuant to Title 6, United States Code, Section 113(g)(2)*"

(d) This order designating the order of succession for the Secretary of Homeland Security is effective on January 11, 2021, at 11:59 p.m. Eastern Standard Time.

Dated: January 11, 2021 4 p.m.

Chad F. Wolf
Acting Secretary of Homeland Security

Chairman GREEN. I am pleased to have a distinguished panel of witnesses before us today on this overdue discussion.

I ask that our witnesses please rise and raise their right hand.

Let the record reflect that the witnesses have answered in the affirmative.

[Witnesses sworn]

Please be seated. You are done. OK.

I would like to now formally introduce the witnesses. Mr. Chad Wolf serves as America First Policy Institute's executive director, chief strategy officer, and the chair for the Center of Homeland Security and Immigration. Prior to joining AFPI, Mr. Wolfe was the former Acting Secretary of the U.S. Department of Homeland Security. During his time at DHS, he successfully navigated numerous global and domestic challenges to the Nation's security, including COVID–19, civil unrest, numerous border and immigration crises, historic natural disasters, and threats to global aviation security. Prior to his service at DHS, he spent over 10 years in the private sector helping clients manage risks, and before that, worked here on Capitol Hill. He has received the U.S. Secretary of Transportation 9/11 medal, the U.S. Secretary of Homeland Security Distinguished Service Medal, and the National Intelligence Distinguished Service Medal.

Mr. Joe Edlow has an extensive distinguished background in immigration policy. He most recently served as acting director of U.S. Citizenship and Immigration Services. Prior to that position, he served as the chief counsel for USCIS. Before his time at USCIS, Mr. Edlow worked on immigration issues in various capacities under the Trump administration, including with the Executive Office of the President and the Justice Department's Office of Legal Policy. He served from 2008 to 2015 as assistant chief counsel for the U.S. Immigration and Customs Enforcement. He possesses significant experience on Capitol Hill as well, including stints with the House Judiciary Committee and former Representative Raul Labrador of Idaho.

Mr. Rodney Scott is a law enforcement officer and the former chief of the United States Border Patrol, where he served from January 2020 to August 2021, under both President Trump and President Biden. Scott has served in the Border Patrol and CBP since 1992. Throughout his career, Mr. Scott held roles such as assistant chief in CBP's Office of Anti-Terrorism in Washington, DC, as well as the division chief and director for the Incident Management and Operations Coordination Division at CBP headquarters.

Ms. Eleanor Acer is a senior director for Refugee Protection at Human Rights First, where she oversees Human Rights First's research and advocacy on issues relating to refugee protection, asylum, and the human rights of migrants. Ms. Acer served on the American Bar Association's Commission on Immigration as the vice chair of the Refugee Council USA from 2006 to 2008, and currently serves on its board. Ms. Acer received her JD from Fordham University School of Law and her BA in history from Brown University.

I thank all the witnesses for being here today, and I now recognize Mr. Wolf for 5 minutes to summarize his opening statement.

STATEMENT OF CHAD WOLF, EXECUTIVE DIRECTOR & CHIEF STRATEGY OFFICER, AMERICAN FIRST POLICY INSTITUTE, FORMER ACTING SECRETARY OF HOMELAND SECURITY

Mr. WOLF. Chairman Green, Representative Thompson, thank you again for the opportunity to testify today.

By any objective measure or metric, the United States is facing the worst humanitarian and national security crisis along our Southern Border in our Nation's history. Today's border security system is unrecognizable from the America First policies of the Trump administration, or even those in place during previous administrations. In all candor, this is the first administration of either political party to deliberately take steps to diminish the security along our Southern Border.

Here's the situation along the border today. This country has experienced the largest mass scale catch-and-release policy that has resulted in more than 4.5 million illegal aliens, including 1.5 million known gotaways, being allowed into American communities. That is a population larger than every major U.S. city except for New York City. There have been more than 200 known or suspected terrorists apprehended at the Southern Border, compared to just 11 during the Trump administration. The border is effectively controlled by the Mexican cartels. Fentanyl is coming across the border in record amounts and is the leading cause of death of young Americans. More migrants have died during their journey than ever before. Three hundred thousand eighty children and counting have been trafficked or smuggled across the Southern Border and abused physically, mentally, and in some cases sexually along the horrendous journey.

In the last 2 years, this administration has lost contact with more than 85,000 children after releasing them to sponsors, many of them unvetted. Tens of thousands of children have been subjected to indentured servitude and harsh forced labor situations.

Last, we are seeing a concerted effort to facilitate illegal aliens into the country at ports of entry through an unlawful parole program and a CBP One app to disguise or otherwise hide the extent of the crisis from the American people.

I understand the difficulty and complexity of running the Department of Homeland Security, but it is clear to me and to millions of Americans that this is a crisis by design and one that was avoidable. I'm here today as a veteran of DHS, having served at the Department in two Presidential administrations spanning over 7 years, holding 8 senior-level positions that culminated in serving as the acting secretary, but perhaps most importantly, earning the respect of the Department's law enforcement officials along the way. While I look forward to today's discussion, as you have already heard, some Members will choose to attack me because I am critical of the administration's actions surrounding this crisis.

This is what you will likely hear, this is what you have heard. They will claim I ignored a subpoena to appear before this committee in 2020. What they have failed to provide you is the relevant context, that I gave this committee over 2 months of dates for that hearing and for my availability, and that a hearing was never scheduled, or that it would have been improper for me to testify after President Trump nominated me to be DHS Secretary.

They will attack me because of questions surrounding the Department's order of succession and how it affected my role as Acting Secretary, a role that I am very proud of. To the extent they mention policies they will fixate over a short-lived zero tolerance from 5 years ago while staying completely silent about the historic and on-going migrant child trafficking crisis facilitated by this administration.

The reason we see a border in crisis, in chaos, is simple. The Biden administration has dismantled all of the proven and effective policies put in place under the last administration. That includes well-known policies like the Remain in Mexico and the Asylum Cooperative Agreements with the Northern Triangle. But it also includes more than two dozen lesser-known but effective policies, such as a third country transit asylum bar, a humanitarian asylum review process, a prompt asylum claim review, a regulation to end fake families and the cruel recycling of migrant children, having Border Patrol Agents conduct credible fear screenings, internal relocation guidance, expedited removal, ending Nation-wide catch-and-release, maxing out ICE detention capacity and exceeding annual deportation targets. The list goes on. Every one of those have been torn down.

By comparison, this administration has embraced ineffective and unlawful policies that have made American communities dangerous and have enriched the Mexican cartels. These policies include a Nation-wide catch-and-release scheme that incentivizes millions and millions of other illegal aliens to enter illegally, a 100-day deportation freeze for all illegal aliens, including criminals, releasing illegal aliens on an honor system to self-report to ICE field offices, exempting 99 percent of the illegal aliens from deportation, the lowest level of ICE detention capacity, the lowest deportations in modern history, terminating Remain in Mexico and fully exempting children from Title 42. This is dangerous and this is an inhumane approach that need not occur. The laws did not change between administrations, just the decision by this one not to follow the laws.

For the reasons cited here and others I'm happy to discuss, it is my professional opinion that this administration is derelict in its duty to faithfully execute the laws as written and protect American communities.

Thank you, and I look forward to your questions.

[The prepared statement of Mr. Wolf follows:]

PREPARED STATEMENT OF CHAD WOLF

JUNE 14, 2023

Chairman Green and Representative Thompson: Thank you for the opportunity to testify before the House Homeland Security Committee.

By any objective measure or metric, the United States is facing the worst humanitarian and national security crisis along our Southern Border in our Nation's history.

As someone who understands the difficulty and complexity of running the Department of Homeland Security (DHS), I do not state this lightly. It is clear to me and millions of Americans that the Biden administration has failed in its Constitutional duty to "take Care that the [immigration and border security] Laws be faithfully executed."[1] This is a dereliction of duty.

[1] U.S. CONST. ART. II, §3 (cleaned up).

I have reached this inescapable conclusion after having had the distinct privilege of serving at DHS at its inception under President George W. Bush and throughout President Trump's administration, including the last 14 months as Acting Secretary of Homeland Security. For the last 27 months since I left office, I have closely followed the national security and humanitarian crisis unfolding along the Southern Border and have been publicly critical of the Biden administration's policies and operations. That criticism is not expressed because we are from different political parties but rather, it comes from my own experience as Acting Secretary and the apparent and deliberate destruction of what was, very recently, the most effective border security in recent memory.

One of my philosophies as Acting Secretary was based on one simple axiom: if you do not have borders, you do not have a country. Sovereignty does not exist if you are not sovereign over your own borders—territorial, maritime, or aerial.

To that end, today's border security system is unrecognizable from the America First border security policies of the Trump administration or even the border security apparatus in place during the administrations of Presidents Clinton, Bush, and Obama. In all candor, the Biden administration is the first administration of either political party to actively take steps to diminish the security along our Southern Border.

In contrast, under President Trump's leadership, a talented group of professionals and I helped implement a body of policies that established the most secure Southern Border in my lifetime. In addition to building the most advanced border wall system, we put in place across-the-board policies that deterred illegal immigration, disrupted the Mexican cartels, disincentivized the flow of deadly fentanyl, and enforced the laws enacted by Congress.

In fact, when confronted with caravans of illegal aliens surging to the Southern Border in 2018–2019, we were honest with the American people that it was a crisis. So, we went straight to work to restore order and maintain America's sovereignty.

The Trump administration utilized previously untapped legal authority found in section 235(b)(2)(C) of the Immigration and Nationality Act (INA) to put in place the highly successful Remain in Mexico policy, or Migrant Protection Protocols;[2] President Trump also struck historic Asylum Cooperative Agreements with the Northern Triangle countries to redirect illegal aliens to seek asylum closer to their home country under the authority provided by section 208(a)(2)(A) of the INA.[3] The Trump administration also issued a third-country transit regulation under section 208(b)(2)(C) of the INA to thwart asylum forum shopping, bolstered internal relocation guidance for adjudicators,[4] streamlined asylum cases at the border to speed up deportations of those found ineligible, and restored the definition of refugee[5] to Congress's intent of requiring persecution by a Government actor on one or more of the protected grounds. No Presidential administration can do more under existing law—and none should do any less.

These policies were necessary because economic migrants and human traffickers were exploiting the loopholes in our laws by making fraudulent asylum claims to block their quick deportation under expedited removal.[6] Only between 10–15 percent of illegal aliens apprehended at the Southern Border who claim asylum actually qualify for this humanitarian relief.[7] The rest, to put it mildly, are trying to game the system. Under the Immigration and Nationality Act (INA), they need to—but they cannot—satisfy the appropriately rigorous "well-founded fear of persecution" standard in order to obtain humanitarian relief.[8] Such artful circumvention of the law is the same as breaking the law. Every President has a bona fide duty to stop the lawbreakers. Anything short is a contravention of the laws Congress has gone to all the trouble of enacting—repeatedly.

The Trump administration utilized the fullest extent of its legal authority to combat this asylum fraud by making aliens wait in Mexico or detaining them in the United States, the only two options permissible under section 235 of the INA and, importantly, quickly returning them when an immigration judge denies their claim. We never forgot the violence that illegal immigration cruelly inflicts on defenseless women and children, who are raped, trafficked, and scarred for life by the lawbreakers.

---

[2] 8 U.S.C. 1225(b)(2)(C).
[3] 8 U.S.C. 1158(a)(2)(A).
[4] See 8 C.F.R. 208.13(b)(3).
[5] 8 U.S.C. 1101(a)(42).
[6] 8 U.S.C. 1225(b)(1)(A)(i).
[7] See DEPART OF JUSTICE, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, *Asylum Decision and Filing Rates in Cases Originating with a Credible Fear Claim,* available at *https://www.justice.gov/eoir/page/file/1062976/download.*
[8] 8 U.S.C. 1101(A)(42).

The evidence speaks for itself. During the Trump administration: fraudulent asylum claims declined, those who qualified got humanitarian relief faster, lives were saved as migrants stopped taking the dangerous journey north when they realized they would not be allowed into American communities.

In stark contrast, today we see a border in chaos and crisis because the Biden administration ideologically and arbitrarily dismantled ALL of these successful policies on Day One and sidelined career Border Patrol experts who continued to warn that a historic surge of illegal aliens would overwhelm the border in the absence of any deterrent policies. Political correctness and rank ideology supplanted common sense and the clear command of our immigration laws.

And even as the warnings of career Border Patrol experts came to pass, the Biden administration sat idly by and did little to curtail this crisis. The result is that since President Biden was sworn into office, nearly 5.5 million illegal aliens—and counting—have unlawfully come into our country plus at least another 1.5 million "gotaways" who completely bypassed the Border Patrol and made it into American communities.[9]

To be clear—the laws didn't change between administrations, just the refusal of the current one to follow their legal obligations. Instead, they embraced destructive and unlawful policies that have made American communities less safe and enriched the Mexican cartels to new heights because open borders is a lucrative business.

But the abuse of the law doesn't end there. Here are some additional, non-exhaustive examples:

- *Nationwide Catch-and-Release.*—The Biden administration intentionally decided to ignore its legal mandate to detain illegal aliens or make them wait in Mexico throughout their immigration court proceedings. Instead, this administration reimplemented the dangerous catch-and-release policies ended by President Trump and instead began mass releasing illegal aliens into American communities.

  Federal District Court Judge Wetherell struck down this practice, writing "The Court finds in favor of Florida because, as detailed below, the evidence establishes that [the Biden administration] have effectively turned the Southwest Border into a meaningless line in the sand and little more than a speed bump for aliens flooding into the country by prioritizing 'alternatives to detention' over actual detention and by releasing more than a million aliens into the country—on 'parole' or pursuant to the exercise of 'prosecutorial discretion' under a wholly inapplicable statute—without even initiating removal proceedings."[10]
- *Issuing Notices to Report (NTRs).*—Unable to process the volume of illegal aliens out of DHS custody fast enough under catch-and-release, DHS early on under the Biden administration resorted to issuing Notices to Report—essentially an honor-system document that asks illegal aliens to self-report to a local Immigration and Customs Enforcement (ICE) office when they reach their destination.

  Unsurprisingly, few reported and now these illegal aliens lack immigration court dates because they were not issued a Notice to Appear (NTA), the formal charging document. This means that removal proceedings will not even begin until ICE encounters them in the future, further prolonging the amount of time these illegal aliens remain in the United States. This process was discontinued for some time but as the administration scrambled to deal with the expiration of Title 42, they attempted to resume NTRs.

  Again, the court blocked the implementation of this policy, holding that it "appears that DHS is preparing to flout the Court's order," noting that this policy "sounds virtually identical" to the catch-and-release policy he blocked in March 2023. The judge further explained, "In both instances, aliens are being released into the country on an expedited basis without being placed in removal proceedings and with little to no vetting and no monitoring."[11]
- *Canceling Notices to Appear (NTAs).*—For those illegal aliens who received NTAs, their court dates are multiple years down the road because the volume of illegal aliens the Biden administration allowed into the United States has overwhelmed the immigration courts. Instead of ending catch-and-release and reinstating deterrence policies, the Biden administration unilaterally canceled thousands of NTAs which removes them from the immigration court backlog. These illegal aliens still lack a lawful right to be in the United States and this unlawful action by the Biden administration makes their future deportation nearly impossible.

---

[9] See *https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters.*

[10] *State of Florida* v. *U.S.,* Case No. 3:21–cv–1066–TKW–ZCB (N.D. Fl. Mar. 8, 2023).

[11] *State of Florida* v. *Mayorkas,* Case No. 3:23–cv9962–TKW–ZCB (N.D. Fla. May 11, 2023).

As a broader point, such travesty of the Rule of Law dishonors not only our Nation and our law-abiding citizens—it also makes light of the sacrifices borne by countless lawful immigrants who patiently stood in line to come to this country the legal way. This administration's message could not be more unambiguous—those who waited their turn, filled out applications, and paid fees for visas were foolish for obeying our immigration laws. The Biden administration tells lawful immigrants that the enormous sacrifices they and their families made in coming to America by following the law count for nothing. When the current administration arbitrarily excuses the contravention of our laws by some, it is diminishing and demeaning to us all.

- *Nullifying Interior Enforcement.*—On Day 1, the Biden administration issued a 100-Day deportation freeze for all illegal aliens, including those with criminal convictions. Federal District Judge Drew Tipton enjoined this non-enforcement policy on the grounds that it was "arbitrary and capricious" and that the policy "fails to provide any concrete, reasonable justification for a 100-day pause on deportations."[12] DHS has since issued "enforcement" priorities that exempt 99 percent of illegal aliens from the threat of deportation. The Biden administration has sidelined ICE agents and effectively accomplished the goals of the extremist "Defund ICE" movement.
- *De Facto Amnesty.*—President Biden campaigned on granting amnesty to all illegal aliens—a policy that even the previous Congress rejected. But the President was undeterred. Ignoring the Constitution's grant of the legislative power to the Congress (and not to the President), he decided to achieve in practice what Congress did not permit him to achieve in principle. As a result, the DHS Secretary implemented a de facto amnesty when he declared that being here unlawfully is not grounds for removal. The obvious remedy corresponding to a violation of the law was arbitrarily taken off the table.

  This edict directly and incontestably contradicts the law and mocks our Nation's time-honored immigration court system. In keeping with that policy choice, the current administration's claims of prioritizing limiting resources are disingenuous, perhaps flatly risible. After all, there are over 1 million aliens with final orders of removal who are still in the United States; yet, the Biden administration has removed the lowest levels of illegal aliens, including criminal aliens, in modern history.[13]
- *Giving USCIS Asylum Officers Jurisdiction over Border Asylum Claims.*—Through an unlawful regulation, the Biden administration has given U.S. Citizenship and Immigration Services asylum officers the ability to decide the asylum claims of illegal aliens apprehended at the border. Congress created DHS through the Homeland Security Act of 2002, with much—but not all—immigration jurisdiction that was held by the former Immigration and Naturalization Service within the Department of Justice transferred to DHS.[14] By this authorizing statute, only immigration judges have the legal authority to hear asylum claims of aliens in removal proceedings as this authority was not delegated to DHS.[15] It is apparent that the Biden administration made this unlawful move under the belief that USCIS employees will be more like to grant relief. DHS data shows that USCIS asylum officers are granting asylum at nearly twice the historical rate of immigration judges.[16]
- *Categorical Parole.*—Perhaps the most egregious example of violating the law is the DHS Secretary's unlawful use of the parole authority. Section 212(d)(5) of the INA could not be clearer that the right to grant this kind of parole comes from a remarkably narrow sliver of statutory authority, only allowable on a case-by-case basis for: (1) urgent humanitarian reasons or (2) significant public benefit.[17] DHS has ignored the statutory requirements and turned this limited authority into an override of the legal immigration system.

  You know the law is not in your favor when you suddenly discover a slender reed in some old statutory provision that, only when it is totally divorced from context, gives you the slightest hope. That's why, as the Supreme Court re-

---

[12] *Texas* v. *United States,* Civil Action No.: 6–21–cv–00003 (S.D. Tex. Feb. 24, 2021).

[13] See U.S. Immigration and Customs Enforcement, ICE Annual Report Fiscal Year 2022, fig. 20 (Dec. 30, 2022), available at *https://www.ice.gov/doclib/eoy/iceAnnualReportFY2022.pdf.*

[14] Homeland Security Act of 2002, Pub. L. 107–296 (Nov. 25, 2002).

[15] Id.; see also Arthur, Andrew & Law, Robert, *Public Comment Re: Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protections by Asylum Officers* (Oct. 18, 2021), available at *https://cis.org/sites/default/files/2021–10/JNPRM_Asylum_Procedures_FINAL_submitted_10-18-2021.pdf.*

[16] See Department of Homeland Security, Asylum Processing Rule Cohort Reports, available at *https://www.dhs.gov/immigration-statistics/special-reports/asylum-processing-rule-report.*

[17] 8 U.S.C. 1182(d)(5).

minded us less than a year ago in *West Virginia* v. *EPA*, when the Executive branch "claims to discover in a long-extant statute an unheralded power representing a transformative expansion in its regulatory authority," that's usually a sign of desperation because the President and/or the agency know in their heart of hearts that they do not have the statutory authority they are claiming.[18] Everyone else knows it as well. As if that Supreme Court prescription wasn't enough, the Court in West Virginia also said that when the Executive suddenly "locate[s] [its] newfound power in the vague language of an ancillary provision of the [law]," its claimed authority is on conspicuously shaky, and presumptively unsound, ground.[19]

So too here. The mass parole system devised by the Biden administration turns our immigration law framework on its head. After all, statutes have to be interpreted, to the extent possible, as a harmonious whole, so why would Congress have enacted the rest of the INA if Presidents, operating whimsically, could circumvent it by issuing paroles ad nauseam? This question, like all such questions, answers itself.

Just think: The parole program for Cubans, Haitians, Nicaraguans, and Venezuelans allows up to 360,000 illegal aliens per year to fly into American communities and the separate unlawful program using the CBP One app near the Southern Border are not new, safe, lawful pathways but a diversion of illegal aliens from between ports of entry to the ports of entry. It is clear that these illegal categorical parole programs are designed to hide the optics of the border crisis from the American people.

What is more, this administration's abuse of the parole authority isn't limited to the border. After the Biden administration's disastrous withdrawal from Kabul DHS unlawfully paroled into the United States nearly 100,000 unvetted Afghans, most of whom were military-aged males.

You needn't take my word for it. Even the Inspectors General of both DHS and the Department of Defense have issued scathing reports on the national security vulnerabilities the homeland has been exposed to because of this reckless, senseless, dangerous, and of course unlawful decision.[20] There are a number of instances where these Afghan parolees have committed heinous crimes, include rape.

By embarking on this nullification of immigration law by Executive fiat, the Biden administration is allowing into the U.S. millions of illegal aliens who do not qualify for a visa and thus creating a subclass of aliens who have no avenue for a legal immigration status and are in perpetual uncertainty and agony. That is not American leadership or humanity at its finest. Instead, this is just cynical, crass treatment by the current cadre of Executive branch leadership and is the direct result of the Biden administration's circumventing our border security and immigration laws.

In conclusion, I would suggest that one of the most important duties as the DHS Secretary is to be transparent and honest with the American people about security issues affecting the homeland. It is very clear to me that the current administration is lying to the American people about the severity of the problem, while at the same time absurdly attempting to lay blame on the Trump administration, on Congress, or some other entity for their failed strategy.

Here is the reality:

- The border is not secure, it is in fact open to illegal aliens by the hundreds of thousands.
- A historic number of illegal aliens—nearly 5.5 million—have been apprehended at the Southern Border during the Biden administration with approximately 3 million allowed into American communities—a population larger than every major U.S. city except for New York City and Los Angeles.
- Another 1.5 million observed "gotaways" who bypassed Border Patrol and pose severe national security and public safety threats.
- More than 200 known or suspected terrorists apprehended at the Southern Border compared to just 11 during the Trump administration—and these are just the ones caught because they didn't realize we had them in the FBI database.
- The border is effectively controlled by Mexican cartels—who crave the predictability of these policies for their business model.

---

[18] 142 S. Ct. 2587, 2610 (2022) (cleaned up and alterations made).

[19] Id. (cleaned up and alterations made).

[20] See, e.g., U.S. DEPARTMENT OF DEFENSE INSPECTOR GENERAL, Evaluation of the Screening of Displaced Persons from Afghanistan, Report. No. DODIG–2022–065 (Feb. 15, 2022), available at *https://media.defense.gov/2022/Feb/17/2002940841/-1/-1/1/DODIG-222-065.PDF.*

- More migrants have died during their journey than ever before.
- More Border Patrol agents have been assaulted by so-called asylum seekers than ever before.
- The Biden administration has lost contact with more than 85,000 children after releasing them to sponsors, according to *The New York Times*.[21]
- The Biden administration is aware of tens of thousands of children being subjected to abusive work conditions, according to *The New York Times*.[22]
- And there is no operational control over large portions of the border. This is not just my assessment, but that of outgoing Border Patrol Chief Ruiz and other career U.S. Customs and Border Protection officials when questioned by Congress or in litigation challenging Biden administration policies.

These are the results of a process the Biden administration calls "safe, orderly, and humane." But to whom exactly? Not to the migrants dying along the journey; not to the migrants abused, extorted, or worse by the Mexican cartels; not to American communities that have been overrun by this influx of illegal aliens and lethal fentanyl; and not to Border Patrol officers who have been assaulted and have pleaded with political leadership to solve this crisis.

Instead, the process that has been created over the last 2 years can be more accurately described as dangerous, corrupt, and inhumane. After 9/11, DHS was created to secure the homeland and protect our Nation's citizens. I was there to help get DHS up and running. Yet the actions of the Biden administration have done the opposite of adhering to the DHS mission by eroding our institutions and diminishing the Rule of Law. This is a crisis by design.

Finally, a singular quote from Supreme Court Justice Louis Brandeis' from almost a century ago still rings true today:

"Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperil[]ed if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example . . . If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."[23]

Unfortunately, this is a message lost on the Biden administration. Anarchy, I regret to say, is what we see today with the strategic refusal to implement our border security laws. Unless we course-correct immediately, our Rule of Law is in somber danger of being lost forever into the oblivion of history. That is a message worth remembering, and re-committing ourselves to, if we are to remain a Nation of laws. Or even a Nation at all.

For the reasons cited here and for others I am happy to discuss, it is my professional opinion that the Biden administration has been derelict in its duty to faithfully execute the law, as written, and to protect American communities.

Thank you and I look forward to answering your questions.

Chairman GREEN. I now recognize Mr. Edlow for 5 minutes to summarize his opening statement.

STATEMENT OF JOSEPH B. EDLOW, MANAGING MEMBER, THE EDLOW GROUP, FORMER ACTING DIRECTOR FOR U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Mr. EDLOW. Thank you, Chairman Green, Ranking Member Thompson, and distinguished Members of this committee. I appreciate the opportunity to present testimony today regarding the continuing threats to the integrity of our immigration system caused by the Secretary of the Department of Homeland Security's willful disregard of our country's immigration laws.

The Biden administration, through the Secretary, has seen fit to ignore the law, instead favoring poorly-conceived and poorly-executed policy decisions. Actions through Executive Orders, Depart-

[21] Dreier, Hannah, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, NEW YORK TIMES (Feb. 25, 2023).

[22] Dreier, Hannah, *As Migrant Children Were Put to Work, U.S. Ignored Warnings*, NEW YORK TIMES (Apr. 17, 2023).

[23] 277 U.S. 438, 485 (dissenting opinion) (emphases added).

mental memos, and rules lay waste to the INA and Congressional intent, it has eroded our immigration system and propelled the crisis to current levels.

As the Chairman said, Section 102 of the INA charges the Secretary of Homeland Security with administration and enforcement of the Act, and further vests in the Secretary the power and duty to control and guard the boundaries and borders of the United States against the illegal entry of aliens. The massive number of encounters recorded by CBP and the small number of alien removals by ICE, however, suggest that this Secretary has failed to faithfully execute the laws entrusted to him.

Since Day 1 of the administration, the Department has taken aggressive action to undermine immigration enforcement. Nowhere is that clearer than Secretary Mayorkas' September 30, 2021 memorandum outlining the appropriate instances in which DHS was authorized to take action against aliens, either unlawfully present or lawfully present, but removable. Specifically, Secretary Mayorkas outlined three main buckets for removal, threats to national security, threats to public safety, and threats to border security. While in theory this would seem to encompass many aliens, in reality the numerous carve-outs, loose definitions, and required factors for consideration made it nearly impossible for ICE to move forward with most enforcement actions. These poorly-defined categories gave even some of the most serious of criminal aliens a free pass in the interest of equity. Let me be clear, there is a time and a place for prosecutorial discretion, which has been recognized by the Supreme Court. However, memos targeted at whole groups and not on a case-by-case basis do not comply with contours of such discretion. Categorical prosecutorial discretion is not discretion at all. It is instead an effort to undermine the enforcement mechanisms clearly found in the law. The Department's failure to enforce the full INA in the name of prioritization and discretion is a dereliction of duty.

The rampant parole abuse that we now witness is exactly why Congress saw fit to change the law in 1996. Replacing emergent reasons or for reasons deemed strictly in the public interest, with on a case-by-case basis for humanitarian reasons or significant public benefit, Congress signaled its intention to clamp down on the process. It specifically wanted to guard against ad hoc programs meant to supplement existing immigration programs. Regardless of the plain language as it currently stands, parole has become a favorite tool of the administration. While first used as an alternative to detention, parole programs have subsequently played a large role in artificially decreasing border numbers. The expanded categorical parole programs for nationals of Venezuela, Cuba, Nicaragua, and Haiti are wholly unlawful. While certainly the previous administration utilized programs, the number of parolees were a small fraction compared to what we have seen on a monthly basis over the past 2½ years.

I would be remiss if I did not mention the Department's regulatory agenda, which seeks to upend the credible fear process in the name of orderly processing, starting with the presumption that every economic migrant is entitled to protection. In 2022, DHS issued an interim final rule on credible fear screening. Under the new process, a positive credible fear determination by an asylum

officer will lead to a non-adversarial asylum interview before another DHS asylum officer. This impermissibly changes the process and undermines Congressional action by shifting adjudication authority from DOJ to DHS. Even more concerning, written summary of the original credible fear interview now doubles as an alien's asylum application, rendering moot the requirement that an alien file one at all. This shifts the burden to present and prepare a meritorious claim for protection. While this does not ensure an asylum grant, it certainly provides a path for fraud and renders certain anti asylum fraud measures moot.

A second final rule issued last month appears to be tough on illegal border crossers, making them ineligible for asylum. However, the number of exceptions and the easily rebuttable presumptions belie its stated purpose. This rule will have the opposite effect, as it will ultimately incentivize aliens to make the dangerous trek northward with families in tow.

Mr. Chairman, we would not be sitting here today if the Secretary and the Department simply enforced the law as written. Instead, the Department has, in an effort to remove barriers and to create a subjectively orderly system, conflated law and policy and ensured that when the two were in conflict, that policy won the day. A return to the rule of law is the only cure at this point and is incumbent upon Congress to use its oversight and lawmaking authority to repair the damage done by the Department.

Thank you and I look forward to your questions.

[The prepared statement of Mr. Edlow follows:]

PREPARED STATEMENT OF JOSEPH B. EDLOW

JUNE 14, 2023

Chairman Green, Ranking Member Thompson, and distinguished Members of this committee, thank you for the opportunity to present testimony regarding the ongoing crisis threatening the integrity of our immigration system.

As this committee investigates the actions and inaction of the Department of Homeland Security, the conclusion that the administration and Department have failed to comply with the law, as written, and often times acted in contravention of the law, is inevitable. This administration has seen fit to ignore the law, instead favoring poorly-conceived and even more so poorly-executed policy decisions. The actions through Executive Orders, Departmental memos, and rules seemingly upend the Immigration and Nationality Act (INA) and Congressional intent. These decisions, implemented at each immigration agency, have eroded this country's immigration system and have propelled the crisis to its current levels.

The sharp rise in unlawful entries and attempted entries along the Southwest Border provides a critical litmus test of the crisis' scope but is an outgrowth of administration and Departmental actions. The focus on the overwhelming numbers does not, in and of itself, provide insight into the reasons for the crisis. Additionally, media often focuses on the border to the detriment of the other actions and inaction by Immigration and Customs Enforcement (ICE) and U.S. Citizenship and Immigration Services (USCIS). Regardless of the specifics, it is plainly obvious that since President Biden was inaugurated in January 2021, this country has witnessed an unprecedented border crisis.

EXECUTIVE ORDER AND MEMOS

Beginning on Day 1 of the Biden administration, the Department of Homeland Security's (DHS) Acting Secretary, David Pekoske, halted all deportations for 100 days.[1] This was predicated on interim enforcement priorities that the Department

[1] Memo. from David Pekoske, *Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities* (Jan. 20, 2021), available at: *https://www.dhs.gov/sites/default/files/publications/21_0120_enforcement-memo_signed.pdf.*

wanted ICE to implement. In its view, the only way to sufficiently update priorities was to reset the entire system by halting all enforcement actions. This was followed up by ICE Acting Director Tae Johnson's memo of February 18, 2021. This memo was the first step to implement the priorities and included reporting requirements for enforcement actions and the need to justify any action to superiors through a pre-approval process.[2]

At the White House, on February 2, 2021, President Biden issued his "Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans."[3] The order required DHS, in conjunction with the Department of Justice and the Department of State to "identify barriers that impede access to immigration benefits and fair, efficient adjudications of these benefits and make recommendations on how to remove these barriers."[4] This was followed with an Executive Order that, among other things, created the battle cry of the administration—removing barriers to immigration.

To that end, on September 30, 2021, Secretary Alejandro Mayorkas issued a memorandum entitled "Guidelines for the Enforcement of Civil Immigration Law" which outlined the appropriate instances in which DHS was authorized to take action against aliens either unlawfully present or lawfully present but removable.[5] [6] Specifically, Secretary Mayorkas outlined three main buckets for removal—(1) threats to national security; (2) threats to public safety; (3) threats to border security. While, in theory, this would seem to encompass many aliens who should properly be targeted for enforcement actions by ICE, in reality, the numerous carve-outs, loose definitions, and required factors for consideration make it nearly impossible to move forward with most enforcement actions. These poorly defined categories could be seen to give even the most serious of criminal aliens a free pass in the interest of equity and "justice."

On April 3, 2022, ICE's Principal Legal Advisor, Kerry Doyle, issued a memo on prosecutorial discretion, aligning ICE action in immigration court with the Mayorkas Memo.[7] The April Memo provided that ICE attorneys were to exercise prosecutorial discretion in cases that were not deemed priority cases. This could include dismissal as well as administrative closure (pausing the case indefinitely).

These memos all seek to redefine immigration enforcement by creating fictional priorities with no basis in law. Neither the INA's section on inadmissibility nor its section on removability suggest a prioritization of grounds for enforcement. Instead, it enumerates a list of grounds of inadmissibility and removability that the Department of Homeland Security is required to enforce. Its failure to do so in the name of prosecutorial discretion is a dereliction of duty and cannot be permitted to continue.

Prosecutorial discretion is a critical tool for any police or prosecuting agency, when used correctly. The Supreme Court has even upheld such measures. Writing for the Court, Justice Scalia found that a " . . . well-established tradition of police discretion has long coexisted with apparently mandatory arrest statutes."[8] In interpreting "seemingly mandatory legislative commands," the Court found that the there exists a "deep-rooted nature of law enforcement discretion . . . "[9] However, that discretion is not absolute and cannot replace whole statutory text. Prosecutorial discretion should be viewed in the context of a case-by-case analysis in an individual matter. The use of prosecutorial discretion to exempt an entire class of individuals from law enforcement action, as is suggested in these memos, is not discretion at all.

---

[2] Memo. from Tae D. Johnson, *Interim Guidance: Civil Immigration Enforcement and Removal Priorities* (Feb. 18, 2021), available at: *https://www.ice.gov/doclib/news/releases/2021/021821_civil-immigration-enforcement_interim-guidance.pdf.*

[3] Exec. Order No. 14012, 86 Fed. Reg. 8277 (Feb. 5, 2021).

[4] Id.

[5] Memo. From Alejandro N. Mayorkas, *Guidelines for the Enforcement of Civil Immigration Law* (Sept. 30, 2021), available at: *https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf.*

[6] On June 10, 2022, the U.S. District Court for the Southern District of Texas vacated this memorandum.

[7] Memo. from Kerry E. Doyle, *Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion* (Apr. 3, 2022), available at: *https://www.ice.gov/doclib/about/offices/opla/OPLA-immigration-enforcement_guidance-Apr-2022.pdf.*

[8] *Town of Castle Rock* v. *Gonzales,* 545 U.S. 748, 760 (2005).

[9] Id. at 761 (citing *Chicago* v. *Morales,* 527 U.S. 41 (1999)).

The results of these memos speak for themselves. In fiscal year 2022, ICE recorded a little more than 72,000 alien removals from the United States.[10] While that may appear to be large number, the Executive Office for Immigration Review (the immigration courts) reports that in just the first quarter of 2023, immigration judges have ordered almost 47,000 people removed and have affirmed credible or reasonable fear denials in more than 4,000 matters.[11]

During the period that these memos were in effect, and beyond, the number of encounters along the Southwest Border steadily climbed. In fiscal year 2022, U.S. Customs and Border Protection (CBP) recorded a staggering and unprecedent 2,378,944 encounters.[12] Thus far in fiscal year 2023, CBP has already recorded 1,431964 encounters as of the end of April.[13] These are just the known and reported numbers and do not account for the thousands of "gotaways" who were able to elude Border Patrol agents.

The numbers simply do not add up and even with the bulk of the Mayorkas and Doyle memos not in effect, the result is still lopsided enforcement compared to the record number of aliens entering.

THE REGULATIONS

Under the guise of removing barriers, the Department, along with the Department of Justice, engaged in several rulemakings purportedly aimed at creating efficiency and expediency at the border.

Under section 235(b)(1) of the Immigration and Nationality Act (INA),[14] aliens apprehended by CBP entering illegally along the border or without proper documents at the ports of entry are subject to "expedited removal", meaning that they can be quickly removed without receiving removal orders from an immigration judge (IJ).

If an arriving alien claims to fear harm or asks for asylum, however, CBP must hand the alien over to an asylum officer (AO) in U.S. Citizenship and Immigration Services (USCIS) for a "credible fear" interview.[15] Credible fear is a screening process to assess whether the alien may have an asylum claim, and thus proving credible fear is easier than establishing eligibility for asylum.[16] If an AO finds that the alien does not have credible fear (makes a "negative credible fear determination"), the alien can ask for a review of that decision by an IJ.[17] If the IJ upholds the negative credible fear determination, the alien is to be removed immediately.

When an AO or IJ makes a "positive credible fear determination", on the other hand, the alien is placed into removal proceedings to apply for asylum before an IJ.[18] Most aliens who have claimed a fear of return in the past received a positive credible fear assessment (83 percent between fiscal year 2008 and fiscal year 2019),[19] but less than 17 percent of those who received a positive credible fear assessment were ultimately granted asylum.[20]

In 2022, DHS issued an interim final rule entitled "Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers."[21] Under the new process, a positive credible fear determination by a DHS asylum officer will lead to a non-adversarial asylum interview before another DHS asylum officer. Asylum officers who find an alien eligible

---

[10] U.S. Immig. and Customs Enforcement, *ICE releases fiscal year 2022 annual report* (Dec. 30, 2022), available at: *https://www.ice.gov/news/releases/ice-releases-fy-2022-annual-report.*

[11] Exec. Off. For Immig. Review, *Fiscal year 2023 First Quarter Decision Outcomes* (Jan. 16, 2023), available at: *https://www.justice.gov/eoir/page/file/1105111/download.*

[12] U.S. Customs and Border Protection, Southwest Land Border Encounters (May 17, 2023), available at: *https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters.*

[13] Id.

[14] Section 235(b)(1) of the INA, available at: *https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1225&num=0&edition=prelim.*

[15] Section 235(b)(1)(A)(ii) of the INA, available at: *https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1225&num=0&edition=prelim.*

[16] See section 235(b)(1)(B)(v) of the INA (defining "Credible fear of persecution"), available at: *https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1225&num=0&edition=prelim.*

[17] Section 235(b)(1)(B)(iii)(III) of the INA, available at: *https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1225&num=0&edition=prelim.*

[18] Section 235(b)(1)(B)(ii) of the INA, available at: *https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1225&num=0&edition=prelim.*

[19] Credible Fear and Asylum Process: Fiscal Year (FY) 2008–fiscal year 2019, U.S. Dep't of Justice, Executive Office for Immigration Review (generated Oct. 23, 2019), available at: *https://www.justice.gov/eoir/file/1216991/download.*

[20] Id.

[21] Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers, 87 Fed. Reg. 18078 (Interim Final Rule Mar. 29, 2022) (to be codified at 8 C.F.R. parts 208, 212, 235, 1003, 1208, 1235, and 1240).

for a form of protection lesser than full-fledged asylum, such as statutory withholding of removal[22] or protection under the Convention Against Torture,[23] must still refer the matter to a DOJ immigration judge who may consider the entire case. That is hardly streamlining the process.

Even more concerning was that the written summary of the original credible fear interview doubles as an alien's asylum application, rendering the requirement that an alien file an asylum application moot. This shifts the burden to present and prepare a meritorious claim for protection. Aliens may rely on first-made claims of their story, changing or including relevant details in advance of the asylum interview or court proceeding, but without having to affirmatively file an application. While this, in and of itself, does not ensure an asylum grant, it certainly provides a path for fraud. It also renders a key anti-asylum fraud measure moot.

In addition to the practical problems associated with this rule, it impermissibly shifts authorities from the Department of Justice to the Department of Homeland Security. As Congress was creating the new DHS, it specifically determined which functions would be enumerated.[24] Regarding asylum officers, or USCIS in general, Congress specified which immigration functions would be transferred to the new created department.[25] Section 451 of the HSA established the Bureau of Citizenship and Immigration Services and provided its function as transferred from the DOJ.[26] By including a catch-all provision for any functions that may have been missed in the paragraphs 1 through 4, it is apparent that the intent was to ensure that whatever adjudicative functions were being performed by INS prior to the transfer, would be continued by USCIS subsequent to it. Nothing in the provision suggests that any further functions be transferred.

As additional evidence that EOIR functions were not transferred, the HSA affirmatively established EOIR within DOJ. This section, ultimately codified in INA, states:

"*(1) In general.*—The Attorney General shall have such authorities and functions under this Act and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, on the day before the effective date of the Immigration Reform, Accountability and Security Enhancement Act of 2002."[27] [28]

This provision makes clear that the Attorney General retained the functions of EOIR to include the authority to order deportation from the United States. Nowhere in the HSA nor in the INA is there any reference to USCIS, exercising authority to order removal. As the former INS did not exercise such authority, and no such functions were specifically transferred to USCIS, the statute is not ambiguous or silent on the matter. Congressional intent is clear that such quasi-judicial functions would remain with EOIR where such functions have been exercised exclusively since 1983.

Accordingly, DHS, through USCIS, now taking on additional authorities aimed at processing in aliens faster and getting them full-fledged asylum interview, in a non-

---

[22] Statutory withholding of removal specifies that an alien may not be removed "to a country if the Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social, or political opinion." 8 U.S.C.§ 1231(b)(3)(A).

[23] Following the United States ratifying its signing of the Convention Against Torture in 1994, Congress implemented CAT protections in Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 aimed at not effecting the removal of a person who would be subjected to torture upon such removal. See Foreign Affairs Reform and Restructuring Act of 1998 (FARRA), Pub. L. 105–277, Div. G, Tit. XII, chap. 3, subchap. B, section 2242(a) (1998).

[24] Homeland Security Act of 2002, Pub. L. No. 107–296, 116 Stat. 2135 (2002).

[25] Id.

[26] Id. at § 451(b), 116 Stat. 2135, 2196 (2002). ("(b) Transfer of Functions from the Commissioner.—In accordance with title XV (relating to transition provisions), there are transferred from the Commissioner of Immigration and Naturalization Services the following functions and all personnel, infrastructure, and funding provided to the Commissioner in support of such functions immediately before the effective date specified in section 455:
(1) Adjudications of immigrant visa petitions.
(2) Adjudications of naturalization petitions.
(3) Adjudications of asylum and refugee applications.
(4) Adjudications performed at service centers.
(5) All other adjudications performed by the Immigration and Naturalization Service immediately before the effective date specified in section 455.")

[27] 8 U.S.C. 1103(g).

[28] The Immigration Reform, Accountability, and Security Enhancement Act of 2002 (S. 2444; 107th Cong.) was introduced in May 2002 but was never passed. This language was retained for the Homeland Security Act of 2002, Pub. L. No. 107–296, § 1102, 116 Stat. 2135, 2273–2274 (2002).

adversarial manner, without the benefit of immigration court or ICE trial attorney's input. This is rulemaking run amok as it is contrary to statute, contrary to long-existing policy, and directly encroaches on the Department of Justice.

Relevant to the border, a notice of proposed rulemaking was published on February 23, 2023.[29] Starting with the name, "Circumvention of Lawful Pathways," the proposed role is an ineffective measure and empty gesture. Despite its perceived enforcement provisions, this rule, if implemented, would allow most aliens to arrive at or between ports of entry, make fraudulent claims of fear to enter the United States or continue to utilize unlawful mass parole programs to accomplish the same. As the Biden administration continues to steadfastly grip to its Executive Order on removing barriers to immigration,[30] this rule, finalized on May 16, 2023 will do exactly that.[31]

The rule may be framed as an enforcement tool to limit the number of aliens who will ultimately be able to receive asylum, however we are hard-pressed to find any examples of classes of aliens who will actually be kept out of the process under this rule.

The crux of the rule is the concept that a presumption of asylum ineligibility exists for any alien entering the United States who does not meet certain criteria. Specifically, the proposed rule requires that to be eligible for asylum one of three criteria must be met: (1) The alien must have appropriate documentation; (2) must present at a port of entry with a prescheduled appointment through the CBP One App; or (3) must have sought protection in a third country and received a final determination. The last criteria is akin to the Third Country Transit Rule, which likewise largely prohibited asylum eligibility for a non-contiguous alien who did not apply for protection in a country where such processes are available.[32]

The similarities to the previous rule end there, however. While this appears to be a strong measure to control migration along the Southern Border, it becomes apparent that the exceptions swallow the rule. We are left with the question of to whom this rule will actually apply once implemented. Of the three criteria, the one that we presume will most often be utilized is the prescheduled appointments. It is not likely that many aliens will suddenly obtain legitimate documentation and, if they were able to do so, they likely would not be applying for asylum but would be entering on a type of visa. This is an important distinction because credible fear procedures would not apply to an admitted alien (i.e. one that actually has a valid authorization). The third criterion may be used more often than the first but it is unclear to the extent that an alien would avail themselves of protection in Mexico and other nations in Central and South America. Whether they are being smuggled to the United States or make the journey on their own, the lack of resources and familiarity with the law will also make this criterion rarely met.

The rule is clearly encouraging aliens to use the second criterion. A prescheduled appointment through the CBP One App is the most available option for aliens with access to smart phones or other technology allowing them to contact the system. However, even this criterion is waived if the alien can demonstrate that "it was not possible to access or use the . . . system due to language barrier, illiteracy, significant technical failure, or other on-going and serious obstacle."[33] In essence, everything must align perfectly for this criterion to be the basis for the presumption of ineligibility. Relying on technology is itself a risky proposition as factors such as bugs within the app or lack of available cellular service or a reliable internet connection could all hamper an alien's ability to successfully schedule an appointment. Additionally, while we do not have statistics on literacy rates of migrants, it would be fairly common to find migrants without a strong grasp of the English language. If language and literacy are included as prerequisites, this will likely include a far larger population of migrants who would overcome the rule's presumption. Last, the catch-all of "other or on-going and serious obstacle" is left undefined in the regulatory text. As asylum officers and immigration judges will be trained on identification of the presumption, leaving a catch-all which will seemingly be within the discretion of the adjudicator will allow virtually any reason to pass muster. This will

---

[29] *Circumvention of Lawful Pathways,* 88 Fed. Reg. 11704 (proposed Feb. 23, 2023) (to be codified at 8 C.F.R. parts 208 and 1208).

[30] *Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans,* 86 Fed. Reg. 2877 (Feb. 5, 2021).

[31] *Circumvention of Lawful Pathways,* 88 Fed. Reg. 31314 (Final on May 16, 2023) (to be codified at 8 C.F.R. parts 208 and 1208).

[32] *Circumvention of Lawful Pathways,* 88 Fed. Reg. 11704, 11750–11752 (proposed Feb. 23, 2023) (to be codified at 8 C.F.R. parts 208 and 1208).

[33] *Circumvention of Lawful Pathways,* 88 Fed. Reg. 11704, 11750 (proposed Feb. 23, 2023) (to be codified at 8 C.F.R. parts 208 and 1208).

result in the presumption being raised against hardly any alien crossing into the United States.

For those few aliens against whom the presumption will be raised, the rule has fashioned it as a rebuttable presumption. Again, the exceptions and now the rebuttals swallow the rule itself. An alien may rebut the presumption when proving that the alien has a medical emergency, "faces an imminent and extreme threat to life or safety," or meets the statutory definition of trafficking victims.[34] Of the three, the most concerning is the threat to life or safety. It is well-established that the trek to the United States is dangerous with more migrants killed or kidnapped each year. The dangers of the journey are further exacerbated with the influence of cartels and other criminal organizations that view smuggling migrants as a for-profit business without regard to their safety. From fiscal year 2017 through fiscal year 2021, CBP has reported over 1,700 migrant deaths.[35] Fiscal year 2021 had the most in a single year with 568 deaths.[36] Additionally, in that same time period, Border Patrol rescued over 8,400 individuals.[37] Fiscal year 2021 again saw the most rescues in a single year with 3,423.[38] These numbers only represent the deaths and emergencies reported by CBP, not other Federal, State, and local agencies and it is unknown how many bodies have never been discovered. The journey to the Southern Border of the United States is inherently a journey where an alien will face extreme threats to life and safety from beginning to end. To add this as an exception is to exempt the entire population of migrants that have traveled with the assistance of smugglers and other criminal enterprises.

While the rule claims to disincentivize illegal border crossers, the Department's provisions have instead created additional incentives to make the perilous journey either as unaccompanied children or with children in tow. In addition to the fact that the NPRM does not apply to unaccompanied children, the Department of Justice rule requires granting asylum despite ineligibility in an effort to preserve family unity. In a relevant portion, the Department of Justice's regulation states that "[w]here a principal asylum applicant is eligible for withholding . . . and would be granted asylum but for the presumption . . . and where an accompanying spouse or child . . . does not independently qualify for asylum or other protections . . . the presumption shall be deemed rebutted."[39] Caselaw has long held that grantees of withholding of removal cannot receive derivative benefits for their spouses and children.[40] This provision seeks to sidestep that issue by granting full asylum status to the principal and family even if the principal alien cannot otherwise rebut the presumption.

PAROLE ABUSE

While the Department claims that a lack of available pathways has made the aforementioned rules necessary, that lack has not stopped the Department from abusing its parole authority. For a section of law meant to be used sparingly and in exceptional circumstances, the Department has relied heavily on its parole powers to permit aliens to enter the counter en masse, many without a notice to appear before an immigration judge. Section 212(d)(5) of the INA authorizes parole of aliens "into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit . . . ."[41] Additionally, the legislative history of parole authority, cited by the former INS in its initial regulation, makes clear that the intent was to exercise the authority in a narrow and restrictive manner. The original rule stated:

"The drafters of the Immigration and Nationality Act of 1952 gave as examples situations where parole was warranted in cases involving the need for immediate medical attention, witnesses, and aliens being brought into the United States for prosecution. H. Rep. No. 1365, 82d Cong., 2d Sess. at 52 (1952). In 1965, a Congressional committee stated that the parole provisions 'were designated to authorize the Attorney General to act on an emergent, individual, and isolated situation, such as the case of an alien who requires immediate medical attention, and not for the im-

---

[34] Id.

[35] U.S. Customs and Border Protection, *Border Rescues and Mortality Data* (Feb. 6, 2023), *https://www.cbp.gov/newsroom/stats/border-rescues-and-mortality-data.*

[36] Id.

[37] Id.

[38] Id.

[39] *Circumvention of Lawful Pathways,* 88 Fed. Reg. 11704, 11752 (proposed Feb. 23, 2023) (to be codified at 8 C.F.R. parts 208 and 1208).

[40] *Matter of A–K–,* 24 I. & N. Dec. 275 (BIA 2007).

[41] 8 U.S.C. § 1182(d)(5).

migration of classes or groups outside the limit of the law.' 5 Rep. No. 748, 98th Cong., 1st Sess. at 17 (1965).[42]"

Regardless of the plain language of the statute and the legislative history, parole has become a favorite tool of the Biden administration. While first used as an alternative to detention, parole programs have subsequently played a large role in artificially decreasing numbers along the border.

When reviewing the Border Patrol monthly disposition and transfer statistics, it becomes apparent that parole was the path of choice to quickly process and move aliens northward. Border Patrol monthly disposition and transfer statistics for fiscal years 2022 and 2023 demonstrate just how commonplace parole has become. While Border Patrol suggestions that the "processing disposition decision related to each apprehension is made on a case-by-case basis . . . "[43] the raw numbers belie that disclaimer. In fiscal year 2022, parole numbers steadily rose to culminate in over 95,000 paroles granted in September 2022.[44] That trend has continued in this fiscal year as Border Patrol recorded over 130,000 paroles in December 2022.[45]

Moreso than individual aliens, the Department has gone farther astray as it has implemented parole programs, contrary to law, for nationals of certain countries. Beginning in October 2022, the Department announced that it was utilizing new pathways to "create a more orderly and safe process for people fleeing the humanitarian and economic crisis in Venezuela."[46] This was augmented in January 2023, when the Department announced expanded parole programs for nationals of Nicaragua, Cuba, and Haiti.[47] The program permits nationals of those countries, and their immediate relatives, to seek parole when sponsored by someone with lawful status in the United States. It is worth noting that the sponsor need not be a relative of the beneficiary.

While the previous administration did end parole programs, such as the Central American Minors ("CAM") program, it is undeniable that some parole programs continued to exist and operate. These programs were far more limited in scope. The Filipino World War II Veterans Parole Program, the Haitian Family Reunification Parole Program, and the Cuban Family Reunification Parole Program only account for a fraction of the number of paroles granted by the Biden administration in just a single month. Additionally, the Cuban Family Reunification Parole Program stems from the Cuba Accords, something that cannot be said about the other countries currently enjoying broad parole.

The result of these parole programs was a drop in border numbers and a marked decrease in parole utilized by Border Patrol. This is all smoke and mirrors however as it is supplanting one form of illegal entry for another. This is not to suggest that parole is akin to an illegal entry but a recognition that parole usage in this fashion, is unlawful.

THE LEGAL IMMIGRATION BACKLOG

This committee is well aware of the vast number of pending matters presently before USCIS. As of December 31, 2022, USCIS reported a pending caseload of 8,841,152 matters. While the agency claims to want to reduce this number, actions speak louder than words. It was recently reported that USCIS adjudicators were being shifted from their assigned work in order to support operations along the Southwest Border.

While the extent of this shift is still relatively unknown, it is clear that any shift will have significant consequences for the adjudication of affirmative asylum cases as well as applications and petitions for immigration benefits. It is also important to remember that the latter group pays the fees that keep USCIS operational. Essentially, USCIS is taking resources away from the adjudications that fund the

---

[42] *Detention and Parole of Inadmissible Aliens; Interim Rule with Requests for Comments,* 47 Fed. Reg. 30044 (Jul. 9, 1982) (codified in 8 C.F.R. parts 212 and 235) (emphasis added).

[43] Customs and Border Protection, *Custody and Transfer Statistics Fiscal Year 2023* (May 19, 2023), available at: *https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics.*

[44] Customs and Border Protection, *Custody and Transfer Statistics Fiscal Year 2022* (Nov. 14, 2022), available at: *https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics-fy22.*

[45] Customs and Border Protection, *Custody and Transfer Statistics Fiscal Year 2023* (May 19, 2023), available at: *https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics.*

[46] Dep't of Homeland Sec., *DHS Announces New Migration Enforcement Process for Venezuelans* (Oct. 12, 2022), available at: *https://www.dhs.gov/news/2022/10/12/dhs-announces-new-migration-enforcement-process-venezuelans.*

[47] Dep't of Homeland Sec., *DHS Continues to Prepare for End of Title 42; Announces New Border Enforcement Measures and Additional Safe and Orderly Processes* (Jan. 5, 2023), available at: *https://www.dhs.gov/news/2023/01/05/dhs-continues-prepare-end-title-42-announces-new-border-enforcement-measures-and.*

agency and thereby applicants for benefits are primarily funding, not their own adjudications, but the adjudication of credible fear matters along the border.

CONCLUSION

The Department of Homeland Security has taken many measures in the past 2½ years aimed at addressing the border crisis however it appears that no one thought to simply enforce the law as written. In an effort to remove barriers and to create a subjectively orderly system, the Department has conflated law and policy and ensured that when the two were in conflict, that policy won the day. The memos that undermine grounds of inadmissibility and removability, the rules that undermine Congressional action and established authorities, and the parole programs that are simply incongruous with the law paint a clear picture. The Department has, through its own actions, created the worst border crisis in American history. A return to the rule of law is long overdue and it is incumbent upon Congress to demand that corrective action be immediately taken.

Chairman GREEN. Thank you, Mr. Edlow.

I now recognize Mr. Scott for 5 minutes to summarize his opening statement.

STATEMENT OF RODNEY S. SCOTT, SENIOR DISTINGUISHED FELLOW FOR BORDER SECURITY, TEXAS PUBLIC POLICY FOUNDATION, FORMER CHIEF OF U.S. BORDER PATROL

Mr. SCOTT. Chairman Green, Ranking Member Thompson, Members of the committee, thank you for letting me testify here today.

The career professionals at DHS, and specifically Customs and Border Protection and U.S. Border Patrol, deserve our praise and admiration. I am confident that they are doing everything they can every day to protect this country, despite this administration's efforts to undermine their efforts.

The chaos at our Southwest Border and the consequences are a result of actions taken by the Biden administration. The perspectives that I provide are grounded in my professional experience, including my time as chief in the Biden administration.

Decades of bipartisan border security improvements were erased on January 2021, when the Biden administration announced actions that were heard around the world as the U.S. borders are now open. As predicted, the most secure border the United States had ever enjoyed disintegrated into chaos. The Biden administration's claims that they inherited a border in shambles, that surges in illegal immigration like this are normal, or that allowing more illegal aliens to go through a port of entry is solving the problem are not accurate. The crisis at our border is still raging. Don't get lulled into believing that 3,500 arrests a day should be cheered just because it is lower than the 11,000 a day we saw a few weeks ago. The Border Patrol remains overwhelmed, the cartels continue to control who and what is entering the United States, migrants are still being exploited, and children are still being trafficked.

CBP has recorded over 6 million encounters and over 1.4 million known gotaways—that's under the Biden administration. But numbers fail to convey the severity of the national security consequences. Some consequences are easier to measure than others before a bomb goes off. The 1.4 million known gotaways are a measurable consequence of agents being overwhelmed. But consider that hundreds of miles of border lack any persistent surveillance. When construction of the border wall system was terminated, the associated technology was also terminated. Every

minute that agents are not patrolling the U.S. border increases the probability of more unknown gotaways.

Most illicit narcotics, including the fentanyl that is readily available in your home town, originated outside of the United States. Every agent and officer taken away from inspection and patrol duties decreases our Nation's ability to interdict these poisons before they can hurt your family, your friends, and your neighbors.

Leaving hundreds of miles of border unmanned and unpatrolled is like leaving the doors of your home open when you go on vacation. You can replace things that get stolen, but the real threat is the unknown person hiding in your home when you return. Verifying any unknown person's identity or their story requires a face-to-face conversation. How many human trafficking incidents went undetected because our law enforcement personnel today are being instructed to process aliens like a fast-food drive through? How do we quantify the intelligence collection opportunities that were lost?

Additionally, when CBP officers are redirected to conduct immigration processing, legal trade and travel suffers. This further disrupts our supply chain, increases the cost of imported goods, and more.

As chief of the United States Border Patrol, my staff and I engaged and advised the Biden transition teams well before inauguration. The administration's laser focus on expediting, processing, and increasing opportunities for migrants to enter the United States never wavered. Advice from career professionals was ignored, policies were implemented that resulted in thousands of aliens being released into the United States. Illegal immigration intensified, overwhelmed Border Patrol, and effectively transferred control of our Southwest Border directly to the Mexican drug cartels. This is a national security threat. Cartels use illegal aliens to overwhelm law enforcement, creating controllable gaps in border security. These gaps are exploited to smuggle anything they want into the United States. To think that terrorist networks and hostile nations are not exploiting this vulnerability is naive.

I'm not here testifying about policy differences. Policy is how you carry out your duties under the law. The Secretary of Homeland Security has a legal duty to prevent the illegal entry of aliens and to secure our border. Even if success is unattainable, he still needs to try. Instead, Secretary Mayorkas has chosen to expend Department resources to provide care for aliens that enter the United States illegally.

As detailed in my written testimony, I believe the Secretary is derelict in his duties to secure the border. I also believe that the Secretary has likely violated the Empowerment Control Act. Secretary Mayorkas is great at invoking understandable compassion for the plight of the migrants, and I too acknowledge our humanitarian responsibilities. But as Secretary of the United States Department of Homeland Security and the overseer of billions of tax dollars that are appropriated to protect America, if you look at that, this administration is clearly not doing their job.

[The prepared statement of Mr. Scott follows:]

PREPARED STATEMENT OF RODNEY S. SCOTT

JUNE 14, 2023

Chairman Green, Ranking Member Thompson, Members of the committee, good morning and thank you for inviting me to testify before you.

I am appearing before you to ensure that you and the American people have an opportunity to understand that the chaos at our Southwest Border, and the subsequent national security vulnerabilities and consequences are a direct result of informed and intentional decisions made by the Biden administration. The chaos at our borders is not a reflection on the dedicated career Government personnel. The career professionals that make up DHS, and specifically U.S. Customs and Border Protection (CBP), including the U.S. Border Patrol (USBP), deserve our praise and admiration. I am confident that they do everything they can each and every day to secure our borders and protect America even as this administration undermines their efforts.

The information and professional assessments that I provide are grounded in nearly three decades of experience as a career Border Patrol agent and my first-hand experience working in the Biden administration, as chief of the U.S. Border Patrol, until I retired in August 2021. For much of my career I was honored to participate in the transition from an uncontrolled chaotic Southwest Border to a border that was increasingly secure. Unfortunately, that progress was reversed by the Biden administration. The informed and intentional decisions made by the Biden administration directly resulted in the predicted disintegration of border security into the chaos that now threatens to be a new normal.

The current administration, supported by a lot of media, is misleading America by asserting that they inherited a border in shambles, surges in immigration like we are experiencing are normal and that they are solving the border "challenge" by allowing aliens, without any legal immigration documents, to enter the United States through official Ports of Entry. The aliens are allowed to schedule an appointment via the CBP One app, assert a fear claim, and then get released with Notice to Appear in immigration court in a few years. Or they can apply for a program that relies on an expanded use of parole authority to get into the country without immigration documents. This parole program is arguably illegal, because in part, the process lacks the individual case by case determination as required by law.

Let me be clear, the crisis at our border is still raging and poses both immediate and strategic national security threats to America. Despite the current administration's claims, just because U.S. Border Patrol encountered 11,000 illegal aliens on a single day with Title 42 in place does not mean that arresting 3,500 illegal aliens a day under Title 8 is a good day. First, 3,500 arrests each day continues to overwhelm USBP capabilities and empowers the cartels to control who and what enters the United States. For context, from fiscal years 2015 through 2020, USBP averaged approximately 1,250 arrests each day. Fiscal year 2015 and fiscal year 2017 averaged below 1,000 arrests each day. Over the course of those years, USBP was improving situational awareness and improving interdiction effectiveness. This progress ended and chaos ensured with the signing of several Executive Orders and public announcements on, and following January 20, 2021. The message that was heard around the world was that the U.S. borders are open and even those without legal immigration documents will be allowed to enter the United States. As you know, this resulted in over 6 million encounters[1] and over 1.4 million known got-a-ways.[2]

Second, these numbers and comparisons alone still fail to adequately demonstrate the severity of the border crisis or the daily consequences of mass migration. Simple encounter and arrest numbers fail to portray how much time it takes to arrest, search, transport, and then process each individual. These numbers also fail to show the thousands of hours that agents spend transporting sick and injured aliens to local hospitals and then providing 24/7 security monitoring until the alien is released.

Third, these numbers fail to adequately portray the loss in situational awareness as agents are not patrolling the border while they routinely detain and then transport large groups of illegal aliens out of remote areas, often three aliens at a time depending on the terrain and the vehicle capacity. Nor do they account for the number of agents required to monitor and provide care during administrative processing. Further, these numbers do not address the loss in agent effectiveness that occurred when the border wall system, to include the surveillance technology package, was

[1] Nationwide Encounters/U.S. Customs and Border Protection (cbp.gov).
[2] Public statements by USBP Chief Raul Ortiz.

terminated leaving hundreds of miles of border without persistent surveillance capability and sporadic gaps in border barrier. These numbers also fail to show how many human trafficking incidents went undetected or measure the loss of intelligence because agents and officers do not have time to conduct thorough interviews.

Fourth, these numbers do not address how many people got into the United States undetected or the volume of narcotics that was successfully smuggled to your city. If you are unaware, the gotaways reported by USBP are only the known gotaways. They were detected but there were no agents left to interdict them. An illegal entry unseen is an illegal entry uncounted!

Additionally, these numbers also fail to acknowledge the impacts associated with the increased volume of undocumented migrants being funneled into our ports of entry. By redirecting CBP Officers to conduct civil immigration processing the wait times for legal trade and travel are increased. This further disrupts our supply chains and increases the cost of imported goods. Even more importantly, it also reduces the time officers have to conduct thorough inspections and interviews to identify potential threats. I would like to remind everyone that this is their real job. Nineteen terrorists carried out the 9/11 attacks because the 20th terrorist was denied entry into the United States by an alert officer that had time to conduct an effective inspection interview.

I would also like to remind everyone that the majority of fentanyl and other illicit narcotics, readily available in every State across our Nation, originated outside the United States. Every agent and officer taken away from inspection and patrol duties decreases our ability to interdict these poisons before they can make it to your families, friends, or neighbors.

I started my testimony with a strong assertion that I believe the chaos at our Southwest Border and the national security vulnerabilities and consequences are a direct result of informed and intentional decisions made by the Biden administration. I do not make this assertion lightly. As chief of the U.S. Border Patrol, my staff and I engaged directly with the transition teams prior to the inauguration, as well as President Biden's appointed personnel following the inauguration.

In two very brief direct engagements with Secretary Mayorkas, he acknowledged that the significant numbers of illegal entries were overwhelming Border Patrol capabilities and was not sustainable. He also acknowledged his prior experience in DHS and that he understood there must be consequences for illegal entry to stem the flow. The first engagement was a senior DHS leadership call with the Secretary and the second engagement was at a meeting with border Sheriffs in El Paso, TX. Unfortunately, I quickly learned that the Secretary's words and action were routinely very different. Routine conversations, formal and informal operational guidance, combine with the public actions and statements of Secretary Mayorkas and other Biden administration officials, quickly resulted in the conclusion that the administration had no intention of securing the border in any meaningful way despite the legal requirements to do so.

Biden administration personnel made it very clear in every engagement that their focus was on expediting immigration processing to increase throughput and open new opportunities for migrants to enter the United States. This was very consistent with the statements made during the Presidential campaign. My personal interactions also made it clear that many of the political appointees did not believe that millions of unknown, unvetted foreigners illegally entering the United States were a problem. The only issue that the Biden administration appointees wanted to discuss was how to avoid the optics of large numbers of aliens, especially unaccompanied alien children, being detained in Government facilities.

Nonpartisan career Government personnel, to include myself, advised the Biden administration repeatedly that the removal of consequences for illegally entering the United States, reimplementing catch-and-release, and very publicly terminating the construction on the border wall system would undoubtedly result in an influx of illegal aliens that would overwhelm U.S. capabilities and empower the cartels. The Biden administration refused to acknowledge the national security threats that increase proportionately with any increase in illegal immigration and/or the fraud in our asylum processes. Despite being briefed and provided written warnings, the Biden administration refused to acknowledge that mass illegal immigration transfers control of the U.S. border directly to the cartels.

From Day 1, political leadership in the Biden administration ignored career professionals and increasingly made policy decisions that resulted in thousands of aliens being released into the United States. As predicted, the volume of illegal immigration rapidly increased, overwhelmed Border Patrol and effectively transferred control of our Southwest Border to the Mexican drug cartels.

I watched the border security gains that were made over three decades vanish and the safety of border communities spiral backwards. Policy makers must under-

stand that this is not simply an immigration issue. This is a national security threat. Cartels use illegal aliens to overwhelm law enforcement creating controllable gaps in border security. These gaps are exploited to smuggle anything they want into the Uited States. To think that well-resourced terrorist networks and hostile nations are not exploiting this vulnerability is naive.

Prioritizing immigration processing over enforcement also means that deployed agents are spread so thin that they often lack the capability to make an interdiction, even after an illegal entry is detected. This does not include the unknown gotaways along the hundreds of miles of border that lack persistent surveillance and go unpatrolled for days and even weeks. In my professional assessment, as a direct result of decisions and actions taken by the Biden administration and specifically Secretary Mayorkas, U.S. Border Patrol has lost the ability to know who and what is entering our homeland.

Border security is national security. My first-hand experiences taught me that border security and immigration policy are two distinctly different, yet interrelated issues. Border security is simply knowing and controlling who and what enters our homeland. Immigration and customs laws and policies are irrelevant if you cannot control the initial entry.

I realize that some people see the border security and immigration enforcement decisions of this administration, and specifically Secretary Mayorkas, as simple policy differences. I do not agree with that opinion. Policy is how you carry out your duties and responsibilities under the law. Our Government officials should not be allowed to use policy differences as an excuse to ignore the law. By law, the Secretary of Homeland Security is required to take action to prevent the entry of illegal aliens and to secure the border. I argue that even if unattainable the law requires the Secretary to at least try to meet these objectives.

I believe that Secretary Mayorkas and subordinate political appointees have taken actions and made public statements clearly demonstrating that the Secretary has made informed decisions to ignore legal responsibilities. Instead, he has chosen to dedicate the resources of the Department to provide care, feeding, and even facilitating the movement of aliens that entered the United States illegally. I would argue that once again his actions do not match his words and go against his own enforcement prioritization guidance issued on September 30, 2021. This guidance states that Department resources should be focused on the most significant national security and public threats. Despite issuing that guidance, he has chosen to expend a significant portion of the resources and capabilities of the Department to process civil immigration cases at the expense of addressing significant national security and public safety threats at the border.

I have heard many people of both parties rightly argue that we have never had enough resources to detain and prosecute everyone that enters the United States illegally, and that this is why we must leverage prosecutorial discretion. While on the surface this statement is true, it is also misleading, as it leaves out some very important facts. Prior to Secretary Mayorkas taking the helm at DHS, prosecutorial discretion was heavily complimented by deterrence strategies and effective polices that decreased the total number of illegal entries. As illegal entries decreased the percentage of law violators that could be detained and prosecuted increased, this acted as a further deterrent. These cascading effects resulted in improved border security year over year until January 20, 2021.

I believe the intent of the law is clear even in areas where the means and methods are not clearly defined. My personal observations and experience have led me to believe that Secretary Mayorkas has intentionally ignored legal responsibilities and empowered his subordinates to do the same. Specific areas of concern are outlined below.

Secretary Mayorkas has ignored his duty to prevent aliens from illegally entering the United States as required by law.

"8 USC 1103 (a)(5) Secretary of Homeland Security . . . He shall have the power and duty to control and guard the boundaries and borders of the United States against the illegal entry of aliens and shall, in his discretion, appoint for that purpose such number of employees of the Service as to him shall appear necessary and proper."

Secretary Mayorkas has ignored his duty and failed to take any meaningful action toward establishing operational control of the U.S. borders as required by law.

"The Secure Fence Act of 2006 states in part that:
" . . . the Secretary of Homeland Security shall take all actions the Secretary determines necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States . . . "

Biden administration personnel demonstrated contempt for the Impoundment Control Act of 1974 and openly discussed methods to ignore the Appropriations Acts that authorized and funded border wall construction. They prevented any meaningful construction, while creating the appearance that work was being done to avoid an Impoundment Act violation.

The Presidential Proclamation[3] that paused border wall construction was issued on January 20, 2021. The Proclamation included a required review of each project and that a submission of a plan within 60 days. It also included the following statement,

"while providing for the expenditure of any funds that the Congress expressly appropriated for wall construction, consistent with their appropriated purpose. The plan shall be developed within 60 days from the date of this proclamation. After the plan is developed, the Secretary of Defense and the Secretary of Homeland Security shall take all appropriate steps to resume, modify, or terminate projects and to otherwise implement the plan."

Based on statements made during the 2020 Presidential campaign, I had anticipated this type of guidance and directed my staff to create a database with details of every wall project. The database would include, but not be limited to, the origination of the specific operational requirement, funding source, construction status, and any foreseeable questions that the new incoming administration may ask. That database was completed well before the Presidential Proclamation was issued. This information was presented and made available to Secretary Mayorkas and several Biden administration personnel on multiple occasions. Yet, to my knowledge, no meaningful construction of Congressionally-appropriated wall projects has been resumed.

While the statements of Secretary Mayorkas and subordinate political appointees usually include at least one small fact to evoke understandable compassion for the plight of migrants, I have yet to hear a single statement or see any action toward protecting Americans or securing our borders. I acknowledge and champion our responsibility as humans to help others, but Secretary Mayorkas oversees the United States Department of Homeland Security, with significant capabilities and billions of tax dollars in appropriated funds, that are supposed to be used to protect Americans, and America. This administration is clearly not doing that.

I look forward to answering your questions.

Honor First!

Chairman GREEN. Thank you, Mr. Scott.

I now recognize Ms. Acer for 5 minutes to summarize her opening statement.

STATEMENT OF ELEANOR ACER, DIRECTOR, REFUGEE PROTECTION, HUMAN RIGHTS FIRST

Ms. ACER. Thank you.

Chairman Green, Ranking Member Thompson and distinguished Members of the committee, thank you for the opportunity to testify before you today.

Over the last few years, Human Rights First has documented the horrific harms inflicted on people due to the Remain in Mexico and Title 42 policies. I personally witnessed the first days of the implementation of Remain in Mexico from Tijuana under the Trump administration and the final days of the Title 42 policy from Matamoros and Reynosa last month. My testimony focuses on a few key areas.

First, our laws and treaties rightly allow people seeking protection from persecution to seek asylum, and asylum is both morally just and politically popular. Second, not only did Trump administration policies like Remain in Mexico and Title 42 evade and violate refugee law, but they spurred chaos and inflicted massive

[3] Proclamation on the Termination of Emergency With Respect to the Southern Border of the United States and Redirection of Funds Diverted To Border Wall Construction/The White House.

human suffering. Third, the Biden administration should swiftly end its asylum ban, which endangers the lives of refugees and is inconsistent with the law, as were the Trump administration's bans on asylum. Fourth, as Human Rights First's experts on extremism and antisemitism have detailed, rhetoric painting migrants and asylum seekers as threats or invaders fuels white supremacist conspiracy theories and violence. It must be countered. Finally, Congress and the Biden administration should work together to implement effective strategies and provide the necessary resources to address challenges at the border and properly staff safe, effective, fair, asylum adjudications.

The crisis we're facing is a humanitarian one, and it's global. In my written testimony, I outlined the ways in which human rights situations have deteriorated in countries in the Americas, including Cuba, Guatemala, Haiti, Nicaragua, and Venezuela, pushing people to flee in search of protection, safety, and stability. The reality is that the vast majority of the world's refugees are hosted by other countries, and here in the Americas, other countries are hosting refugees as well. Six million of the 7 million Venezuelans who have fled are hosted in countries in Latin America and the Caribbean. The United States is more than capable of humanely receiving and fairly processing the claims of people seeking refuge here.

Under the Trump administration, Human Rights First tracked 1,544 reports of kidnappings, murder, torture, rape, and other violent attacks against people returned to Mexico under MPP. During the Court-ordered reimplementation of MPP in 2022, asylum seekers continued to be targeted. MPP hearings remained a due process farce. Many asylum seekers were abducted while traveling through border regions to attend hearings or directly outside U.S. ports of entry before or after their hearings. MPP also wasted Government resources. DHS's analysis concluded it diverted resources from other migration priorities. In June 2020, the Supreme Court confirmed the DHS Secretary had authority to end the policy.

Asylum seekers and migrants returned to Mexico under Title 42 similarly suffered kidnappings, rapes, and other attacks. The Trump administration returned well-known political activists from Nicaragua directly back to their country of persecution. Human Rights First has tracked over 13,480 reports of kidnappings, torture, and other attacks against asylum seekers and migrants during the Biden administration. Moreover, far from being an effective border management tool, the policy actually spurred increased crossings between ports of entry, inflated border apprehension statistics, and exacerbated cartel violence. Ending Title 42 does not mean that the U.S. border is open. It means U.S. immigration and refugee law can no longer be evaded by specious invocation of public health authority.

The Biden administration has taken important steps toward expanding refugee resettlement from the Americas and some regular pathways to the United States through parole. As outlined in my testimony, the Department of Homeland Security has authority, legal authority, to parole individuals into the country, and legal authority to release people from detention. The use of these legal authorities do not mean the border is open.

In conclusion, the Biden administration and Congress should work together to uphold refugee law at U.S. borders. Maximizing asylum at ports of entry after years of blockage is essential to end the counterproductive consequences of term policies that restricted and blocked access to asylum at ports of entry and pushed populations to cross between. We should enhance support for refugee hosting capacities in other countries, support for strong asylum systems and reception capacities ramp up, speed up, and strengthen regional resettlement, improve parole and other safe migration policies, implement humanitarian rather than punitive approaches to refugee protection, and take other steps that I've outlined in detail in my testimony.

We also need to press the Biden administration to end its asylum ban and to stop subjecting asylum seekers to fast track processing in CBP custody, as the Trump administration did.

Thank you so much.

[The prepared statement of Ms. Acer follows:]

PREPARED STATEMENT OF ELEANOR ACER

JUNE 14, 2023

Chairman Green, Ranking Member Thompson, and distinguished Members of the committee, thank you for the opportunity to testify before you today. My name is Eleanor Acer, and I serve as Human Rights First's senior director for refugee protection. I have over 25 years of experience monitoring and advocating for adherence to human rights and refugee law under both Democratic and Republican administrations. Human Rights First is an independent, non-profit organization that, for more than 4 decades, has pressed the United States to take a lead role in promoting, defending, and upholding human rights. It has partnered with human rights defenders in Cuba, El Salvador, Hong Kong, Russia, Saudi Arabia, Ukraine, and elsewhere around the world and, here at home, with attorneys, veterans, and many others.

Working with volunteer lawyers at many of the Nation's leading law firms, we have provided pro bono legal representation to refugees seeking asylum, helping thousands to receive protection in this country. These have included pro-democracy advocates and victims of religious persecution from China, journalists forced to flee Guatemala, Ethiopia, Honduras, Iran, and Nigeria, LGBTQ+ people seeking protection from persecution, victims of political repression from Venezuela, Syria, Egypt, and Nicaragua, and Indigenous and other families targeted due to their opposition to brutal armed groups with transnational reach in Honduras, El Salvador, and Guatemala.

Over the last few years, our human rights researchers have traveled repeatedly to Mexican border cities to speak with people seeking asylum who have been turned away or left stranded in danger by the Remain in Mexico and Title 42 policies, and we have tracked horrific accounts of human suffering inflicted by these policies. I personally witnessed the first days of implementation of the Remain in Mexico policy from Tijuana under the Trump administration, and the final days of the Title 42 policy from Matamoros and Reynosa last month. My testimony will focus on a few key areas:

- First, our laws and treaties rightly allow people fleeing persecution to seek asylum—and this right to seek asylum is both morally just and politically popular.
- Second, not only did failed Trump administration policies like Remain in Mexico and Title 42 evade and violate refugee law, but they spurred chaos and inflicted massive human suffering.
- Third, the Biden administration should swiftly end its ban on asylum, which endangers the lives of refugees seeking asylum and is inconsistent with the law.
- Fourth, orchestrated rhetoric painting migrants and asylum seekers as threats or "invaders" fuels white supremist conspiracy theories and violence targeting Black, Brown, immigrant, Jewish, and other people. Lawmakers must refuse to provide a platform for this rhetoric and must swiftly call out racist fearmongering and counter disinformation with reliable and accurate data.
- Finally, Congress and the Biden administration should work together to implement and support effective strategies including strengthened regional refugee

resettlement and parole; provide the necessary resources to address adjudication and processing challenges; and properly staff safe, effective, and fair asylum adjudications. Parole and release from detention are legally authorized and mass detention would neither be humane nor fiscally responsible.

I. UPHOLDING ASYLUM IS MORALLY RIGHT AND POLITICALLY POPULAR ACROSS PARTY LINES

The right to seek asylum is a fundamental human right enshrined in the Universal Declaration of Human Rights. In the wake of World War II, the United States helped lead efforts to draft the Refugee Convention, which along with its Protocol, prohibits the return of people to persecution. United States law specifically provides for people in search of refuge to seek asylum at ports of entry and after entering the United States.

The majority of American voters, across party lines, believe that the United States should provide asylum to people fleeing persecution or violence in their home countries.[1] Many Americans are the children, grandchildren, and great-grandchildren of people who fled political, religious, and other persecution. Moreover, lawmakers of both parties also believe the right to asylum should be protected.

Proponents of unjust anti-asylum policies often refuse to acknowledge the factors pushing people to leave their countries in search of refuge, or the fact that the vast majority of the world's refugees are hosted by countries other than the United States. In reality, the human rights situations in many countries in the Americas have deteriorated in recent years, pushing people to flee in search of protection, safety, and stability. For example:

- In Cuba, where freedom of expression, association, and other basic human rights are sharply restricted, repression has increased over the last few years, as security forces responded violently with an extended wave of brutal repression to the country's historic protests against economic difficulties and lack of fundamental freedoms.
- In Haiti, violence and political instability escalated after the 2021 assassination of the president, and in late 2022 the U.N. High Commissioner for Human Rights, U.N. High Commissioner for Refugees, and the U.N. Humanitarian Coordinator for Haiti all warned that people should not be returned to the country due to the dire and dangerous conditions there.
- In Nicaragua, political persecution continued to escalate against civil society, journalists, activists, church leaders, nuns, and ordinary people—who live in fear and cannot safely engage in public assembly or religious worship—and further intensified during the year with a crackdown against civil society in connection with November 2022 elections. In January 2023 guidance, the U.N. Refugee Agency (UNHCR) stated this crackdown "may be characterized as a massive violation of human rights."
- In Venezuela, the human rights situation has grown significantly worse in recent years due to harsh crackdowns on political opposition, the ruling party's reliance on widely condemned elections to control all branches of the government, horrific use of torture, and a severe humanitarian crisis.
- Human rights violations have continued or escalated in other countries as well, including in Guatemala where the rule of law has deteriorated, concerns of authoritarianism are rising, and persecution has escalated against journalists, Indigenous and human rights activists, and judicial officials combating impunity for human rights violations, as well as in Honduras, El Salvador, and other countries, as Human Rights Watch documented in its recent annual report.

The reality is that many people fleeing these and other places have fled to other countries in the Americas. In fact, of the 7.1 million people who have fled Venezuela in search of safety and stability, about 6 million are hosted in Colombia, Ecuador, Peru, and other countries in Latin America and the Caribbean. Costa Rica is hosting about 200,000 or more Nicaraguans, and experienced a five-fold increase in total asylum claims in the first 6 months of 2022, as compared to the year before. Mexico hosts about 500,000 refugees and asylum seekers, though many face grave threats to their safety there.

---

[1] In a November 2022 poll conducted by the U.S. Immigration Policy Center, 87 percent of Democrats, 74 percent of Independents and 57 percent Republicans expressed support for asylum. Another May 2022 poll found that a majority of voters across the political spectrum supported asylum and wanted the Biden administration to end the Title 42 policy. Voters "by a margin of 58 percent to 32 percent [said] that they would prefer a candidate who favors allowing people to legally request asylum at the Southern Border over a candidate who opposes doing so."

The United States is more than capable of humanely receiving and fairly processing the asylum claims of the portion of people seeking refuge here from repression, violence, and persecution.

II. FAILED TRUMP ADMINISTRATION POLICIES INFLICTED CHAOS AND HUMAN RIGHTS ABUSES

The Title 42 and Remain in Mexico policies were failed policies implemented by the Trump administration that violated and evaded immigration law, inflicted disorder and dysfunction at the border, and led to massive human rights abuses. These dysfunctional policies also spurred repeat entries, led to family separations, pushed people seeking asylum to cross outside ports of entry, and inflated border statistics.

A. Remain in Mexico or "Migrant Protection Protocols" (MPP)

The Remain in Mexico policy—often referred to as "MPP"—was a blatant evasion of U.S. refugee law and asylum processes. Initiated by the Trump administration through a flimsy 4-page memorandum, the policy turned away people seeking asylum and other migrants awaiting immigration court hearings to "wait" in danger, in Mexico, for their U.S. hearings. The Remain in Mexico policy—and others like it that force asylum seekers to wait outside the United States for their cases to be heard—simply cannot be implemented lawfully, safely, fairly, or humanely.

Human Rights First tracked at least 1,544 publicly-reported cases of kidnappings, murder, torture, rape and other violent attacks against people returned to Mexico under MPP during the Trump administration. For example, after the Department of Homeland Security (DHS) returned them to Nuevo Laredo under MPP, a Guatemalan family with 2 young children, 5 Cuban asylum seekers, and 4 Venezuelan women and a girl were among those kidnapped and held captive in multiple separate incidents. Others were subjected to horrific sexual violence, including a 9-year-old disabled girl and her mother, who were kidnapped near the Tijuana port of entry and repeatedly raped. Another asylum seeker was kidnapped and raped in front of her 3-year-old son after DHS sent them to Matamoros. In yet another case, DHS forced a Nicaraguan mother and her 9-month-old baby to wait in Mexico under MPP; they were kidnapped by cartels, who punched the mother in the neck and forced her to call family members and beg for ransom money. A 7-year-old Honduran girl and her mother were abducted after DHS returned them to Nuevo Laredo under MPP. She told her mother "Mommy, I don't want to die" after overhearing the kidnappers threatening to murder other migrants.

During the court-ordered reimplementation of MPP in 2022 (due to litigation brought against the Biden administration by Trump-aligned State attorneys general attempting to force the continuation of MPP), asylum seekers continued to report horrific kidnappings, rapes, and other violent attacks after DHS returned them to Mexico (under what was known as MPP 2.0). As Human Rights First detailed in a September 2022 report, these included: a Nicaraguan woman kidnapped and sexually assaulted; a Venezuelan asylum seeker beaten and shot at; a teenage girl sexually assaulted; and two Nicaraguans kidnapped by a cartel and forced to watch as cartel members put a gun in another man's mouth and threatened to kill him.

MPP hearings also remained a due process farce under MPP 2.0. Only 5 percent of the people returned to Mexico under MPP 2.0 managed to find attorneys to represent them. Just to attend their U.S. immigration court appointments, asylum seekers were forced to risk kidnapping and violence. Many were abducted while traveling through border regions to attend hearings or directly outside U.S. ports of entry before or after hearings. Cartels extorted returned asylum seekers based on the date of their next MPP hearing, effectively imposing a tax on the time the U.S. Government forced them to wait in Mexico under the policy. For asylum seekers subjected to this process, the dangers, impediments to legal counsel, and abhorrent conditions forced many to give up on their requests for U.S. asylum protection.

MPP also wasted Government resources. DHS's own analysis concluded that the personnel required for MPP diverted resources from other immigration priorities. DHS Secretary Mayorkas concluded that "there are inherent problems with the program that no amount of resources can sufficiently fix, and that other problems "cannot be addressed without detracting from key administration priorities and more enduring solutions." In June 2022, the U.S. Supreme Court confirmed that the DHS Secretary had the authority to end the policy.

B. Title 42

Beginning in March 2020, the Trump administration exploited Title 42, a public health authority, to block and expel people at the U.S. Southwest Border without due process, adherence to refugee law and treaties, or immigration law consequences. Federal courts have vacated and enjoined the Title 42 policy, including

in a November 2022 D.C. district court ruling that vacated the policy for violating U.S. law. A March 2022 ruling by the U.S. Court of Appeals for the D.C. Circuit prohibited DHS from using Title 42 to return asylum-seeking families "to places where they will be persecuted or tortured."

Asylum seekers and migrants returned to Mexico under Title 42 endured kidnappings, rape, and other attacks. Under the Trump administration, these included a pregnant Honduran asylum seeker who had been repeatedly raped in Mexico and was expelled under Title 42 while experiencing contractions, a Guatemalan asylum seeker, who had been kidnapped for a month in Mexico and was beaten by a U.S. Customs and Border Protection (CBP) agent with a baton while being expelled to Nogales, Mexico, and a Honduran woman who was turned away from a shelter in Reynosa, Mexico, along with her 3-year-old toddler and 5-day-old baby after being expelled. The Trump administration also used Title 42 to deny Nicaraguan political activists opposed to President Daniel Ortega the ability to seek asylum and instead expelled them directly back to Nicaragua, as the *Washington Post* reported.

Human Rights First has tracked over 13,480 kidnappings, torture, and other attacks against asylum seekers and migrants impacted by the Title 42 policy during the first 2 years of President Biden's administration. These included: a 34-year-old Haitian asylum seeker, Jocelyn Anselme, who was murdered in Tijuana in May 2022 while blocked from seeking asylum under Title 42; a Nicaraguan woman kidnapped with her 4-year-old child and raped, who remained stranded in danger in Mexico; a lesbian asylum seeker from El Salvador raped after being expelled to Mexico under Title 42; a 13-year-old girl who was nearly abducted at gunpoint in Juárez after her family fled political persecution in Venezuela but was expelled under Title 42; and a transgender Honduran asylum seeker who was kidnapped and raped after DHS repeatedly expelled her to Mexico.

In a December 2022 report, Human Rights First found that the court-forced continuation of the Title 42 policy (pursuant to a lawsuit brought by Trump-aligned attorneys general) and the Biden administration's October 2022 expansion of the Title 42 policy to expel Venezuelans: inflicted terrible human rights abuses, including for Black, Brown, Indigenous, and LGBTQ+ persons, women, and children; subjected asylum seekers to refoulement to persecution and torture in the countries they fled; endangered faith-based, humanitarian, and legal aid workers assisting asylum seekers impacted by the policy; and pushed asylum seekers to attempt dangerous crossings to reach safety.

Proponents of the forced continuation of the Title 42 "public health" policy inaccurately and absurdly painted it as a tool needed for "controlling" migration at the Southwest Border. Far from being an effective border management tool, the Title 42 policy was a failed attempt at a border policy. The policy actually prevented U.S. agencies from enforcing immigration law, spurred increased crossings between ports of entry, inflated border apprehension statistics, exacerbated cartel violence and insecurity at the border, facilitated discriminatory asylum policies that target Black, Brown, and Indigenous asylum seekers, and subverted both U.S. and international law.

In a June 2021 report, the Government Accountability Office (GAO), for example, confirmed that Title 42 expulsions led to "some individuals trying to cross the border multiple times per day" and that the repeat crossing rate rose to 34 percent during the first quarter of fiscal year 2021, meaning that 1 in 3 people encountered at the border at that time had been previously expelled or deported. With respect to people seeking refugee protection, Title 42 and similar policies pushed asylum seekers—including Cubans, Haitians, and Venezuelans—who previously mostly approached official border posts to seek asylum, to instead attempt to cross into the United States between ports of entry.[2]

Counterproductive policies such as Title 42 and Remain in Mexico have also benefited the criminal cartels that control extensive territories. As Human Right First detailed in a February 2022 report, cartels have adapted to turnback policies by targeting the very asylum seekers turned away by CBP—kidnapping them, purporting

[2] For instance, as Human Rights First explained in a June 2022 report, Government data confirms that in fiscal year 2017, 99 percent of Cubans and Haitians encountered at the Southern Border had arrived through a port of entry. But after years of "metering" restrictions and Title 42 expulsions, in fiscal year 2022 through May 2022, just 0.2 percent of Cubans and 14 percent of Haitians arriving at the Southern Border were able to present themselves at a port of entry. The percentage of Haitians arriving through ports of entry rose in April and May 2022, as some ports of entry processed limited numbers of Haitian asylum seekers through Title 42 exceptions. More limited data also shows that the percentage of Venezuelan asylum seekers presenting themselves at ports of entry followed a similar trend, plummeting from 56 percent in fiscal year 2020 to just 0.2 percent in fiscal year 2022 through May 2022.

to charge them for the right to remain in Mexico, torturing them and demanding ransom payments from their U.S. family members. Some of these organizations have worked to actively prevent asylum seekers from approaching ports of entry, as the restoration of port of entry processing for asylum seekers threatens the cartels' control and extortion efforts.

Ending Title 42 does not mean that the U.S. border is "open." It means that U.S. immigration and refugee law can no longer be evaded by the specious invocation of "public health" authority.

The last thing that Congress or the Biden administration should do is to attempt to force, prolong, codify, or resurrect policies that violate U.S. law and obligations under international refugee law and inflict disorder, family separation and massive human rights abuses on people seeking refuge. Such policies are not actual "solutions," but tools to deny access to this country to Black, Brown, Indigenous, LGBTQ+, and other people seeking asylum from persecution.

III. INHUMANE, COUNTERPRODUCTIVE ASYLUM POLICIES REMAIN IN PLACE UNDER THE BIDEN ADMINISTRATION

Two-and-a-half years since President Biden took office, his administration has taken some important initial steps toward ending Trump administration policies that created chaos, subvert refugee law, and endanger the lives of people seeking asylum. These steps include President Biden's February 2021 Executive Order directing review of Trump administration policies, the Secretary of Homeland Security's termination and re-termination of the notorious Remain in Mexico (RMX) policy, and the termination of the Title 42 policy in May 2023. The Biden administration has also taken steps to expand refugee resettlement from the Americas and provide some regular pathways to the United States through parole.

The Biden administration wielded the Title 42 policy for over 2 years—in part due to lawsuits filed by State politicians aligned with the prior administration—and expanded it multiple times to expel additional nationalities to danger. Despite finally ending this inhumane and dysfunctional policy, the Biden administration has recently taken steps backward, implementing other Trump-era policies in the face of border arrivals and orchestrated, politically-driven anti-immigrant rhetoric. Other inhumane Trump administration policies remain on the books due to the slow pace of agency regulatory action.

In May 2023, the Biden administration DHS and DOJ issued a regulation promulgating an asylum ban—an approach repeatedly initiated by the Trump administration and repeatedly found unlawful by the courts.

- During the period that the Trump administration's transit ban was in effect, asylum seekers who were denied protection and ordered deported due to the ban included a Venezuelan opposition journalist and her 1-year-old child; a Cuban asylum seeker who was beaten and subjected to forced labor due to his political activity; a gay Honduran asylum seeker who was threatened and assaulted for his sexual orientation; and a Congolese woman who had been beaten by police in her country when she sought information about her husband who had been jailed and tortured due to his political activity.
- Asylum seekers who underwent credible fear interviews in CBP custody under the Trump administration—many of whom were also subjected to the asylum transit ban—were denied a meaningful opportunity to present their asylum claim and many were ordered deported, including a 16-year-old girl who fled trafficking and sexual exploitation, an Indigenous Guatemalan woman who was sexually assaulted because of her ethnicity, and a Central American woman fleeing domestic violence by an abuser who killed one of her children.

The Biden administration's asylum ban unlawfully makes refugees ineligible for asylum based on how they enter the United States and whether they applied for protection in a country they traveled through on their way to seek safety. It will return refugees to persecution, torture, and death in their home countries and other countries where their lives are at risk and leave other refugees in limbo in the United States without permanent status or a pathway to citizenship. During the year that the Trump administration's similar transit ban was in effect, it resulted in the denial of asylum to refugees with well-founded fears of persecution and deprivation of a path to citizenship for refugees left only with withholding of removal due to the transit ban. The Biden administration's misguided approach breaches President Biden's campaign promise to end restrictions on asylum seekers traveling through other countries and endangers many Black, Brown, Indigenous, LGBTQ+, and other asylum seekers. It also advances the agenda of anti-immigrant groups, including the Federation for American Immigration Reform, which was designated

a hate group by the Southern Poverty Law Center and praised the Biden administration's plans to impose an asylum ban as a "good first step."

In January 2023, Human Rights First joined a diverse[3] coalition of nearly 300 organizations in a letter to the Biden administration, urging it to abandon its plan to issue the asylum ban. Nearly 80 Members of Congress echoed that call, in a bicameral letter to President Biden. Faith-based organizations also called on the Biden administration to uphold asylum and abandon plans to propose an asylum ban. Nonetheless, in February 2023 the Biden administration published its proposed asylum ban, which met wide-spread opposition. Of the 51,000 comments received in response to the proposed rule after a mere 30-day comment period, the vast majority of comments opposed the ban, including comments from UNHCR, the union representing asylum officers who would be forced to implement the illegal ban, former immigration judges, 82 Members of Congress from the President's own party, Black-led, civil rights, and LGBTQ+ organizations, Catholic Bishops, rabbis, and Holocaust survivors and their family members. Despite the wide-spread opposition, the administration finalized the illegal ban in May 2023 and began wielding it against asylum seekers.

In addition, the Biden administration has been conducting fast-track asylum screenings through expedited removal in CBP custody at the border, undercutting any meaningful opportunity for an asylum seeker to explain their case, and applying the asylum ban in these screenings to rapidly deport asylum seekers without a hearing regardless of their risk of persecution. On June 5, 2023, 112 organizations wrote to the Biden administration warning that this practice has already produced systemic due process barriers, effectively denies asylum seekers any meaningful chance to consult with counsel, and rushes them through a sham process to quickly deport them. The National Immigrant Justice Center also issued a report finding that the Government is actively obstructing access to counsel and that the program "appears designed to rush people through to deportation without legal advice or representation." The conduct of credible fear interviews in CBP custody is similar to a Trump-era policy known as the "Prompt Asylum Case Review" program and "Humanitarian Asylum Review Program," or PACR/HARP.

PACR/HARP was also a due process, humanitarian, and refugee protection fiasco. Notably, President Biden directed DHS to terminate PACR/HARP in his February 2021 Executive Order. Asylum seekers detained in CBP custody have frequently reported being provided insufficient or inedible food and water; lack of access to showers and other basic hygiene; and inability to sleep because of lack of adequate bedding and cold conditions. Conducting credible fear interviews in CBP custody drastically exacerbates the deficiencies of the expedited removal process, which continues to result in the deportation of refugees to persecution and torture.

Over the last month or so, Human Rights First and other researchers have spoken with hundreds of asylum seekers stranded in the highly dangerous Mexican border cities of Matamoros, Reynosa, Nogales, and—this week—Ciudad Juárez. Findings include:

- The Biden administration's new asylum ban is stranding many people seeking asylum to wait in places where they are targets of brutal violence and kidnappings and left in horrendous conditions without access to basic services. Haitian and other Black people seeking asylum are targets of anti-Black discrimination and violence;
- Human Rights First has spoken to hundreds of people waiting in Mexico, and they overwhelmingly had no knowledge of the Biden administration's asylum ban;
- People seeking asylum continue to struggle to secure one of the limited CBP One appointments while they wait in danger—including an LGBTQI+ asylum seeker who was nearly kidnapped in Sonora, and two Haitian couples and a baby who escaped a potential kidnapping near the Nogales port of entry in late May;
- People seeking asylum who do not have appointments have been turned away from ports of entry by CBP officers and/or by Mexican authorities, and in other cases left to "wait" in a line that barely budges—some left waiting in their country of feared persecution.

[3]The diverse coalition of prominent labor, LGBTQ, faith, and civil rights signatories include: ACLU, Amnesty International, CHIRLA, Community Change Action, FIRM Action, HIAS, Haitian Bridge Alliance, Immigration Equality, Immigration Hub, Indivisible, International Mayan League, MoveOn, IRAP, IRC, NILC, National Immigrant Justice Center, PFLAG National, Refugee Council USA, The Leadership Conference on Civil and Human Rights, UndocuBlack Network, UnidosUS, and the Welcome with Dignity campaign.

Human Rights First issued reports in recent weeks in collaboration with some of the other organizations that are monitoring the implementation of the Biden administration's asylum ban including the Haitian Bridge Alliance and organizations participating in a delegation the Haitian Bridge Alliance led, the Florence Immigrant & Refugee Rights Project and the Kino Border Initiative.

There is a more humane, effective, and legal way forward, as Human Rights First has explained in its most recent set of recommendations, which are outlined below.

IV. ANTI-IMMIGRANT NARRATIVES ENDANGER COMMUNITIES AND DRIVE HARMFUL POLICIES

Anti-immigrant fear-mongering that paints migrants and people seeking asylum as threats and "invaders" fuels white supremist conspiracy theories and violence targeting Black, Brown, immigrant, Jewish, and other people, as Human Rights First's experts on extremism and antisemitism have detailed in a recent fact sheet. By portraying immigrants as an existential threat to native-born Americans, this type of rhetoric makes violence more likely, as we have seen in recent years. Eleven people in Pittsburgh and 23 people in El Paso were murdered by white supremacists animated by fears of supposed immigrant "invaders." As these horrifying attacks demonstrate, we cannot divorce this "invasion" rhetoric from its violent and racist origins.

These narratives often rely on a vitriolic combination of disinformation and bigoted stereotypes. For example, immigrants are often portrayed as criminal or violent, even when extensive research shows native-born Americans are much more likely to commit crimes than are immigrants. In recent years, immigrants have been increasingly blamed for the devastating growth of fentanyl usage across the country, despite the reality that fentanyl is most likely to enter the United States through legal points of entry by U.S. citizens.

In recent months, some Members of Congress have continued to promote this harmful rhetoric, including in advance of the lifting of Title 42. To prevent Congressional hearings from serving as vehicles to further popularize extremist rhetoric, lawmakers must effectively challenge the disinformation, bigoted stereotypes, and conspiracy theories on which these narratives rely. For example, 115 Members of Congress co-sponsored H. Res. 413, which condemns the white supremacist "great replacement" conspiracy theory and the terrorist attack targeting the Black community it inspired in Buffalo, New York. Representative Raskin, Ranking Member of the Committee on Oversight and Accountability, publicly called on his fellow committee Members to denounce white supremacism. Lawmakers, especially those in positions of leadership, can and must proactively and repeatedly counter such statements on the public record, ensure the voices of targeted communities have representation, and support efforts to protect the rights of migrants and asylum seekers.

V. THE USE OF PAROLE AND RELEASE FROM DETENTION ARE AUTHORIZED BY LAW

DHS has the legal authority to parole people into the country "on a case-by-case basis for urgent humanitarian reasons or significant public benefit." The parole authority is spelled out in 8 U.S.C. 1182(d)(5)(A) of U.S. law. The use of parole for eligible people does not mean that the U.S. border is "open." U.S. immigration authorities have used parole authority for decades to parole people into the United States—including people from the Soviet Union and Vietnam (1988), Cubans through the Cuban Family Reunification Parole Program (CFRP) (2007), and Ukrainians through Uniting for Ukraine (2022).

The Biden administration has also created programs to allow certain individuals from Cuba, Haiti, Nicaragua, and Venezuela to apply for parole if they meet requirements including having a sponsor in the United States. The existence of regular pathways can enable some people to travel safely and without resorting to irregular travel. The Biden administration should strengthen its use of parole including to improve access to it for highly vulnerable persons who are not eligible under current initiatives.

The use of parole however is not, and is no substitute for, asylum or refugee resettlement. People facing grave threats cannot wait to apply for parole, and many cannot afford or are not eligible to apply for these parole initiatives due to their requirements. Parole authority or other regular pathways to the United States should never be used as an attempt to justify the denial of access to asylum.

Moreover, it is not illegal to release people from immigration detention. U.S. law provides for ways to release people from immigration detention and custody. For instance, CBP has the discretion to put people it encounters into removal proceedings, with or without sending them to detention, or to use expedited removal. People

seeking asylum who are initially referred into expedited removal can for instance be released from immigration detention on parole under U.S. law—as both Democratic and Republican administrations have repeatedly confirmed through their actions and official guidance.

Human rights reports have documented the abuses suffered by people held in immigration detention, as well as the waste of Government resources inherent in the massive use of immigration detention. Detention costs on average $144.42 per bed, per day. Studies have repeatedly confirmed that asylum seekers and migrants overwhelmingly appear for hearings after release from DHS custody, rendering the use of costly and harmful immigration detention unnecessary to ensure future appearance. It is both fiscally irresponsible and incredibly inhumane to endeavor to send all people awaiting asylum or other immigration court adjudications to detention centers. Detained asylum seekers and migrants are also cutoff from legal representation; only 37.6 percent of detained individuals with pending cases have been able to secure legal representation while 63.8 percent of all people released from detention who have pending cases are represented, according to data analyzed by Syracuse University's Transactional Records Access Clearinghouse (TRAC). Legal representation is critical to ensuring that individuals understand our byzantine immigration laws and court proceedings (described by one immigration judge as "death penalty cases heard in traffic court settings"), and thus demonstrate they meet the criteria to receive asylum or other relief that they are eligible for under U.S. law.

VI. RECOMMENDATIONS FOR UPHOLDING REFUGEE LAW

Instead of seeking to prolong, use, or resurrect inhumane and counterproductive policies that were part of the Trump administration's agenda, the Biden administration and Congress should work together to:

- Uphold refugee law at U.S. borders without discrimination, including to maximize (rather than restrict or "meter") asylum at ports of entry, and ensure people seeking asylum have prompt access to ports of entry—not limited to CBP One, but also assured to people approaching ports of entry to seek asylum. Maximizing asylum at ports of entry after years of blockage is essential not only to uphold refugee law, but also to end the counterproductive consequences of Trump policies that, by restricting and blocking access to asylum at ports of entry, have long pushed populations that previously sought asylum at ports of entry to instead attempt to cross the border.
- Immediately rescind the Biden administration's asylum ban, which punishes refugees and bars them from asylum, stop subjecting asylum seekers to expedited removal including through dangerously fast-tracked screenings in CBP custody where asylum seekers do not have meaningful access to counsel, and rescind remaining fatally-flawed policies of the Trump administration that ban refugees from asylum.
- Enhance support for human rights and refugee hosting capacity in other countries in the Americas, including through efforts to support development of strong asylum systems, reception capacities, access to employment, and protection of rights and safety of refugees and migrants in Mexico and other countries in the Americas.
- Ramp up, speed up, support, and strengthen regional refugee resettlement, improve parole and other safe migration pathways in the Americas, but never use the existence of such pathways to deny access to asylum.
- Implement a humanitarian, rather than a punitive and attempted deterrence-based, approach to refugee protection through effective, sustainable, humane refugee reception structures, coordination, funding mechanisms, and case support to address the lack of dedicated humanitarian and refugee protection structures that has long hampered the U.S. response to people seeking refuge at its own borders.
- Upgrade asylum adjudication processes so they are accurate, fair, properly staffed, and prompt, including: improve the new asylum rule process so it leads to efficiency rather than rushed and counterproductive inaccurate adjudications, fund sufficient asylum adjudication capacities to address asylum backlogs and ensure timely adjudication of new cases, and support and champion funding for legal representation.
- Stand firm against anti-immigrant rhetoric and efforts, and unequivocally reject attempts to exploit Congressional hearings as opportunities to platform dangerous anti-immigrant conspiracy theories. Reject and oppose anti-asylum Congressional proposals, including efforts to force continuation or enactment into law of the Trump administration's cruel, racist, and counterproductive policies. Draconian policies will not appease perpetrators of xenophobic, racist rhetoric,

but will inflict massive human suffering, create more dysfunction, and subvert refugee law globally.

Human Rights First has detailed these steps in its comprehensive recommendations paper issued in January 2023. These strategies lay out a more humane and effective approach.

Let's be clear: we are not, by any stretch of the imagination, an "open borders" Nation. Any such assertion is patently false. For example, CBP conducts security checks of people seeking entry at ports of entry or otherwise encountered, and puts people into removal proceedings, expedited removal, and/or refers them to ICE for check-ins. Too often they send people seeking refugee protection to immigration jails. Human Rights First has issued countless reports documenting past and present asylum bans and the horrifying impact of Title 42. Unfortunately, our Government has repeatedly focused on harsh, rights-violating policies that attempt to deter and punish people seeking to migrate or request asylum at the border, only exacerbating bottlenecks and dangerous conditions along the Southwest Border and in detention.

Instead of prolonging, codifying, using, or resurrecting unjust, inhumane, and dysfunctional policies aimed at decimating asylum that were initiated under the Trump administration, the Biden administration, and Members of Congress should uphold U.S. refugee law, the human right to seek asylum, and U.S. commitments under international refugee law. This includes abandoning efforts to ban or deny asylum to refugees who are otherwise eligible for asylum under U.S. law.

The crisis we are facing is a global humanitarian crisis; people are fleeing their home countries due to a rise in political instability, authoritarianism, human rights abuses, climate change, and more. The United States is not meeting the moment, nor is it leading by example; other nations, including those with far less capacity than ours, are welcoming and hosting the overwhelming majority of the world's refugees. We can and must do better to uphold refugee law at home.

Chairman GREEN. Thank you for your testimony.

I now recognize myself for questions.

I want to talk about this claim that there has been a 70 percent decrease since Title 42 went away. It looks like they are counting the encounters at 3,500 compared to the peak of 11,000, the actual record number, which happened right before that. But what they are not counting—it is very interesting—confirm—I don't know any of the witnesses that can confirm this, but we are not counting the CBP One app appointments, as I understand it. Is that correct?

Mr. WOLF. That is correct. So the numbers that are being cited by the Department are Border Patrol numbers. Those are encounters between ports of entry. So they talk about, I believe, a 70 percent decrease. What they're not telling you, they're actually capturing the number, but they're not including it in their press release, is the number from of, which is the Office of Field Operations, they're at a port of entry are the number of inadmissibles that are showing up at ports of entry. What's happening is they're being shifted between the ports of entry to the ports of entry.

Chairman GREEN. It is a shell game. Basically, we are taking the numbers out of these and we are not reporting them over here, and we are allowing for appointments to be made through CBP One app and then saying that that is a lawful mechanism of entry.

Mr. Edlow, is that in congruence with the law? Is that a lawful entry just because you fill out an app on-line?

Mr. EDLOW. No. No, it's not.

Chairman GREEN. So it is a violation of the law?

Mr. EDLOW. It's a violation. Frankly, if somebody comes to the port of entry, has no documentation to get in, there is a lawful mechanism for them to claim credible fear and to move through that process. But to just allow them to come in to parole them, not

on a case-by-case basis, I might add, but as a group, is not within the confines of the law.

Chairman GREEN. Yes, it is against the laws passed by the U.S. Congress. OK.

So again, kind-of digging into this a little further. This group of—and I think the amount of the appointments are about 1,500 or so a day, add that to the 3,500, add that to the number that don't schedule an appointment, and come through that—we don't know that number because they are not reporting that number. Has there really been an appreciable decrease in your opinions since Title 42 went away?

Mr. SCOTT. I do not believe that there has been a decrease in the numbers. It is a shell game.

The other thing I want to point out, too, is it's very selective about what day they choose to compare the numbers to. You need to look at a little broader amount of time. The border for my entire career was systematically getting more and more controlled, and we are actually driving those numbers down. You have to look at it longer, not just 1 day in time.

Chairman GREEN. Mr. Wolf, on May 10, reporter and immigration analyst Todd Bensman reported ahead of the expiration of Title 42 that Mexican immigration officials were informing him that they were coordinating with DHS personnel on the other side of the border to move illegal aliens from the Mexico side of the Rio Grande to the American side. In other words, they were helping aliens illegally cross into the United States. This would violate, as I understand it, Section 274 of the INA, which prohibits aiding and abetting illegal immigration or helping someone enter the country. In your opinion, would such an intentional coordination on a high-profile stage have been conducted without the approval or foreknowledge of the Secretary of Homeland Security?

Mr. WOLF. No, you would need to have approval up and down the chain of command.

Chairman GREEN. So basically, again, violating the laws of the United States. You would think that authority—I mean, the Border Patrol guys would never do that without the authority of the Secretary. Is that what you are saying?

Mr. WOLF. It's hard for me to say whether the Chief of the Border Patrol was aware or whether that made it all the way to the Secretary or not. I'm not there, so I can't testify to that.

Chairman GREEN. OK. I can't imagine they would willfully break the law without the Secretary giving them approval. But we will dig further into that later.

The interim final rule that came out, Mr. Edlow, can you discuss a little bit about how this basically upends the entire intent of the laws of Congress from the INA?

Mr. EDLOW. Certainly, Mr. Chairman.

When the Homeland Security Act was signed and enacted in 2002, 2003, most powers that had been exercised by the former INS were moved over to the new DHS, specifically with asylum to USCIS, where asylum officers were conducting interviews. However, after a credible fear interview, the way it always had worked was that the alien would then go before the immigration judge. That powers were never transferred as part of the Homeland Secu-

rity Act. This rule does transfer, does shift that authority from DOJ to DHS, having a second bite at the apple to——

Chairman GREEN. Speed people into the country, basically not have to go through the immigration judge process.

Mr. EDLOW. Correct. But not only that, sir, but the fact that they do not require a new asylum application really does limit the ability for anyone to assess whether there's a valid claim or not.

Chairman GREEN. My time has expired.

I yield to the Ranking Member.

Mr. THOMPSON. Thank you very much, Mr. Chairman.

Ms. Acer, Republicans have constantly falsely accused Secretary Mayorkas of being derelict in his duty to secure the border, even though as I said in my opening statement, border encounters have dropped sharply since the Biden administration terminated Title 42 last month. Republicans don't like the Biden administration is returning to a more orderly, humane border and immigration policy after the cruelty and dysfunction of the Trump administration. They can't stand that these policies have been effective. So we are seeing this political theater play out with the Republican leadership trying desperately to appease its Members.

My Republican colleagues seem to be particularly upset about the Biden administration allowing people to present themselves at port of entry to seek asylum as provided under the law, just as every other administration had prior to this one. Actually, there seems to be some revisionist history going on because even President Trump's Secretary of Homeland Security, Kirstjen Nielsen, Mr. Wolf's former boss, acknowledged, in fact, encouraged migrants to come to ports of entry for processing, saying, and I quote, "So if a migrant comes to a port of entry, they haven't broken any laws". This is exactly why we tried encourage the migrants to go to a port of entry.

The Biden administration is being sued to force it to do more to restore access to asylum after the last administrations effectively cut it off.

Now, Ms. Acer, since you are an immigration attorney with vast experience and expertise in this field, I want to talk with you you and set the record straight. Claiming asylum at a port of entry is lawful, correct?

Ms. ACER. Absolutely.

Mr. THOMPSON. Claiming asylum after being encountered by Border Patrol is lawful too, correct?

Ms. ACER. Absolutely, yes.

Mr. THOMPSON. Paroling migrants, is lawful and within the authority of the Secretary of Homeland Security, correct?

Ms. ACER. Yes, sir.

Mr. THOMPSON. No administration has ever detained everyone encountered at the border, isn't that right?

Ms. ACER. That is right.

Mr. THOMPSON. That includes the Trump administration, correct?

Ms. ACER. Absolutely.

Mr. THOMPSON. So Title 42 caused terrible harm to asylum seekers, which you saw first-hand on your visits to the border. Title 42 was also detrimental to border security. Isn't that right?

Ms. ACER. Absolutely.

Mr. THOMPSON. Please explain that to the committee.

Ms. ACER. As I mentioned in my testimony, Title 42 encouraged repeat entries. It did not have immigration consequences. It also pushed populations that used to go and seek asylum at ports of entry to end up having to cross between ports of entry, because not just for weeks, but for months and months and years and years, there was no way to actually cross the border.

The change in numbers we've seen, I believe, is a confirmation of what an absolute disaster Title 42 was from so many ways. Asylum seekers that we met at the border were trying to use the CBP One app. How that works, for those of you who haven't seen it, is people provide information that the Government receives and actually reviews in advance. One of our concerns about the CBP One app is that it could be used to actually meter and limit the number of asylum seekers allowed to legally seek asylum.

In addition, I would say that we're also concerned about asylum seekers who are trying to approach ports of entry, who are not being allowed to do so now, either because of CBP or Mexican government authorities not letting them do so.

Mr. THOMPSON. Thank you.

Mr. Chair, I would like to include in the record a GAO decision that Mr. Wolf indeed served in that capacity of Secretary illegally. I would like to also include a review requested by the Department and affirmed by GAO again, that Mr. Wolf served in that capacity illegally. I would also like to submit for the record a fellow judge in Maryland also ruled that Mr. Wolf was serving illegally in that position.

Chairman GREEN. Without objection, so ordered.

Mr. HIGGINS. Mr. Chairman, I object.

Chairman GREEN. We have an objection.

Mr. HIGGINS. I object. I don't believe the Ranking Member is capable of presenting to this committee justification for claiming that Secretary Wolf served illegally. This is not a Court of Law, it is a committee in Congress. I object to the inclusion in the historical record.

Chairman GREEN. OK. I think we misunderstood the gentleman's motion. It was not objection to the insertion of the material into the record, it was, I think, just a statement of opinion about.

And so, so ordered. The GAO reports are entered into the record.

[The information follows:]

GAO U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

Decision

Matter of: **Department of Homeland Security**—Legality of Service of Acting Secretary of Homeland Security and Service of Senior Official Performing the Duties of Deputy Secretary of Homeland Security

File: B-331650

Date: August 14, 2020

DIGEST

The Federal Vacancies Reform Act of 1998 (Vacancies Reform Act) provides for temporarily filling vacant executive agency positions that require presidential appointment with Senate confirmation. 5 U.S.C. § 3345. GAO's role under the Vacancies Reform Act is to collect information agencies are required to report to GAO, and GAO uses this information to report to Congress any violations of the time limitations on acting service imposed by the Vacancies Reform Act. 5 U.S.C. § 3349. As part of this role, we issue decisions on agency compliance with the Vacancies Reform Act when requested by Congress. The Vacancies Reform Act is generally the exclusive means for filling a vacancy in a presidentially appointed, Senate confirmed position unless another statute provides an exception. 5 U.S.C. § 3347. The Homeland Security Act of 2002 provides an order of succession outside of the Vacancies Reform Act when a vacancy arises in the position of Secretary of the Department of Homeland Security (DHS). 6 U.S.C. § 113(g).

Upon Secretary Kirstjen Nielsen's resignation on April 10, 2019, the official who assumed the title of Acting Secretary had not been designated in the order of succession to serve upon the Secretary's resignation. Because the incorrect official assumed the title of Acting Secretary at that time, subsequent amendments to the order of succession made by that official were invalid and officials who assumed their positions under such amendments, including Chad Wolf and Kenneth Cuccinelli, were named by reference to an invalid order of succession. We have not reviewed the legality of other actions taken by these officials; we are referring the matter to the Inspector General of DHS for review.

DECISION

This responds to a request from the Chairman of the Committee on Homeland Security and the Acting Chairwoman of the Committee of Oversight and Reform regarding the legality of the appointment of Chad Wolf as Acting Secretary of the Department of Homeland Security (DHS) and Ken Cuccinelli as Senior Official Performing the Duties of Deputy Secretary. Letter from Chairman, Committee on Homeland Security, U.S. House of Representatives and Acting Chairwoman, Committee on Oversight and Reform, U.S. House of Representatives to Comptroller General (Nov. 15, 2019). Specifically, we consider whether the appointments were authorized pursuant to the Secretary's designation of an order of succession under the Homeland Security Act of 2002 (HSA). Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002), *as amended by* National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 1903, 130 Stat. 2000, 2672 (Dec. 23, 2016), *codified at* 6 U.S.C. § 113(g)(2).

As explained below, we conclude that in the case of vacancies in the positions of Secretary, Deputy Secretary, and Undersecretary for Management, HSA provides a means for an official to assume the title of Acting Secretary pursuant to a designation of further order of succession by the Secretary. However, upon the resignation of Secretary Kirstjen Nielsen, the express terms of the then existing designation required the Director of the Cybersecurity and Infrastructure Security Agency (CISA) to assume that title instead of the Commissioner of Customs and Border Protection (CBP), Kevin McAleenan. As such, the subsequent appointments of Under Secretary for Strategy, Policy, and Plans, Chad Wolf and Principal Deputy Director of U.S. Citizenship and Immigration Services (USCIS) Ken Cuccinelli were also improper because they relied on an amended designation made by Mr. McAleenan.[1]

Under the Federal Vacancies Reform Act of 1998 (Vacancies Reform Act), GAO collects information agencies are required to report to GAO, and GAO uses this information to report to Congress any violations of the time limitations on acting service imposed by the Vacancies Reform Act. 5 U.S.C. § 3349. As part of this

[1] We have only been asked to address the designation of Messers. Wolf and Cuccinelli, so we do not otherwise address the consequences of any official's improper service. We are referring that question to the DHS Inspector General for his review. In that regard, we are aware that certain actions taken by Acting Secretary Wolf and his authority to take them are currently the subject of litigation. *See, e.g. A.B-B v. Morgan*, Docket No. 1:20-cv-0846 (D.D.C. 2020); *Casa De Maryland v. Wolf*, Docket No. 8:20-cv-02118 (D. Md. 2020); *Don't Shoot Portland v. Wolf*, Docket No. 1:20-cv-02040 (D.D.C. 2020). We are also aware that in March, 2020, the U.S. District Court for the District of Columbia ruled that Mr. Cuccinnelli's separate appointment as acting director of USCIS was illegal. *See L.M.-M v. Cuccinelli*, 442 F. Supp. 3d 1, 29 (D.D.C. 2020). That question was not before us.

role, we issue decisions on agency compliance with the Vacancies Reform Act when requested by Congress. Our practice when rendering decisions is to contact the relevant agencies and obtain their legal views on the subject of the request. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 5, 2006), *available at* www.gao.gov/products/GAO-06-1064SP. We contacted DHS to obtain the agency's views. Letter from Managing Associate General Counsel, GAO, to General Counsel, DHS (Dec. 6, 2019). We received DHS's response on December 20, 2019. Letter from Associate General Counsel for General Law, DHS, to Managing Associate General Counsel, GAO (Dec. 20, 2019) (Response Letter).

BACKGROUND

The Vacancies Reform Act permits certain individuals to serve as acting officials in vacant presidentially appointed, Senate confirmed positions (PAS) for limited periods of time. 5 U.S.C. §§ 3345, 3346. The Vacancies Reform Act is generally the exclusive means for filling a vacancy in a PAS position unless another statute provides an exception.[2] Pursuant to the Vacancies Reform Act, the first assistant to a PAS position automatically becomes the acting official in case of a vacancy unless the President designates another individual who meets the Vacancies Reform Act's eligibility requirements. 5 U.S.C. § 3345.

HSA created DHS to prevent terrorist attacks within the United States and reduce the nation's vulnerabilities to such attacks, among other critical missions. Pub. L. No. 107-297, title I, § 101. At the head of the department, HSA created the position of Secretary of Homeland Security who is vested with all the functions of all officers, employees, and organizational units of DHS. HSA, Pub. L. No. 107-296, title I, § 102. HSA also created the position of Deputy Secretary and made the Deputy Secretary the first assistant for purposes of the Vacancies Reform Act. Pub. L. No. 107-297, title I, § 103.

On December 23, 2016, HSA was amended to establish an order of succession outside the Vacancies Reform Act for the position of Secretary. National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, div. A, title XIX, § 1903, 130 Stat. 2000, 2672 (2016). Under the amendment, the Under Secretary for Management is next in line to be Acting Secretary in the case of absence, disability, or vacancy in the positions of Secretary and Deputy Secretary. 6 U.S.C. § 113(g)(1). Beyond this mandated order, "the Secretary may designate such other officers of the Department in further order of succession to serve as Acting

[2] A statute only qualifies as an exception if the statutory provision expressly authorizes the President or the head of an executive department to designate an official to perform the functions and duties of a specified office temporarily in an acting capacity or it designates an acting official. 5 U.S.C. § 3347(a)(1).

Secretary."[3] 6 U.S.C. § 113(g)(2). These succession provisions take effect "[n]otwithstanding" the provisions of the Vacancies Reform Act.[4] 6 U.S.C. § 113(g).

On December 5, 2017, Kirstjen Nielsen was confirmed as Secretary of DHS. On April 10, 2019, Secretary Nielsen resigned from her position. At this time, the Deputy Secretary position had been vacant since April 14, 2018, and the Under Secretary for Management resigned on April 10, 2019, as well, leaving that position vacant. GAO, *Federal Executive Vacancy System Database, available at* https://www.gao.gov/legal/other-legal-work/federal-vacancies-reform-act.[5] Upon the Secretary's resignation, the Commissioner of Customs and Border Protection, Kevin McAleenan, assumed the title of Acting Secretary.

On November 13, 2019, Acting Secretary McAleenan resigned, and the Under Secretary for Strategy, Policy, and Plans, Chad Wolf assumed the title of Acting Secretary. The same day, Mr. Wolf designated the Principal Deputy Director of USCIS, Kenneth Cuccinelli, as the Senior Official Performing the Duties of Deputy Secretary of Homeland Security (Deputy Secretary).[6]

DISCUSSION

Article II of the U.S. Constitution provides that "[The President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law." U.S. Const. art. II, § 2. As noted previously, when there is a vacancy in these presidentially appointed, Senate confirmed (PAS) positions, the Vacancies Reform Act is generally the exclusive means for filling them temporarily with an acting official, unless another statute provides an exception.

---

[3] The amendment did not impose time limitations on an individual serving as Acting Secretary under HSA.

[4] HSA does not establish an order of succession outside the Vacancies Reform Act for the position of Deputy Secretary. However, HSA establishes the Under Secretary for Management as the first assistant to the Deputy Secretary for purposes of the Vacancies Reform Act. 6 U.S.C. § 113(a)(1)(F).

[5] Under the Vacancies Reform Act, agencies are required to report to GAO certain information regarding vacancies in PAS positions. 5 U.S.C. § 3349(a). GAO compiles the information from these reports and makes them available to the public through its Executive Vacancy System.

[6] Regarding Mr. Cuccinelli, this decision only addresses his service as the Senior Official Performing the Duties of Deputy Secretary and does not address any other positions which he may also hold.

Here, HSA provides such an exception. HSA requires the Under Secretary for Management to serve as Acting Secretary if there is a vacancy in the offices of Secretary and Deputy Secretary. 6 U.S.C. § 113. By providing an initial order of succession for the Secretary and allowing the Secretary to make further designations, HSA qualifies as an exception to the Vacancies Reform Act's exclusivity provision.

At the time the Secretary resigned, the positions specified in HSA were vacant as well, permitting DHS to turn to the Secretary's designation of further officials to serve as Acting Secretary when Secretary Nielsen resigned and the position of Secretary became vacant. 6 U.S.C. § 113(g)(1), (2). Hence, to determine whether Chad Wolf and Ken Cuccinelli are properly serving, we must examine whether DHS adhered to the order of succession in the Secretary's delegation in force at the time Mr. McAleenan and Mr. Wolf each assumed the title of Acting Secretary. As explained further below, we conclude DHS did not.

HSA Delegation 00106

In its response to us, DHS stated that Secretary Nielsen had exercised the HSA power to designate an order of succession through Delegation 00106. *See* Response Letter. Secretary Nielsen issued this delegation on February 15, 2019 (February Delegation).[7] In this February Delegation, there were two grounds for assuming the position of Acting Secretary. The first ground was in the case of the Secretary's death, resignation, or inability to perform the functions of the office. February Delegation § II.A. The second ground was if the Secretary was unavailable to act during a disaster or catastrophic emergency. *Id.* § II.B.

Each ground had its own order of succession. In cases of the Secretary's death, resignation, or inability to perform the functions of the office, the February Delegation stated the order of succession was governed by Executive Order 13753 (E.O. 13753). *Id.* § II.A. E.O. 13753 included an order of succession for officers who would act and perform the duties of the Secretary during any period in which the Secretary has died, resigned, or otherwise become unable to perform the functions and duties of the Office of Secretary. In cases where the Secretary is unavailable to act during a disaster or catastrophic emergency, Annex A to the February Delegation governed the order of succession. *Id.* § II.B. At that time, the orders of succession found in E.O. 13753 and Annex A were the same. The figure in appendix 1 attached to this decision illustrates the legal framework that could be used to designate an Acting Secretary at the time of the February Delegation.

[7] DHS, *DHS Orders of Succession and Delegations of Authorities for Named Positions*, DHS Delegation No. 00106, Revision No. 08.4 (Feb. 15, 2019).

Under E.O. 13753 and Annex A, the first four positions in the order of succession were as follows: (1) Deputy Secretary, (2) Under Secretary for Management, (3) Administrator of the Federal Emergency Management Agency (FEMA), and (4) Director of CISA.[8]

The February Delegation also listed positions in an order of succession for Deputy Secretary in Annex B. The first four positions were as follows: (1) Under Secretary for Management, (2) Administrator of FEMA, (3) Director of CISA, and (4) Under Secretary of Science and Technology.[9]

The February Delegation further stated acting officials in the listed positions are ineligible to serve and, therefore, the order of succession would fall to the next designated official in the approved order of succession. *Id.* § II.G.

Nielsen's Resignation

According to DHS, on April 9, 2019, the day before her resignation, Secretary Nielsen established a new order of succession. Delegation 00106 was updated the following day, reflecting the changes (April Delegation).[10] The April Delegation on its face maintained the two separate grounds for designation. Vacancies due to the Secretary's death, resignation, or inability to perform the functions of the office were still governed by the order of succession under E.O. 13753, and vacancies due to the Secretary's unavailability to act during a disaster or catastrophic emergency were still governed by Annex A to the Delegation. April Delegation §§ II.A, II.B. Secretary Nielsen did however amend the orders of succession for the Secretary and Deputy Secretary in Annexes A and B, respectively. The figure in appendix 1 attached to this decision illustrates the legal framework that could be used to designate an Acting Secretary at the time of the April Delegation.

---

[8] Both E.O 13753 and Annex A list more positions than those indicated here. However, they are not relevant for purposes of this decision. Public Law 115-278 renamed the position of Under Secretary for National Protection and Programs to be Director of the Cybersecurity and Infrastructure Security Agency. Cybersecurity and Infrastructure Security Agency Act of 2018, Pub. L. No. 115-278, § 2(a), 132 Stat. 4168, 4169 (Nov. 16, 2018), *codified at* 6 U.S.C. § 652(a), (b).

[9] The Secretary may provide for an order of succession for the Deputy position under general management authorities granted the Secretary in HSA. 6 U.S.C. § 112. However, any order of succession for the Deputy position must reflect that the Under Secretary for Management is the first assistant for purposes of the Vacancies Act, in accordance with HSA. 6 U.S.C. § 113(a)(1)(F).

[10] DHS, *Orders of Succession and Delegations of Authorities for Named Positions*, Delegation No. 00106, Revision No. 08.5 (Apr. 10, 2019).

GAO U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

Comptroller General
of the United States

Decision

Matter of:	Department of Homeland Security—Legality of Service of Acting Secretary of Homeland Security and Service of Senior Official Performing the Duties of Deputy Secretary of Homeland Security—Reconsideration
File:	B-332451
Date:	August 21, 2020

DIGEST

The Department of Homeland Security's (DHS) request that we rescind our August 14, 2020, decision is denied, as DHS has not shown that our decision contains either material errors of fact or law, nor has DHS provided information not previously considered that warrants reversal or modification of the decision.

DECISION

The Department of Homeland Security (DHS) requests reconsideration of our decision in Department of Homeland Security—Legality of Service of Acting Secretary of Homeland Security and Service of Senior Official Performing the Duties of Deputy Secretary of Homeland Security, B-331650, August 14, 2020 (Decision), asking that we rescind the decision. Letter from Senior Official Performing the Duties of the General Counsel to General Counsel, GAO (Aug. 17, 2020). In our decision, we concluded that the appointments of both officials were issued under an invalid order of succession. GAO will modify or reverse a prior decision only if it contains a material error of fact or law. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), *available at* https://www.gao.gov/products/GAO-06-1064SP. As explained below, DHS did not identify any material errors of fact or law and we decline to reverse or modify the decision.

BACKGROUND

The Homeland Security Act (HSA) provides a means for an official to assume the title of Acting Secretary pursuant to a designation of further order of succession by the Secretary. 6 U.S.C. § 113(g)(2). Secretary Kirstjen Nielsen exercised this power on April 9, 2019, the day before her resignation, when she established a new order of

succession for Acting Secretary as reflected in DHS 00106 (April Delegation).[1] However, upon her resignation, the official who assumed the title of Acting Secretary—Mr. Kevin McAleenan—was not the official designated in the April Delegation order of succession to serve upon the Secretary's resignation. As a result, we concluded Mr. McAleenan's subsequent amendments to the April Delegation order of succession were invalid and the subsequent appointments of Chad Wolf and Kenneth Cuccinelli who assumed their positions under such amendments were also improper.

While we concluded the appointments were improper, we did not review or make conclusions regarding the consequences of actions taken by these officials. We referred this question to the DHS Office of Inspector General. In that regard, we specifically suggested consideration of whether actions taken by these officials could be ratified by properly serving individuals as designated in the April Delegation to be the Acting Secretary and Senior Official Performing the Duties of the Deputy Secretary.

DECISION

In its August 17, 2020, letter, DHS asserts that our decision is "fundamentally erroneous," but in doing so did not point to any facts which we relied upon that were in error or provide any new facts for us to consider. DHS does assert legal error, arguing that our decision failed to properly defer to its interpretation of the Memorandum which it relied upon to demonstrate that the Secretary designated Mr. McAleenan to serve as Acting Secretary. The memorandum to which DHS refers is the April 9, 2019 Memorandum to Secretary Nielsen from the then-General Counsel requesting the Secretary's approval of the revised order of succession for Annex A. DHS letter, at 5-6.

In our decision, we addressed DHS's focus on the Memorandum. Decision, at 8-9. DHS argues that the Memorandum introduces ambiguity and that this requires us to defer to its interpretation of the order of succession. However, given that the plain language of the April Delegation is clear, there is no need to refer to the Memorandum. Any contrary interpretation of the April Delegation by DHS would not be entitled to any deference given its clarity. An agency's interpretation is not entitled to deference unless the controlling language is ambiguous, nor is deference available to an agency's "*post hoc* rationalization advanced [to] defend past agency action." *See, generally, Kisor v. Wilkie*, 139 S. Ct. 2400, 2415, 2417 (2019) (a court should not afford deference unless the regulation is genuinely ambiguous).

In addition to its insistence on deference, DHS accused this office of political partisanship. In our oversight role, GAO produces hundreds of written products annually, including legal decisions, that examine agency programs and operations throughout the government. DHS's demand for deference in these circumstances is not

[1] The Secretary also changed the order of succession for Deputy Secretary pursuant to her general management authorities under 6 U.S.C. § 112.

only legally unsupported but also ignores the public and Constitutional imperative of oversight to ensure transparency and accountability of governmental actions.

Our August 14, 2020, decision and all of our written products represent the work of numerous professionals, each taking care to remain independent and mindful of GAO's obligation to provide nonpartisan service to the American people. All GAO products also undergo a multi-level review to assure they are intellectually sound and free from bias. Rather than trying to reach a particular conclusion, our legal decisions, this one included, are the result of a dispassionate application of the relevant law to facts, not advocacy, and are subject to rigorous legal review and signature of GAO's General Counsel.

CONCLUSION

GAO will modify or reverse a prior decision or opinion only if it contains a material error of fact or law. DHS has not demonstrated that our prior decision contains errors of either fact or law, nor has DHS presented information not previously considered that warrants reversal or modification of our decision. Therefore, we decline to reverse or modify the decision.

Thomas H. Armstrong
General Counsel

ARTICLE SUBMITTED FOR THE RECORD BY RANKING MEMBER BENNIE G. THOMPSON

JUDGE RULES CHAD WOLF LIKELY UNLAWFULLY SERVING AS HOMELAND SECURITY SECRETARY AND TEMPORARILY BLOCKS SOME ASYLUM RESTRICTIONS

By Laura Ly and Paul LeBlanc, CNN

Updated 10:59 AM EDT, Tue September 15, 2020

CNN—A Federal judge in Maryland has ruled that Chad Wolf is likely unlawfully serving as acting secretary of the Department of Homeland Security and temporarily barred the Trump administration from enforcing new asylum restrictions on members of two immigration advocacy groups.

Judge Paula Xinis, in a 69-page ruling issued Friday, wrote that the two groups are "likely to demonstrate (former acting Homeland Security Secretary Kevin) McAleenan's appointment was invalid under the agency's applicable order of succession, and so he lacked the authority to amend the order of succession to ensure Wolf's installation as Acting Secretary."

Subsequently, Wolf didn't have the authority to impose the asylum rules that are being challenged, Xinis ruled. The new requirements, which court documents say took effect in late August, concern employment, and the case is ongoing.

Xinis' ruling does not mean Wolf is leaving his position. The appointments of Wolf and his No. 2, Ken Cuccinelli, to the top leadership roles in the Department of Homeland Security have increasingly come under scrutiny, though both continue to serve in their posts. The Trump administration appealed a Federal judge's ruling earlier this year that it was unlawful to appoint Cuccinelli to lead the agency responsible for processing US immigration requests, and he remains in that post more than 6 months later. The case before Xinis is ongoing.

CNN has reached out to the department for comment.

Last month, a coalition of 20 State attorneys general and 10 cities and counties challenged rules imposed by the Trump administration that they argued limited access to employment authorization for asylum seekers, New York Attorney General Letitia James' office said Monday.

"The first rule would require asylum seekers to wait a year before applying for employment authorization, and bar many from obtaining authorization at all. The

second rule would eliminate the longstanding requirement that employment authorization applications be processed within 30 days, thus allowing such applications to sit untouched indefinitely," James' office said.

Xinis found that DHS "completely sidestepped this critical impact of the new rules" and "never wrestled with the fundamental implications of deferring or denying advance work authorization."

"Substantially limiting approval of work authorization for bona fide asylees will inevitably affect their ability to afford the costs of seeking asylum, including hiring legal counsel," Xinis wrote.

Xinis' order granted injunctive relief to only members of Casa de Maryland, Inc. and Asylum Seeker Advocacy Project, two of the lawsuit's plaintiffs that the judge found to have "demonstrated associational standing at this stage," finding the relief "both proper and necessary to avoid irreparable harm."

The organizations have approximately 100,000 and 4,000 members each, according to the judge's order.

James welcomed the ruling, calling Wolf a man with "no authority and no business sitting in the chair of the acting secretary of Homeland Security."

"Not only is this decision welcome news for asylum seekers who were unfairly targeted by the Trump Administration, but the courts have now found that Chad Wolf has no authority at the Department of Homeland Security," she said.

CNN has previously reported that the Government Accountability Office found that Wolf and Cuccinelli, the senior official performing the duties of deputy secretary, were appointed as part of an invalid order of succession.

"We vehemently disagree with what the GAO has put out," Wolf told CNN's Jake Tapper at the time.

Wolf has been at the forefront of a host of issues like immigration, civil unrest and the coronavirus pandemic response, and as a result, has come under criticism for his actions. During Wolf's tenure, the department has been marked by a focus on the border wall, a fight with New York over Global Entry and more recently, a deployment of Federal officers to Portland, Oregon, in opposition to local officials.

Wolf has been the acting secretary since November 2019. The department has not had a confirmed secretary since April 2019 when former Secretary Kirstjen Nielsen was forced to resign.

President Donald Trump last month announced that he would officially appoint Wolf to take over the role on a permanent basis, and his nomination was formally sent to the Senate last week.

This story has been updated with additional developments.

Chairman GREEN. I now recognize Mr. McCaul from Texas, Chairman McCaul from Texas, for his 5 minutes of questioning.

Mr. MCCAUL. Thank you, Mr. Chairman.

I served as Chairman of this committee for three terms, now the Foreign Affairs Committee. Mr. Edlow, good to see you. We worked together on these issues. Secretary Wolf, Mr. Scott, great State of Texas, and I was a Federal prosecutor charged with prosecutions at the border.

Political asylum is always the magnet, and it has been abused by the cartels for many years. Eighty-five percent of these claims are not legit, only 15 percent are. It is very simple, when they are allowed to enter the United States, because we don't have detention space, they are released into our society. They are given a notice to appear, and they disappear. I have seen this for 20 years in Congress. In fact, my first bill was the End Catch and Release and here we are today with the same program.

The Trump administration, through Secretary Wolf, Mr. Edlow, implemented what I thought was a very effective plan called the Migrant Protection Protocols, Remain in Mexico, because they had to remain in Mexico pending their adjudication. If it was legitimate, they were allowed in, if not, they were not allowed into the country. It brought the numbers down dramatically. So what happened when the Biden administration gets into power, nearly on Day 1 Secretary Mayorkas rescinds the order, rescinds Migrant

Protection Protocols, Remain in Mexico. What has happened since then? Nearly 100,000 young people died in this country due to fentanyl. Enough has been seized to kill billions of people, 5 million encounters, nearly 100 on the terror watch list, which used to frighten me as Chairman of this committee when I would hear of anybody on the terrorist watch list getting into the United States of America. There was a court order to force the administration to reimplement MPP. That court order, in my view, has not been fully complied with by this administration.

To make things worse, they took the vetting process away from sponsors of these aliens. What has that turned into? Children going to houses, 20–30 of them under one sponsor, not vetted, turns into a human trafficking enterprise, a criminal enterprise. Young girls being sex trafficked and young men going to MS–13 as they try to pay back the cartels. Cartels now are in operational control. When I was down at the border after the rescission of MPP, I asked the chief of Border Patrol, Mr. Ortiz, is there a direct cause and effect between the rescission of this program and what we are seeing at the border, totally out of chaos? He told me the answer was yes. Every Border Patrol officer will tell you that because they live it. My State, Mr. Scott, as you know, has spent $4.5 billion just this session to deal with this problem, a Federal responsibility.

So my question is, do you believe, Mr. Wolf, Mr. Scott, Mr. Edlow, that Secretary Mayorkas is responsible for the consequences that followed of the rescission of MPP, and do you believe he is complicit with the consequences of what has happened to this country?

Mr. WOLF. So the answer to that is a resounding yes. Obviously, the Secretary ended MPP, Migrant Protection Protocols, so he's responsible for the actions that follow that.

I would just say, look, at the end of the day, it's OK to claim asylum. What's not OK is to simply be released into the country. Or it's not OK to say that there's an immense amount of fraud in the asylum system. DHS knows that, they have the numbers, we all use the numbers that come from DHS, but they simply put blinders on and say, we're OK with that amount of fraud. It's OK for the American people. That's why we implemented MPP and we did a number of other things. They're not doing any of that now. So all the folks that are claiming asylum at ports of entry, again, are being released into American communities. That's not OK.

Mr. MCCAUL. I agree.

Mr. Scott. Mr. Edlow.

Mr. SCOTT. I agree fully. I want to point out, MPP made sure people got due process, but they did not get what they want. Most of these people, from my experience, don't really care about asylum, they don't really care about the legal documentation or process. They want to be released into the United States. Once that was taken away, the flow immediately decreased because they couldn't commit fraud. Everybody knew that this administration got rid of that program intentionally. They're responsible for the results.

Mr. MCCAUL. Mr. Edlow.

Mr. EDLOW. I also agree. There's plenty I could say about MPP in terms of where it comes from, in terms of the INA. But I will just say this, when the court initially told the Secretary to re-

institute MPP, there was an attempt to do that, a half-hearted attempt to do that. But in the press release that did that, it also made it clear that the Secretary had every intention to fight that decision from the court and to take measures to end MPP in other ways. So it was really never an actual attempt to reinstate it.

Chairman GREEN. The gentleman's time has expired.

I recognize Mr. Correa of California.

Mr. CORREA. Thank you, Mr. Chairman.

What I would like to do is start out by submitting for the record, without objection, the press release mentioned by Chairman Green, if I may, where it says that there were 10,070 non-citizens processed on an average per day via the CBP One app. I would like to submit this for record, sir?

Chairman GREEN. Without objection.

[The information follows:]

PRESS RELEASE SUBMITTED BY HONORABLE J. LUIS CORREA

U.S. DEPARTMENT OF HOMELAND SECURITY

BORDER ENCOUNTERS REMAIN LOW AS BIDEN-HARRIS ADMINISTRATION'S COMPREHENSIVE PLAN TO MANAGE THE BORDER AFTER TITLE 42 IN EFFECT

Release Date: June 6, 2023

Since the CDC's Title 42 public health order lifted and the Biden-Harris Administration's comprehensive plan to manage the border went into full effect on May 12, DHS has continued to experience a significant reduction in encounters at the Southwest Border.

As a result of planning and execution—which combined stiffer consequences for unlawful entry with a historic expansion of lawful pathways and processes—unlawful entries between ports of entry along the Southwest Border have decreased by more than 70 percent since May 11. DHS has overseen significant expansions in lawful pathways even as we have repatriated a significant number of migrants.

From May 12 to June 2, 2023, DHS repatriated over 38,400 noncitizens under Title 8 authorities, including single adults and families, to more than 80 countries. This includes over 1,400 noncitizens from Cuba, Haiti, Nicaragua, and Venezuela who were returned to Mexico under Title 8 authorities—the first time in our bilateral history that the Government of Mexico has allowed the repatriation of non-Mexican nationals at the border under Title 8 authorities.

Thousands more are being detained by CBP and ICE and processed by USCIS to assess their asylum claims under the new Circumvention of Lawful Pathways regulation. Those found not to have a credible fear have been and will continue to be expeditiously removed.

Since May 12:

- CBP has averaged 3,400 U.S. Border Patrol (USBP) encounters in between ports of entry per day and fewer than 300 non-CBP One Office of Field Operations {OFO) encounters at ports of entry per day, for a total of approximately 3,700 unscheduled encounters per day.
- The top 3 nationalities encountered during this most recent period, which accounted for nearly 70 percent of encounters, were:
  - Mexico 1,200 encounters/day
  - Honduras 520 encounters/day
  - Guatemala 360 encounters/day
- Nearly 14,000 credible fear referrals were received by USCIS and over 11,500 credible fear interviews were completed. USCIS has already conducted a record number of interviews over the past 3 weeks, and these numbers will continue to increase as our processes further scale.
- Through CBP One, an average of 1,070 noncitizens presented in a safe and orderly manner at a port of entry each day to be processed during their scheduled appointment time. CBP has, as of June 1, expanded the number of appointments available to 1,250 each day.
  - The top 3 nationalities with CBP One appointments were: Haiti, Mexico, and Venezuela.

- An additional 23,000 vetted and sponsored Cuban, Haitian, Nicaraguan, and Venezuelan nationals arrived in the United States through the parole processes we announced in January 2023.

The Administration's plan is working as intended. We are cognizant, however, that the conditions in the hemisphere that are driving unprecedented movements of people are still present and that the cartels and coyotes will continue to spread disinformation about any potential changes to policies at the border in order to put migrants' lives at risk for profit. We will remain vigilant and continue to execute our plan, making adjustments where needed.

Surges in migration have been a regular occurrence for more than a decade under Republican and Democratic Administrations. Presidents of both parties have attempted to use their executive authorities to address these challenges—as we have. This, in turn, has invited litigation from both sides of the political spectrum and has resulted in courts across the country dictating border and immigration policy in ways that are contradictory and detrimental to our ability to manage the border.

It is abundantly clear that executive action cannot solve the entrenched challenge of migration in our region, and that neither party can address its impact on our border by itself. Until and unless Congress comes together in a bipartisan way to address our broken immigration and asylum system, we will continue to see surges in migration at our border.

Mr. CORREA. Ms. Acer, does that sound like hiding the data?

Ms. ACER. No, it's not hiding the data.

Mr. CORREA. I want to show you a quote by Secretary Nielsen, if I may. So we prefer Mr. Wolf, we prefer people showing up at ports of entry as opposed to between ports of entry? Yes, no?

Mr. WOLF. Absolutely. I would say——

Mr. CORREA. Thank you.

Mr. WOLF [continuing]. That that is accurate. What I would say is that the migrants are not breaking the law.

Mr. CORREA. Thank you. Thank you very much.

Mr. WOLF. DHS is breaking the law with the parole——

Mr. CORREA. You have got other people you can address here, but I just have 3 minutes left.

Ms. Acer, is it legal to come to ports of entry?

Ms. ACER. Absolutely.

Mr. CORREA. I want to show you a couple of pictures here of the refugee challenge we have in the Western Hemisphere. Tell you the United States is not No. 1. You have got other countries that are having it even worse than we do right now trying to address this human challenge the world is facing. I am going to show you also a picture of the Darien Gap and a young girl who separated from her mother. She is not coming to Disneyland. She is trying to survive.

Ms. Acer, let me ask you, did Secretary Mayorkas create the COVID–19 Pandemic?

Ms. ACER. No, sir.

Mr. CORREA. Is he responsible for the unprecedented violence, gang violence, extortions, assaults in Central America?

Ms. ACER. No, sir.

Mr. CORREA. How about for the on-going crisis in Haiti?

Ms. ACER. No.

Mr. CORREA. The economic instability in Venezuela?

Ms. ACER. No.

Mr. CORREA. Human rights violations in Cuba?

Ms. ACER. Absolutely not.

Mr. CORREA. Responsible for repression, poverty in Nicaragua?

Ms. ACER. No.

Mr. CORREA. Instability in Peru?

Ms. ACER. No.

Mr. CORREA. Central American economic crisis?

Ms. ACER. No, sir.

Mr. CORREA. China's economic challenges?

Ms. ACER. Absolutely not.

Mr. CORREA. Russian Ukrainian war and the ensuing refugees from Ukraine and Russia?

Ms. ACER. No, sir.

Mr. CORREA. African economic instability and food shortages?

Ms. ACER. No.

Mr. CORREA. America's stunning economic growth, strongest in the world?

Ms. ACER. No.

Mr. CORREA. Probably not. America's low unemployment rate?

Ms. ACER. No.

Mr. CORREA. America's insatiable demand for workers with or without documents?

Ms. ACER. No.

Mr. CORREA. Responsible for the private-sector farmers, ranchers, hiring of undocumented workers?

Ms. ACER. No, sir.

Mr. CORREA. Let's just clarify, Ms. Acer, is asylum legal?

Ms. ACER. Yes.

Mr. CORREA. Is approaching our ports of entry and asking for asylum, is that legal?

Ms. ACER. Absolutely.

Mr. CORREA. Is that legal under international law?

Ms. ACER. Absolutely.

Mr. CORREA. Thank you very much.

I just want to add the majority party here voted to end the COVID–19 health care emergency. In doing so, you voted to lift Title 42. What was left? Secretary Mayorkas has managed, he enlisted the help of our neighbors. No other time in the history of the United States and Mexico have we had such a great working relationship with Mexico and the others through Central and South America on the issue of the refugee crisis. So to say that Secretary Mayorkas has been derelict of his duty is misleading the American people and presenting misleading facts.

Ms. Acer, is Mr. Mayorkas lying to the American people?

Ms. ACER. No, sir, I don't believe to my knowledge. Though I do disagree with him on his asylum ban. I think he is absolutely wrong on that.

Mr. CORREA. I would probably disagree with him on that as well. Thank you, Mr. Chair and I——

Mr. GOLDMAN. Will the gentleman yield? Mr. Correa.

Mr. CORREA. I yield, of course.

Mr. GOLDMAN. A few seconds.

I just want to point out, Mr. Wolf and all of our witnesses here, you may have a difference of opinion as to how the United States should process our asylum applicants, but the notion that that difference of a policy opinion would be the basis for "case closed" that Secretary Mayorkas violating his duty is preposterous and it is not any basis for impeachment.

I yield back.

Chairman GREEN. The gentleman's time has expired.

I now recognize Mr. Higgins from Louisiana for his 5 minutes questions.

Mr. HIGGINS. Thank you Mr. Chairman.

Americans watching this or listening to the commentary you would have to be living under a rock in America to not recognize the disintegration of our sovereignty at the Southern Border over the last 2 years. You got 6 million illegals processed in some manner into our country, 1½ million known criminal runner gotaways. The border law enforcement is so overwhelmed estimates easily state that that number is doubled of unknown and uncounted criminal runner gotaways. All told, you are talking about 9 million people rolling into our country since President Biden was inaugurated.

Secretary Mayorkas' failure is difficult to calculate the impact upon our country, our entire country, generational trauma the man has brought upon our country. My colleagues across the aisle have a this is your Baghdad Bob moment when you witness clearly what the truth is, what everyone across the country recognizes as the disintegration of our Southern Border and horrific impact upon our country, and yet you drone on and on about how great things are, blame everything on Trump, good lord for years. Yes, a Ranking Member has a right to introduce a Government study into the record. But the insinuation was that former Secretary Wolf served illegally.

So I am going to give you an opportunity to respond to that, Mr. Wolf. I know you very well. Did you serve honorably and legally as Secretary of Department of Homeland Security, sir?

Mr. WOLF. I believe I did. I was asked to serve as that Acting Secretary by the President. I took my oath seriously. I'm very proud of the way that I led the Department. Lawyers can argue over the order of succession about the Acting Secretary before me, but I think what's clear is simply being confirmed doesn't make you capable of doing the job.

Mr. HIGGINS. Thank you for your response, sir, and I apologize on behalf of the committee for that insinuation. I think it was ugly, it was tainted by agenda. Over the course of the next several months perhaps they can develop a new script than just attacking the Trump administration, because we are going to expose what has happened to our country over the last 2 years.

Mr. Scott, would you explain to the committee in America how Secretary Mayorkas has intentionally shifted migrant numbers through the CBP One app to promote the appearance of decreasing illegal crossings?

Mr. SCOTT. Yes, as we discussed earlier, the numbers that are being reported publicly focus—they're selective. They've been focusing on the Southwest Border only and we need to focus on total encounters or what OFO calls as inadmissibles. If you go onto CBP.gov, their website, it's a nightmare, but you can slowly sort some of this stuff out, which is not open——

Mr. HIGGINS. Yes, sir. So to focus on a CBP One app, is it true that there is virtually no parameters disqualifying an applicant from applying for parole through the CBP One app?

Mr. SCOTT. That is my understanding.

Mr. HIGGINS. That is my understanding as well.

Mr. Wolf, in your opinion, sir, is an increased use of the CBP One app for parole application consistent with the app's original purpose?

Mr. WOLF. No, not the original purpose.

Mr. HIGGINS. Would you clarify that for America, please?

Mr. WOLF. Again, it was for foreigners. It was for industry on how to facilitate that trade across the border. It was for boating licensing——

Mr. HIGGINS. It was for legal commerce.

Mr. WOLF. Right.

Mr. HIGGINS. To speed legal commerce through ports of entry.

Mr. WOLF. Correct.

Mr. HIGGINS. Yet now it is being used for undocumented, legally identified as inadmissible, illegal migrants coming through our ports of entry using the CBP One app, and they are granted parole.

Is that your understanding?

Mr. WOLF. That's my understanding of how it's currently being utilized.

Mr. HIGGINS. Would you clarify how that is in violation of the law?

Mr. WOLF. Well, again, that's not how the CBP One app was originally. Again, it's not how you allow individuals to come in, paroling them in. There's so many different exemptions of using that CBP One app. If you can't access it, they allow you into the country. So it's another smoke and mirrors of how to bring in individuals, again, that have no legal right to be into the country. Whether you parole them in or put them into the asylum system, the end result is all the same. So we can talk about the different ways, the end result is that they are released into American communities, and that is what's fueling this crisis.

Mr. HIGGINS. Thank you, Mr. Wolf.

Mr. Chairman, my time has expired. I yield.

Chairman GREEN. The gentleman's time has expired.

I now recognize Mr. Magaziner for his 5 minutes questioning. From Rhode Island, by the way.

Mr. MAGAZINER. Thank you, Mr. Chairman.

I have to say, I am getting sick and tired of House Republicans politicizing the Department of Homeland Security. There are common-sense, bipartisan actions that this committee could be taking up to improve security along the Southern Border. But instead of advancing smart policies to keep Americans safe, the Republicans have resorted to the type of political theater and Biden-bashing that the American people are sick of. We know there are challenges at the border because poverty and political instability are causing millions of people to flee their home countries. But the notion that President Biden or Secretary Mayaorkas are guilty of "dereliction of duty" are absurd. President Biden and Secretary Mayorkas have been proactive in taking steps to protect our homeland.

Here are the facts. April 27, 2021, just 2 months after taking office, Secretary Mayorkas launched Operation Sentinel to combat criminal organizations smuggling migrants across the border. June 7, 2021, Secretary Mayorkas launched Joint Task Force Alpha to crack down on trafficking groups in Mexico and the Northern Tri-

angle countries of Guatemala, El Salvador, and Honduras. November 2021, President Biden's infrastructure bill delivered $430,000,000 to Customs and Border Protection above previously-budgeted levels for enhanced security at points of entry. Nearly every House Republican voted no. December 15, 2021, President Biden signed Executive Order 14060, establishing the U.S. Council on Transnational Organized Crime with a focus on enhancing operational and intelligence capabilities to disrupt transnational crime organizations. In 2022, the Biden administration and Congressional Democrats passed a Homeland Security funding measure that added 300 Border Patrol agents and 125 CBP officers. Every House Republican voted no because it had Joe Biden's name on it. In 2023, Secretary Mayorkas launched Operation Blue Lotus and Operation Four Horsemen to disrupt narcotics trafficking at and between points of entry. April 2023, the Biden Justice Department unsealed charges against 28 leaders of the Sinaloa cartel engaged in drug trafficking and other crimes.

The list goes on and on. This is just a sample of the actions that the administration has taken to improve security on the border. But, of course, you do not hear House Republicans talking about any of this because it doesn't fit their narrative. The only dereliction of duty here is House Republicans wasting time on political games instead of focusing on the real problems that we need to tackle to protect the homeland.

Let's look again at the record. House Republicans introduced a measure to impeach Secretary Mayorkas 2 years ago when he had only been in office for 6 months. Politics. A leader of this committee, in a closed door fundraiser months ago, announced that Republicans were going to impeach the Secretary and said, "Get the popcorn. It's going to be fun."

Chairman GREEN. Will the gentleman yield? That is not what I said. I want to correct the record. I never used the word impeachment, and I am tired of this continual narrative falsely quoting me. I won't allow it, Mr. Magaziner.

Mr. MAGAZINER. Listen.

Chairman GREEN. Continue your testimony.

Mr. MAGAZINER. I will continue.

Listen, another Member of this committee, Ms. Greene, just a few days ago, told the press that she voted on the debt ceiling bill only in exchange for "beautiful dessert," which is impeachment. So this has always been about politics and political games. The most important fact is this, since the expiration of President Trump's Title 42 policy, illegal border crossings are down 70 percent. Even when you include CBP One app appointments, which are legal, they are still down more than 60 percent since the expiration of Title 42. So there are a lot of things that we could be doing. Instead, we are wasting our time on theater.

Now, Mr. Wolf, during your time running the Department of Homeland Security, were you ever impeached?

Mr. WOLF. No.

Mr. MAGAZINER. No. During your time working at DHS in the Trump administration, did you prevent all unlawful entries into the United States?

Mr. WOLF. We worked every day to do that.

Mr. MAGAZINER. But did you prevent all unlawful entries, yes or no?

Mr. WOLF. No.

Mr. MAGAZINER. OK, well, I am confused, because I read Mr. Higgins articles of impeachment that he filed a few days ago. In short, they say that Secretary Mayorkas should be impeached because he failed to maintain operational control at the border defined as the prevention of all illegal entries into the United States. So I don't understand, why didn't we impeach the DHS director under the Trump administration or any prior administration if that is the standard that warrants impeachment? Political theater, that is why. That is all this is.

With that, I yield back.

Chairman GREEN. The gentleman yields.

I recognize Mr. Bishop from North Carolina.

Mr. BISHOP. I thank the Chairman.

I think this is interesting, and it begins to ferret out what really is the key issue that this Congress needs to focus on in regards to the matter that is being testified to. I appreciate the witnesses who are here. You are professional and dispassionate.

I think almost no one is brazen enough anymore to deny that there is a border crisis created by the Biden administration, Secretary Mayorkas. Border Chief Ortiz admitted such on the way out the door. FEMA announced yesterday the distribution of more than $290,000,000 in Congressional funding to communities receiving migrants. You don't deploy FEMA resources when there isn't a crisis. But the issue here—and I agree it shouldn't be political theater, it is not about policy differences, can't be—the issue here is vindicating the rule of law and the Constitutional role and lawmaking power of Congress. Many claim the Trump indictment is about the rule of law. The Ranking Member says appropriately policy differences are of a different dimension. I agree with that. The appropriate response for Congress is different in each case.

I don't even think, with all respect to the Chairman, that our focus can be exactly on dereliction in the full sense articulated, because dereliction is willful or negligent. What we need to focus on here is whether this is not a case of negligence. If it were, the implications would be different, the remedy would be different. Incompetence in administering a Federal agency is maladministration, and the recourse falls to the people alone. But intentional sabotage of the rule of law is something entirely different. It is an affront to the separation of powers to the institutional authority of the Congress under the Constitution and it invites another remedy, and that is impeachment.

Secretary Wolf, the Ranking Member attacked actions by the Trump administration. But you point—you know, your statement really elegant, 10 pages, covers a lot of the ground. I urge people to look at it carefully. You point out that there—you were attacked for by the Ranking Member—these were exercises of authority specifically granted to Congress. Take Migrant Protection Protocols remain in Mexico. You cite 235B2C of the INA. In the case of an alien described in subparagraph A, that somebody who would have right otherwise to asylum, claim of asylum, who is arriving on land from a foreign territory contiguous to the United States, the Attor-

ney General may return that alien to that territory pending a proceeding under section 1229(a) of this Title. So that is exactly what you did. Whether somebody said you did it in exact way or if you want to challenge House, you are exercising an authority.

Same thing with safe Third Country Agreements under section 208(a)2(A). I won't read all that. But here is what you point out, the violations of law, several of these found by Federal district judges at this point in time, by the catch-and-release, ignores the mandate to detain or make them wait—an asylum applicant wait in Mexico. That has been judged by Judge Wetherell in Florida to be unlawful.

The use of notices—what are they called, NTRs, Mr. Wolf?

Mr. WOLF. Notices to report.

Mr. BISHOP. Notices to report. So you don't even have any formal commencement of removal proceedings, which a notice to appear would be setting a date even though you never get to them. They don't even do it, they just let them go with NTRs. The exercise of authority to adjudicate asylum by DHS officials—maybe, Mr. Edlow, you may have pointed this out in your testimony—instead of in the Department of Justice, where that power is reserved.

An interior non-enforcement policy. Mr. Wolf, you pointed out the 100-day deportation freeze. Judge Tipton said that was illegal. Subsequent enforcement priorities established that exempt 99 percent from the threat of deportation. Secretary Mayorkas declaring that illegal presence alone is not grounds for removal. More than a million in the country subject to final removal orders, and they said they are not going to remove them.

So I am just going to leave my last minute to you, Mr. Wolf. But I see what we are talking about is intentional sabotage of the rule of law as set by Congress. That is a different ballgame.

Mr. WOLF. It is different. It's not just about whether or not aliens, illegal aliens, can claim asylum, as was talked about here earlier. As you indicated, at least in my written testimony, there are seven different instances where I believe the law is not being faithfully executed, to include the categorical parole, which was the last one there.

Mr. BISHOP. I didn't get to that.

Mr. WOLF. Which is at ports of entry, which is at the heart of all of this. To have asylum, needs to be an urgent humanitarian benefit or advantageous somehow to the United States. Simply paroling up to 360,000 individuals, which is what they are on track to do per year, violates the letter of the law. It's very clear.

Mr. BISHOP. Final point here is that it does fall to Congress, as well as these judges, fall to Congress through the impeachment power to decide whether the law has been intentionally flouted.

I yield back.

Chairman GREEN. The gentleman yields.

I now recognize Mr. Swalwell from California.

Mr. SWALWELL. I have heard the phrase rule of law and accusations that the Biden administration is sabotaging the rule of law. The title of this hearing is "Secretary Mayorkas' Dereliction of Duty on the Border Crisis." But I think, in contrast to that, it is very interesting to me that the chief witness that the Majority has called here, Mr. Wolf, was found on November 14, 2020, by a Fed-

eral Judge to "not lawfully be serving as Acting Secretary." Not lawfully serving as Acting Secretary. So a lot of considerations and concerns from my colleague across the aisle about the rule of law, but the witness that they called served unlawfully as the Acting Secretary of Homeland Security, where an accusation of dereliction of duty is being made today.

In addition to that, again, it is interesting that this is the chief witness that they have called today because on September 17, 2020, the unlawfully-serving Acting Secretary, Mr. Wolf, failed to honor his Congressional subpoena, didn't show up, skipped the hearing. So you have someone who is acting unlawfully and somebody who skips a Congressional subpoena, and we are going to be lectured by the Majority about a dereliction of duty of the current lawfully-serving Senate-confirmed Secretary of Homeland Security. I think that is interesting and an important perspective that we should have as we consider what is going on at our Southern Border.

Ms. Acer, I want to speak with you just about what is going on at the Southern Border. If you were to think about the migrants who are fleeing the Northern triangle, who leave everything they know, their family, their livelihood, their culture, their homes, their community, their churches, and take the journey to America, do you believe that if we were to find a way, as a global alliance, public-private partnerships, to help invest in those countries in their economic security and their physical security and stand up and support a rule of law and go after corruption, that that would reduce the number of people who came to the United States?

Ms. ACER. Absolutely. The reason that people are coming here to seek protection is because they're not being protected at home by their countries. There's a lot more that the United States can do to increase respect for human rights and to otherwise assist in making sure that conditions allow people who can stay safely in their home countries to do so.

Mr. SWALWELL. I understand the counter to that will be, well, why would we invest money there if we have needs here? There is no doubt we have needs here, but if we are going to be spending the money anyway, either enforcement of the border or taking care of people who come here, to me it just seems like a better holistic investment to try and work private-sector, public-sector, non-profit, NGO's in those countries to stand up. As I said, economic and physical security.

Also wanted to ask, what effect do you think it has, Ms. Acer, when my colleagues across the aisle and Republicans say that we have open borders? In fact, the title of the hearing today is "Open Borders, Closed Case." Do you think if you are south of our border and you are looking for somewhere to go to keep your family safe and to find some livelihood, if you hear people falsely declaring that the border is open, do you think that makes you more or less likely to try and go to the United States because you think the border is open?

Ms. ACER. I don't know how much migrants actually listen to these hearings, but you're right in that I've heard Mexican officials say they wished that U.S. politicians would actually stop saying that the border was open because they thought that was really

sending the wrong message. Sometimes disinformation, inaccurate information does get into Facebook groups that many migrants do follow.

Mr. SWALWELL. Thank you, Ms. Acer.

I think the lesson here is that this issue is complicated. It involves human beings who are leaving everything. We have got our own struggles in the United States and clearly cannot take on a consistent flow from the Southern Border. But it needs solutions, not theater. I am afraid that my colleagues are interested in the crisis, but they are not interested in the solutions.

I yield back, gentlemen.

Chairman GREEN. The gentleman yields.

I now recognize Mr. Gimenez from Florida for his 5 minutes.

Mr. GIMENEZ. Thank you, Mr. Chairman.

Ms. Acer, you were quoted in the *Baptist News Global* referring to the end of Title 42, and you said that the dangers facing asylum seekers are more acute than they were years ago when the Trump administration started these policies and these policies have contributed to a worsening of the conditions that face migrants and people seeking asylum. Did you make that statement?

Ms. ACER. I don't remember my exact words, but I probably did.

Mr. GIMENEZ. OK. Thank you.

Mr. Wolf, I believe, like my colleagues, that I don't believe that Mr. Mayorkas is incompetent. I think that he is derelict in his duty because I think everything that he has done is actually done on purpose. Do you share that view?

Mr. WOLF. I do. This is by design.

Mr. GIMENEZ. Right. So I have been an administrator and when I have made mistakes and I listen to my folks and say, hey, why didn't that go the way that I wanted it to, I would listen and kind-of change things, but Mr. Mayorkas kind-of doubles down. So when in the first days of the Biden administration, a bunch of policies that the Trump administration had put in place in order to secure the border were overturned, and then things started to go south in a really big way.

Do you know first-hand, if people in the border—that Customs and Border Patrol agents actually advised Mr. Mayorkas that, hey, you need to reverse these policies to stop this tidal wave that is coming into the United States?

Mr. WOLF. Again, I wasn't there. It's my understanding that they did. Chief Scott was there in the Border Patrol advising the Biden administration, so I'm sure he can answer.

Mr. GIMENEZ. Well, Mr. Scott, can you answer that question?

Mr. SCOTT. Yes. He was informed verbally, he was informed in writing. I think it's important for everybody to understand everything fundamentally changed. When I worked for Secretary Wolf, we had team meetings, we were asked for our input. We were told over your career what works and what doesn't work. On January 20, 2021, that all got shut off. DHS, the Secretary even went to the step of shutting down the integrated teams of career professionals that were brought into DHS Ops to provide guidance. Our input was no longer solicited, and when my team and I gave it unsolicited, we were basically put in a box. They did not want to know what we had to say. They made it very clear, expedite processing

and find new ways to let migrants into the United States and that was the only agenda.

Mr. GIMENEZ. Exactly. Which is on purpose, really circumventing U.S. law.

Mr. SCOTT. One hundred percent on purpose, scripted out. The Secretary is not incompetent.

Mr. GIMENEZ. No, I know he is not incompetent. He is derelict, without a doubt.

Mr. Wolf, back to you. When you had the Remain in Mexico policy and people were told to remain in Mexico, and then they had their asylum hearings, what percentage of those that were seeking asylum were actually granted asylum?

Mr. WOLF. Again, it would have been under that about 10 to 15 percent. The number that grant asylum has been holding for years now. About 80 percent to 85 percent do not qualify, and about 10 to 15 percent do qualify. We saw that again under MPP as well.

Mr. GIMENEZ. All right, so those are the people that actually qualify to get into the United States, are granted parole into the United States, given some kind of legal status in your site, because they actually have a valid asylum claim. Now, when you get rid of that and you allow them to come into the United States and then you don't—well, the law also says that if you are seeking your asylum, you are supposed to be detained until your hearing, correct?

Mr. WOLF. Correct.

Mr. GIMENEZ. That is not happening right now, is it?

Mr. WOLF. It is not.

Mr. GIMENEZ. OK, so now you have got all the people are coming into the United States. They are actually being granted entry into the United States. So you are actually increasing the number of migrants entering the United States illegally because they don't really have a valid asylum claim by about 80 percent. Would you agree with that number?

Mr. WOLF. That sounds about right.

Mr. GIMENEZ. OK. So we don't even know where they are, we don't know where they're some of them are being tracked, some of them are not being tracked. We don't know where 85,000 children are at this point. I consider that to be a dereliction of duty. Children? 85,000? We don't know where they are. Did that ever happen under the Trump administration?

Mr. WOLF. Eighty-five thousand, no, absolutely not. Again, you have an unaccompanied alien child crisis at the moment, 380,000. So if you happen to go to the baseball game tonight, that fills National Stadium almost nine times, that's how many children that have come across that border that have no parent, have no guardian, that have been smuggled by these Mexican cartels at the behest, sometimes of their parents, because they know that if they get across that border, they will remain here in the United States. It is a terrible journey. You are subjecting them to just horrific conditions. It needs to end.

Mr. GIMENEZ. The Democrats dare to call what happened during the Trump administration inhumane.

My time is up. I yield back.

Chairman GREEN. The gentlemen yields.

I now recognize Mr. Goldman of New York.

Mr. GOLDMAN. Thank you very much, Mr. Chairman.

Our witnesses were asked whether what Secretary Mayorkas has done is intentional. Obviously, it is intentional. He is not doing things unintentionally. He has testified before us and he has acknowledged repeatedly that we are dealing with a very difficult situation at the border.

I want to focus on, go back to what my colleague, Mr. Swalwell, was focusing on, which is my friend, Mr. Bishop's, quote that there is an intentional sabotage of the rule of law. Now, we have heard a couple of times today that the GAO and a Federal Court found that Mr. Wolf was acting unlawfully. To my understanding, that would be a violation of the rule of law.

But let's focus a little bit on some policies and some efforts. Mr. Gimenez mentioned that there are children who cannot be found, which brings up, of course, the Trump administration family separation policy. Mr. Wolf, when you were the chief of staff to the Secretary of Homeland Security, isn't it true that you supported the family separation policy?

Mr. WOLF. I was at the Department from 2017 to the end of the administration.

Mr. GOLDMAN. Well, did you not, according to an inspector general's report, urge the counselor to the Attorney General to implement the family separation policy to increase prosecution of family unit parents and separate family units?

Mr. WOLF. No, I don't believe—no.

Mr. GOLDMAN. OK. Well, I want to introduce into the record this inspector general's report on family separation, which includes an email by you to Jean Hamilton, the counselor to the Attorney general.*

Mr. WOLF. So that email had a number of options——

Mr. GOLDMAN. Hold on, hold on.

Mr. WOLF [continuing]. For consideration. There was no direction, there was no directive.

Mr. GOLDMAN. Right. So you are saying right here, right now, that you did not support the family separation policy?

Mr. WOLF. That was not your question.

Mr. GOLDMAN. Is that your testimony?

Mr. WOLF. That was not your question.

Mr. GOLDMAN. I am asking it right now, is that your testimony?

Mr. WOLF. We implemented a number of policies in the administration. I agreed with President Trump when he ended zero tolerance in June, I believe, of 2018. Absolutely.

Mr. GOLDMAN. Did you support the family separation policy?

Mr. WOLF. We had no family separation policy at the Department.

Mr. GOLDMAN. Really? The Department did not——

Mr. WOLF. No. I'm happy to go through this. The Attorney General announced a zero——

Mr. GOLDMAN. All right, let's talk about this.

Mr. WOLF [continuing]. Tolerance policy that the Department——

---

*The document has been retained in committee files and is also available at *https://oig.justice.gov/sites/default/files/reports/21-028__0.pdf.*

Mr. GOLDMAN. That the—let's talk about this.

Mr. WOLF [continuing]. Then implemented.

Mr. GOLDMAN. One sec, one sec. Let's talk about this because the facts are that more than 5,000 children were forcibly separated from their parents at the border. The reason is because the Department of Justice for the first time used Title 8, United States Code, Section 1325, which makes it a misdemeanor offense to charge anyone crossing without lawful—without papers, et cetera. That had never been used before. Because the only point of that is to put parents who are charged with that in jail where they cannot actually be with their families.

Now, a Federal Court in 2018 ended the family separation policy, which this Court determined that there was because the Government's policy, "shocks the conscience" and violates the Constitutional right to family integrity. There are still children who were separated at the border from their parents who have not been found because this zero tolerance policy, which ultimately ended up separating parents and children, did not create any mechanism to account for that separation in order to track the children. Now, that clearly, as a judge said was a violation of the rule of law. An intentional sabotage of the rule of law.

Let me go quickly to another one. According to a whistleblower complaint by the former head of the Department's intelligence branch, Mr. Wolf ordered him to withhold an intelligence notification on Russian activities because it "made the President look bad". The Office of Inspector General investigated it and found that the Department did not adequately follow its internal processes and policy standards when editing and disseminating an intelligence product regarding Russian interference with the 2020 Presidential election. The Acting Secretary, Mr. Wolf, participated in that review process.

Mr. Chairman, I know my time is up. I would like to introduce for the record that Inspector General's report which my staff will give.

I would like to note that before we start attacking this intentional sabotage of the rule of law, we ought to look in our own glass house.

I yield.

Chairman GREEN. Without objection, so ordered.**

Chairman GREEN. I recognize Mr. Pfluger from Texas for his 5 minutes.

Mr. PFLUGER. Thank you, Mr. Chairman.

How rich was that?

Mr. Wolf, how many apprehensions occurred in the Trump years combined? I mean, just round numbers.

Mr. WOLF. All 4 years?

Mr. PFLUGER. Yes.

Mr. WOLF. I don't have a number for you. The chief may.

Mr. PFLUGER. Chief?

**The document has been retained in committee files and is also available at *https://www.oig.dhs.gov/sites/default/files/assets/2022-05/OIG-22-41-Apr22-Redacted.pdf.*

Mr. SCOTT. I don't have that number off the top of my head, to be honest. But it was less than a million a year and some years, less than 500,000.

Mr. PFLUGER. OK. How many since Biden has taken over?

Mr. SCOTT. You have to define whether they're arrests or encounters.

Mr. PFLUGER. Apprehensions.

Mr. SCOTT. The apprehensions would technically include encounters. There were over 6 million.

OK. Known, gotaways that has been reported?

Mr. SCOTT. Known gotaways over 1.5 million, plus or minus that's only the known.

Mr. PFLUGER. OK. Known or suspected terrorists?

Mr. SCOTT. There's been about 200. I think there's 98 this year.

Mr. PFLUGER. OK.

Mr. SCOTT. Again, those are just the ones that are known.

Mr. PFLUGER. Two hundred since January 2021.

Mr. Wolf, you guys reported known or suspected terrorists. Actually, it took us 6 months to get Mayorkas and the President to actually report known or suspected terrorists. What is the combined approximate total in the Trump years of known or suspected?

Mr. WOLF. I believe it was 11.

Mr. PFLUGER. Eleven. How rich is that discussion that we just heard about looking in a glass house? You know what the political theater here is? Over 5 million apprehensions at our Southern Border, over 200 known or suspected terrorists, over a million and a half known gotaways. I have constituents who are currently sitting in this committee hearing right now that live in west Texas and these folks are dealing with the unfunded mandate that my colleagues on the other side of the aisle are calling political theater. You are saying that 53 people that died in a tractor trailer south of San Antonio last summer is political theater? Give me a break.

This is insane that we continue to look at this administration anything less than a complete, abysmal failure.

Mr. Wolf, it looks like you might have a reply or something that was from the previous question.

Mr. WOLF. I would just say the previous question from the Congressman was probably false on all fronts. I think it's a naive view of the situation that occurred in 2018. Children are separated from adults who may or may not be their parents. Perhaps they're their parents that are abusing them. This happens every day along the border. You need to visit the border. You need to talk to Border Patrol to actually understand the border. This happens every day in the Biden administration, this happens in the Trump administration, Obama, and it goes on and on and on. I'm sure the chief can tell you more about that. But this idea that it only started in 3 weeks in 2018, it's a false narrative.

Mr. PFLUGER. Well, isn't it true that the Obama administration actually started family separation in all practicality? Mr. Scott, you served for four different Presidents, both sides of the aisle.

Mr. SCOTT. Correct. I'm really offended by the—not by you, but the statement family separation. DHS, United States Border Patrol, under various different administrations prosecute people for committing crimes, and we prosecute more people for committing

crimes of the percentage of the total population as the numbers go down. Over years, we found out consequences slow down the flow of illegal immigration. A consequence is a prosecution. That's what we were doing in the field. That happened way before the Trump administration. Some of you may be familiar with Operations Streamline. The Border Patrol reported on it all the time, and that was misdemeanor prosecution of illegal entry, and it has a direct result in improved border security. The track record is there, multiple administrations.

Mr. PFLUGER. Mr. Scott, when did you serve the Biden administration? What months or years?

Mr. SCOTT. For the Biden administration from the day of inauguration until August 14, 2021.

Mr. PFLUGER. OK, so for approximately 8 months.

Mr. SCOTT. Plus or minus.

Mr. PFLUGER. Was Secretary Mayorkas briefed on policy failures? Were there recommendations that were made to Secretary Mayorkas and President Biden from Border Patrol, from ICE, from Customs, from any of our DHS leaders?

Mr. SCOTT. I personally participated in numerous conference calls. The Secretary insulated himself a lot, but he had representatives on those calls, and occasionally he was in those calls himself. Yes, it was very clear, but the administration made it very clear deterrence was no longer our mission, and we weren't even allowed to talk about it. The minute you talked about trying to slow down the flow or putting any kind of a deterrent mechanism in place, we were immediately stymied.

Mr. PFLUGER. So this is a willful and complicit decision to turn away from the policies from 2017 to 2020 and go a different direction, which have resulted in the numbers that I previously said. They have been advised, and there have been recommendations made by yourself and others that they have completely ignored?

Mr. SCOTT. Absolutely. They're just carrying out their game plan that they said in the campaign.

Mr. PFLUGER. This is complete dereliction of duty.

I thank you, gentlemen, for your service to this country.

Mr. Chairman, the dereliction that we see from Secretary Mayorkas is unprecedented, and it has resulted in so many assaults, deaths, and drugs and chaos in this country. Thank you for holding this hearing.

I yield back.

Chairman GREEN. The gentleman yields.

I now recognize Mr. Ivey from Maryland.

Mr. IVEY. Thank you, Mr. Chairman. I appreciate that.

I wanted to say that when I arrived on the Hill this morning, I was surprised to find out that the committee had issued a report. It is titled "Causes, Costs, and Consequences." It is titled as Committee on Homeland Security Majority Report. It is, I don't know, around 55 pages long. What this document lays out is the Republican views with—I haven't had a chance to read it yet because I just got it. Actually it was waiting in my spot here when I sat down to begin the hearings. That is the first I have saw it and I didn't have a chance to go through it.

But I want to say a couple of things about it. I look forward to reading it and having a chance to digest it. I am deeply disappointed that a Majority Report didn't give the Minority any opportunity not only to review it, but to respond to it. I guess this isn't a formal report, but to the extent we are actually looking to try and do things together, to work together, to move the committee forward together to address the issues that are being addressed not only in this hearing, but in previous hearings, this kind of approach doesn't work. In fact, it is counterproductive, to say the least. I understand you guys have a view, and some of the points you have are different than ours, some of ours are different than yours. But if we are going to try and address this together, we actually have to work together, and it has to begin before the hearing starts.

What was especially disappointing about this one was I had a conversation with—I won't call a name, but a Member of the report, the Republican side on the House floor last night with respect to trying to move legislation in this committee. Part of it came out of the mark-up that we had a few weeks ago where there was recognition I thought by both sides that the Democrats had offered some amendments that might make sense. For example, with respect to the drones issue, we were told when we went to visit the border that there was a 17-to-1 deficit. We had offered an amendment to try and increase the number of drones and funding for it. The Republicans didn't take any amendments during the mark-up, and that is their prerogative. But there was a statement made at the time, well, maybe we can move amendments that you have offered that we find mutually acceptable that are beneficial. Another one, for example, was additional funding for Border Patrol agents. There are some provisions in the bill that passed, but not all that we talked about to provide additional funding, hire more agents, retention by paying them more and the like, since we are losing agents and it is harder to enforce the border with fewer agents than more agents. So we talked about actual legislation to try and address the problems that we are talking about here. I was assured, hey, yes, we can work together on this stuff. We got an oversight thing we got to do tomorrow, but we can work together on getting legislation done through the—I had no idea that the oversight thing—I knew the witnesses were coming. I mean we got the testimony just barely 48 hours in advance, but at least we did get it in advance. But this report is a blind-side. Hopefully that is not an indication of things to come.

But I also did remember at a previous hearing I raised this issue, the *New York Times* article that came out April 18. "Key Republican Tells Donors He Will Pursue Impeachment of Mayorkas." Now, I don't need to go through it again, we put it in the record previously. But basically it laid out a plan, a five-phase plan, quote, unquote, to set up the impeachment of Mr. Mayorkas. I was told that these were misquotes and the like. You know, we are really going to try and work together on this, we are going to file the—blah, blah, blah—in the hearing. This is on the record. Then I get this.

You know, I understand that that both sides differ. As I mentioned before, my first job here was 1987 on Capitol Hill working

for Congressman Conyers. I am sorry I missed earlier parts of the meeting because I had votes in Judiciary. But can we actually try and address some of these problems by working together? I know we have got different sides. I understand how hearings work. You guys get three witnesses, we get one. That is fine, but let's try and do things that—we can disagree without being disagreeable and try and move our points forward, I think. Because this is the Homeland Security Committee, our goal, I think, for all of us is to try and do what is best to help the American people. It is harder to do it when we are working at cross-purposes.

So with that, I yield back.

Chairman GREEN. The gentleman yields back.

The Chair now recognizes the gentleman from New York, Mr. Garbarino.

Mr. GARBARINO. Thank you, Mr. Chairman.

Mr. Edlow, what is the legal basis for asylum?

Mr. EDLOW. The INA Section 208 sets out exactly what asylum is.

Mr. GARBARINO. Is general economic hardship a legal basis for asylum?

Mr. EDLOW. A legal basis? No, it is not. There are five recognized grounds of asylum.

Mr. GARBARINO. Is general violence or crime alone a legal basis for asylum?

Mr. EDLOW. It is not, Congressman.

Mr. GARBARINO. Is political instability alone a legal basis for asylum?

Mr. EDLOW. Not alone, no.

Mr. GARBARINO. Does filing an asylum claim after entering illegally or improperly negate the fact that the individual entered illegally to begin with?

Mr. EDLOW. No, it doesn't. However, when someone comes in at the port of entry, claims credible fear, has a positive credible fear determination at that point, they are given the opportunity to present an asylum claim. Under Section 235 they are supposed to be detained. As we know, that's not been happening, but they are able to stay in the country to file that claim. They do not have legal status in the country, they are an asylum applicant at that point.

Mr. GARBARINO. Thank you. Are you aware that the CBP and Troy Miller, CBP acting commissioner, have recently tweeted that most of those claiming asylum at the border don't qualify for asylum as economic migrants?

Mr. EDLOW. I'm not aware of the tweet, but I would agree with it.

Mr. GARBARINO. Prior to the Biden administration, how were the words urgent humanitarian reasons and significant public benefit in a parole statute interpreted by DHS?

Mr. EDLOW. So I don't think there's necessarily been a change in the actual interpretation of the wording. But where I think there's a change is the sheer volume of categorical parole programs that we've seen. I'm not going to sit here and say there were not some categorical parole programs under the Trump administration, I, for the most part, would have liked to have seen them go away. I don't think that they are lawful. With the exception of maybe the Cuba

accords that allowed for the Cuban family reunification, the remainder of the programs probably should not have been there. However, we saw maybe 20-, 30,000 people over the course of the 4 years get paroled in under these types of programs. Whereas now, we're seeing mass parole where in the months prior to them stopping parole, given the court decisions and some other things, we saw months where there was over 100,000 people paroled in that month.

So, the sheer volume of parole numbers is astronomical now. Plus, they're doing it for specific countries, whole populations of those countries that they have a sponsor here that's not case-by-case. If they have humanitarian needs to get here, they can come through other means. They can come to the border and ask for credible fear. That's what we expected before. This is not an appropriate use of the parole authorities.

Mr. GARBARINO. Thank you very much. A lot of numbers going up. You are talking about paroles are going up. You know, we have seen numbers in migrants found dead on U.S. soil also go up. Mr. Scott, CBP personnel have reported informally that more than 1,700 migrants have been found dead on U.S. soil during this administration's watch, Biden and Mayorkas's watch. More than 500 were found dead in fiscal year 2021, and reportedly more than 800 found dead in fiscal year 2022. The 5 years prior to fiscal year 2021, the number had not exceeded 300 in any given year. Why is the number of dead migrants found on our soil increasing so much?

Mr. SCOTT. Because chaos kills people, and we've created a chaotic border situation. Additionally, Border Patrol has a search-and-rescue team that would normally just respond and be out in remote desert areas looking for people in advance. They're processing civil immigration cases. So, we're leaving vast sections of border open, and I would argue those numbers are probably underreported.

I was down at the border recently talking to some local sheriffs, and they're telling me that they're finding bodies on ranches. There are people dead along the border they believe have just crossed that are not included in CBP's numbers. But chaos kills people, and that's what we've created on our border.

Mr. GARBARINO. I appreciate that. I have 50 seconds left. I know people run out of time when they want to answer this question. So, I want to yield the rest of my time to Mr. Wolf, if there is anything you want to continue to say about, you know, this hearing and what you have experienced, I would appreciate it.

Mr. WOLF. No, again, I think what we did during the Trump administration is every day we weren't perfect, but every day we worked to install policies and operations that further secured that border that actually upheld the rule of law, day after day after day. Some we got right some we got wrong at the end of the day. I think if you look at the overall evidence of the past 27 months, that is not the case. They have specifically torn down policies and put others in place that make that border significantly less secure, not only from a humanitarian perspective, but also from a national security and a public safety perspective as well.

Mr. GARBARINO. Thank you very much. I ran out of time, so I yield back.

Chairman GREEN. The gentleman yields. The Chair recognizes Mr. Clark. All right, Mr. Garcia. I am sorry.

Mr. GARCIA. Thank you. Thank you, Mr. Chairman. Thank you to our witnesses for being here today as well. I want to just a couple of notes. I think that first, I just want to note that there has been a lot of attacks, of course, on the Biden administration on the work that is happening on the border. I think that obviously as a reminder that Democrats also want a safe and secure border. That is in the interests of everyone in our country.

I also want to note that there has been a bemoaning that, of course, that since the end of Title 42, that the chaos at the border that oftentimes many in this committee were rooting for just also did not happen. So, once again, it is very clear that we are getting another political hearing, another distraction from the real issues that are in front of our country.

I also want to note that there has been, once again, a repeating of things that have been debunked by witnesses, by experts, repeated over and over in this committee. We have been ignoring the facts about fentanyl. We want to blame the opioid epidemic on people that are seeking their legal right to asylum and not actually on the failures of our treatment system in the United States. Folks want to feed a narrative that if we just invade Mexico, things will get better in this country. All these things, along with false claims that our border is somehow open. The men and women of Department of DHS and our partnerships with NGO's and in Mexico are doing their jobs. Again, the border is not open. We continue to do that work in this country.

I also want to just remind Members of this committee there has been a lot of back-and-forth on the issues around family separation. I want to give Ms. Acer a chance to respond to this. We have heard a lot about family separation under the Trump administration and specifically, quite frankly, a rewriting of what actually happened and of history. Can you clarify the actual differences between what happened in the Trump administration to what is happening today?

Ms. ACER. Yes, absolutely. So, the Trump administration initiated policies that they knew would separate children from their parents. The decision to start prosecuting families for initial entries was done with full knowledge of what the impact would be. I actually met mothers in detention centers who had been separated from their children, had no idea where they were or how to find them. It was heartbreaking as a parent.

Mr. GARCIA. I want to note that I think that the differences between what has happened during the Trump administration and what is happening today, and the point of actually the whole process is completely different. So, I want to thank you for that clarification.

One other question. In this committee, we have had Members of the Majority work to defund programs with NGO's, particularly around with Catholic Charities, who is trying to support legal asylum, which is really shameful and really counterproductive to our work and our humanitarian work along the border. Can you explain why our partnerships with NGO's that are providing these

services are so important to the work that DHS does and across the border?

Ms. ACER. Yes, absolutely. Those partnerships are critical globally around the world as well as here at home. Faith leaders, faith volunteers, employees of faith organizations, and other NGO's, you know, are inspiring. You know, those who are motivated by their religions are trying to welcome the stranger day in and day out through their work. Refugees around the world are welcomed by faith-based and other organizations. That's critical to enable all the other countries to be hosting refugees. But here at home, we need more support for the organizations that are working to welcome refugees into our communities. There's also a disgraceful lack of support for the organizations in Mexico that are struggling to host refugees who are now waiting to seek asylum at our ports of entry.

Mr. GARCIA. Thank you. Finally, I just want to just note, I know there has been discussion about the One app application. I think one of the key reasons that conditions have improved and really we are focused on legal pathways is because the CBP One app after we all agree a difficult rollout has actually made things a lot better. So, I just want to thank everyone that worked on that, the entire Department, so many groups that have been involved in the rollout. Now over 1,000 migrants a day are able to use that app to exercise their legal right to asylum, which I think is really important. It is a legal right, even though some in the Majority choose to not see it that way. I yield back. Thank you.

Chairman GREEN. The gentleman yields. The Chair recognizes Ms. Greene of Georgia.

Ms. GREENE. Thank you, Mr. Chairman. It is interesting to me to listen to some Democrats here on the committee trying to harp on the very idea that Mr. Wolf is somehow illegitimate as the former Acting Secretary. We Republicans here, we are committed to searching for answers as to why this administration continues to inflict catastrophic damage to our country.

Here, I just want to remind you of a few things that are very important to understand. Not only is fentanyl poisoning the No. 1 cause of death of young Americans ages 18 to 49, nearly 83,000 Americans have died of opioid poisonings since the year 2022, and they die weekly in my district. Ninety-six individuals on the terrorist watch list have been apprehended. Crime has skyrocketed across the country, and we are missing 85,000 children, 85,000 children.

While Democrats across the aisle on this committee want to talk about families being separated under the Trump administration, I would like to introduce for the record, Mr. Chairman, a letter from Customs and Border Protection saying that the Biden administration is ending DNA testing, familial DNA testing, as of that was at the end of May, May 31, 2023. So, when you talk about separating——

Chairman GREEN. So ordered.

[The information follows:]

1300 Pennsylvania Avenue, NW
Washington, DC 20229

U.S. Customs and
Border Protection

May 19, 2023

MEMORANDUM FOR: [redacted]

FROM: [redacted]

SUBJECT: End of Contract for Deoxyribonucleic Acid (DNA) Testing for Suspected Family Unit Fraud

The U.S. Customs and Border Protection (CBP) familial DNA contract with BODE Technologies will end on May 31, 2023 and all familial DNA testing will conclude on that date. Buccal swab samples may still be submitted to BODE Technologies through the end of the contract, but any samples submitted afterwards will not be analyzed.

Familial DNA collection and testing is separate from FBI (Federal Bureau of Investigations) booking DNA collection and the end of the BODE contract does not impact collections as part of the CODIS (Combined DNA Index System) program which should continue uninterrupted.

Please feel free to contact me with any questions, or a member of your team may contact [redacted]

Ms. GREENE [continuing]. Children, we have the Biden administration not even testing, testing who these adults and these children are. I can't comprehend it. Everyone in this room knows what an Amber Alert is. We all get them on our phones, right? This is when a child has been kidnapped. We are so concerned in this country about children who have been kidnapped that we have something called an Amber Alert notifying all of us that there is a missing child. Eighty-five thousand children missing, migrant children missing, in the United States is the same thing as 85,000 Amber Alerts. It is unbelievable.

Mr. Wolf, many of the children are brought to United States by coyotes and human smugglers. In your view, how is Secretary Mayorkas responsible for exasperating the unaccompanied children humanitarian crisis?

Mr. WOLF. Well, it's not just one action. It's obviously a culmination of a variety of different incentives. It's an incentive structure that has been created over the past 27 months. It allows individuals to come into the country and remain into the country. When you exempt UACs from Title 42, that sends a signal to the cartels and to everyone else to smuggle as many children across that border as humanly possible. We know they are going to stay in the United States. So, when you make these categorical pronouncements, the cartels are watching and they are paying attention.

Just to key off on your last point, not only did DNA testing going to end, about to end, the vetting of sponsors also ended at HHS under this administration. No more vetting detailed, in-depth vet-

ting of sponsors. We also increased vetting of other household members. We didn't just want to know who the sponsor was. We wanted to know other household members and dive into those backgrounds. That was eliminated as well. Site visits, not every home was visited, but random site visits to make sure that those children were where they said they would be, also eliminated under this administration. So, the idea that somehow they are protecting children because they needed to facilitate the flow out of HHS facilities quicker and quicker is a misnomer.

Ms. GREENE. Unbelievable. Mr. Scott, it has been reported that many minors at the Southwest Border are in fact related to adults with whom they are traveling. In fact, some of them are even recycled. I can't even comprehend using the term recycled when it comes to children. These kids are used again by different cartels and human smugglers to guarantee admission of family units. In your estimation, has this exploitation of minors exponentially expanded under the Mayorkas's policies?

Mr. SCOTT. I believe it has and this is why. Every one of those child recycling cases, and if you don't understand what that means, that means a child being teamed up with a fake family over and over again. So, he has to make that trip over and over again because that gets them to become a family unit. They get into that categorical exemption to get released. Every one of those cases was discovered by an agent interviewing the child and finding little cracks in the story. That takes time. The agents don't have that time today. Those conversations are no longer going on at all. They're being pumped through the system like fast food commodities.

Worse than that, now the DNA piece of it is being shut down as well. That was one of the last tools to be able to quickly be able to prove somebody was not related. That doesn't mean that there's not some kind of a connection there. But that gave the agents a tool. Most people broke immediately when they believed they were going to be subjected to the DNA. You didn't even have to do it.

This administration knows they're putting children at risk every day. They're enticing them to come to the country, and it defies common sense.

Ms. GREENE. Thank you. He should be impeached.

Chairman GREEN. The gentlelady yields.

Ms. GREENE. I yield back.

Chairman GREEN. The Chair recognizes Ms. Jackson Lee of Texas.

Ms. JACKSON LEE. Mr. Chairman, thank you very much. Let me thank the distinguished Ranking Member and Chairman and my colleagues and Members and the witnesses every time you put yourself forward. We certainly thank you very much. But this is a journey that I have taken now for 28 years, maybe a little shorter. It never fails that whenever Republican administration is in, my Republican friends are in the Majority, there is an enormous crisis, and the Executive does nothing. There is no effort to write legislation. There is no effort to correct what any one of you are saying. It is with all due respect, and admiration, and friendship, it is a broken record. It is literally a broken record.

Before the late John McCain passed, there was a gang of eight who had an enormous contribution to trying to do an overhaul over immigration reform. It was the party that is now in charge of the House that blocked it. I worked with on this committee a Chairwoman by the name of Candice Miller from Michigan. We worked on comprehensive immigration reform measures to address the U.S.-Mexico border, which was blocked by the Republican leadership at that time.

Do your homework. In years past, we have written legislation to provide the border personnel every manner of support we could give them. So, let me be very clear. The Remain in Mexico program was horrible because I went and visited the squalor that the people were sitting in. There was nowhere for them to go. It was misery. Nothing was happening. The border wall, you can get a nice comment and quote, our men and women at the border are very nice people. They will give you quotes. But it is well-known that most of fentanyl comes to the United States citizens through legal ports of entry. It is also well-known that even though you will say, well, that is because we need more border wall, that the border communities fight you for the border wall, not to have it. Smugglers and others find other ways.

As relates to the asylum cooperative agreements, we have agreements now with Venezuela, Haiti, Cuba, and Nicaragua. As relates to Title 42, the Republicans voted to end the public health provision that the President ended, and by its very essence, you ended Title 42. Let me quickly because I will be going to one witness, because all the other witnesses I know what you are going to say, but I do appreciate the work that Ms. Acer is doing. So, please be ready for a question. I am trying to get through.

I heard the word impeachment. I don't know whether it was going in direction of my President, the President of the United States, or whether it was going in terms of Secretary Mayorkas, an immigrant himself, who pulled himself up by the bootstraps and has more commitment in his tiny finger than what I would imagine some who advocate against him. I make that generic. But Secretary Mayorkas has done nothing contrary to his boss. He is a member of the Cabinet and his boss wants America to be safe, the President of the United States. In every aspect of work that we can do, from the increased resources, from adding to the additional personnel, to creating pathways for people to parole in, for creating the app, and the numbers have gone down. They surge up, they go down. It depends upon movements of people.

So, you have no more answers than anyone else. Mr. Wolf, you were in there for a year or 2 years, and I don't see anything that you did that has brought down anything that we are talking about. This is not a personal statement because I want to add and say I appreciate your service to the Nation. But everybody that is sitting there that is criticizing had their opportunity.

We have got to come together as a country and stop scaring our constituents because America is getting more diverse and they are contributing to the economy and to the culture of this Nation. The world watches as to whether or not we can make this experiment work. They are in awe of us. They come because they are in awe, because they are desperate, because they think this is the greatest

country in the world. It is. Its democracy, however challenged, is still standing. It bothers me to masquerade.

I have this question, Mr. Chairman, I ask your indulgence so she can answer it. I represent Catholic Charities and many others. I fought to get hostages back from Russia. I have dealt with the crisis of deportation, families separated. What does it do to our very dedicated non-profits who are innocent, who have the responsibility of taking care of people in streets, people who are separated, children who are separated, people who are traveling that you would assess them criminally or find them so that they are so scared that they cannot do the normal, humane things for individuals who even may be in here on a legal pathway coming into the United States? Mr. Chairman, I asked your indulgence for her to be able to ask that question—answer it.

Chairman GREEN. Just if you could make your answer short. Ms. Jackson Lee is already over her time, so I will allow it.

Ms. JACKSON LEE. OK, thank you.

Chairman GREEN. I will allow it.

Ms. JACKSON LEE. Thank you.

Chairman GREEN. Just make your answer as quick as possible.

Ms. JACKSON LEE. No basis for the Secretary to be impeached but go right ahead.

Ms. ACER. It's reprehensible. Not only does it punish people for acting on their humanitarian values, it also punishes them for acting on their faith beliefs as well. It's totally counterproductive. I mean, here in America, we need our faith-based organizations. We need our communities to step up and be part of the solution. Many Americans want to do that and are doing that as we speak. Thank you.

Chairman GREEN. Thank you. The gentlelady yields. I now recognize Mr. LaLota——

Ms. JACKSON LEE. I yield.

Chairman GREEN [continuing]. For his 5 minutes.

Mr. LALOTA. Thank you, Mr. Chairman. Thank you, sir, for your leadership and bringing this committee together in this hearing and for your efforts to make my constituents' lives safer for securing the Southwest Border. I appreciate the witnesses and your expertise being here.

I represent the First Congressional District of New York. The western edge of my district is about an hour or so east of New York City. Over the past several weeks, my constituents have heard how New York City's sanctuary city policies, coupled of course, with our country's non-secure and wide-open Southwest Border, have overwhelmed New York City's resources previously meant for the homeless, for folks suffering from substance abuse and veterans in need. Given the influx of migrants who are attracted to New York City because of those sanctuary city policies, the city can no longer handle the influx of those migrants. In response, Mayor, New York City Mayor Adams is now attempting to sending those same migrants who were attracted by those sanctuary city policies to suburban counties throughout the State who had expressly rejected those sanctuary city policies.

Mr. Wolf, that leads me to my first question, sir. Can you please explain what sort of costs, such as monetary, personnel, public

safety, are imposed on States, cities, and counties in dealing with the current crisis at the Southwest Border?

Mr. WOLF. Sure, there's a variety of different costs. You know, all of the children that we've talked about go into public education systems. English is usually not their first language. So, that's going to strain public education systems in every community that they go into. Certainly, the ones that they go to in a large amount.

Health systems, public safety systems. You now have public safety officers, law enforcement officers, having to deal with additional crimes and additional incidents, particularly along the border, that I've talked to sheriffs that are overwhelmed because of what's going on.

Then we talk about the money that DHS is sending to NGO's, right? Billions of dollars, I would say millions of dollars being sent to NGO's for a crisis that they created, that they're now using taxpayer dollars to send to try to solve the crisis. So, there's a lot of different costs, you know, that American taxpayers bear.

Mr. LALOTA. What, if anything, sir, can you say about the cost on public safety with a whole slew of unvetted young adult migrants, excuse me, adult migrants that are being shipped to suburban counties? What can you say as far as what public safety costs?

Mr. WOLF. I think there's a variety of different, you know, ways. If you talk to law enforcement officers along the border, they're dealing with crimes and they're dealing with incidents that they've never had to deal with before. When you talk of military-aged males, individuals coming over that are a certain age that are not being vetted, right? We talk about 1.5 million gotaways. These are individuals that obviously don't want to interact with law enforcement officers for a very specific reason. They're here to do bad things.

Or we talk about 100,000 Afghans that weren't properly vetted. We've seen and there's been reports of crimes and incidents that are occurring on that front.

So, I think there's a variety of different things that you could point to that says if the process was followed correctly and individuals are vetted as they should be, some of this should not have occurred.

Mr. LALOTA. Four billion, New York City has said that it will spend $4 billion next year caring for and housing the illegal alien population that has come to New York City because of its sanctuary city policies. Eight billion, Texas is on track to spend more than $8 billion on Operation Lone Star doing the job that Secretary Mayorkas won't do, securing the Southwest Border.

Another question for you, Mr. Wolf. How do these massive expenditures affect the cities and States who are forced to pay them? Is it fair for New York and Texas law-abiding taxpayers to have to suffer the burden that the open border and the sanctuary city policy have created?

Mr. WOLF. No, none of this is fair. None of this should be occurring. But this is what happens when the Federal Government refuses to do its job. We've never seen this before. As I testified, it's in my oral and written, every administration has progressively tried to make improvements along that border. I would argue that some administrations did more than others, but every administra-

tion, at least in my lifetime, has done that. This is the first that has not only taken one or two steps back, we've probably taken five to 10 steps backward.

So, you're going to—that's got to be picked up by someone. It's different States along the border, and it's different municipalities, cities, and officials that have to pick up the slack. They have to protect their communities.

Mr. LALOTA. Thank you. I appreciate you being here today with your expertise and your experience. Mr. Chairman, I yield back.

Chairman GREEN. The gentleman yields back. I now recognize Ms. Clarke.

Ms. CLARKE. Thank you, Mr. Chairman. Good afternoon, everyone. I just wanted to correct the record of my colleague, Mr. LaLota. These immigrants had no choice in where they ended up in this Nation. They crossed the Southern Border, yes, but it was Governors of the States of Texas and Florida that put these individuals on buses directed to New York City.

Mr. LALOTA. Not all of them.

Ms. CLARKE. So, having said that, we are currently, as my colleague Rep. Correa demonstrated in this line of questioning, witnessing an unprecedented human migration movement around the world of individuals seeking refuge, safety, and economic opportunity. Individuals are fleeing economic instability, governmental corruption and persecution, violence. Climate change has ravaged food and water supplies in their homes of origin, and this has been evident in many nations within the Western Hemisphere and especially in the Caribbean, in the island nation of Haiti, as individuals have been enduring far more dangerous means and methods to escape and to seek refuge here in the United States. This is not just a challenge for the United States, but a global challenge. We must step up to the plate to do our part.

So, my first question, my only question is to you, Ms. Acer. Would you agree that there is an unprecedented movement of vulnerable people in the Americas and world-wide? Can you speak about how that is affecting our border and how our Government should work with regional partners to address this challenge?

Ms. ACER. Yes, absolutely. There's been a significant increase in people fleeing in search of protection in the Americas in recent years. There's also been a shift with increasing numbers fleeing from Nicaragua, Venezuela, and Cuba. I'm sure some of you know, for example, about the crackdown on political opposition and faith groups in Nicaragua forcing many people to flee that country, for example. People who have fled from Venezuela are facing restrictions in some of the countries that they have been in, and they are seeking safety and stability as well.

So, there's been major regional shifts. But there's a lot that we can be doing and doing more of in the region. Incredibly important is to continue to support, and support as best we can the front-line countries that are actually hosting the vast majority of refugees. I mentioned, for example, that countries in Latin America and the Caribbean are hosting 6 out of the 7 million Venezuelans who left their country. It's certainly in the U.S. interest to continue to support those efforts. Critically important that we now have a commit-

ment to start long-overdue resettlement from the region, from the Americas that needs to be absolutely stepped up.

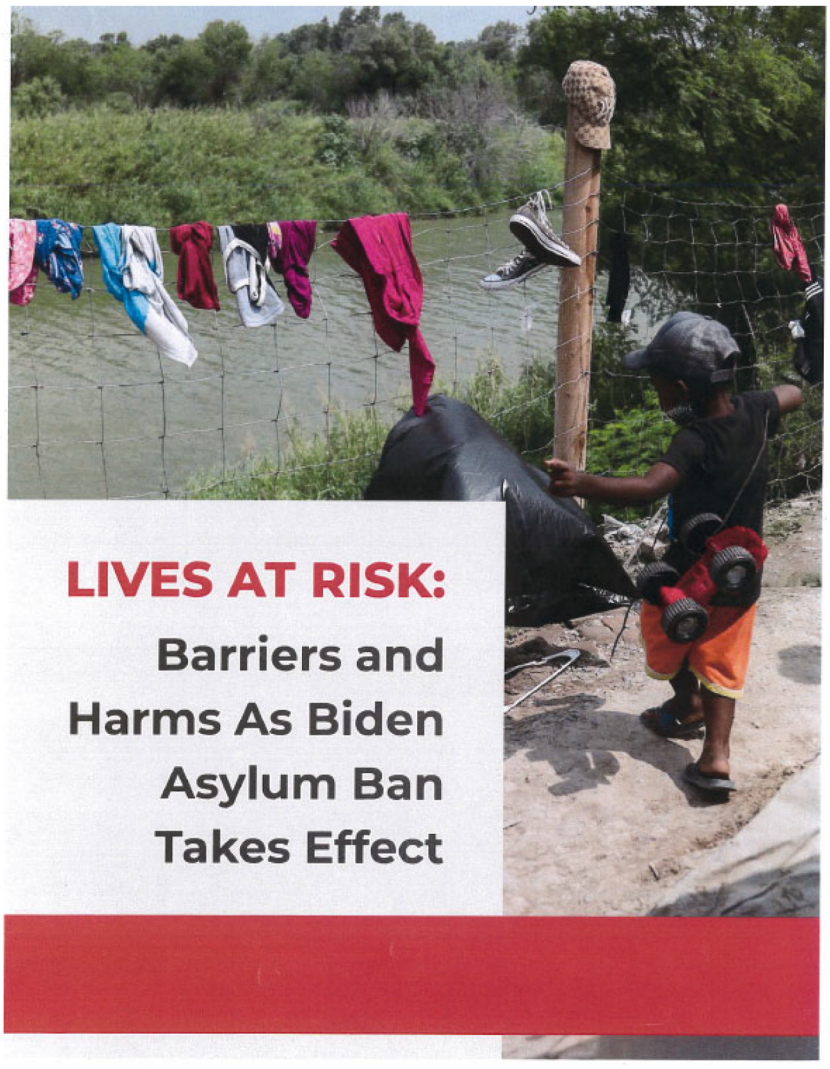
You mentioned the plight of Haitians who are facing such extreme dangers that the United Nations and the U.N. Refugee Agency said that it is too dangerous for people to be returned to Haiti right now. So, parole, for example, has been an incredible lifeline for some people from Haiti. But the parole processes are not as accessible as they should be for many people facing dire risks and the numbers are too small. You know, there's really no way often for Haitians to actually flee in search of refuge.

So, thank you so much for everything that some of you have been doing. I would really encourage bipartisan support, you know, for the programs that are helping refugees around the world, for the expansion of refugee resettlement from the region, and for these very legal parole initiatives.

Ms. CLARKE. I would like to thank you for the work that you are doing. Mr. Chairman, without objection, I would like to enter this report led by the Haitian Bridge Alliance with input from Ms. Acer and Human Rights First, which documents their observations on the Southern Border following the end of Title 42.

Chairman GREEN. Without objection, so ordered.

[The information follows:]


LIVES AT RISK:
Barriers and Harms As Biden Asylum Ban Takes Effect

EXECUTIVE SUMMARY

From May 10-12, 2023, a delegation of human, civil, and immigrants' rights leaders led by the Haitian Bridge Alliance visited the Texas Rio Grande Valley and the Mexican state of Tamaulipas to bear witness to the end of the Title 42 policy and the implementation of punitive policies along the border, including the Biden administration's new asylum ban. In Matamoros and Reynosa, Mexico and Brownsville, Texas, the delegation saw firsthand the difficulties that people seeking asylum face when attempting to secure appointments at U.S. ports of entry via the CBP One app; the barriers some face waiting and trying to seek asylum at ports of entry without a CBP One appointment; the squalid and inhumane living conditions of migrants at the border; and the violence and anti-Black racism that people seeking asylum endure while waiting in Mexico.

The delegation members spoke to hundreds of people waiting to seek asylum. It was clear that they wanted to follow the U.S. process to seek asylum at ports of entry, but face major impediments.

These barriers include:

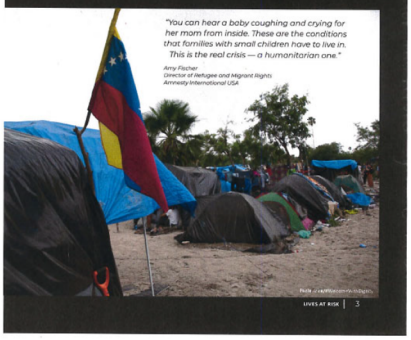
- the lack of critical information about the highly complex U.S. immigration process;
- the lack of smart phones, internet, language access, and technical assistance to use the CBP One app;
- the unduly limited number of CBP One appointments;
- U.S. refusals to process many people waiting without appointments to request protection at ports of entry;
- Mexican government intervention to limit or prevent asylum seekers from waiting in line to seek U.S protection at ports of entry;
- the absence of a transparent and non-discriminatory process for asylum seekers without appointments to request protection at ports of entry as required by U.S. refugee law;
- the horrific human rights abuses suffered and risked while left waiting in highly dangerous areas of Mexico;
- and the unsanitary, unsafe and inhumane conditions in many of the encampments and areas where asylum seekers are at risk as they wait to try to follow processes to seek asylum at U.S. ports of entry.

U.S. officials appear to be touting their use of what they frame, in a dehumanizing approach, as the "stick" or "consequences" of the asylum ban as the reason for reduced crossings after the end of Title 42. Yet from the aid workers, faith visitors, legal services providers, and countless people seeking asylum we spoke with, it was clear there was little to no knowledge of the new asylum ban. Instead, people seeking asylum were struggling to comprehend the process on how to seek protection at ports of entry.

The use of the Biden administration's new asylum ban against people seeking asylum imposes yet another barrier. As detailed in the many public comments opposing the proposed rule, the asylum ban will lead to returns to persecution and chain refoulement that violate international law, denial of asylum to people who are otherwise eligible for it under U.S laws enacted by Congress, and the deprivation of a path to citizenship for

many refugees denied asylum due to the ban. UNHCR has warned that the asylum ban violates international refugee law binding on the United States and places refugees "at risk of persecution and/or death." A process that leaves refugees at risk or in long-term limbo and violates U.S. and international law is neither humane nor "orderly."

The delegation included leaders and experts from Haitian Bridge Alliance, the ACLU, Amnesty International, Amnesty International USA, Human Rights First, NILC, NIJC, Tahirih Justice Center, UndocuBlack Network, and the #WelcomeWithDignity campaign for asylum rights, and experts on the delegation drafted this report. The delegation thanks the refugees and migrants, humanitarian, faith-based, shelter and other workers and volunteers it met on this visit.



"You can hear a baby coughing and crying for her mom from inside. These are the conditions that families with small children have to live in. This is the real crisis — a humanitarian one."

Amy Fischer
Director of Refugee and Migrant Rights
Amnesty International USA

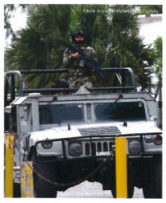
Paola Avila/Witness to Injustice

FINDINGS



Paola Avila/Witness to Injustice

People seeking asylum turned away from ports of entry: Despite the end of the Title 42 policy on May 11, and after the initiation of the Biden administration's asylum ban, people seeking asylum who did not have CBP One appointments were in many cases turned away or not processed by Customs and Border Protection (CBP) officers, prevented from seeking asylum by Mexican officers, and turned away from U.S. ports of entry. These include a Honduran mother and a Mexican Indigenous mother who reported that they were turned away by CBP on May 12 along with their young children. On the evening of May 12, a member of the delegation and other monitors witnessed Mexican immigration officers and the Mexican military, in an extreme show of force, direct about 100 adults and children, who had been waiting in an orderly manner to be let in by CBP to seek asylum, back to Matamoros. On May 13, a delegation member witnessed Mexican officers prevent two African asylum seekers from even approaching the CBP "limit line" on the bridge. People who had managed to get CBP One appointments were permitted to enter the U.S. port of entry, as well as a limited number of other people seeking asylum.



Paola Avila/Witness to Injustice

People seeking asylum struggle to get limited CBP One appointments: While people are struggling to follow U.S. processes for seeking asylum and to use the CBP One app, the CBP One system is plagued by lack of phone and internet access, limited language access, tech glitches and other accessibility deficiencies. In addition, the Department of Homeland Security (DHS) has provided only a very limited number of appointments, leaving people seeking asylum frustrated at the process and stranded indefinitely in highly dangerous places.

Haitian and Black people seeking asylum are targets of anti-Black discrimination and violence: Attacks against Black people who are waiting to seek asylum are occurring in Matamoros, Reynosa and other acutely violent areas where they remain stranded while waiting. Black people waiting to seek asylum are often deprived of equal access to asylum processes, medical treatment, housing, safer shelters, humanitarian services, language access, and protection from law enforcement.

The Biden administration's new asylum ban, like Title 42 and Remain in Mexico, is leaving many people seeking asylum stranded in highly dangerous places where they are targets of violence and kidnappings. While they wait for scarce appointments in Matamoros and Reynosa, people seeking asylum are stranded in areas that the State Department assesses as too dangerous for U.S. travel, at risk of kidnappings and attacks, and in encampments that lack basic structures and safeguards needed to ensure the safety of those waiting, including women, children, and LGBTQ+ individuals. They are left to face the very same conditions and human rights abuses suffered under the Remain in Mexico and Title 42 policies. In fact, these policies have created, as will the asylum ban, a market for cartels, gangs, and smugglers to exploit people seeking asylum who are forced to wait along the border.



FINDINGS (continued)

Stunning Lack of Governmental and International Support: Volunteers and aid workers struggle with few resources and little support to address some of the most urgent needs facing people seeking asylum who are left to wait in Mexico due to U.S. policies that block them from asylum or strand them in Mexico. On both sides of the border, many of the humanitarian, faith-based, shelter and other groups working to provide humanitarian aid to refugees and migrants are massively under-resourced and overstretched, and are struggling to continue to attempt to address reception, shelter, sanitation, water, food, medical, legal, know-your-rights education, protection, and other basic needs. Many confided to our delegation that without additional funding soon, they will need to close their offices and end the only services that most people receive.

Refugees, asylum seekers and migrants are living in squalid conditions without access to basic services: The delegation was shocked and deeply disheartened by the poor living conditions of refugees, asylum seekers, and migrants, including children, pregnant people, people with disabilities, survivors of trauma, and individuals with significant health conditions. The delegation visited encampments where people are left to wait outside in makeshift tents made of tarps and blankets in abandoned gas stations, public parks, and on the banks of ravines filled with trash and raw sewage. When the rain comes, people's "homes" are flooded and their belongings are ruined, leaving them and their children with no place to sit or sleep.

Lack of information about the asylum ban: People who were waiting to seek asylum overwhelmingly had no information about the new asylum ban, its implementation, its presumptions, and its exceptions. The rule, its presumptions, and exceptions were confusing to many people seeking asylum (and even to delegation members) and are divorced from the reality of refugee experiences. The lack of information about the asylum ban rule, the final version of which had only been announced less than two days prior to its implementation, as well as the lack of transparency provided by DHS on key questions, including on access to asylum at ports of entry for people without appointments, made it difficult to impossible for people seeking asylum to make informed decisions as they struggled to understand potential long-term consequences while weighing immediate threats to their safety and that of their children. One Mexican Indigenous woman who had been waiting at a shelter traveled to the port of entry with her children on May 12 to seek asylum, but when she asked CBP for information on whether she would be allowed to do so, they told her that they could not give out any information and did not allow her in.

Families continue to be separated by CBP, with delegation members meeting multiple people who had been separated from spouses or adult children in recent days and weeks without being provided any information about their family members' fates. A Haitian family remained separated after the children did not get CBP One appointments, and the mother remained behind with them in Mexico.



Petra Arauz Kancelman/Witness to Dignity



Eduardo Soteras Jalil/Witness to Dignity

RECOMMENDATIONS

After bearing witness to human rights violations along the border, the delegation urgently calls on the Biden administration to uphold the legal right to seek asylum and due process, rescind its new asylum ban, and welcome people with dignity and respect for their human rights and racial justice. A humane border policy should instead focus on increased communication, coordination and support for humanitarian aid, shelter and reception at the border and in destination communities, with a focus on local organizations. Many organizations represented in the delegation have previously submitted detailed recommendations to the Biden administration. Delegation recommendations include:

Uphold refugee law and right to seek asylum: The Biden administration should uphold U.S. and international refugee law, rescind its asylum ban, maximize asylum capacity at ports of entry including for those without appointments, stop blocking or limiting the ability of people without appointments to seek asylum at ports of entry, including through collaboration with the Mexican government, ensure access for those without literacy or who speak languages other than the few employed by CBP One including Indigenous languages, and refrain from penalizing or barring people seeking asylum due to irregular entry or transit routes. The U.S. failure to increase processing at ports of entry is intentionally resulting in irreparable, life-threatening harm to people seeking asylum in need of protection given the overwhelming evidence of kidnappings, trafficking, sexual assault, disappearances, robbery, and extortion by organized criminal groups with the complicity and participation of Mexican authorities.

Ensure Just and Equitable Access for Black and Indigenous People seeking asylum including language access, asylum protection, shelter, and humanitarian and legal services. Law enforcement officers and other DHS staff that interact with people seeking asylum must receive anti-Black discrimination training and written anti-racism policies.

Massively increase governmental and other aid to support humanitarian efforts in Matamoros, Reynosa, and other Mexican border cities where people are waiting to seek asylum and to support humanitarian reception in the United States. The U.S. government, including the State Department, as well as the Mexican government, and international community, must take steps to ensure the accountability and oversight in the coordination and provision of protection and humane conditions that meet the requisite humanitarian standards for asylum seekers waiting in Matamoros and Reynosa - and to ensure phone and internet access for the CBP One process. If the Biden administration continues to leave people stranded on the other side of the border instead of allowing them to enter the U.S. and seek asylum according to the law, it must increase support for necessary humanitarian assistance. In the United States, DHS must shift funds away from over-funded detention, enforcement and surveillance accounts and surge funds toward reception services. The White House and DHS should immediately focus attention on developing the newly appropriated Shelter and Support Program as a centerpiece of the United States' approach to border reception. This newly created program offers an opportunity to remedy some of the limitations border NGOs currently face in utilizing limited federal grant funding, including, for example, disbursing funds as needed instead of on a reimbursement model and removing limitations on the use of funds for transportation and shelter costs.

Stop separating families: DHS must ensure families are not separated once processed by CBP. The right to family unity requires that family members are not separated. DHS should not detain or remove family members without informing other family members of their status or outcome.

Struggling to Access Limited CBP One Appointments

The delegation and its members saw and spoke with hundreds of people who were struggling to access and get an appointment to seek asylum at a port of entry on the CBP One app, with many indicating they had been trying to obtain an appointment for several months, in addition to several months prior to the app's introduction. Members of the delegation met with a Venezuelan woman who had already been waiting for nine months, a Mexican woman with her children who had been waiting for six months, and many families who had been waiting for three months.

The CBP One app has contributed to family separations, and endangers lives as it is used by DHS to limit appointments and force people to wait for months in highly dangerous areas of Mexico. For example, we spoke with a Mexican Indigenous mother living alone in the Matamoros encampment with her infant and three children. She explained that her partner had obtained a CBP One appointment two months prior, but was unable to get one for all of them. As a result of CBP's policy to only process individuals with appointments, she stayed behind in the camp with their children as she tried to request a CBP One appointment daily. She explained that others in the camp knew she was now alone with her children and told of an attempted sexual assault she experienced when a man entered her tent at night. She also told the delegation of another man who kept asking for her two elementary school-aged daughters and the risk of kidnapping and trafficking they faced, forcing them to flee the camp.

We also spoke with a Honduran mother who had been waiting in the precarious conditions of the Matamoros encampment alone with her toddler son for 3.5 months. About 1.5 months ago, she approached the port of entry with a CBP One appointment in her name, but CBP turned her and her toddler son away because the toddler did not have an appointment. They were turned away to highly dangerous conditions in the Matamoros encampment lacking safety, shelter, and other minimum humanitarian standards. At the encampment, the single mother resided in a makeshift tent with her toddler faced daily risk of sexual assault and kidnapping while attempting again to obtain an appointment. The mother shared that while she finally obtained an appointment for the following week, it is at the Hidalgo port of entry in Reynosa, Mexico. Now she will undertake the highly dangerous trip with her young son from Matamoros to Reynosa through areas where cartel kidnappings and brutal violence are prevalent.

Confronted by significant delays and confusion with the CBP One app, many parents have surrendered their children to enter the United States as unaccompanied children, rather than having them wait in unsafe, life-threatening conditions at the border.

Lack of Phones: Many individuals who lack phones are unable to exercise their right to seek asylum under the asylum ban and are obliged to attempt to borrow strangers' phones on a daily basis, increasing their risk of exploitation and abuse. Delegation members met many highly vulnerable people seeking asylum who do not have phones. An overwhelming number of people recounted numerous incidents in which they were robbed and extorted along their journey, including by Guatemalan police, Mexican immigration authorities (INM), and brutal criminal groups that control vast territories in Mexico. Delegation members spoke with women of different nationalities who were traveling alone and now living in the Matamoros encampment who had been robbed of their phones and had no means to purchase another one. We also spoke with families with young children whose phone had been robbed, and with an LGBTQ+ and HIV+ young adult traveling alone who had been robbed of their

CBP One Appointments (continued)

phone, passport, medication, and belongings at gunpoint. These individuals have essentially no safe means of accessing the CBP One app. People who are seeking asylum should not be forced to ask strangers they meet in encampments or shelters to use their phones to repeatedly try, day after day, to seek a CBP One appointment. This is no solution and risks putting vulnerable women, young people, and others seeking asylum in ever more vulnerable positions where they could be subjected to exploitation.

Lack of internet access: Thousands of individuals living in encampments lack internet access and electricity to charge their phones and are obliged to leave their encampments and venture into town daily in an attempt to secure internet and electricity, increasing their risk of sexual assault, kidnapping, robbery, exploitation, and abuse. In many of the encampments and shelters that the delegation visited, people seeking asylum did not have access to daily internet or reliable phone service to successfully make CBP One appointments. A few shelters did have some internet access provided by a small non-profit. Without reliable internet access, people struggle to access the appointment system. In many encampments phone reception is tenuous, minimal, and inadequate to ensure reliable access to the appointment system. In some of these encampments, individuals are forced to walk the dangerous stretch into town each day to try to get internet access or sufficient phone reception to request an appointment. These are the very streets in which kidnappings of people seeking asylum are a daily occurrence. That, the requirement to secure a limited CBP One app obliges these people to place their lives at risk each day in order to seek asylum.

Lack of tech knowledge and training: Another impediment to the use of the CBP One app is its reliance on technology in a situation where many understandably lack tech training and savvy.



Amnesty International USA

10 | LIVES AT RISK

indeed, many frustrated people walked up to us showing us their telephone screens, peppering us with questions as they often had no understanding of what the messages they saw meant, whether they had done something wrong, and what to do next. Many people showed delegation members error messages that said "request timed out" because "[t]he server took too long to respond" which "could be due to poor network connection." The stakes are high to get these appointments, so confusion caused by the app process was extremely stressful for people waiting to seek asylum. Many had questions and were confused about group registration processes, and feared they would be separated from extended family members.

Faultiness and inequity of the app: People seeking asylum shared frustrations about regularly receiving error messages while trying to use CBP One, and about the system appearing to crash. Even delegation members who tried downloading the app on their phones, which were of higher quality and better service than asylum seeker's phones, still struggled with error messages blocking them from completing the process to even register (not to seek an actual appointment). The app is only available in a few languages (English, Spanish, and Kreyol), essentially excluding many people seeking asylum who do not speak these languages, as well as people who are not literate. Delegation members saw error messages in English, even if the person had used the Spanish or Kreyol version of the app because they do not speak English.

Highly limited number of appointments: Over and over again we heard from humanitarian and faith-based aid workers and from people seeking asylum that it was highly difficult to get appointments and that there were too few appointments available. At one makeshift shelter in Reynosa where several thousand people were staying, only one family



was known to have received an appointment on the day we visited. Indeed, DHS has indicated that, even with its slight increase of appointments post Title 42, it is providing only one thousand CBP One appointments across the entire border and other areas where the app is available. When the number of current appointments was shared with a large group of Haitians waiting to seek asylum, there was an audible gasp across the group out of despair about the few appointments available in contrast to the numbers that have been waiting and waiting for appointments. Many other people seeking asylum also expressed frustration with the lack of appointments available. The highly limited number of appointments available, along with U.S. and Mexican government actions blocking people from seeking asylum without appointments at ports of entry, violates U.S. refugee law and amounts to unlawful metering. Under both domestic and international human rights law, the United States is obligated to provide access to individualized and fair assessments of all requests for protection by people seeking refuge at the border, in a way that does not discriminate based on manner of entry or immigration status.

LIVES AT RISK | 11

Turned Away at Ports of Entry After Title 8 Return

After U.S. refugee and immigration law was back in effect, U.S. and Mexican authorities took steps to prevent many people without CBP One appointments from seeking asylum at the Gateway International bridge between Matamoros and Brownsville. For example:

- On the afternoon of May 12, members of the delegation met with a Honduran mother traveling with two minor children who had just arrived in Matamoros fleeing persecution in Honduras as her son had been killed. She reported that she approached the CBP limit line attempting to seek asylum and was turned away by CBP because she did not have a CBP One appointment.
- Members of the delegation also met with a Mexican Indigenous mother who approached CBP officers at the limit line on May 12 with her infant and three young children to ask whether she could seek asylum and was turned away by CBP and not provided with any information.
- On the afternoon and evening of May 12, members of the delegation observed people waiting in line in an orderly and calm way starting at the CBP limit line. CBP officers there were not admitting those waiting individuals to seek asylum, though some may have been allowed to enter later. During the course of the day, people with CBP One appointments were allowed in for processing, as were a limited number of others without appointments.
- On the evening of May 11th, INM officers walked directly onto the bridge and cleared the group of people who were waiting peacefully to present to CBP and request asylum at the limit line. The Mexican officers told the people who were waiting (and aid providers accompanying them) that they had to leave. As the people were departing, armed Mexican officers walked the plaza at the foot of the bridge while helicopters flew overhead. Asylum seekers were told they had to clear the bridge and the plaza at the foot of the bridge. The atmosphere was frightening, especially for the many young children among those pushed off the bridge late at night in the dark.
- On May 13th, a delegation member witnessed people seeking asylum from Ghana and Burkina Faso, including a woman who had just suffered a stroke, prevented by Mexican officers from accessing the Gateway Bridge. These people told the delegation member that they had not even heard of the CBP One application and that their phones and all their belongings had been stolen along the way, so they had no way to seek an appointment even if they had known about the appointment system. At points along their difficult journey, they were not certain that they would survive. They expressed feelings of disorientation and desperation to have finally made it to the U.S. border only to be turned back without any explanation.
- Humanitarian workers in Matamoros report that since the delegation's departure, INM has continued to regularly block people seeking asylum without CBP One appointments from presenting at the limit line to seek asylum.
- In addition, at the San Ysidro port of entry, an attorney with the Center for Gender & Refugee Studies reported on May 13 that three Mexican families waiting to seek asylum were told to "use the app" and turned back.

12 | LIVES AT RISK

Mexican government collaboration in denial of access to asylum. The Mexican government is collaborating with the United States to turn away people seeking asylum who do not have CBP One appointments. Even though families and adults were waiting in an orderly way on the bridge on May 12th to be allowed in by CBP to seek asylum, Mexican INM officers forced the waiting asylum seekers off the bridge that evening and the Mexican military initiated a show of force that was terrifying to the families, young children and others who had been waiting on the bridge. A member of the delegation along with two other monitors observed as Mexican officers told the waiting families and adults - which included about 100 people including many small children, a teenage girl with a severe disability, and a man in a wheelchair - to leave their line and get off the bridge - and witnessed the overwhelming show of force that terrified many of these people and their children. This show of force included armed Mexican military forces and two helicopters. Mexican officers, as noted above, have also prevented people seeking asylum from entering the bridge in order to attempt to seek asylum from U.S. authorities.

Forced to Wait in Highly Dangerous Areas After Perilous Transit through Central America and Mexico

Many of the people who were seeking asylum that the delegation met with had been stranded in Reynosa and Matamoros by the Title 42 policy, and will now be left stranded in highly dangerous and difficult conditions by the new asylum ban restrictions. In these areas, the level of violence and danger is so severe that the U.S. State Department advises that they are too dangerous for Americans to visit. Recent reports of escalated cartel violence make the areas even more dangerous for refugees, migrants, and humanitarian workers.

Black refugees and migrants in particular face violence, rape, and kidnapping by deadly cartels and compounded risks in Mexico just because of the color of their skin, as human rights reports have repeatedly documented. Human Rights First has tracked over 13,000 reports of violence, kidnappings, torture and other attacks against people expelled or stranded in Mexico under the Title 42 policy, with particularly harrowing accounts of violence targeting Black migrants. For instance:

- One Haitian couple in Reynosa had been kidnapped off of a local bus and held for ransom and beaten regularly for ten days until their family paid their ransom. They witnessed the kidnappers kill other migrants who did not pay the ransom.
- Violence occurs so frequently against Black migrants that when four Black Americans were kidnapped in Matamoros in March 2023 – of whom two were killed – many presumed they were Black migrants, which caused many Haitian migrants to flee Matamoros and go to Reynosa.



LIVES AT RISK | 13

Forced To Wait (continued)

Local humanitarian workers informed members of the delegation that violence and kidnappings targeting refugees and migrants are a constant occurrence in these areas. People turned away to Reynosa by DHS officers are targeted for kidnappings right outside the port of entry, including by taxi drivers who wait for them just outside the port of entry and deliver people they pick up to kidnappers who hold them for ransom. In addition:

- Days prior to our visit, a group of families which included children were expelled by CBP under Title 42 through the Reynosa port of entry and immediately kidnapped.
- A migrant was kidnapped from outside a shelter where he had been staying in Reynosa just prior to our visit and was still being held by his abductors.
- A Venezuelan young woman traveling alone whom we spoke with in Reynosa obtained a CBP One appointment at the Nuevo Laredo port of entry, but was terrified to travel to Nuevo Laredo alone to access that port of entry as she knew of three Venezuelan girls who left her same shelter in Reynosa and were kidnapped trying to reach the same port of entry.
- Three elderly migrants were nearly kidnapped outside another shelter in Reynosa but were rescued by an aid worker who intervened at great risk and was able to convince the kidnappers to leave the migrants alone.
- And in the makeshift camps, as explained below, none of the necessary safeguards and systems are in place to protect women, children, LGBTQ+, and other vulnerable people from being targets of abuse and violence. Cartel members reportedly burned down tents and attacked some people in the Matamoros encampment several weeks ago, terrifying many of the families and others staying in the camps who became even more worried for their safety.



Members of the delegation spoke with many women and families who had been victims of kidnappings for ransom along their journey through Mexico, confirming that Mexico is not a country that should be considered safe for many people who transit through the country on their way to seek asylum in the United States. Women, adolescents, children, and LGBTQ+ individuals face increased risks of harm such as gender-based violence including sexual assault while transiting through and waiting in Mexico. A local humanitarian worker emphasized that gender-based violence prevention, mitigation and response services are desperately needed. For example:

- A Mexican Indigenous mother survived an attempted sexual assault and fled an attempted kidnapping of her daughters in an encampment;
- A local humanitarian worker reported the brutal sexual assault of a 64-year-old woman;
- A young Venezuelan woman traveling alone was kidnapped and held captive for one month in Veracruz, Mexico;
- An Ecuadorian woman traveling alone was kidnapped twice for a total of four months in Mexico prior to arriving to Reynosa, Mexico;
- A teenage daughter of an multi-generational Honduran family experienced an attempted kidnapping while the family was in Tabasco, Mexico;
- A Honduran woman explained that she had been kidnapped in Mexico, held for a month and sexually assaulted; and
- Several Venezuelan women traveling alone were nearly kidnapped at the foot of the international bridge after being expelled by CBP under Title 42 to Reynosa, causing them to "run for their lives."

Many people seeking asylum also relayed accounts of mistreatment, harm, and extortion in their journey to the Mexican-U.S. border, including by Guatemalan police officers, Mexican immigration authorities, and brutal organized criminal entities that prey on migrants throughout Mexico. One Venezuelan woman recounted an incident where Mexican immigration authorities (INM) tore up her Mexican migration permit in front of her; another indicated she was returned by INM from Mexico City to Tapachula four times.

Survivors of domestic violence, sexual assault, human trafficking, and other forms of gender-based violence are exposed to ongoing traumatization because of U.S. policies that force them to wait in danger to seek asylum. Living in unstable conditions, far from family, unable to provide adequate food, sanitation, and health care for themselves and their children, survivors experience a loss of control and agency over their welfare that can trigger memories of abuse and exploitation. Without mental and physical health care, as well as opportunities to live in safety and security, survivors can become especially vulnerable to further violence. Without legal and psychological support, many may not be able to explain why they seek protection in the U.S. The asylum ban, combined with funneling through the faulty CBP One app and inhumane living conditions, make it highly likely that many survivors of violence who need asylum as a means to avoid further violence will instead be pushed back by the Biden asylum ban into situations of abuse and exploitation.

Stranded in Atrocious Conditions

Members of the delegation visited the Matamoros encampment as well as six shelters and makeshift encampments in Reynosa. Members of the delegation also visited and were briefed on and/or observed reception efforts in the Rio Grande Valley including in Brownsville and McAllen, Texas. The delegation met with community, faith-based, humanitarian, shelter, legal, and other organizations, groups and volunteers working in tremendously challenging situations with a significant lack of resources and struggling to provide humanitarian aid to people seeking asylum in the United States. Delegation members witnessed the astounding commitment and work performed by these individuals and organizations, and their willingness to work with U.S agencies and communities to ensure the U.S. upholds its human rights commitments to welcome with dignity people fleeing persecution and violence.

The delegation and its members witnessed abysmal conditions in open-air encampments along the edge of the Rio Grande where thousands of women, men, and children were living in makeshift tents made of blankets and garbage bags, lacking minimum Sphere humanitarian standards of shelter, water, sanitation and hygiene, nutrition, and health services. There were piles of garbage, burn pits to deal with waste, limited numbers of porta-potties, and a dangerous lack of sanitation and clean water which can present a risk of cholera. Many have no access to showers or washing other than the river.

Humanitarian actors working to provide limited medical attention indicated that diarrheal diseases, upper respiratory infections, and skin infections were the most prevalent. In some large encampments, people bathe in the river making them vulnerable to parasites and skin infections as a result of bathing in unsanitary river water. Delegation members learned of a two-month-old baby from Honduras who was suffering from diarrhea the past week, a condition that can be very dangerous in infants due to dehydration. One man in an encampment in Reynosa with several hundred Haitians estimated that 75 percent of the residents suffered from untreated skin infections, particularly the children. A six-year-old child who had had a fever for days had no access to medicine or medical care, except for some free medications left on a table by someone inside the encampment. The child's mother worried that more people would become ill with the coming rains. A father with a young diabetic son struggled to access medication and appropriate food for his son. Many tents are located in areas that are at risk of being washed away due to rain or flooding. Haitian Bridge Alliance contributed tents to one encampment that had recently lost tent infrastructure due to a storm. The day after we left, many tents in the encampments we visited in Matamoros were washed away due to rain.



Refugee Profiles

While the Biden administration, in its justifications for its new asylum ban, improperly and inaccurately attempts to paint people who have transited through other countries as less likely to be refugees eligible for asylum, members of the delegation spoke with many individuals of diverse nationalities in Matamoros and Reynosa who are in need of asylum protection and whose fundamental human right to seek asylum under U.S. and international law has been and/or will be violated by the asylum ban, such as:



- A Venezuelan LGBTQ+ and HIV positive young adult fleeing persecution;
- A Honduran multi-generational family who fled brutal violence in gang-controlled territory after its members killed their 15-year-old daughter;
- A Mexican Indigenous family fleeing persecution who were displaced from their home by an organized group that exercised control over vast stretches of territory;
- An Ecuadorian LGBTQ+ couple fleeing persecution on account of their sexual orientation and relationship;
- A Venezuelan fleeing persecution for having opposed the government;
- A Honduran single mother with two children fleeing death threats whose son was killed in Honduras;
- An elderly Salvadoran Indigenous man fleeing death threats and attempted murder by brutal gangs in El Salvador;
- A Mexican Indigenous mother and four children fleeing gender-based violence by her ex-partner;
- A Honduran couple with two children whose home was attacked by gunfire due to their resistance against a gang that controlled territory. After fleeing Honduras and while in Tapachula, Mexico, the couple identified some of their persecutors in a local park and immediately fled;
- A Honduran LGBTQ+ couple who, along with their young child, have been waiting to seek asylum for three months already after fleeing death threats as well as harm on account of their sexual orientation and relationship;
- Members of the delegation spoke with well over 100 Haitians whom are in need of asylum and/or international protection due to systematic violations of rights, including sexual violence, kidnappings, and murder by armed groups, resulting in the issuance of a non-return advisory by UNHCR which states that forced return to Haiti where Haitians may face risk of persecution, torture, or other serious irreparable harm would amount to refoulement.
- Further, members of the delegation spoke with Venezuelans who are in need of asylum and international protection given the political, economic, human rights, and humanitarian situation in Venezuela and threats to their life, security, and freedom. Indeed, UNHCR has called on states to not forcibly return nationals to Venezuela as UNHCR considers that the majority of Venezuelan nationals are in need of international protection under the Refugee Convention and/or the criteria contained in the Cartagena Declaration.

FAMILIES SEPARATED

Delegation members met multiple people who had been separated from spouses or adult children by CBP in recent days and weeks without being provided any information about their family members' fates. For instance:

- Members of the delegation met with seven pregnant Haitian women in McAllen, Texas, who had all been separated from their husbands by CBP after crossing from Matamoros under Title 42. CBP did not inform the women what would happen to their husbands. The women did not know if their husbands had been expelled to Mexico, and if so, through which port of entry. They did not know if their husbands were sent to ICE detention, or whether they would be released on parole to join them. They were separated from their husbands and provided no information about their fates.
- A 21-year-old young woman was recently separated from her parents and family by CBP after crossing from Matamoros while Title 42 was in effect. Her parents, who were paroled in and transferred to McAllen, Texas, along with her younger sibling, were desperately searching for her as she had no phone and CBP did not inform them whether she was paroled, detained by ICE, or expelled to highly dangerous parts of Mexico on her own.
- A 23-year-old Venezuelan young adult killed in the tragic event outside the Brownsville shelter had been separated from his parents in CBP custody, and his mother had been transferred to Laredo by CBP. When killed at the bus stop, he was on his way to reunite with his family.
- One Haitian man was separated from his 17-year o d daughter, and now he struggles to get a CBP appointment as his daughter is being held at a detention center in Brownsville.
- A Haitian family of 4 (mother, father, and 2 children) had to separate since the mother and father received appointments and the children did not. The mother decided to stay behind with the children while the father kept his appointment.
- Members of the delegation met a Venezuelan man in the Matamoros encampment who had been separated from his wife by CBP after they had crossed the border into the United States. CBP granted her parole and expelled him to Matamoros.

Overwhelming Lack of Critical Information

Most people the delegation met, after having traveled for months or years to seek safety, had already been waiting for many months in dangerous conditions. Overwhelmingly, they expressed confusion about changes to U.S. policy that are now in place and how to best access their right to seek asylum. Delegation members were unable to answer many of their questions because of the lack of transparency and information provided by the U.S. government.

Everywhere we went, people seeking asylum had questions about the asylum process and how to access appointments via the CBP One app, including the changes to the application that took effect on May 10th. They had little to no information. A few aid workers and volunteers in the area had done their best to circulate or pass out some copies of flyers describing May 10 changes to the CBP One app. None of the people seeking asylum we encountered understood the changes that went into effect on May 12 with the lifting of Title 42 and the impact of the asylum ban - which was only finalized two days prior to taking effect on May 12 - on their right to seek asylum.

Delegation members explained the U.S. process for seeking asylum, CBP One and the new asylum ban at various shelters and encampments. Many people were confused by the new rule and procedures, and had many questions. A person seeking asylum from Cuba asked a delegation member "why does the richest nation on earth have to make it so hard to apply for asylum?" Upon learning that use of the CBP One app with its highly limited number of appointments was essentially the only potential path for them to seek asylum, we were met with uniform despair by people living in highly vulnerable and insecure situations who had already been waiting months attempting to obtain an appointment to no avail. Because of the vague nature of the exceptions included in the asylum ban, members of the delegation who provided legal information were able to provide very little certainty to people seeking asylum trying to decide whether to present at a port without a CBP One appointment as to whether their circumstances (including medical emergencies and disability) would overcome the asylum ban or if they would be limited to withholding of removal or Covention Against Torture eligibility.

The delegation noted a troubling lack of U.S. government information aimed at informing people how to seek asylum or of the negative consequences imposed by the ban. For instance, people who were queuing at the bridges without appointments on May 12 - understandably believing they could now seek asylum under U.S. and international law - did not receive any U.S. government advisals about the potential impacts of the ban on their ability to seek asylum and several likened this lack of information to deceit given the failure to inform them of the potential denial of asylum and other negative consequences under the asylum bar. Without the necessary information - and ideally actual legal consultations - they could not make an informed decision.

CONCLUSIONS

The delegation observed the initiation of the Biden administration's asylum ban, and its observations raise grave concerns that the continued implementation of the ban will endanger the lives of people seeking asylum, discriminate against many of the most vulnerable people seeking asylum, and vastly complicate asylum adjudications down the road. The Biden administration should rescind its asylum ban immediately, and take the rights-respecting recommendations outlined at the beginning of this report.



Ms. CLARKE. I would also like to just say that for those who are Christians in the room, you know, I just find it very, I guess, disorienting that we see suffering around us as a Nation, one of the wealthiest in the hemisphere, and that today we sit here not looking for solutions, but creating problems. Jesus Christ was a refugee. I yield back.

Chairman GREEN. The gentlelady yields. I now recognize Mr. D'Esposito of New York for his 5 minutes.

Mr. D'ESPOSITO. Well, thank you, Mr. Chairman. Thank you to our panel. Thank you for those who have served this country and for all the work that you continue to do. I first want to start with,

I guess, a simple question to each of you and ask who Secretary Mayorkas was appointed by?

Mr. WOLF. The President.

Mr. D'ESPOSITO. Our current President.

Mr. WOLF. President Biden.

Mr. D'ESPOSITO. Thank you. Mr. Scott.

Mr. SCOTT. President Biden.

Mr. EDLOW. President Biden.

Ms. ACER. President Biden.

Mr. D'ESPOSITO. Thank you. I just wanted to make that clear. So, I guess my first question is going to be to Mr. Scott. There was a story that in response to a mounted Border Patrol agent in Del Rio, Texas, Secretary Mayorkas had stated about the images that were shared, that they "those images painfully conjured up the worst elements of our Nation's on-going battle against systemic racism." Now, I asked that question because on my multiple visits to the border and speaking to Customs and Border Patrol agents just recently, I visited JFK Airport, which is just blocks from my district. I am a retired NYPD detective. I feel that boots on the ground, having conversations, speaking cop to cop, you really get an understanding of how people feel.

So, how do Border Patrol agents who have legitimately made it their life's work to secure our border feel when their so-called leader, the Secretary of Homeland Security, rewards their hard work by slandering them as systemically racist?

Mr. SCOTT. It's a kick in the gut. I'd like to point out that that followed the Secretary going on national TV and declaring that the border was secure. So, his credibility was already challenged. But that second kick in the gut really damaged morale beyond anything that could be imagined.

Mr. D'ESPOSITO. Thank you. I think what was important, you said in your opening statement that this is not about policy, it is about his legal duty and the fact that he took an oath. I said when he was here that you take an oath to defend and protect the Constitution, you protect our Nation's borders. That is what he should be doing. From the moment he wakes up in the morning to the moment he closes his eyes in his bed, he should be working every second to protect this great Nation. I think it is clear from today's hearing that Secretary Mayorkas has been derelict in his duties to secure the homeland, but also derelict in his ability to protect CBP agents and DHS employees.

Both Border Patrol Chief Raul Ortiz and National Border Patrol Council Vice President Chris Cabrera recently told Congress that 17, 1–7, CBP personnel committed suicide in 2022, the highest total in over a decade. How has Mayorkas's unprecedented border crisis affected the lives and families of our Border Patrol agents?

Mr. SCOTT. I'm hesitant to blame the border crisis on any specific death or suicide, but I want people to think about this. Every law enforcement agency out there has to make decisions. He misses birthdays, he misses soccer games just because of the schedules they work. There's a lot of family tension. But historically, that agent, that officer, has been able to go home and say, I'm protecting America. I'm doing this so that our kids can have a better life.

This administration makes Border Patrol agents and many CBP officers feel like smugglers. They no longer have that intrinsic mission that they can justify to their spouse, to their kids, of why they miss those important events. I believe that has cascading effects in many areas and can potentially be a factor in the suicide.

Mr. D'ESPOSITO. I agree with you. I think that someone who came from law enforcement, there is nothing more important than knowing that your leader or so-called leader has your back. When you go to work every day and realize that the control at the border is no longer in your control, but now in the control of cartels, it makes your life more difficult.

Seventeen CBP suicides in 1 year is absolutely intolerable. Do you believe that Secretary Mayorkas has been derelict in his handling of the crisis among the Border Patrol agents? I don't just mean the policies along the border, but the way that he is treating the men and women who put on that uniform, the men and women who stand that line, the men and women who want to protect our points of entry?

Mr. SCOTT. I believe he's derelict. I'll go back to the horse patrol incident in Del Rio. You know, everybody focuses on the first allegation that was proved wrong very, very quickly. Yet, behind the scenes, Secretary Mayorkas still moved to take disciplinary action against those agents for doing nothing but trying to prevent the illegal entry of aliens into this country right in front of them, which is their job. When he disciplined those agents, that sent a resounding message throughout the entire work force that not only did he not have your back, he was out for you.

Mr. D'ESPOSITO. I agree. Listen, when so-called leaders, and we have seen it in the State where I am from, when you take the handcuffs from the police, when you take the handcuffs from their belt and actually handcuff the police and give criminals and in this case, cartels more resources, things need to change. I appreciate your service. Mr. Chairman, I yield back.

Chairman GREEN. The gentleman yields. I now recognize Mr. Menendez for his questioning. The gentleman is from New Jersey.

Mr. MENENDEZ. Thank you, Mr. Chairman. You know, as I think others have alluded to, this is a bit of a frustrating day. We had Secretary Mayorkas here in front of this committee, and I think there was maybe only a handful of questions asked during that hearing from colleagues across the side. The opportunity to really engage with the Secretary that you are now looking to remove from office. There wasn't a lot of appetite to engage in that honest conversation.

Then today, we get this report, you know, shortly before this meeting. It took me no time to go through it because this is supposed to be an investigation, a report looking into what is happening at our border. But throughout it, using sources like *Fox News,* the Heritage Foundation, the *Washington Examiner,* the Center for Immigration Studies, an extreme think tank, the Daily Signal, all outlets that reaffirm what Republicans want to make the border seem instead of doing a real investigation, thoughtful about how we can improve the situation at the border, which Democrats have engaged in.

When we have talked with Chief Ortiz, he has talked about how the funding is working, that they have the funding that they need, but they need to continue to work on recruitment. He even spoke about how morale is high, which you don't hear from folks in this room because I feel like there is an attempt to paint a picture that is politically beneficial for folks, my colleagues, who I do have immense amount of respect for. But they have already made the decision about what they wanted this report to be.

You look at the sources throughout, you look at how statistics are framed, and it is all done to get to the destination that they had already decided they wanted to arrive on. To me, you know, that is extremely problematic, along with other things throughout this. Again, we only had minutes to review, and I was just in a T&I Committee on the FAA reauthorization. But there is a section called Empowering a Vast NGO Network to Facilitate Illegal Immigration. We are talking about groups like Catholic Charities. We are not talking about some sinister operation that the Federal Government is working with NGO's to move illegal aliens across. That is not what is happening. We are talking about people who are trying to help other human beings, organizations like the Catholic Charities. Here in this report, where we are making it seem sinister.

Also, just to be clear, this is not just about the border. There is a section, Rolling Back DACA. People who have lived here their entire lives. Rolling back DACA is one of the solutions that we should give consideration to. So, this is not just about the border. This is about, you know, an extreme policy toward the border, toward immigration, based on, you know, non-objective sources that aided this report to move in a way where it got to the destination I think a lot of people wanted to get to. That is disappointing. I do think people ask us and look to us to get to real solutions.

The last thing I will say is I think there has been an immense amount of talk about 85,000 unaccompanied minors who are lost. I don't believe any of the witnesses are with HHS or have worked at HHS, but as I understand it, the situation is that they place calls to these families, to these sponsors of these children, and there was 85,000 unanswered calls. I understand that as a fact, but there is no one here from HHS that can speak to that. But it is something that I think would course correct a lot of the conversation that has been had today. Obviously, if there is any migrant children that are unaccounted for, that is something we want to work on. That is absolutely something we would want to work on. But when you talk about the dereliction of duty, when you talk about all the things you try to cast upon this administration, upon this particular Secretary, you are doing so in a dishonest way.

That is just a disappointing thing for me, because I do have so much respect for our public servants, my colleagues, the staff of this committee. But this is not the direction we should be heading. This is not the result. If you want to take a real look at the border, this is really, to me, just political messaging now. I yield back.

Chairman GREEN. The gentleman yields. I now recognize Ms. Lee from Florida.

Ms. LEE. Thank you, Mr. Chairman, for having this important hearing and to our witnesses for being here today. It is undeniable

that we have a national security and a humanitarian crisis at our Southern Border. Under Secretary Mayorkas's leadership at the Department of Homeland Security, the number of illegal border crossings has reached a record high. Many of these crossings are unaccompanied children. These children are vulnerable to trafficking, exploitation, and other forms of abuse. Just last month, we saw a migrant child who arrived in Safety Harbor near my district without a parent or guardian, who died in Federal custody.

Tragedies like these are avoidable and preventable. Today we have heard testimony about decisions that are being made at the Department of Homeland Security that have facilitated this crisis. Mr. Wolf, I would like to return specifically to a line of earlier testimony you were providing about the decisions of Secretary Mayorkas to suspend certain policies that have had the net effect of endangering these unaccompanied children who are coming across our border. Specifically, you touched on a couple of things that the vetting of sponsors and household members for these children is not being done appropriately and that site visits have been eliminated. Would you tell us, please, a little bit more about those safety protocols and the significance of them not being done effectively?

Mr. WOLF. Sure. Once children come across that border and Border Patrol apprehends them, they are quickly transferred over to HHS facilities where they stay until they're able to find a sponsor. The sponsor comes, picks them up, and they do that. What we were finding was that individuals coming to pick them up, we didn't know who they were, and the background checks and the type of vetting that was done was not sufficient. We wanted to make sure that we were protecting those minors and that they were going into households that they wouldn't be trafficked, they wouldn't be further trafficked in.

But again, this administration, for a variety of different reasons, I think we could only guess, decided to reduce the amount of vetting on those sponsors that come and pick them up. But it's not only the sponsor it's again, it's the others in that household. So, it's not enough to do that background check on one adult, but if there's five other adults in that household, you want to know who they are as well. Again, they have reduced those vetting requirements, site visits as well.

My guess, and it's a guess, is because early on in this administration, the number of children coming across that border in such astronomically high numbers was backing up HHS facilities.

Ms. LEE. Is——

Mr. WOLF. There were too many children in there. So, the quickest way to get children out of those facilities is to reduce the amount of time they're in the facility, which is to say, reduce the amount of vetting, because vetting does take time. We need to make sure that we know who those individuals are that are picking up these children. But if you reduce that amount of vetting and you reduce the time, then the children can go through those facilities quicker and there's not lines and they're not backing up.

Ms. LEE. Mr. Wolf, is it correct to say that those protocols, those measures that you used to implement with checking the people, checking the sponsors, checking the people who are living in that

home, verifying that the sites are safe, and conducting that ongoing monitoring of the sites, was that an important part of ensuring that we are keeping these unaccompanied minors safe when they are here in our country?

Mr. WOLF. Well, absolutely. From the HHS perspective, Chief Scott talked about it earlier, DNA testing is something that Border Patrol could do. So, we actually tried to find it early in the system, as early in the system as humanly possible, which is when they cross that border and they go before that Border Patrol officer to do that questioning, that line of questioning. Again, as you reduce that, you're taking more and more protections away from trying to protect these children and trying to reduce the amount of trafficking that's going on.

Ms. LEE. Thank you. On that subject, Mr. Scott, would you please return to the subject of DNA testing and tell us what role does DNA testing, why is it important in our efforts to combat human trafficking and the exploitation of children?

Mr. SCOTT. It's very important for the simple reason you're trying to identify people and you're trying to make sure people's stories actually match. I left out of my statement earlier, in the INA, it mandates that we fingerprint and photograph anybody over 14 years of age. It's silent below, but Council has determined that you need reasonable, articulated facts above and beyond to do the fingerprinting and photographing of minors. So, most children because, again, Border Patrol doesn't have time right now to get those facts, aren't fingerprinted or photographed. So, there's no historic data to look at to figure out if the child is being recycled or not. Then on top of that, the massive flow.

So, the DNA testing, the real, actual rapid testing at the stations, and just the threat of that could take a potential 2- or 3-hour interview and make it into minutes. Because people broke left and right that it's not really my kid. Because we would tell them, you're going to be prosecuted. You can tell me the truth now.

But now they don't have the ability to do the threat. Then if someone sticks to their story, they don't have the ability to actually identify that there is no actual biological connection between these people. More children will be trafficked. More children are at risk.

Ms. LEE. Thank you, sir. Mr. Chairman, I yield back.

Chairman GREEN. The gentlelady yields. I now recognize Mr., well, we have Ms. Titus here. I recognize Ms. Titus from Nevada.

Ms. TITUS. Well, thank you, Mr. Chairman. I apologize for being late. I was in a mark-up. But it doesn't sound like I missed much because it is the same old points being hammered over and over again for political reasons and not trying to really look for a solution. Also, this committee just continues to look at this one topic. If you are talking about dereliction of duty, perhaps we should be looking at some of the other aspects of homeland security, like cybersecurity. That is such a major issue. Or real immigration reform, or domestic terrorism, those are all part of our charge. Not looking at those, I think, is a dereliction of duty.

In my district, we have a lot of mixed-status families. We have somebody who is a dreamer, somebody who is TPS, somebody who is a citizen, somebody who has no papers, and somebody who doesn't even know what they are. So, that is five problems all in

one. I would like to ask you, Ms. Acer, if you would comment a little bit about the TPS aspect of that, because it was just announced that the President was going to extend TPS for El Salvador, Honduras, Nicaragua, and Nepal. Can you talk about how that helps with humane immigration or accommodation of people here? We have got 6,000 TPS holders, mostly from El Salvador in southern Nevada. So, I would just like to hear more about where that is.

Ms. ACER. Yes, TPS is critical. It is, you know, a life-saving protection for people from places that, you know, are too dangerous or for other reasons people cannot be returned to. So, it's a life-saver. It could be improved, and there needs to be access for people to eventually, after a certain number of years, to really be able to stabilize their families, to be able to bring their kids to safety and, you know, ultimately to get onto a path to citizenship.

Ms. TITUS. Well, I know that the former President ended TPS, excuse me, for some of these countries. There were some people who had been here 20 years, had established a family, had a job, paying taxes, and then suddenly that is yanked away and they are sent back. So, maybe you could help us with some ways that we could actually put forward to improve the system, as you mentioned.

Ms. ACER. I'd be happy to suggest changes, and I think one of the most important ones is that people can actually get onto a path to citizenship at some point and also to bring their families together. We also need to make sure to be using redesignation authority, because sometimes a situation in a country triggers a need for TPS, and then, you know, time can change again, time goes on, but actually the situation is even worse. So, that TPS needs to be redesignated to make sure to protect people.

Ms. TITUS. Thank you. Also, I think you were on the ground when Title 42 was lifted. You know, there were some that were just so anxious to see these people rushed across the border, chaos, sending down troops. I don't know if they thought there was going to be some confrontation, but of course it didn't happen and the numbers have actually gone down. Would you talk about that a little bit for us?

Ms. ACER. Yes, so we were there, including on the first day after Title 42, we were in Matamoros, we also were in Reynosa. Everywhere we went, you know, we met asylum seekers. We spoke to, I think, hundreds of asylum seekers. I was part of a delegation with the Haitian Bridge Alliance and other NGO's, as well as just on our own, with our own researcher. You know, people were struggling to follow the process for seeking asylum at ports of entry. We were asked so many questions about the CBP One app. People were trying to use it, couldn't get an appointment. There were tons of glitches, as you've all heard. Some people with dark skin were having trouble actually being able to register for the system.

Many people don't have phones, asylum seekers. We spoke to many families who had been robbed of their phones or didn't have one to begin with. In some cases, there was a need for internet access. You know, people were walking around struggling, trying to get sufficient internet access to be able to actually use the app.

The other problem is that the number of appointments are really small when you look across the border and you have asylum seek-

ers who've been waiting and waiting, you know, for weeks and months. It's in the U.S. interest for people to actually go to ports of entry and seek asylum there, if possible.

I'd stress also, though, that it's so important for there to be access to asylum for people who can't use and access CBP One. Not everyone can. There are people who don't speak languages that are used by the system. As I mentioned, there are people without phones. We've got to make sure that our ports of entry are operational and that there's ways for people who are seeking asylum who don't have to have CBP One appointments to be able to do so and who can't get them. Asylum seekers from Mexico. There are asylum seekers from Mexico who have been waiting and waiting. It's the next-door country but can't get in at one of the ports of entry.

Ms. TITUS. Thank you, and I yield back, Mr. Chairman.

Chairman GREEN. The gentlelady yields. I now recognize Mr. Strong from Alabama.

Mr. STRONG. Thank you, Mr. Chairman. Mr. Wolf, under U.S. law, the Secretary of the Department of Homeland Security is, and I quote, "charged with a duty to control and guard the boundaries and borders of the U.S. against illegal entry of aliens." Mr. Wolf, would it be safe to say that it is a responsibility of this role to be apprised of strategies, tactics, and methods being employed to exploit our borders?

Mr. WOLF. Absolutely.

Mr. STRONG. Would you also say that a great deal of time at DHS is devoted solely to briefing and keeping the Secretary informed on such matters?

Mr. WOLF. Yes, there are numerous ways the Secretary stays informed about a number of things going on at the border.

Mr. STRONG. Thank you. On several occasions this year when he has appeared before Congress, Secretary Mayorkas has testified that he was unfamiliar with some of the tactics being employed by cartels at the Southern Border. Mr. Wolf, in what circumstance would you say it is understandable or acceptable for the Secretary of Department of Homeland Security to be unaware of what is happening at the border?

Mr. WOLF. In that particular instance, I can't imagine how he's not aware of those tactics.

Mr. STRONG. Is it a total failure at every level?

Mr. WOLF. Again, I can't imagine why he would not know that just by visiting the border, talking to Border Patrol agents, and understanding that, frankly, it's just common knowledge——

Mr. STRONG. I would——

Mr. WOLF [continuing]. That those are the tactics.

Mr. STRONG. I would think so also. Mr. Wolf, Mr. Scott, Mr. Edlow, whoever is comfortable, Secretary Mayorkas has had more than 2 years to observe the failure of his policies and either change course or resign if not allowed to by President Biden. He has done the opposite, doubling down on those policies, and implementing new unlawful programs. Does this strike you as someone helplessly responding to a crisis or someone intent on policies that caused the crisis?

Mr. SCOTT. I believe he's very committed to his policies. I don't mean to be out of order, but I'd like to comment on your last question for the Secretary.

Mr. STRONG. Please do.

Mr. SCOTT. I put in writing, as the chief of the Border Patrol what those tactics were in a memo that went through commissioner, Acting Commissioner Troy Miller, and it was addressed to Secretary Mayorkas. It's clearly outlined. That was while I was still chief of the Border Patrol. I——

Mr. STRONG. Thank you. Mr. Scott, I appreciate that. I want to come back to you with this question. Why would the Department of Homeland Security Secretary oppose the construction of more border wall system, especially when Border Patrol agents routinely say it is an important part of the toolkit?

Mr. SCOTT. Because the President campaigned on no more border wall.

Mr. STRONG. Thank you. Mr. Scott, since you are here, and I want to thank you again for coming back before us. I know I have met you several times. During the Trump administration, you looked—the big thing that I saw whenever you were there, Border Patrol apprehended, processed, and by ICE Air returned these illegal aliens to the country of their origin. What message did this send when you were there to those seeking to enter America illegally?

Mr. SCOTT. That is a huge deterrent. A couple of things happened, I think, and we keep talking about gotaways, but what people aren't really understanding is that every gotaway and then every person released into the United States does exactly what you would do. They call home and they tell their family and friends where they're at. They check in. Their friends and family hear that, that message gets out, and more come. When we put people on airplanes and they show up back in the home country after expending all these resources, they have horror stories about the trip, unfortunately, but they chose that trip. But they tell those stories and then they see them back home. That has a huge deterrent effect. That actually saves people's lives because people choose to stay where they're at and make things better as opposed to put themselves in the cartel's hands.

Mr. STRONG. Thank you. Mr. Wolf, Secretary Mayorkas has apparently turned off all the fiber-optic sensors embedded in the border fence that was built during the Trump administration to allow the Border Patrol to detect when and where people are trying to either climb the fence, which is not easy, or cut through the fence with welding equipment. Do you believe Secretary Mayorkas has played a role in directing the Department of Homeland Security to halt the completion of lights, post-construction, and/or turn off the fiber-optic sensors embedded in existing fences?

Mr. WOLF. So, I can't think of a reason why you would decommission or turn off capabilities that are already installed. The border wall system is much more than just that physical infrastructure. Lights, camera, roads, physical access, all the things that Border Patrol agents need to do their job, why you would turn those off, it's beyond me. I can't even think of a reason why you would do that.

Mr. STRONG. Thank you. With 8 seconds left, I know it was mentioned that illegals don't have internet access. I want to let everybody know that there are counties in Alabama that don't have internet access also. We need to work on America to solve that problem. Thank you. I yield back.

Chairman GREEN. The gentleman yields back. I now recognize Mr. Ezell from Mississippi.

Mr. EZELL. Thank you, Mr. Chairman. Fentanyl poisoning is now the largest leading cause of death for Americans 18 to 49. As a 42-year law enforcement officer and a sheriff, I saw the devastating effects of young teenagers and young adults dying as a result of this. It is heartbreaking. The death toll continues to climb. The rising power of the Mexican cartels continue to grow. This low-cost manufacturing of a drug is terrible to this open border. Mr. Scott, do you believe the current fentanyl crisis is the consequences of Mr. Mayorkas's open border policy?

Mr. SCOTT. I believe that in part it really is. I want to highlight some misinformation. People keep talking about seizures as if it was the total. More fentanyl is seized at the ports of entry than in between the ports of entry. But it's because CBP officers are there doing a fantastic job. They're ready to greet everybody every day. We're leaving hundreds of miles of border open every single day. No one patrolling it. But yet Border Patrol is still catching fentanyl between the ports of entry. The metric needs to be how much is available in our cities. There's no shortage.

Mr. EZELL. Mm-hmm. In your role as Border Patrol Chief, how you have seen cartels, tell us how you have seen the cartels capitalize on the border crisis and used the surges for migrants to smuggle their narcotics.

Mr. SCOTT. So, historically, the cartels have used any distraction they can. Honestly, a lot of people have a hard time picturing this. So, just think of sports. You fake a play to the right, you run the real play to the left. That's what the cartels have done. They've always done it. They've always tried to do it. When you've seen in El Paso a young child, I think the last one was basically like a several-month-old child being dropped over the fence in plain sight of cameras where they know it's going to be viewed that's because they know agents are going to prioritize taking care of that baby and they can push something else through.

Now unfortunately, we've given them millions of distractions. We've given them right now, what, 3,500 distractions a day that the Border Patrol is having to go deal with so that they can bring anything they want in. It's lowered their overhead. It's lowered their risk. It's a direct impact on the ability to get narcotics in cities in the United States and other threats.

Mr. EZELL. Thank you. Mr. Wolf, last year 850 migrants died at the border. This is the highest ever recorded. The average under the Trump administration was 280. If this is the case, why does the Biden administration continue to tout their immigration policies as safe, humane, and orderly?

Mr. WOLF. I'm not sure I have an answer for you, Congressman. The amount of deaths that are increasing in that desert and along that river are a factor of the amount of people coming across the border. We're seeing a huge spike, right? So, we were at 10,000 a

day. For a long time, we were at 7,000 a day. We're still at 3,500 to 4,000 a day, right? You only have to go back to Secretary Jeh Johnson under the Obama administration, who said 1,000 a day is a bad day for the Border Patrol. We're in crisis mode. We're still at 3,500.

So, this idea that somehow we have retracted from 10 and that we should pat everyone, ourselves on the back and say, good job, you're still losing the ballgame in a big way. So, I think that is something we need to look at.

Mr. EZELL. Absolutely. Thank you. Mr. Wolf, I keep thinking about these words safe, humane, and orderly. Do you believe that Secretary Mayorkas has been honest with the American people?

Mr. WOLF. I don't. Not only on those words, but, you know, when you talk about the border is secure, operational control, he talks about putting people in expedited removal. He knows what that means. The staff of this committee knows what that means. None of those individuals will likely be removed. All they have to do is claim asylum and they are pulled out of expedited removal.

So, he uses terms like these for the American people to try to explain away what's going on along that border. But those that work in the Department know immigration. They know something else. So, if you're a Border Patrol agent and you hear these words and you're saying, you know, your political leadership is saying, look, I'm removing all these folks under expedited removal, you know that's not the case.

Mr. EZELL. Mr. Scott, could you add anything to that?

Mr. SCOTT. I would agree to that 100 percent. The words very rarely match the actions. I'll just leave it at that.

Mr. EZELL. Thank you, Mr. Chairman. I yield back.

Chairman GREEN. The gentleman yields. I now recognize Mr. Brecheen from Oklahoma.

Mr. BRECHEEN. Thank you, Mr. Chairman. So, Secretary Mayorkas swore an oath to support and defend the Constitution against all enemies, both foreign and domestic. He swore that oath to defend against all enemies, foreign and domestic, to the Constitution. He did not swear an oath to support this administration's policies. By this Majority Membership's count, Secretary Mayorkas has chosen to ignore or refuse to enforce over 10 different Federal laws. This is a dereliction of duty and a violation of his oath.

The rule of law, which is a term that is thrown around oftentimes by Members of Congress, means that nobody is above the law. It means no Member of the Congress, it means no member of the Judiciary, it means no Secretary of Homeland Security. The rule of law matters. What the Constitution and what Federal law dictate matter. Speaking about the rule of law, Margaret Thatcher once said, any country or government which wants to proceed toward tyranny starts to undermine legal rights and undermine the law. President JFK, John F. Kennedy once said, certain other societies may respect the rule of force of law—we respect—rule of force, we respect the rule of law. Barack Obama, former President, said, one of the challenges of a democratic government is making sure that even in the midst of emergencies and passions, we make sure that the rule of law . . . prevail.

So, I want to talk about the Federal law, and I want to talk about the areas that have been violated. Section 103(a)(5) of the Immigration and Nationality Act says that, he, speaking of Mayorkas in his position currently, shall have the power and duty to control and guard the boundaries and borders of the United States against illegal entry of aliens. Mr. Scott, how is Mayorkas violating this?

Mr. SCOTT. He's not even trying. So, all you have to do is look at his words, any public statement. He continually talks about creating pathways for more migrants to come to the United States. CBP One app is nothing more than an invitation world-wide without any immigration documents or any right to come to the United States. You've never heard him once support any initiative the Border Patrol put out that actually allows them to increase their situational awareness and be able to stop the flow. He even disciplined agents for trying to stop the flow.

Mr. BRECHEEN. Mr. Wolf, I am going to read something, throw this to you. On May 10, a reporter, immigration analyst Todd Bensman reported ahead of the expiration of Title 42 that Mexican immigration officials were informing him they were coordinating with DHS personnel on the other side of the border to move illegal aliens from the Mexico side of the Rio Grande to the American side. In other words, Mexican DHS officials were helping illegal aliens cross into the United States. This would violate Section 274 of the Act we just cited, which prohibits aiding and abetting illegal immigration or helping someone enter the country illegally. What are your thoughts on this?

Mr. WOLF. I think it's concerning. Look, Border Patrol agents are in a difficult position. When they see hundreds of folks coming across that river, they want to make sure that they're safe and secure, but at the same time, they should not be facilitating that either. So, my guess is those decisions had some buy off from leadership somewhere in the department.

Mr. BRECHEEN. They would have to.

Mr. WOLF. Yes.

Mr. BRECHEEN. They would have to. No one would take that upon their authority without Mayorkas knowing about it. Mr. Wolf, Section 212 of the Immigration and Nationality Act, also just mentioned beforehand, says that parole can only be granted on a case-by-case basis, a temporary basis, for an urgent humanitarian reason, significant public benefit. How is Mayorkas's mass release of illegal aliens into the interior violating this U.S. law? Where is he deriving the authority to violate the clear language of the statute?

Mr. WOLF. So, we use that authority very differently. Urgent humanitarian need is if someone needs to come into the United States for a medical procedure of some kind, you allow them in, and then obviously you remove them as well. For a significant public benefit, you want to parole someone in to probably testify at a criminal trial, you parole them in, and then you ask them to leave. What you don't do is parole 360,000 individuals a year from four different nationalities, regardless of who you are, regardless of what you do, the simple fact that you come from that country, that you are somehow granted parole.

I think it's interesting that those individuals are not being put in the asylum system. So, the administration is either signaling that they don't qualify for asylum or the system's broken, which we know it to be. Instead, they're paroling them in, which is a different set of benefits. Again, it's a little bit of a shell game that they're using.

Mr. BRECHEEN. Is he adhering to Federal law?

Mr. WOLF. I don't believe he is.

Mr. BRECHEEN. No. Last question, Mr. Scott. Article IV, Section 4 guarantees to every State a Republican form of government and to protect those States against invasion. Five million people, more than the population of Oklahoma have come in illegally under the Biden administration. Do you believe that he is violating the Constitution, Article IV, Section 4?

Mr. SCOTT. I believe what we have at the Southwest Border currently is an invasion but for a slight different reason than most people understand. The illegal aliens themselves may not be the invader, but they are being used by a cartel that has nation-state power. People don't understand the power of the cartel in Mexico, the influence they have on the government, the weaponry they have, is equivalent to many, many countries. That cartel is using this massive illegal immigration every day to invade our country, the sovereignty of it, and to pose real threats. Through fentanyl alone, which is only one of the things they smuggle, they've killed more Americans than most wars. It's an invasion.

Mr. BRECHEEN. Thank you. I yield, Mr. Chairman.

Chairman GREEN. The gentlemen yields. I now recognize Mr. Crane from Arizona.

Mr. CRANE. Thank you, Mr. Chairman. I find it interesting that many of my colleagues continue to talk about how Republicans screaming about open borders is causing this invasion. I want to ask a couple of the panelists, weren't you guys paying attention back in the Presidential campaign back in September 2019, when then-candidate Joe Biden said, we are a Nation who says if you want to flee and you are fleeing oppression, you should come? Mr. Wolf, did you hear that?

Mr. WOLF. I did.

Mr. CRANE. Mr. Scott, did you hear that?

Mr. SCOTT. Yes, I did.

Mr. CRANE. Mr. Edlow.

Mr. EDLOW. I'll be honest, Congressman, I wasn't paying attention at that point.

Mr. CRANE. Darn it, Mr. Edlow, you broke the streak. Ms. Acer, how about yourself?

Ms. ACER. I don't recall the exact words, but certainly I've heard President Biden speak positively about the importance of seeking asylum.

Mr. CRANE. What do you think, Mr. Wolf, what kind of message do you think that sends to people that might want a better life?

Mr. WOLF. Well, I think it sends the message that the borders are open. Now is the time to come. If I'm elected, there's going to be a new security regime along those borders. I think that we saw the results of that.

Mr. CRANE. Absolutely. Absolutely. I wanted to double-tap on that because that is a massive part of the causation here. Next, you know, I just I find it interesting as I sit in this chamber and I continue to hear political theatre, political theatre. This is all political theatre.

I want to go through some of the political theatre that we continue to hear. Four-point-eight million encounters at the Southwest Border, 1.3 million known gotaways, 69 individuals just this year on the Terrorist Watch List, 71,238 fentanyl deaths in 2022. Does that sound like political theatre to you guys?

Mr. WOLF. It does not.

Mr. CRANE. No, it is not. How about this? Border town's only hospital running out of resources, on the brink of collapse caring for migrants. Yuma, Arizona in the State that I represent. Does that sound like political theatre? That is the problem. These are real lives. These are real issues. This is real infrastructure that is being overrun. This isn't political theatre.

The reason we continue to scream about it is because our colleagues don't really seem to care. Quite honestly, the American people sends us, Congressmen and -women representatives to represent them up here in Washington, DC and they are feeling the causation of these policies. They are feeling the causation of this plan.

I want to also go into the political theatre of what the American taxpayer feels, $182 billion dollars reported to cover the costs incurred from the presence of illegal aliens. That is $1,156 every year per taxpayer. Is that political theatre? Do people feel that, Mr. Wolf?

Mr. WOLF. I believe they do feel that. I think the most concerning thing is it's all avoidable.

Mr. CRANE. Absolutely. What about you, Mr. Scott? Do you think that American taxpayers feel that?

Mr. SCOTT. I spent most of my career along the Southwest Border. I work with Texas a lot right now, and they're double-paying for border security. It's a resounding yes. It's completely avoidable.

Mr. CRANE. Absolutely. How about five suspected MS–13 gang members in United States illegally charged with murder and death of Maryland 15-year-old? Is that political theatre? California MS–13 gang member accused of 10-year-old's torture and murder. How about that, political theatre? How about this one? Five MS–13 gang members who killed Virginia teenager sentenced to life in prison, *Washington Post.* More political theatre that we have to continue to scream about because nobody on the other side is listening. This administration continues to ignore it.

You know, one of the most interesting things, because I am the last person that gets to question anybody, Mr. Scott, I heard you testifying. How many administrations did you serve under, sir?

Mr. SCOTT. I was in the Border Patrol for about 6. I was in leadership positions in 5.

Mr. CRANE. Right. You know, you said something that really struck me as somebody who has been in the military before. You said that when you actually and members of your team actually brought up deterrence on phone calls with this Secretary, that you guys were shut down immediately.

Mr. SCOTT. Correct. Face-to-face, transition teams, phone calls, the entire time.

Mr. CRANE. That seems really odd, sir. It doesn't sound as if this Secretary wanted to hear what could stop these 71,000 fentanyl deaths, what could stop these hospitals from getting overrun, what could stop these children from getting murdered by MS–13 gang members? Does it?

Mr. SCOTT. No. We were prevented from talking about border security or threats at all.

Mr. CRANE. The last thing I want to say, Ms. Acer, I know you spent a lot of your life trying to help migrants, right? I read your bio, and I think a lot of Americans can identify with that and even appreciate it. What they don't appreciate is that your concern and care does not seem to extend to them whatsoever. That is a problem. Ma'am, I want to ask you one question. Has your organization ever taken money from the Soros Foundation?

Ms. ACER. Excuse me?

Mr. CRANE. The Soros Foundation, have you ever——

Ms. ACER. Yes, yes. We've received money from multiple, multiple foundations over many years.

Mr. CRANE. Do you know how much money——

Ms. ACER. And I—can I——

Mr. CRANE [continuing]. You guys have taken from the Soros Foundation?

Ms. ACER. No, I do not know how much money we've taken in from any foundation. I just am really troubled if you're somehow picking on one particular foundation. There's a long history of the Soros Foundation being targeted for antisemitic reasons.

Mr. CRANE. That has nothing——

Ms. ACER. And so, I——

Mr. CRANE [continuing]. To do, ma'am, with why we have an issue with it. Everybody knows that George Soros is a globalist and uses his money to often destroy the very things that protect Americans, our way of life, and our freedom. That is exactly why I asked you the question. Thank you. I yield back.

Chairman GREEN. The gentleman yields. We have a Member, an at-large Member, who has and we, of course, sought unanimous consent at the beginning to allow her to be here. Ms. De La Cruz, you are recognized from Texas.

Ms. DE LA CRUZ. Thank you, Mr. Chair, for hosting this meeting today and for allowing me to waive on today to this important hearing. I am Congresswoman Monica Del La Cruz. I am here on behalf of my constituents, on behalf of the RGV Border Patrol sector, the brave men and women who serve and defend this country. You know, Texas 15 is right along the border in South Texas. It includes McAllen, Texas. Over the last several years, I have seen the other side of the aisle, the current administration, demonize our hardworking Border Patrol agents. Not only demonize them, but cripple them with lack of resources, not only on the technology side, but lack of resources from being able to put current policies in place and do their job, which is to protect this country. But yet they get up day after day and still go to their work, long hours.

When I think about those brave men and women, I not only think about them, but I think about their spouses and their chil-

dren. Because the stories that you don't hear are the stories about how these men and women, when they go and pick up children who have been abandoned because the cartels, they just leave these children on lands, children at the age of 1, at the age of 2, of 3. Our Border Patrol men and women are carrying these babies. They are helping women to give birth on the banks.

The reason that I came today and asked to be waived on is because they need a voice. They need a voice to stand up for them, to show them that the people in Congress care. Well, at least some of them. Because when we look at this room, I can see people on the other side of the aisle are not here. Are not here to see what the crisis is at our borders, to see our national security and how there is a lack of security due to this administration.

That being said, I want to say that Chief Scott, you were here under the previous administration. My understanding from speaking to my friends in Border Patrol in the RGV sector is that you put together many processes and put them in place in order to be able to facilitate the immigrants coming through and how to properly put them through the borders. That being said, there were several various or there were various Executive Orders under the previous administration that seemed to work. Can you tell me how the Executive Orders from the previous administration and the Executive Orders from this administration have changed?

Mr. SCOTT. During the last administration—and the Trump administration gets labeled with a lot of this—but under Secretary Wolf's guidance and others, we put together integrated teams and we had a simple question put in front of us. Literally every week we had to go back to the White House and give answers. What can we do to secure the border and protect America?

In all the EOs that went in place, MPP, the asylum cooperative agreements, I was sending Border Patrol agents to countries down south, left and right, to build relationships with them and just simply get them to enforce their own laws. It was all about protecting America. Then on January 2021, everything switched. Every one of those policies that actually showed progress and improved and protected America was replaced with messages that said, speed up the processing as fast as you can. We're not into the deterrence business anymore, and we need to find new ways to get more migrants into the United States.

Ms. DE LA CRUZ. So, do policies work?

Mr. SCOTT. Policies do work. Rhetoric works short-time, but policies and actions work long-term. I believe Mr. Edlow is really a key into some of those policies, and he may have some more.

Ms. DE LA CRUZ. Before I go to you, let me ask you one last question. Mr. Scott, how many people did you personally parole into this country?

Mr. SCOTT. So, while I was chief of the Border Patrol, that authority was delegated to sector chiefs. Not to try to get out of it, but because that's how much we cared about it.

Ms. DE LA CRUZ. Mm-hmm.

Mr. SCOTT. There's 20 sector chiefs Nation-wide. So, when I was a sector chief, in a year, I think the most paroles I ever did was about 10. The things that people are missing is there was a very in-depth threat assessment done with every one of those individ-

uals. There was a plan to keep track of them. Then when whatever the reason was, was done, we physically made sure the person was removed from the United States consistent with the law.

Ms. DE LA CRUZ. That being said, how does that compare with the current administration and amount of paroles that are led into this country?

Mr. SCOTT. We were using it consistent with the law, case-by-case, individual determination. From my understanding, the way it's being used now is just a blanket way to get people out of stations, avoid the optics of people backed up in Border Patrol stations.

Ms. DE LA CRUZ. I think that is where this is of real concern is it all goes to optics when it is convenient to the Biden administration. With that, I yield back.

Chairman GREEN. The gentlelady yields. I now recognize the Ranking Member for his closing comments.

Mr. MENENDEZ. Thank you, Mr. Chairman. You know, we have had the opportunity to engage in a dialog about what we hope we can do together. You know, for me, I think today was challenging because it feels a move away from working together across the aisle on a lot of the challenges that we have to face, including the border. It is a move away from trying to come to a comprehensive approach to immigration reform.

The fact that the report was issued this morning without consultation with Minority, with the staff, I want to be clear about one thing. Secretary Mayorkas has not violated the law. He and the Department of Homeland Security have been working to secure the border every day. I have been to the border twice since January. I went with a delegation of Democrats from Homeland Security. So, we have an interest in dealing with this issue directly and availing ourselves of the opportunities to deal with people directly who are at the front lines. So, we are not running from this issue, but we are trying to work at it in a constructive manner.

If you talk about the administration, Secretary Mayorkas has increased efforts to go after smugglers. We talked about additional legal pathways to enter the United States. But that actually hurts the cartels' and smugglers' business model. So, by creating constructive, actual avenues for people to come here legally, it undermines what the cartels are trying to do at the border.

The numbers are what they are. Encounters at the border are down. We don't all have to agree with the administration's policies, but the facts show that they are in fact effective. I do hope that in the future we can have real substantive discussions on the threats facing our Nation. It is critically important that we do so. I hope we can do so under different circumstances. I look forward to doing that work because we are here to create solutions for all of our constituents and I look forward to those days. I yield back.

Chairman GREEN. The gentleman yields. I recognize myself for a few closing comments. First, I just want to reiterate that we are looking at a cause and effect. The cause is policies that were working. You can look at the numbers that were coming in and those policies were thrown away. Migrants listened to the President about granting asylum and all this stuff, granting, you know, permission to just basically come into the country. They came and

they tested the system. Those who got here made phone calls back home and the wave of people started.

This notion that a migration crisis has occurred and we are responding to it is wrong. We created a migration crisis by creating an incentive for people to come here. We opened our border. People tested it and they called home. Now more are coming. Not hurricanes, not earthquakes, not changes to our immigration law, not changes to the budget at CBP, not changes to the number of Border Patrol agents. What changed were policies. It has created a mass migration wave from 160 countries of people coming to the United States.

Tragically, the drug cartels have taken advantage of this. They seized on the opportunity to use people to pay them up to $13 billion, transferred to some of the most heinous people. We have seen the images. We have seen the videos of them burning human corpses they have executed. Yet, we are trying to find, you know, some excuse for this. The cause and the effect is policies and a mass wave and cartels who are manipulating the situation.

Add to that the tactics and strategy of the cartel to overwhelm Customs and Border Patrol with mass waves of people, thinning of the line in order to process, frees up the cartels to come right across the border in their carpet shoe, wearing backpacks full of fentanyl. We have seen the piles of the backpacks in Arizona and Texas.

The effects, Americans are more unsafe, period. All you have to do is look at that little baby from France who was visiting the United States, crawling around on a VRBO carpet, and encountered fentanyl left from someone before and that baby died. How many Americans take their kids to the hotel? How many Americans go to a VRBO and say you don't know if you are safe in the United States of America because of the policies of this administration and this Secretary.

We know that rapists and murderers have been released and that is not counting the population of the gotaways. We have got percentages in the folks that have turned themselves in. Why would you be a gotaway by the way, if you are just here to get in for economic purposes or even asylum, just turn yourself in and you will get released into the country. Why would you be a gotaway? One-point-five million of them in the United States now. What percentage of that 1.5 million are murderers or rapists or drug dealers or cartel members? Mr. Mayorkas can't answer that question. We are going to have Mr. Mayorkas back here. No one can answer that question.

Americans are unsafe because of this open border. National security, 200-plus terrorists versus 11. That tells you that the terrorists are trying harder and harder to get into this country because they know the policy. The door is open. National security. This chart is incredible. You look at the past several years, there is not much statistical difference in those years, but suddenly in this year look at the Chinese nationals pouring into this country. We have reports from sector chiefs saying they are PLA-associated. They are taking a lesson from the Russians who infiltrated Ukraine before they invaded. Now, it is not to say that the Chinese are going to invade

the United States, but if we were to defend Taiwan, think about what those people might become.

It is interesting to think about. But Mr. Mayorkas can't guarantee us what they are. They are just being released into the United States. That is a national security issue. Migrants separated, you now, we are talking 85,000. I understand the phone call system. That means there were some, whatever the number is and probably in the thousands. Oh, by the way, the *New York Times* not known, and in the report, not a *Fox News,* not a *Newsmax,* the *New York Times* went and found some of those people. Found they were stacked in homes as much as 20 and were being used in forced labor. Should never happen in America. It happened because Mayorkas's decision, a dereliction of duty, as far as I am concerned, waived the background checks on those individuals. It is unconscionable.

It has been discussed the financial cost too, not just the human cost, an effect, and it will cost us. It is costing us. Your health insurance is going up because of the uncompensated care at the ER, period. Why? There are 7-plus million people.

Mr. Mayorkas broke the law. We have had witnesses cite the law, read the law, and describe the methodologies, which he is either subverting it or breaking it. He has refused to abide by at least two court orders. Fact. He made it lawful to enter the country in lawful pathways that don't exist in the law. That is breaking the law. That is violating the law.

He clearly lied to Congress. Chip Roy showed him the definition of operational control. He said, yes, according to that definition, we have operational control of the border. Then in the Senate, after Ortiz made his comment, he admitted no one's ever had control by that definition. Admitting that he lied when he was in front of the committee with Chip Roy. A Secretary of Homeland Security, a Secretary of any department in our Government cannot come to the U.S. Congress and lie to Congress under oath, period. That is a dereliction of duty. Whether you like the fact that we are, you know, helping people who are in need, he lied to Congress. That is unacceptable.

Oh, by the way, we went back and searched the record. All the pounding on Mr. Wolf here, which will tell you something, if you are not defending your own guy and just beating up on the witness, maybe you don't have a leg to stand on. But we went back and looked at your record, sir, and we can't find anywhere where you claimed to have had operational control.

At least you didn't lie. He admitted his own incompetence. In the Senate, he said he did not understand the strategies of the cartels. Now, Merrick Garland, the Attorney General, said, yes, that is the strategy of the cartels. The Attorney General gets it. The Secretary of Homeland Security doesn't understand the strategy of the cartel he has been asked to confront to protect Americans. That is admitting incompetence.

I want to correct the record on a few things, too. Asylum is the heart of our country trying to help people in need. I get it, appropriate. Abuse of asylum laws for a political purpose is wrong. Asylum is not granted to people, if you read the law, just because they are coming from a corrupt government, or from a crime-ridden

area, or poverty. Asylum is granted when a Government is pursuing an individual. The U.N. Charter is very clear when a refugee is seeking asylum and they go into another country, that country is supposed to take care of them and not pass them on to another country. That is in the United Nations Charter. Why is this happening all over Central America? Why are we accepting that that is OK? We signed the U.N. Charter. They signed the U.N. Charter. Let's enforce it. There are insinuations that because we want to see the rule of law in place, that we are somehow anti-migrant or anti-charity.

When I ran my health care company, I built a not-for-profit for a lot of reasons. I wanted to hire physicians to join my company that had a heart to serve people. So, we had a not-for-profit and we paid those doctors' expenses so that they could do foreign trips and we could run free clinics. I want to serve people, but the Government doesn't get to pick where my charity goes. The Government doesn't get to decide that I, Mark Green's taxpayer dollars are going to go for taking care of—maybe I want to give my charity to Gold Star families. The family members of dead Americans who fought for this country, maybe that is where I want my charity to go. Maybe I, you know, want to plant trees and save the environment. The best vacuum cleaner for CO_2 on the planet is a tree.

But I am having to pay taxes that the President gets to decide where that charity goes. No. There has been an accusation today the GOP has done nothing. We just passed a border security bill that addresses all these issues.

Ms. Acer, you said that we shouldn't say that the border is open because it might incentivize more people to come. I think that is what the implication of what you were saying. I couldn't agree more. That is why we are having the migration crisis, is we opened the border. The President said it in his campaign. People come and they call and now they are coming into the country. I agree. It creates an incentive and you apparently do too.

Immigration is not our committee. Here is another thing. Well, maybe I misunderstood you, but that is what I thought you said. But immigration is not our committee. We don't get to solve the immigration problems. People here today have talked about, hey, we got to fix immigration. Yes, we got to fix immigration. But if you create more of an incentive for people to come, they are going to come. You have to secure the border first. You secure the border, then we will fix immigration. I couldn't agree more on that.

NGO's, not all NGO's are bad. Not all NGO's are good. There are some that are doing great things and there are some that are incentivizing the migration that is harming people and there are some incentivizing people to break the law. That is just period. Just because you are looking into NGO's, it doesn't mean that you are anti-NGO. It means you want people taken care of appropriately.

We have talked about the CBP One app and the shell game that that is. We have been, you know, accused of not addressing other issues like cyber. We have many other subcommittees that are taking actions on cyber and maritime security and other things. That stuff's all going on. You can't make the accusation that we are just here prosecuting Mr. Mayorkas.

Congress has both an oversight requirement, an oversight obligation as much as it has a passing laws obligation. Oversighting this crisis is our duty and we are not going to shirk that duty. It is revealing that Democrats today spent far more time baselessly attacking Mr. Wolf than defending Secretary Mayorkas and his policies.

If you examine the facts, there is no defense for his dereliction of duty. This is just the beginning of a lot of hearings fulfilling that duty for oversight. We will get to the bottom of what is going on at our Southern Border. We will characterize the costs to the American people. We will inform them and hopefully inform the President. My hope is that the President is unaware of all this and that maybe he will do the right thing and fire a guy who has lied to Congress, broken the laws, and facilitated this mass migration that has resulted in the harm both of Americans and of the migrants.

I want to thank the witnesses for their valuable testimony today and all of our Members for their questions. As I said at the beginning, we were going to disagree. We did. But that is what this is all about. It is the sausage making, as they say.

Members of the subcommittee—the committee may have some additional questions for the witnesses and we would ask that the witnesses respond to those in writing. Pursuant to Committee Rule VII(D), the hearing record will be held open for 10 days for such purposes. Without objection, the committee stands adjourned.

[Whereupon, at 1:30 p.m., the committee was adjourned.]

COUNTERING THREATS POSED BY NATION-STATE ACTORS IN LATIN AMERICA TO U.S. HOMELAND SECURITY

HEARING

BEFORE THE

SUBCOMMITTEE ON COUNTERTERRORISM, LAW ENFORCEMENT, AND INTELLIGENCE

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

JUNE 21, 2023

Serial No. 118–18

Printed for the use of the Committee on Homeland Security



Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

53–947 PDF WASHINGTON : 2023

COMMITTEE ON HOMELAND SECURITY

MARK E. GREEN, MD, Tennessee, *Chairman*

MICHAEL T. MCCAUL, Texas
CLAY HIGGINS, Louisiana
MICHAEL GUEST, Mississippi
DAN BISHOP, North Carolina
CARLOS A. GIMENEZ, Florida
AUGUST PFLUGER, Texas
ANDREW R. GARBARINO, New York
MARJORIE TAYLOR GREENE, Georgia
TONY GONZALES, Texas
NICK LALOTA, New York
MIKE EZELL, Mississippi
ANTHONY D'ESPOSITO, New York
LAUREL M. LEE, Florida
MORGAN LUTTRELL, Texas
DALE W. STRONG, Alabama
JOSH BRECHEEN, Oklahoma
ELIJAH CRANE, Arizona

BENNIE G. THOMPSON, Mississippi, *Ranking Member*
SHEILA JACKSON LEE, Texas
DONALD M. PAYNE, JR., New Jersey
ERIC SWALWELL, California
J. LUIS CORREA, California
TROY A. CARTER, Louisiana
SHRI THANEDAR, Michigan
SETH MAGAZINER, Rhode Island
GLENN IVEY, Maryland
DANIEL S. GOLDMAN, New York
ROBERT GARCIA, California
DELIA C. RAMIREZ, Illinois
ROBERT MENENDEZ, New Jersey
YVETTE D. CLARKE, New York
DINA TITUS, Nevada

STEPHEN SIAO, *Staff Director*
HOPE GOINS, *Minority Staff Director*
NATALIE NIXON, *Chief Clerk*
SEAN JONES, *Deputy Chief Clerk*

SUBCOMMITTEE ON COUNTERTERRORISM, LAW ENFORCEMENT, AND INTELLIGENCE

AUGUST PFLUGER, Texas, *Chairman*

DAN BISHOP, North Carolina
TONY GONZALES, Texas
ANTHONY D'ESPOSITO, New York
ELIJAH CRANE, Arizona
MARK E. GREEN, MD, Tennessee *(ex officio)*

SETH MAGAZINER, Rhode Island, *Ranking Member*
J. LUIS CORREA, California
DANIEL S. GOLDMAN, New York
DINA TITUS, Nevada
BENNIE G. THOMPSON, Mississippi *(ex officio)*

MICHAEL KOREN, *Subcommittee Staff Director*
BRITTANY CARR, *Minority Subcommittee Staff Director*
ALICE HAYES, *Subcommittee Clerk*

CONTENTS

Page

STATEMENTS

The Honorable August Pfluger, a Representative in Congress From the State of Texas, and Chairman, Subcommittee on Counterterrorism, Law Enforcement, and Intelligence:
Oral Statement 1
Prepared Statement 4
The Honorable Seth Magaziner, a Representative in Congress From the State of Rhode Island, and Ranking Member, Subcommittee on Counterterrorism, Law Enforcement, and Intelligence:
Oral Statement 5
Prepared Statement 7
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security:
Prepared Statement 8

WITNESSES

Ms. Elaine K. Dezenski, Senior Director and Head, Center on Economic and Financial Power, Foundation for Defense of Democracies:
Oral Statement 10
Prepared Statement 11
Mr. Christopher Hernandez-Roy, Deputy Director and Senior Fellow, Americas Program, Center for Strategic and International Studies:
Oral Statement 18
Prepared Statement 20
Ms. Jessica Brandt, Policy Director, Artificial Intelligence and Emerging Technology Initiative, Fellow, Foreign Policy, Strobe Talbott Center for Security, Strategy, and Technology, The Brookings Institution:
Oral Statement 26
Prepared Statement 29

COUNTERING THREATS POSED BY NATION-STATE ACTORS IN LATIN AMERICA TO U.S. HOMELAND SECURITY

Wednesday, June 21, 2023

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON COUNTERTERRORISM,
LAW ENFORCEMENT, AND INTELLIGENCE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:01 a.m., in room 310, Cannon House Office Building, Hon. August Pfluger [Chairman of the subcommittee] presiding.

Present: Representatives Pfluger, D'Esposito, Crane, Magaziner, Correa, Goldman, and Titus.

Also present: Representative Jackson Lee.

Chairman PFLUGER. The Committee on Homeland Security Subcommittee on Counterterrorism, Law Enforcement, and Intelligence will come to order.

Without objection, the subcommittee may recess at any point.

The purpose of this hearing is to receive testimony from a non-Governmental panel of expert witnesses to examine the threats posed by nation-state actors in Latin America, like China and Russia to the United States homeland security.

I now recognize myself for an opening statement.

Good morning and welcome to the Subcommittee on Counterterrorism, Law Enforcement, and Intelligence. Today, we are holding an important hearing on the threats posed by nation-state actors like the People's Republic of China, the PRC, Russia, Iran, and Venezuela in Latin America to our homeland security.

There is no doubt that we are facing a migration crisis caused by the administration's policy decisions. We are witnessing significant increases in encounters at the Southwest Border with individuals from countries of concern like the PRC and Russia. I am concerned that the chaos of the Southwest Border could be taken advantage of by anti-U.S. regimes—not just can, but has been. Meanwhile, the PRC and our foreign adversaries are expanding their spheres of influence in Latin America right in our backyard. As they grow their diplomatic, economic, and military activities in the region, there are clear implications for U.S. homeland security.

Recent data released by the United States Customs and Border Protection shows a steep increase in encounters with foreign nationals from the PRC, Russia, Cuba, and Venezuela, amongst others at our Southwest Border. For example, in the first 7 months

of fiscal year 2023, over 9,711 PRC nationals were encountered by U.S. Border Patrol along our Southwest Border, exponentially more than the previous 3 years. Restate that number: 9,711 PRC nationals. A similar trend involves encounters with Russian citizens. In 2021, CBP reported just 4,103 encounters of Russian citizens along our Southwest Border, however, that number jumped to 21,763 in fiscal year 2022, and it is over 33,000 for the first 7 months of fiscal year 2023. I have heard directly from sheriffs in my own district that they apprehended multiple individuals from the PRC who were deemed high-value targets and were taken into custody by the FBI.

While aliens may have legitimate claims to asylum, the increased flow of nationals from adversarial countries is concerning as these individuals blend into the much larger wave of illegal aliens flooding across the Southwest Border, already topping 1.4 million illegal alien encounters for the first 7 months of this fiscal year, 2023.

Meanwhile, Border Patrol agents at the Southwest Border are completely overwhelmed. There have been 1.5 million known gotaways at the Southwest Border since the start of this administration. This creates a gap in our homeland security intelligence that malign nation-states could exploit to send nefarious actors into the United States. It is important that this subcommittee fully understand the ways that malign nation-state actors could take advantage of the wide open Southwest Border. However, the problem is not just there. It stretches further than that. There is no doubt that we are facing an array of security challenges in the region and by extension, to homeland security.

In particular, the PRC has developed close economic and security ties with a number of Latin American countries, including Brazil and Venezuela. For example, the China Development Bank and the Export-Import Bank of China offered approximately $137 billion to the region in loans to a multitude of sectors, with Venezuela as the most prolific beneficiary of PRC loans at roughly $60 billion. However, the PRC's influence in the region goes beyond economic ties. It also includes military and security partnerships. For example, in approximately a 10-year period between 2009 and 2019, $615 million in weapons were sold to Venezuela by the PRC. The PRC's increased influences in the region bolsters the CCP's geopolitical goals, which also includes strengthening other authoritarian regimes, leading to significant challenges to U.S. influence in the region, as well as security risks to the United States homeland.

Earlier this year, Melissa Dalton, the Pentagon's Assistant Secretary of Defense for Homeland Defense and Hemispheric Affairs, testified that the PRC and Russia now pose more dangerous challenges to the safety and security of the U.S. homeland. They are both, and I quote here from Ms. Dalton, "already using nonkinetic means against our defense, industrial base, and mobilization systems to subvert our ability to project power". This transcends the egregious example of when the PRC entered our sovereign airspace with a high-altitude balloon, which we know with certainty they intended to use to spy on sensitive U.S. military and critical infrastructure sites.

Then, just this month, the Biden administration confirmed the existence of a PRC-run electronic espionage facility in Cuba, rough-

ly 100 miles from the United States, that would allow the CCP intelligence services to collect signals intelligence throughout the southeastern United States. Less than 48 hours later, an anonymous Biden administration official confirmed to *Politico* that the CCP has actually been using a secret facility in Cuba to spy on the United States since at least 2019. My Republican colleagues and I are demanding answers on this latest nefarious action by the CCP from DHS Secretary Mayorkas and FBI Director Wray to ensure the homeland security response is robust and steadfast. I would love to have all of this committee in a nonpartisan way join that effort to understand those nefarious actions. This activity once again displays the CCP's willingness to use every tactic and technique to undermine U.S. sovereignty and shows that authoritarian regimes in Latin America can and will assist the CCP in attacking U.S. homeland security.

Additionally, Russia continues to demonstrate its intent and capability to conduct military and other strategic activities against the United States in the Western Hemisphere. Russia's influence in the region mainly comes from security ties on which it has colluded with anti-U.S. authoritarian regimes, including Venezuela, Nicaragua, and Cuba. For example, Russia has assisted Venezuela with sanctions evasion using Russian state-controlled companies to transport Venezuelan oil. Russia also uses the Wagner Group, a private military company, to protect power world-wide. The Wagner Group tries to undercut the United States and present itself as a mediator and security partner to anti-U.S. countries and gain military access rights and economic opportunities. For example, they are training Venezuela's armed forces.

Additionally, Iran plays a secondary role in the region. The recent docking of Iranian warships in Rio de Janeiro, Brazil indicate Iran is looking to assert its power across the region. Iran's backed militia, Hezbollah, continues to have a presence in the region with the transition from the triborder area of Paraguay to operations in Venezuela.

Whether it is the PRC, Russia, or Russia's proxies or Iran, it is vital that we understand the security challenges and threats posed by nation-state actors to U.S. homeland security and explore every avenue to address them head on.

This morning, we have a distinguished panel of expert witnesses to discuss this important topic with. I would just like to say that we are facing challenges all over the world. I personally think that this is one of the most challenging security environments that we have ever been in, including the World War II era. We know some of the threats and some of the threats we don't know. The nature and the face of these threats has changed. It is no longer just missiles in Cuba like we saw decades ago. The cyber threat is egregious, economically what these countries are doing to use their influence and to really hurt the people of countries, especially in our backyard in South America and Latin America.

So I am excited to hear from our witnesses, I am excited to have this conversation today because I hope it informs the rest of Congress that we must keep our eye on the ball. We must understand what the Chinese Communist Party is doing and the malign activities that they will use to undermine not just our influence and our

economic prowess around the world, but also our homeland security right here at home.

I thank all the witnesses for being with us this morning, and I look forward to our discussion.

[The statement of Chairman Pfluger follows:]

STATEMENT OF CHAIRMAN AUGUST PFLUGER

JUNE 21, 2023

Good morning, and welcome to the Subcommittee on Counterterrorism, Law Enforcement, and Intelligence.

Today we are holding an important hearing on the threats posed by nation-state actors like the People's Republic of China (PRC), Russia, Iran, and Venezuela in Latin America to our homeland security.

There is no doubt that we are facing a migration crisis caused by the administration's policy decisions.

We are witnessing significant increases in encounters at the Southwest Border with individuals from countries of concern like the PRC and Russia.

I am concerned that the chaos of the Southwest Border could be taken advantage of by anti-U.S. regimes.

Meanwhile, the PRC and our foreign adversaries are expanding their spheres of influence in Latin America—essentially in our backyard.

As they grow their diplomatic, economic, and military activities in the region, there are clear implications for U.S. homeland security.

Recent data released by the United States Customs and Border Protection shows a steep increase in encounters with foreign nationals from the PRC, Russia, Cuba, and Venezuela, amongst others, at our Southwest Border.

For example, in the first 7 months of fiscal year 2023, over 9,711 PRC nationals were encountered by U.S. Border Patrol along our Southwest Border, exponentially more than the previous 3 years.

A similar trend involves encounters with Russian citizens. In 2021, CBP reported just 4,103 encounters of Russian citizens along our Southwest Border; however, that number jumped to 21,763 in fiscal year 2022 and is already over 33,000 for the first 7 months of fiscal year 2023.

I have heard directly from sheriffs in my district that they apprehended multiple individuals from the PRC who were deemed "high-value targets" and were taken into custody by the FBI.

While aliens may have legitimate claims to asylum, the increased flow of nationals from adversarial countries is concerning as these individuals blend into the much larger wave of illegal aliens flooding across the Southwest Border, already topping 1.4 million illegal alien encounters through the first 7 months of fiscal year 2023.

Meanwhile, Border Patrol agents at the Southwest Border are completely overwhelmed. There have been 1.5 million known gotaways at the Southwest Border since the start of this administration.

This creates a gap in homeland security intelligence that malign nation-states could exploit to send nefarious actors into the United States.

It is important that this subcommittee fully understand the ways malign nation-state actors could take advantage of the wide-open Southwest Border.

However, the problems stretch further than that. There is no doubt that we are facing an array of security challenges in the region and by extension to U.S. homeland.

In particular, the PRC has developed close economic and security ties with a number of Latin American countries, including Brazil and Venezuela.

For example, the China Development Bank and the Export-Import Bank of China offered approximately $137 billion to the region in loans to a multitude of sectors—with Venezuela as the most prolific beneficiary of PRC loans at roughly $60 billion.[1]

However, the PRC's influence in the region goes beyond economic ties. It also includes military and security partnerships.

[1] "China-Latin America Finance Databases," The Inter-American Dialogue, Accessed June 16, 2022, *https://www.thedialog.org/map_list/*.

For example, in approximately a 10-year period, between 2009 and 2019, $615 million in weapons was sold to Venezuela by the PRC.[2]

The PRC's increased influences in the region bolsters the CCP's geopolitical goals, which also includes strengthening other authoritarian regimes, leading to significant challenges to U.S. influence in the region as well as security risks for the U.S. homeland.

Earlier this year, Melissa Dalton, the Pentagon's Assistant Secretary of Defense for Homeland Defense and Hemispheric Affairs testified that the PRC and Russia "now pose more dangerous challenges to the safety and security of the U.S. homeland."[3] They are both "already using non-kinetic means against our defense industrial base and mobilization systems to subvert our ability to project power."[4]

This transcends the egregious example of when the PRC entered our sovereign air space with a high-altitude balloon, which we know with certainty they intended to use to spy on sensitive U.S. military and critical infrastructure sites.[5]

And then, just this month, the Biden administration confirmed the existence of a PRC-run electronic espionage facility in Cuba—roughly 100 miles from the United States—that would allow the CCP intelligence services to collect signals intelligence throughout the southeastern United States.

Less than 48 hours later an anonymous Biden administration official confirmed to *Politico* that the CCP has actually been using a secret facility in Cuba to spy on the United States since at least 2019.

My Republican colleagues and I are demanding answers on this latest nefarious action by the CCP from DHS Secretary Mayorkas and FBI Director Wray to ensure the homeland security response is robust and steadfast.

This activity once again displays the CCP's willingness to use every tactic and technique to undermine U.S. sovereignty and shows that authoritarian regimes in Latin America can and will assist the CCP in attacking U.S. homeland security.

Additionally, Russia continues to demonstrate its intent and capability to conduct military and other strategic activities against the United States in the Western Hemisphere.

Russia's influence in the region mainly comes from security ties—on which it has colluded with anti-U.S. authoritarian regimes, including Venezuela, Nicaragua, and Cuba.

For example, Russia has assisted Venezuela with sanctions evasion, using Russian state-controlled companies to transport Venezuelan oil.

Russia also uses the Wagner Group, a private military company to project power world-wide. The Wagner Group tries to undercut the United States, present itself as a mediator and security partner to anti-U.S. countries, and gain military access rights and economic opportunities. For example, they are training Venezuela's armed forces.

Additionally, Iran plays a secondary role in the region. The recent docking of Iranian warships in Rio de Janeiro, Brazil indicate Iran is looking to assert its power across the region.

Iran's-backed militia, Hezbollah continues to have a presence in the region, with a transition from the tri-border area of Paraguay to operations in Venezuela.

Whether it is the PRC, Russia or Russia's proxies, or Iran, it is vital that we understand the security challenges and threats posed by nation-state actors to U.S. homeland security and explore every avenue to address them head on.

This morning, we have a distinguished panel of expert witnesses to discuss this important topic.

I thank all our witnesses for being with us this morning and I look forward to our discussion.

Chairman PFLUGER. I would now like to recognize the Ranking Member, the gentleman from Rhode Island, Mr. Magaziner, for his opening statement.

Mr. MAGAZINER. Thank you, Chairman.

We find ourselves in a time when, once again, democratic nations like the United States are in a competition for the hearts and

---

[2] Lara Seligman, "U.S. Military Wary of China's Foothold in Venezuela," *Foreign Policy,* April 8, 2019, *https://foreignpolicy.com/2019/04/08/us-military-wary-of-chinas-foothold-in-venezuela-maduro-faller-guaido-trump-pentagon/.*

[3] *https://www.armed-services.senate.gov/hearings/to-receive-testimony-on-strategic-competition-and-security-cooperation-in-the-western-hemisphere.*

[4] Id.

[5] Id.

minds in the developing world, with autocratic competitors like the People's Republic of China, Iran, and Russia. It is more important than ever that we build strong relationships with our allies in Latin America based on mutual respect, fair commerce, and a shared commitment to security and human rights. If we make the mistake of driving away our allies in the region, Russia, the Chinese Communist Party, and our other competitors will gladly fill that void at the expense of our own security.

In Latin America today, the CCP and Russia are attempting to manipulate public discourse, discredit elections and the electoral system, influence policy, and disrupt markets, with the goal of undermining U.S. security and economic competitiveness. We cannot allow that to happen. Over the past 20 years, the CCP has spent heavily in Latin America. Chinese state industry now reaches deep into Latin America's energy, infrastructure, and space industries. In fact, China has surpassed the United States as South America's biggest trading partner. I will say it again, China has surpassed the United States as South America's biggest trading partner. China now has free trade agreements in place with Chile, Costa Rica, Ecuador, and Peru, and 20 countries in Latin America and the Caribbean participate in the CCP's Belt and Road initiative. The Chinese Communist Party is investing in soft power through cultural and educational programs in Latin America, which are building political goodwill and presenting China as a viable alternative partner to the United States and other democracies.

This is why it is so important that last year President Biden launched a new economic cooperation initiative with Latin America aimed specifically at countering the CCP's growing clout in the region. Under Vladimir Putin Russia cares less about competing with the United States economically and more about stoking chaos and political division to harm democracies like the United States. Russia has maintained decades-long relationships with Latin American authoritarian regimes. The Cuban, Venezuelan, and Nicaraguan regimes are heavily dependent on Moscow for political, economic, and security assistance. Russia actively spreads propaganda in Latin America to undermine U.S. interests and the interests of democratic allies, just as Russia did in the early days of its invasion of Ukraine, when Russia used its propaganda assets in Latin America to push conspiracy theories about Ukraine and the West to justify the invasion.

With the CCP, Russia, and other autocratic regimes so determined to build their presence in Latin America, it is vital that the United States strengthen our relationships with our neighbors in the region. The worst thing we could do for our own security is drive our Latin American neighbors into the arms of our adversaries. That is why it is disturbing to hear former President Trump and some of my colleagues from across the aisle, though of course not all, push reckless ideas like unilateral military action in Mexico, which would seriously endanger the strategic regional relationships we need to keep America secure.

It is also alarming that some House Republicans are calling for significant cuts to USAID, State Department, and Commerce Department budgets that are crucial to building American influence in Latin America at the same time that the CCP in particular con-

tinues to invest in aid and commerce to build their malign influence in the region.

As we go through the appropriations process in the coming months, we need to keep in mind that investing in aid and commerce in Latin America is not charity, it is in our national security interest.

So this is a time for engagement and partnership, not hyperpartisanship. Today's hearing, I hope, is an opportunity for this subcommittee to examine what we can do to counter the wider threat posed by autocratic nation-states that are setting up shop in the Western Hemisphere with the goal of undermining U.S. leadership in our own backyard. I hope that we can work together to counter their efforts and advance American interests.

With that, I yield back.

[The statement of Ranking Member Magaziner follows:]

STATEMENT OF RANKING MEMBER SETH MAGAZINER

JUNE 21, 2023

We find ourselves in a time when democratic nations, like the United States, are in a competition for hearts and minds in the developing world with autocratic competitors like the People's Republic of China, Iran, and Russia.

It is more important than ever that we develop strong relationships with our allies in Latin America, based on mutual respect, fair commerce, and a shared commitment to security and human rights. If we make the mistake of driving away our allies in the region, Russia, the CCP and our other competitors will gladly fill that void, at the expense of our own security.

In Latin America today, the CCP and Russia are attempting to manipulate public discourse, discredit elections and the electoral system, influence policy development, and disrupt markets with the goal of undermining U.S. security and economic competitiveness. We cannot allow that to happen.

Over the past 20 years, the CCP has spent heavily in Latin America. Chinese state industry now reaches deep into Latin America's energy, infrastructure, and space industries. In fact, China has surpassed the United States as South America's biggest trading partner. China has free trade agreements in place with Chile, Costa Rica, Ecuador, and Peru; and 20 countries in Latin America and the Caribbean participate in the CCP's Belt and Road initiative. And the Chinese Communist Party is investing in soft power through cultural and educational programs in Latin America, which are building political goodwill and presenting China as a viable alternative partner to the United States and democracies.

This is why it is so important that last year President Biden launched a new economic cooperation initiative with Latin America aimed specifically at countering the CCP's growing clout in the region. Under Vladimir Putin, Russia cares less about competing with the United States economically and more about stoking chaos and political division to harm democracies like the United States. Russia has maintained decades-long, strong relationships with Latin American authoritarian regimes.

The Cuban, Venezuelan, and Nicaraguan regimes are heavily dependent on Moscow for political, economic, and security assistance. And Russia actively spreads propaganda in Latin America to undermine U.S. interests and the interests of democratic allies—as Russia did during the early days of its invasion of Ukraine, when Russia used its propaganda assets in Latin America to push conspiracy theories about Ukraine and the West to justify the invasion.

With the CCP, Russia and other autocratic regimes so determined to build their presence in Latin America, it is vital that the United States strengthen our relationships with our neighbors in the region.

The worst thing we could do for our own security, is drive our Latin American neighbors into the arms of our adversaries. That is why it is disturbing to hear former President Trump and some of my colleagues from across the aisle push reckless ideas like unilateral military action in Mexico, which would seriously endanger the strategic regional relationships we need to keep America secure.

It is also alarming that some House Republicans are calling for significant cuts to USAID, State Department, and Commerce Department budgets that are crucial to building American influence in Latin America, at the same time that the CCP

in particular continues to invest in aid and commerce to build their malign influence in the region. This is a time for engagement and partnership, not hyper-partisanship.

Today's hearing, I hope, is an opportunity for this subcommittee to examine the wider threat posed by autocratic nation-states that are setting up shop in the Western Hemisphere with a singular goal—to undermine U.S. leadership in our own backyard.

Chairman PFLUGER. Thank you, Ranking Member Magaziner.

Other Members of the committee are reminded that opening statements may be submitted for the record.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JUNE 21, 2023

I am grateful for Ranking Member Magaziner's leadership on this subcommittee and his effort to put today's hearing into focus. It was committee Democrats' understanding that the purpose of this hearing is to discuss foreign malign influence in Latin America and how the actions of our geopolitical adversaries in the region impact U.S. interests and homeland security. This is certainly an issue worth exploring.

However, the Republicans' media advisory for the hearing once again demonstrates that my colleagues across the aisle are focused on the Southern Border to the exclusion of other critical homeland security matters. According to the media advisory, the focal point of today's hearing for Republicans is Border Patrol's, and I quote, "encounters with individuals from authoritarian countries hostile to the United States, such as China, Russia, Cuba, and Venezuela."

It goes on to note that Republicans are unaware of the migrants' motives for seeking entry into the United States but does not mention using today's hearing to explore the root causes of migration. Perhaps because Republicans are uninterested in finding solutions and want to further their partisan agenda against Secretary of Homeland Security Alejandro Mayorkas—a case that they have stated is already "closed."

It is high time that this committee start doing oversight of pressing issues, like foreign malign influence in Latin America and how the actions of China, Russia, and others in our backyard undermine U.S. interests and democracy at large. I—once again—urge my Republican colleagues to forgo trying to score political points and join Democrats in seeking real solutions to threats to the homeland.

At the subcommittee's March 9 and May 23 hearings, Chairman Pfluger stated, and I quote, "This conflict is not with individual citizens of the PRC—this conflict is with the CCP, an authoritarian regime that commits genocide against its own people, censors free speech across the globe, and aims to end democracy as we know it." I could not agree more. Today, we ought to be examining the activities of malign nation-state actors in Latin America and the subsequent risks to the homeland, not vilifying individuals fleeing autocratic and oppressive regimes.

The Biden administration's National Security Strategy notes that the "Western Hemisphere impacts the United States more than any other region." It also recognizes the need for the United States to deepen partnerships with Latin American countries "to advance economic resilience, democratic stability, and citizen security," and to protect against external interference or coercion, including from China, Russia, and Iran.

So, I am thankful that under Ranking Member Magaziner's leadership, committee Democrats will use today's hearing to learn from witnesses about the scope of foreign malign influence in Latin America and how the United States Government can best work to help our allies deter such efforts.

Chairman PFLUGER. I am pleased to have a distinguished panel of witnesses before us today on this very important topic.

Let the record reflect that the witnesses have answered in the affirmative.

[Witnesses sworn]

Chairman PFLUGER. I would now like to formally introduce our witnesses.

Ms. Elaine Dezenski is the senior director and head of the Center on Economic and Financial Power at the Foundation for Defensive Democracies. With more than 2 decades of leadership in public, private, and international organizations, she is a globally-recognized expert and thought leader on geopolitical risk, supply chain security, anticorruption, and national security. She also held positions at the Department of Homeland Security under the Bush administration, including deputy and acting assistant secretary for policy and director of cargo and trade policy. In 2015, Ms. Dezenski launched LumiRisk LCC, a risk advisory practice. In 2017, she served as a senior fellow at the Jackson Institute for Global Affairs at Yale University and as a lecturer of business ethics in Yale's Program on Ethics, Politics, and Economics. In 2020 to 2021 she served on the newly-formed Chairman's Council on China Competition at the Export-Import Bank of The United States. Thank you for being here.

Mr. Christopher Hernandez-Roy is the deputy director and senior fellow of the Americas Program at the Center for Strategic and International Studies. Throughout his more than 25-year career, Mr. Hernandez-Roy has worked extensively to advance democratic governance, prevent and resolve conflict, strengthen the rule of law, respect human rights, ensure citizen security, and promote integral development across Latin America and the Caribbean. He has held various senior leadership positions at the Organization of American States, or OAS, having served as senior political advisor to two Secretaries General. In this capacity, he most recently documented the abuses of authoritarian regimes in Venezuela and Cuba, and co-led the organization's efforts to hold the Venezuelan regime accountable for possible crimes against humanity. He also was intimately involved in the peaceful resolution of border disputes between Honduras and Nicaragua, Belize and Guatemala, and Honduras and El Salvador. Thank you for being here.

Ms. Jessica Brandt is policy director for artificial intelligence and emerging technology initiative at the Brookings Institution and a fellow in the Foreign Policy Program's Strobe Talbot Center for Security Strategy and Technology. Her research interest in recent publications focus on foreign interference, digital authoritarianism, and the implications of emerging technologies for democracies. Ms. Brandt was previously head of policy and research for the Alliance for Securing Democracy and a senior fellow at the German Marshall Fund of the United States, a fellow in the Foreign Policy Program at the Brookings Institution, special advisor to the president of the Brookings Institution, and an international and global affairs fellow at the Belfer Center for Science and International Affairs at Harvard University.

I thank all of the witnesses for being here. I know you have submitted incredible testimonies and I would ask at this time that you summarize those and please try to keep to 5 minutes. We do have questions on those testimonies.

At this time I recognize Ms. Elaine Dezenski for your 5 minutes to summarize your opening statement.

STATEMENT OF ELAINE K. DEZENSKI, SENIOR DIRECTOR AND HEAD, CENTER ON ECONOMIC AND FINANCIAL POWER, FOUNDATION FOR DEFENSE OF DEMOCRACIES

Ms. DEZENSKI. Chairman Pfluger, Ranking Member Magaziner, thank you so much, distinguished Members of the subcommittee. I appreciate the opportunity to be part of today's conversation.

Latin America has become increasingly vulnerable to authoritarian encroachment. Instead of being filled with democratic friends and booming economies, America's backyard is home to Russian bombers and mercenaries, 29 Chinese-owned ports and port projects, a wide-spread Iran- and Russia-fueled anti-U.S. propaganda, Chinese enabled-fentanyl and money-laundering operations, wobbling and fallen democracies, and wide-spread economic and political instability.

In the aftermath of 9/11, DHS could count on and leverage the primacy of U.S. global leadership and economic influence to address a range of foreign threats to the homeland. Two decades later, our economic, trading, and monetary systems are being weaponized against us by foreign adversaries and competitors and in the process escalating the erosion of democratic rules and norms. These threats impact not only our physical borders, but our financial, digital, and trade borders.

Since 2008, Latin America has seen a greater decline of democratic indicators than any other region globally. Authoritarian regimes are driving migration to the Southern Border in tremendous numbers, with migrants from Cuba, Venezuela, and Nicaragua now outnumbering migrants from the Northern Triangle of Honduras, El Salvador, and Guatemala. If we seek to address root causes of migration and broader threats to the national and economic security landscape, addressing rising authoritarianism is a strategic imperative. But it also means fighting back against a false narrative designed to undermine the U.S. role in the region.

The challenge of authoritarian influence in Latin America presents critical questions about how the United States can use its economic and political power to drive stability, opportunity, investment, and democratic principles. DHS has a central role to play, but it requires an evolution of mindset and operational readiness. The Department needs to further prioritize its assessment of economic security threats, drive more effective deployment of both physical and digital boots on the ground, invest in securing new critical infrastructure, improve border management tools, and have more access to critical data. Finally, it requires a long-term commitment to mutual security and economic benefit for the region, with more purposeful engagement with allies and partners.

In my testimony I outlined several concrete actions that DHS and the administration could undertake. One is to identify and analyze a broader range of economic security threats as core drivers of homeland security vulnerability. We need to continue to shift the intelligence and analysis framework to encompass a wider range of actors, threats, and data sources.

Second, reengaging and expanding private-sector supply chain partnerships to improve information and data that supports better intelligence gathering and analysis. We need more and deeper partnerships with the private sector, especially those involved in manu-

facturing, transporting, importing, exporting, and investing in commercial operations throughout Latin America. Extension of mechanisms like the Authorized Economic Operator Program offers potential pathways to work with more private-sector actors and have more access to trade data.

Third, conducting a detailed review of China's multi-layered influence on ports and trade infrastructure is critical. DHS could lead or co-lead a comprehensive review of vulnerabilities at Latin American ports, including links to sanctioned entities, Chinese-made technology, assessment of 5G networks, trade data information, China's operations and maintenance strategies at ports, and assessing the risk of dual use infrastructure.

Fourth, expanding the effectiveness of Trade Transparency units. Trade Transparency Units, or TTUs, were established in 2004 to exchange trade data between the United States and trading partners to better understand the risks of trade-based money laundering. We really need to get at this problem, and TTUs are a good way to do it. Increasing investigative work to uncover Chinese money-laundering networks and financial institutions supporting them is absolutely critical. As my colleague Anthony Ruggiero and I have written, Congress should authorize the President to impose a range of sanctions on the facilitators who serve drug traffickers, including individuals who are grossly negligent concerning financial transactions or who export drug precursors.

Supporting legislation to counter kleptocracy and State-sponsored corruption is also critical. Legislation such as the Foreign Extortion Prevention Act, which was introduced in the last Congress, could help with expanding anticorruption enforcement tools and building on the Foreign Corrupt Practices Act.

Finally, a broader strategy to ally shore with regional partners can bring the benefit of new supply chains, emerging technologies, and opportunities to drive higher levels of U.S. and Western investment. DHS can help create the security framework that facilitates deeper trade, economic engagement, all of which is essential to protecting the homeland.

Thank you again for the opportunity to testify, and I look forward to your questions.

[The prepared statement of Ms. Dezenski follows:]

PREPARED STATEMENT OF ELAINE K. DEZENSKI

INTRODUCTION

Chairman Pfluger, Ranking Member Magaziner, and distinguished Members of this subcommittee, thank you for the opportunity to address you today on countering threats posed by nation-state actors in Latin America. I am pleased to provide relevant research and policy insights from FDD's Center on Economic and Financial Power (CEFP), where I serve as senior director and head.

CEFP, one of FDD's three centers on American power, was launched in 2014 to conduct cutting-edge research and promote strategies and policies to bolster an effective economic security framework that deters America's adversaries and protects U.S. national security objectives. Our lines of research and analysis focus on countering illicit finance, kleptocracy, and authoritarian corruption; economic warfare, including sanctions, export controls, and regulatory guard rails; new alliances for economic security; risks to USD primacy; and global supply chain risk.

Today, I will touch on several examples of how authoritarian states influence Latin America's political, economic, and security dimensions—impacting stability in the region and driving mass migration to the United States. Rising populism, slowing growth, hyperinflation, crime, endemic corruption, organized crime, and horri-

fying violence are displacing populations and changing the economic and political dynamics. The influence of authoritarian regimes in Latin America continues to grow, especially China's outsized economic and political influence.

In the aftermath of 9/11, the Department of Homeland Security (DHS) was created to take a more unified, "whole-of-Government" approach to counter new and emerging asymmetric terrorist threats to the homeland. I was honored to help stand up the Department as deputy and acting assistant secretary for policy development and as director of the DHS Office of Cargo and Trade Policy. Those first years forming a new Department were both exhilarating and immensely challenging. We didn't have a playbook for most decision making. But we could count on and leverage the primacy of U.S. global leadership and economic influence, which allowed us to take essential steps at home and abroad to protect America from further attack.

Two decades later, we find ourselves in a new paradigm where elements of the U.S.-led global economic, trading, and monetary systems are being weaponized against us by foreign adversaries and competitors, and in the process, escalating the erosion of democratic rules and norms. The traditional terrorist threats evolved and persist, but now we face additional and fundamentally different sets of threats to the homeland that require new strategies and tactics—threats that are attacking not only our physical borders but our financial, digital, or trade borders as well.

OVERVIEW: RISING AUTHORITARIAN THREATS THROUGHOUT THE HEMISPHERE

A lack of a compelling and comprehensive U.S. vision for productive engagement with Latin America has left our hemisphere vulnerable to authoritarian encroachment and weakening economies. America's backyard, instead of being filled with democratic friends and booming economies, is home to Russian bombers and mercenaries, 29 Chinese-owned ports and port projects, a wide-spread Iran- and Russia-fueled anti-U.S. propaganda machinery, Chinese-enabled fentanyl and money-laundering operations, wobbling and fallen democracies, and wide-spread economic and political instability.

Over the last two decades, Latin America has seen wild swings from left-wing populists to right-wing populists and back, all of which have enabled corruption, disappointed their populations, and left the United States with fewer stable partnerships across the region. In response, Washington has settled into a hands-off approach to the region—allowing Venezuela and Nicaragua to slide into dictatorships and largely ignoring chaos in Bolivia, Peru, Argentina, and El Salvador. Since 2008, Latin America has seen a greater decline in democratic indicators than any other region in the world.

In addition to rising internal autocratic forces within Latin America, external autocratic forces are imposing their will upon the region with little in the form of a coordinated American response. Russia and Iran are increasingly active throughout the Americas, providing military assistance to Venezuela, evading sanctions in Cuba, or pushing misinformation and destabilizing democracy. The rising influence of authoritarianism throughout Latin America is pushing the region toward totalitarianism and away from the stable and interdependent democracies that would benefit both local citizens and the hemisphere at large.

The true autocratic behemoth in the region, however, is China, which has ramped up its economic investment throughout the hemisphere, driving deep debt dependency while pushing an anti-democratic vision of surveillance states and crumbling, corruption-driven infrastructure. Ecuador has already discovered "thousands" of cracks in its new $3 billion Chinese-built and -financed hydroelectric dam. Chinese organized crime, with tacit state support, is infiltrating Central American drug trafficking and money-laundering operations—supercharging both. China has become deeply interwoven in Latin America's energy grids and critical infrastructure, putting basic services at risk to the whims of Beijing. And China is increasing its military engagement throughout the hemisphere, from booming weapons sales and anti-riot police gear to joint exercises and training. The United States needs a concrete strategy to address Chinese encroachment throughout the region, whether through its illegal overfishing off of South America's Pacific coast or its growing fentanyl operations throughout Latin America.

America's cool relations with Central and South America have, meanwhile, failed to capitalize on the tremendous promise of the region and its critical role in American economic and national security. A prosperous Latin America lowers the pressure on immigration to the United States, offers critical supply chain advantages, and is rich with resources and human talent that should catalyze 21st Century technologies. Mexico has frequently benefited from U.S. efforts to locate supply chains closer to home, but so much more could be done. "Ally shoring" shifts of U.S. manufacturing from Asia to Latin America could promote prosperity throughout the re-

gion, lower costs for American businesses, and reduce pressures contributing to political instability and mass migration.

CORRUPTION, TRADE, CRITICAL MINERALS, AND INFRASTRUCTURE: THE BRI'S BAD DEAL

Trade between China and Latin America has skyrocketed over the last two decades, increasing more than 25 times in that span. Over the next decade, trade between China and the region is projected to double again to over $700 billion. Chinese loans have also increased the debt burden of Latin American countries by $138 billion. Much of that debt has come from China's Belt and Road Initiative (BRI)—a program that promises quick infrastructure and election-friendly megaprojects for which leaders in the region have been eager to sign up. Latin America trails only Asia in terms of BRI funding, having received more funding between 2005 and 2021 than Africa.

BRI projects are particularly appealing to the rulers of overindebted countries with weak governance standards since BRI loans provide no protection against corruption or limitations on indebtedness. Unfortunately, while BRI mega-projects are appealing to political leaders and their cronies, they have left a troubling legacy of corruption, broken promises, substandard infrastructure, opaque contractual terms, and mountains of debt.

In Ecuador, the $3.4 billion Coca Codo Sinclair hydroelectric project was supposed to provide 1,500 megawatts of electricity for Ecuador's people. Instead, Ecuadorian officials, including former President Lenin Moreno, received more than $75 million in bribes, and the citizens of Ecuador received a dam with at least 17,000 known cracks—putting the entire project and the lives of locals living downstream at risk. A million Ecuadorians were displaced to build the dam. Now there is major doubt that it will ever be fully operational.

Still, the Chinese debt continues to get paid under opaque terms that let Beijing walk away with 80 percent of Ecuador's oil—its most valuable export. On top of that, China gets the oil at a massive discount, allowing Beijing to resell the oil on the open market for a profit that should be going to Ecuador.

China has been aggressive in its attempts to exploit Latin America's abundant natural resources as it seeks to monopolize critical supply chains vital to the world's energy future. China controls around 65 percent of global lithium processing and refining capacity. In South America's Lithium Triangle of Argentina, Bolivia, and Chile, home to over half of the world's known lithium reserves, China is working to corner the market in all three countries.[1]

American companies, meanwhile, are being sidelined under suspicious circumstances. The U.S. company EnergyX, the only bidder in Bolivia to successfully demonstrate its technology with a pilot plant on-site, was disqualified from bidding after missing a deadline by 10 minutes. The project was ultimately awarded to a consortium of Chinese companies.

Finally, a positive trading relationship between the United States and Latin America has slowly been eroded and replaced with substantial Chinese engagement. This has spurred Brazil to push to resurrect the BRICS alliance as a non-America alternative trading and economic engagement bloc. In particular, Brazil has been vocally promoting the idea of pursuing a BRICS-based currency as an alternative to U.S. dollar primacy and dollar-based trade, with others in Latin America, such as Argentina and Venezuela, actively looking to join the alliance.

The United States, mobilizing its innovative private sector, has much more to offer Latin America than an alliance with a moribund Russia and a corrupting China can provide. To date, however, commercial risk-aversion and U.S. Government disinterest has allowed China to carve out a dominant economic relationship throughout the region, much to the detriment of economic security in the Americas. The current "Americas Partnership for Economic Prosperity" is an important initiative that focuses on enhancing trade in this critical region, but it needs resources. The United States must do more to engage economically with others in the hemi-

[1] Diana Roy, "China's Growing Influence in Latin America," *Council on Foreign Relations,* June 15, 2023. *(https://www.cfr.org/backgrounder/china-influence-latin-america-argentina-brazil-venezuela-security-energy-bri);* "Ganfeng Global Layout," *Gangfeng Lithium,* accessed June 16, 2023. *(http://www.ganfenglithium.com/about3_en.html);* "Zijin Mining Completes Acquisition of Neo Lithium," *ZiJin,* February 5, 2022. *(https://www.zijinmining.com/news/news-detail-119227.htm);* Ward Zhou, An Limin, Luo Guoping, and Lu Yutong, "China consortium to develop lithium deposits in Bolivia," *Caixin* (China), January 27, 2023. *(https://asia.nikkei.com/Spotlight/Caixin/China-consortium-to-develop-lithium-deposits-in-Bolivia);* Antonio De la Jara, "Tianqi buys stake in lithium miner SQM from Nutrien for $4.1 billion," *Reuters,* December 3, 2018. *(https://www.reuters.com/article/us-chile-tianqi-lithium/tianqi-buys-stake-in-lithium-miner-sqm-from-nutrien-for-4-1-billion-idUSKBN1O217F).*

sphere, expanding and reinvigorating free trade agreements and de-risking the environment for private capital and companies. Strong private-sector engagement combined with a U.S. reprioritization of the rule of law and transparency in Latin America has the potential to substantially stabilize conditions in the hemisphere and diminish the conditions that contribute to U.S.-bound migration.

PORTS, LOGISTICS, DATA, AND SURVEILLANCE: LOGINK, CRANES, AND 5G

China's 29 ports in Latin America control vast swaths of regional trade, but China also manufactures 96 percent of all shipping containers and 80 percent of the world's ship-to-shore cranes, and they lead the world in shipping capacity. Ships, containers, and cranes are only the beginning. Chinese-operated ports not only commercially link Beijing to the world but also act as outposts for data gathering and surveillance on a massive scale. China's port companies are legally required to collect information for the Chinese Communist Party.

Data collection is happening everywhere in the ports and providing China with a significant asymmetric advantage. Seemingly mechanical shipping cranes are being investigated as spying tools. China's logistical software system, LOGINK, is being used at ports around the world and tracks a wide range of trade, market, and maritime information, including: vessel and cargo status, customs information, billing and payment data, geolocation data, price information, regulatory filings, permits and driver's licenses, trade information, and booking data—information that gives Beijing critical commercial and geopolitical advantages. Chinese ports have 5G towers providing Wi-Fi to cruise ship tourists, and China provides the operating systems for the ports facility computers.

China's information advantage could permit Beijing to pinpoint economic attacks on critical U.S. trade and supply chain vulnerabilities. Even worse, China has knowledge and control over vast amounts of maritime infrastructure that underlies the shipping of Western military supplies, equipment, and components—cornering logistical data that could severely undermine U.S. and allied military capabilities in any potential conflict.

China's high-powered navy—now the largest in the world—also maintains critical advantages by having access to a global web of state-owned ports. Chinese commercial ports routinely host ships from China's navy and could act as critical resupply points—providing a massive tactical advantage in any potential conflict. China is, moreover, actively pursuing civilian/military interoperability to make infrastructure, such as its ports, even more militarily valuable.

Foreign ownership or control of global ports and their informational infrastructure is not an intrinsic hazard. However, given China's aggressively adversarial economic and geopolitical posture toward the West, it is critical that risks of China port-ownership are fully understood and mitigated. This must begin with understanding what exactly China knows: what information it is collecting, what data streams it has access to, and what state-sponsored intelligence gathering is linked to its port operations.

The United States should also work closely with Canada and Mexico to ensure that China's logistical advantages do not allow Beijing to manipulate trade information in ways that undermine North American security, such as promoting trade-based money laundering, disguising fentanyl operations, aiding human trafficking, or contributing to other national security trade risks. In the same vein, the United States has an opportunity to collaborate with global allies that also face Chinese port-related risks to comprehensively examine and test operations and logistical systems to make sure that trade data is not being compromised or weaponized.

FENTANYL AND MONEY LAUNDERING: TWO SIDES OF THE SAME COIN

The fentanyl crisis has tremendous consequences for the United States. One hundred thousand Americans are dying from drug overdoses a year—the vast majority of those from synthetic drugs like fentanyl. That is more than all the deaths from car crashes and gun violence combined. While most Americans understand the impact of fentanyl on our communities, what is less understood is the sophisticated network of internationally organized criminal syndicates, illicit precursor supply chains, and Chinese money-laundering operations that underpin this tragedy.

Fentanyl is unique, both in its lethal nature and in terms of the victims it targets. By and large, fentanyl is not being used by the general addict population but is much more likely to be used, unknowingly, by children and first-time users that believe they are buying legitimate pharmaceuticals, like Adderall or Vicodin . . . with deadly consequences. By disguising fentanyl (which costs as little as 10 cents a pill to produce) as more profitable pharmaceuticals, Mexican cartels make a killing by killing American kids.

Tragically, fentanyl is a drug crisis that is simultaneously a money-laundering crisis, chewing up American children in the process. Fentanyl, manufactured in Mexico from precursor chemicals imported openly from China, is just one link in a money-laundering process that is primarily designed to allow Chinese nationals circumvent China's strict controls on taking cash out of the country. Chinese money launders take dollars from the drug cartels, sell them to Chinese expats for yuan, trade the yuan to Mexican businesses that trade with China, taking pesos back, and then they sell the pesos back to the drug cartels—with the money launderer taking a cut at every transaction. One anonymous U.S. source described the Chinese operation as "the most sophisticated form of money laundering that's ever existed."

We can no longer consider our border a physical barrier between the United States and Mexico. Increasingly, our trade and financial borders reach world-wide—and China is taking advantage, breaching those borders at will. As Admiral Craig Fuller, commander of U.S. Southern Command, said in 2021, Chinese money laundering is "the No. 1 underwriter of transnational criminal organizations." As another expert pointed has pointed out, China launders roughly half of the world's illicit money, responsible for cleaning approximately $2 trillion in illicit proceeds a year.

Fortunately, the illicit finance backbone of the fentanyl trade is also its greatest weakness. While interdicting tiny pills at the physical border is nearly impossible, truckloads of cash are passing right under our noses, running through our financial system and, often, operating in plain sight. Building a strategy to follow and attack the money, therefore, will do far more to stem the dramatic rise in overdose deaths than any other drug enforcement strategy.

MISINFORMATION AND RISING AUTHORITARIANISM

Authoritarian regimes are driving migration to the Southern Border in tremendous numbers with migrants from Cuba, Venezuela, and Nicaragua now outnumbering even migrants from the Northern Triangle of Honduras, El Salvador, and Guatemala. If we are seeking to address the root causes of migration, addressing rising authoritarianism is a strategic imperative. It also means fighting back against a false narrative designed to undermine the U.S. role in the region.

Authoritarianism throughout the hemisphere is increasingly supported and enabled by a sophisticated misinformation campaign by a new Axis of Authoritarianism, most notably Russia, Iran, and Venezuela. As Southern Command Administrator General Laura Richardson stated in her 2022 Posture Statement to Congress, "Russia intensifies instability through its ties with Venezuela, entrenchment in Cuba and Nicaragua, and extensive disinformation operations."

Russia's main conduits for propaganda throughout Latin America are Russia Today's Spanish language channel, Actualidad RT, and Sputnik's Spanish channel, Sputnik Mundo. These are channels are then amplified by the Venezuelan-led channel, TeleSur and the Iranian channel, HispanTV, whose broadcasts to Spanish-speaking audiences are closely intertwined with Russia's.

As pointed out by my colleague, Emanuele Ottolenghi, "the Spanish language media networks controlled by Iran, Russia, and Venezuela push out conspiracy theories, fake news, whataboutism, and disinformation," whereby authoritarian governments package "their imperialism as resistance, their terrorism as anti-terrorism, and their authoritarianism as democracy."

Russia itself is transparent in its attempts to use propaganda as a weapon of war to promote its narrative throughout Latin America and build consensus for pro-authoritarian, anti-American policies. As the editor-in-chief of Russia Today stated " . . . not having your own foreign broadcasting is like not having a Ministry of Defense. When there is no war, it seems to be unnecessary. But damn, when there is a war, it's downright critical."

The reach of this propaganda is tremendous. RT's Spanish Twitter account has 3.4 million followers. Its YouTube account has 5.9 million subscribers. TeleSur's Twitter has 2 million followers.

The United States has not sanctioned any of these channels. It should.

Canada, the European Union, and the United Kingdom have already blocked RT and Sputnik with sanctions. After ordering the removal of Russian state-owned media from internet search results, the European Union imposed sanctions on RT and Sputnik in March 2022, and in May 2022, it banned additional Kremlin-backed media platforms, such as RTR Planeta, Russia 24, and TV Centre.

But RT and Sputnik are still available on cable, the internet, and social media, across the United States and throughout Latin America, with significant, negative impact on global audiences. U.S. sanctions could change that, severely degrading a key weapon to promote authoritarian disinformation.

Hispanic TV is owned by the Islamic Republic of Iran Broadcasting authority, or IRIB. The U.S. Department of Treasury has sanctioned IRIB. As an IRIB subsidiary, HispanTV, should also be sanctioned.

Russian and Iranian regimes further boost Latin American authoritarianism with military sales, joint exercises, direct funding, and commercial engagement. Iranian warships were recently welcomed to Rio de Janeiro, and 2 weeks ago, Iranian and Venezuelan officials signed 25 separate memoranda of understanding on issues that could be used for military cooperation or sanctions evasion. The United States must do more to push authoritarian regimes out of Latin America.

RECOMMENDATIONS

The challenge of authoritarian interference in Latin America presents critical questions about how the United States can use its vast economic and political power to drive stability, opportunity, investment, and democratic principles. Most critically, we must determine how we can leverage diplomatic and operational engagement in the region to secure our borders, convey benefit to more people throughout our hemisphere, and reinvigorate true democracy in the process. The U.S. Government, in close and aligned partnership with the private sector, must present a compelling vision for new economic alliances and democracy-reinforcing engagements that push back against the malign and corrupting influence of foreign authoritarian governments from Asia, Europe, and the Middle East.

DHS has a central role to play. DHS and its relevant components can implement a more effective strategy to understand, address, and mitigate threats to the homeland emanating from Latin America. But it requires a shift in mindset and thinking more creatively about the tools available and new ones required. In general terms, this demands that DHS:

- *Have a plan.* DHS should implement a more robust economic security threat assessment process that prioritizes foreign adversaries and strategic competitor interests.
- *Show up.* A risk-based approach to economic security threats can drive more effective deployment of both physical and digital boots on the ground for gathering intelligence and information, especially at ports, and establishing core relationships with government counterparts and private-sector actors.
- *Bring resources.* DHS must invest in its own critical security infrastructure in the region and more directly support USG efforts to bring more capital and private-sector partners to strategic regional investments, especially in critical supply chains, foreign commercial port operations, and other strategic vectors where we have known vulnerabilities.
- *Commit.* Long-term responses will send the right message to partners and allies. The post-9/11 operational readiness and investment strategies have largely fallen by the wayside. We need to send a stronger message to friends and partners in the region that we are committed to long-term partnerships. Otherwise, China and other malign actors will wait us out.

More specifically, DHS can undertake the following concrete actions to strengthen its efforts to combat malign authoritarian influence in Latin America:

(1) Identify and analyze a broader range of economic security threats as core drivers of homeland security vulnerability.

New and emerging threats across Latin America—from rising authoritarianism, high-tech surveillance tactics, weaponized corruption, and increasingly deadly drugs—leave our borders, and our regional economic and security objectives, vulnerable to the malign influence of adversaries and competitors, from both within and outside of the Western Hemisphere. DHS must shift its intelligence and analysis framework to encompass a wider range of new actors, threats, and data sources to ensure that its intelligence and analysis anticipate a range of interrelated national and economic threats in Latin America as drivers of risk, vulnerability, and migration. The threat picture is complex and nuanced, but, at the same time, these actors also exploit existing mechanisms. Smuggling, trafficking, intellectual property violations, illicit trade, disinformation campaigns, and money laundering are flourishing and increasingly used by both transnational criminal organizations (TCOs) and authoritarian state actors. These tools are leveraged as mechanisms for strengthening criminal networks, advancing anti-American political and economic objectives, and exerting malign influence on the homeland. Meanwhile, threats from China's massive infrastructure investment strategy and growing trade relationships have dented U.S. economic leadership in the region while co-opting foreign officials willing to go along with Beijing's wishes and create unprecedented access to valuable natural resources, commercial infrastructure, and military engagement. These new and evolving vectors of risk should be more tightly woven into DHS's existing threat analysis.

(2) Re-engage and expand private-sector supply chain partnerships to improve information and data that supports better intelligence gathering and analysis.

We need more and deeper partnerships with the private sector, especially those involved in manufacturing, transporting, importing, exporting, and investing in commercial operations and key supply chains in Latin America. Much like the immediate post-9/11 environment, it is critical to take a more collaborative approach to risk-based targeting and effective use of data to maintain a real-time view at the ports and across vital economic interests. But we need to evolve beyond legacy terrorist threats. Extension of mechanisms like the Authorized Economic Operator (AEO) program and additional Mutual Recognition Arrangements (MRAs) offers potential pathways. Created after 9/11 as part of the Bali Trade Facilitation Agreement, AEO is the equivalent of the Customs Trade Partnership Against Terrorism, or C–TPAT, for non-U.S. entities. Programs like AEO, if used effectively, can improve our "ground game" by connecting DHS with critical foreign-based private-sector organizations willing to provide more advanced trade data and information to CBP in exchange for expedited access at the borders. We need more connectivity to information and engagement with supply chain actors and operators that have access to valuable data streams. In some cases, additional private sector-driven link analysis and analytics can provide a much deeper view into the actions of individuals, entities, competitors, and adversaries and our global supply chain vulnerability. Working with AEOs and helping to grow private-sector participation in such programs could be a significant contributor to better informational and intelligence analysis.

(3) Conduct a detailed review of China's multi-layered influence on ports and related critical trade infrastructure in Latin America and strategies to counter that influence.

DHS and CBP should lead a comprehensive review of potential vulnerabilities at Latin American ports, including mapping Chinese ownership and links to the sanctioned entities; the implementation of Chinese-made technology, including cranes, screening devices, logistics software, and the security data associated with these capabilities; an assessment of 5G network access and ownership, cyber risks, relevant trade data information; understanding China's operations and maintenance strategies and influence; assessing the risk of potential dual-use infrastructure; and investigating illicit actors and entities associated with critical infrastructure.

(4) Expand and enhance the effectiveness of Trade Transparency Units.

Trade Transparency Units (TTUs) were established in 2004 to exchange trade data between the United States and its trade partners on a bilateral basis and improve the understanding of trade-based money laundering. TTUs should be resourced and supported as part of a broader effort to counter the illicit financial pathways favored by authoritarians.

As of 2020, the United States has trade transparency agreements—the mechanisms that allow for the exchange of information between jurisdictions—with over a dozen countries and their Trade Transparence Units (TTUs), primarily in Central and South America. An April 2021 GAO report recommended that DHS expand the number of agreements and "develop a strategy for the TTU program to ensure ICE has a plan to guide its efforts to effectively partner with existing TTUs, and to expand the program, where appropriate, into additional countries."

Concurrently, Congress must work with the administration to strengthen the effectiveness of our own TTU. Another GAO report released in December 2021 identified two critical deficiencies:

1. The establishment of an "interagency collaboration mechanism to promote greater information sharing and data analysis between Federal agencies and with relevant private-sector entities on issues related to trade-based money laundering and other illicit trade schemes"; and
2. Ensuring that ICE take "steps to enable and implement sharing of the Trade Transparency Unit's trade data—including for the purposes of trade data analysis about patterns or trends of illicit activity related to trade-based money laundering and similar schemes—with U.S. agencies with roles and responsibilities related to enforcing trade laws and combating illicit financial activity, as appropriate."

As of today, these recommendations remain unresolved, with ICE officials noting that the "data-sharing agreements with foreign countries prohibit the sharing of their information, and data-sharing agreements among U.S. law enforcement agencies provide a mechanism to request access and authorization if an agency needs access." Congress should review DHS's authorities to find a way to streamline the exchange of information between the United States and partner TTUs.

(5) Increase investigative work to uncover Chinese money-laundering networks and the financial institutions supporting them.

As my colleague Anthony Ruggiero and I have written, Congress should authorize the President to impose a range of sanctions on the facilitators who serve the drug traffickers, including individuals who are grossly negligent concerning financial transactions or export drug precursors. DHS can play a role in this effort by surging its investigative resources to identify entities involved in producing and shipping precursor chemicals and supporting surge capacity with law enforcement counterparts to investigate U.S.-based and foreign money-laundering networks and associated persons and entities.

Congress should also enact so-called secondary sanctions targeting those who do business with the primary targets of fentanyl sanctions. Specifically, the law should impose sanctions on foreign financial institutions that knowingly conduct or facilitate significant financial transactions on behalf of a sanctioned person.

(6) Support legislation to counter kleptocracy and state-sponsored corruption, such as the Foreign Extortion Prevention Act (FEPA).

Corruption preys on weak regimes throughout Latin America, boosting authoritarianism, destroying lives and livelihoods, undermining U.S. interests, pushing out law-abiding U.S. companies, and facilitating China's bribe-fueled incursions throughout the hemisphere. U.S.-based and U.S.-listed companies face major consequences for bribing foreign officials under the Foreign Corrupt Practices Act. Corrupt officials, however, get off scot-free, as do the Chinese companies and officials bringing gift boxes filled with cash.

China is sidelining American companies in the race for critical resources, partnerships, and contracts largely because corruption and opacity are central features of Chinese engagement. In order to raise the stakes for crooked foreign officials and narrow the window for Chinese interference, Congress should consider expanding anti-corruption law enforcement tools such as those found in the Foreign Extortion Prevention Act (FEPA)—which would parallel the FCPA by criminalizing bribe demands made of U.S. and U.S.-listed companies.

FEPA had strong bipartisan support in the last Congress, is supported by the U.S. Chamber of Commerce and a broad coalition of civil society, and reflects a commitment included in the National Security Council's Strategy on Countering Corruption.

Chairman PFLUGER. Thank you, Ms. Dezenski.

The Chair now recognizes Mr. Hernandez-Roy for his opening statement of 5 minutes.

STATEMENT OF CHRISTOPHER HERNANDEZ-ROY, DEPUTY DIRECTOR AND SENIOR FELLOW, AMERICAS PROGRAM, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES

Mr. HERNANDEZ-ROY. Chairman Pfluger, Ranking Member Magaziner, and distinguished Members of the Subcommittee on Counterterrorism, Law Enforcement, and Intelligence, thank you very much for allowing me to testify today on this important subject.

The democratic, relatively prosperous, and largely pro-U.S. nature of Latin America and the Caribbean has been a strategic asset for the United States for decades. Yet the region today is at a tipping point. There is a significant risk that it could become a liability in strategic competition with China, to a lesser extent Russia in the next decade.

In particular, the influence of extra regional authoritarians, to include also Iran, has been on the rise throughout Latin America. These actors pose an interlocking challenge to regional and by extension, U.S. security. While each possesses different capabilities and long-term objectives, they often coordinate both informally and formally to challenge U.S. influence in the region. It is therefore important to view these three actors not in isolation, but how their behaviors reinforce and interrelate.

Moscow, Beijing, and Tehran each espouse different geopolitical goals and world views, yet they have shown an alarming degree of convergence when it comes to effort efforts at fomenting discord and disruption within the United States' shared neighborhood. Such efforts come both through support for overt authoritarians, especially the dictatorial regimes of Cuba, Nicaragua, and Venezuela, but also where they cannot totally pull countries out of the U.S. orbit. These regimes seek to peel away once staunch U.S. allies and convert them into comparatively neutral bystanders. This can be seen with the rhetoric of the government of Brazil ascribing blame to both Ukraine and Russia for the war. In Argentina, Brazil and longstanding ally Colombia's refusal to sell Soviet legacy weapons to help Ukraine defend itself. It is noteworthy that no Latin American country, save Costa Rica, has joined the international sanctions effort against Russia. Russia's brutal and illegal invasion of Ukraine has caused autocracies the world over to close ranks and sharpen their competition with the United States and with fellow democratic allies.

From a Russian nuclear capable strategic bomber visiting Caracas a few years ago to more recent developments, such as the docking of Iranian warships in Brazil, to possible Iranian drone manufacturing in Venezuela for use against Ukraine, to revelations about Chinese espionage activities against the United States from Cuba and reported overtures to Haiti by the notorious Russian Wagner group. All have plainly illustrated the risks to U.S. security that come from allowing dictatorships to proliferate and coordinate their activities.

I should just add that yesterday it was revealed that China and Cuba are also discussing military training on the island, which might bring Chinese troops to the island.

Another comparatively underappreciated dimension is the role authoritarian alliances in helping dictators remain in power and repress their populations more effectively, accelerating mass irregular migration to the detriment of the region at large. The most dramatic example, of course, comes from Venezuela, where over 7.3 million people have left the country to escape Nicolas Maduro's gross mismanagement, misery, and repression. He remains in power, shored up by arms and intelligence from Russia, China, and Cuba and his sanctions evading oil trade with Iran.

Nicaragua has also seen a dramatic uptake in outward migration, with 600,000 people fleeing since the murderous state crackdown in 2018, creating an acute crisis in neighboring Costa Rica, while U.S. apprehensions of Nicaragua at the Southern Border have multiplied by a factor of more than 50 in the last 2 years. Cuba, the longest-standing dictatorship in the hemisphere continues to send migrants as the country's economy reels and as the regime further clamps down on dissent following the massive protests held on the island in July 2021.

The regime in Venezuela has taken advantage of the mass exodus of its people and the generous humanitarian responses from neighboring countries to send its spies abroad to continue to harass and persecute Venezuelan opposition figures in Colombia, for instance. Thus a U.S. adversary has taken advantage of this human wave to conceal the entry of spies into a traditional U.S. ally. This

begs the question of what more sophisticated U.S. adversaries like China and Russia might be doing to take advantage of the historic migration flows across the U.S. Southern Border.

The presence of dictatorial regimes within the Western Hemisphere offers a springboard for extra hemispheric authoritarians to expand their influence, co-opting, coercing, and manipulating other countries in the region to undermine their relations with the United States, often empowering antidemocratic forces in the process.

These challenges should not cause us to estimate the considerable advantages we still possess when it comes to geopolitical competition in the Hemisphere. Latin America, on the whole, still looks to the United States as its preferred partner. If the United States seizes the opportunity to present a comprehensive, well-resourced counteroffer, the region will consider it seriously. Crafting such a response, however, will require a sustained and forward-looking strategy for engagement, which to date has unfortunately appeared lacking from the U.S. Government, which has long turned to the region only in response to crisis and neglected it at other times.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Hernandez-Roy follows:]

PREPARED STATEMENT OF CHRISTOPHER HERNANDEZ-ROY

JUNE 21, 2023

Chair Pfluger, Ranking Member Magaziner, and distinguished Members of the Subcommittee on Counterterrorism, Law Enforcement, and Intelligence, I am very grateful for this opportunity to testify before you today. The views represented in this testimony are my own and should not be taken as representing those of my current or former employers.

The democratic, relatively prosperous and largely pro-U.S. nature of Latin America and the Caribbean (LAC) has been a strategic asset for the United States for decades. Yet, the region today is at a tipping point; there is a significant risk that it could become a liability in strategic competition with China and to a lesser extent Russia in the next decade. In particular, the influence of extra-hemispheric authoritarians, including Iran, has been on the rise throughout LAC. These actors pose interlocking challenges to regional, and by extension U.S. security. While each possesses different capabilities and long-term objectives, they often coordinate both informally and formally to challenge U.S. influence in the region. It is therefore important to view these three actors not in isolation, but how their behaviors reinforce and interrelate. Moscow, Beijing, and Tehran each espouse different geopolitical goals and world views, yet they have shown an alarming degree of convergence when it comes to efforts at fomenting discord and disruption within the United States' shared neighborhood. Such efforts come both through support for overt authoritarians, especially the dictatorial regimes in Cuba, Nicaragua, and Venezuela, but also where they cannot totally pull countries out of the U.S. orbit, these regimes seek to peel away once staunch U.S. allies and convert them into comparatively neutral bystanders. This can be seen with the rhetoric of the government of Brazil, ascribing blame to both Ukraine and Russia for the war, and in Argentina, Brazil, and long-standing ally Colombia's refusal to sell Soviet legacy weapons to help Ukraine defend itself. It is noteworthy that no LAC country, save Costa Rica, has joined the international sanctions effort against Russia for its war of aggression.

Russia's brutal and illegal invasion of Ukraine has caused autocracies the world over to close ranks and sharpen their competition with the United States and fellow democratic allies.[1] Indeed, recent developments in the region, from the docking of Iranian warships in Brazil, to revelations about Chinese espionage activities in Cuba, and overtures to Haiti by the notorious Russian Wagner group, have plainly illustrated the risks to U.S. security that come from allowing dictatorships to proliferate and coordinate their activities. Another comparatively under-appreciated di-

[1] Carlos Solar, "Is Russia's War in Ukraine Aiding the Survival of the Venezuelan Regime?", *The RUSI Journal,* 2023, 1–12, *https://doi.org/10.1080/03071847.2023.2195751.*

mension is the role of authoritarian alliances in helping dictators remain in power and repress their populations more effectively, accelerating mass irregular migration to the detriment of the region at large.

The most dramatic example of this comes from Venezuela, where over 7.3 million people have left the country as a result of the profound economic, security, and humanitarian crises brought on by the regime of Nicolás Maduro's gross mismanagement and repression.[2] Maduro nevertheless remains in power, shored up by arms and intelligence from Russia and China, and a sanctions-evading oil trade with Iran. Nicaragua has also seen dramatic upticks in outward migration, creating an acute crisis in neighboring Costa Rica, while U.S. apprehensions of Nicaraguans at the Southern Border have multiplied by a factor of more than 50 between fiscal years 2020 and 2022.[3] Even Cuba, the longest-standing dictatorship in the hemisphere, has seen record-setting levels of migration as the country's economy continues to reel and as the regime further clamps down on dissent following the massive protests on the island in July 2021.[4]

Furthermore, the presence of dictatorial regimes within the Western Hemisphere offers a springboard for extra-hemispheric authoritarians to expand their influence, co-opting, coercing, and manipulating other countries in the region to undermine their relations with the United States, often empowering anti-democratic forces in the process.

These challenges should not cause the United States to underestimate the considerable advantages it still possesses when it comes to geopolitical competition in the hemisphere. LAC on the whole still looks to the United States as its preferred partner. If the United States seizes the opportunity to present a comprehensive, well-resourced counteroffer, the region will consider it seriously. Crafting such a response however will require a sustained, and forward-looking strategy for engagement with LAC which to date has unfortunately appeared lacking from a United States Government which has long turned to the region only in response to crisis and neglected it at all other times.

RUSSIA: THE GREAT DISRUPTOR

Facing resource constraints which have only grown more acute in the wake of its 2022 full-scale invasion of Ukraine, Russia nevertheless evidences a brazen disregard for international norms and law in its efforts to disrupt the security of the United States and allies, including in the Western Hemisphere. While Russia cannot compete with China or the United States in provision of raw economic assistance, it makes up for this through the sheer diversity of avenues in which Moscow seeks to advance its interests by any means necessary.

Russian influence in the region primarily comes from security ties, fostered through Moscow's global arms industry which countries across Latin America have relied upon in the past to fill their armories with cheap, reliable weapons and equipment. In June 2022, Nicaragua renewed the mandate for Russian military forces to operate within its borders. Russia also maintains a number of GLONASS satellite positioning stations, with one outside of Managua and another scheduled to be deployed in Venezuela.[5] The infamous Wagner private military contractor has also set up shop in Venezuela, providing security for Maduro and training the Venezuelan armed forces.[6] The role of this shadowy state-affiliated mercenary group is cause for elevated concern especially as leaked U.S. intelligence reports have indicated the group also explored contracts to provide security in Haiti. More recently, reports have circulated of Cuban citizens living in Russia signing up to fight in Ukraine,

---

[2] "Refugees and Migrants from Venezuela," R4V, accessed June 16, 2023, *https://www.r4v.info/en/refugeeandmigrants.*

[3] Charles G. Ripley III, "Crisis Prompts Record Emigration from Nicaragua, Surpassing Cold War Era," Migration Policy Institute, March 7, 2023, *https://www.migrationpolicy.org/article/record-emigration-nicaragua-crisis.*

[4] Ed Augustin and Frances Robles, "'Cuba Is Depopulating': Largest Exodus Yet Threatens Country's Future," *The New York Times,* December 10, 2022, *https://www.nytimes.com/2022/12/10/world/americas/cuba-us-migration.html.*

[5] Julieta Pelcastre, "Russia to Install Satellite Navigation System in Venezuela," *Diálogo Américas,* September 22, 2022, *https://dialogo-americas.com/articles/russia-to-install-satellite-navigation-system-in-venezuela/#.ZBuGhHbMJPY.*

[6] Brian Katz, Seth G. Jones, Catrina Doxsee, and Nicholas Harrington, "The Expansion of Russian Private Military Companies," *CSIS,* September 2020, *https://russianpmcs.csis.org/.*

while Havana and Russian client state Belarus recently inked a deal for Cuban forces to help train the Belarussian military.[7]

Cybersecurity is another vulnerability which Russia has proven adept at exploiting. This in some respects can be traced to a lack of awareness across the region as to the vulnerabilities faced from infiltration by malign foreign actors. This extends even to regional ministries and national defense institutions. The Brazilian military for instance relies on Russian firm Kaspersky Lab for data protection services, even to the point of renewing its contract the summer of 2022 as the war in Ukraine raged.[8] Russian cyber actors have also used their technologies to interfere in elections in Chile, Colombia, Ecuador, and Peru, among others. This has mostly taken the form of disinformation and amplifying polarizing voices and showcases Moscow's well-developed mis- and disinformation tactics. Such capabilities are further augmented by ostensibly aboveboard news outlets. RT en español and Sputnik Mundo, Russia's Spanish-language mouthpieces, have over 30 million viewers in Latin America and the Caribbean, with media agreements to operate in 11 countries.[9] Russia's ability to exploit mis- and disinformation opportunistically was on display recently when images from Mexico of cartel soldiers wielding U.S.-made AT–4 anti-tank missile launchers began circulating on social media. Russian sources, amplified by Moscow's embassy in Mexico City, seized on the narrative that these launchers were redirected from U.S. arms shipments to Ukraine, pushing false claims that the war there was fueling Mexico's internal security challenges.[10]

Russia's on-going war has also touched off a wave of migration, as thousands of mostly young, educated Russians flee the country by increasingly circuitous and dangerous routes to avoid being drafted to fight in Ukraine. The number of Russian nationals encountered at the United States' border quadrupled between 2021 and 2022. Russians seeking entry to the United States often transit through Mexico due to significantly easier visa requirements.[11] While these outflows underscore the unpopularity of Moscow's war, they create novel challenges for North American security as well. Rising levels of Russian migrants through Mexico open new revenue streams for criminal groups engaged in human smuggling. Those fleeing Russia are not the only newcomers to Mexico, which, according to U.S. Northern Command, is home to the largest concentration of GRU agents outside of Russia.[12] Weaknesses in screenings of Russians seeking asylum may therefore present new avenues for Moscow to infiltrate and disrupt the United States itself, to say nothing of the corrosive effects on regional security Russian espionage has already produced.

CHINA: CIVIL-MILITARY FUSION

The People's Republic of China (PRC) engages with LAC first and foremost through an economic framework. Between 2000 and 2020, the PRC's share of trade with the region grew eightfold, and China's signature Belt-and-Road Initiative (BRI) has successfully garnered some 21 signatories in the hemisphere. Nevertheless, viewing Beijing's relationship to the Western Hemisphere solely as one of trade obscures many of the more nefarious activities which have emerged as part and parcel of expanded PRC engagement.

The PRC's interests in LAC are manifold. Broadly speaking, LAC is vital to China's economic development, as it is home to extensive deposits of natural resources, including minerals and metals such as copper and lithium, as well as petroleum products. LAC is also key for China's food security, with the region representing

---

[7] Evan Dyer, "Cornered in Ukraine and isolated by the West, the Kremlin returns to Cuba," *CBC,* June 3, 2023, *https://www.cbc.ca/news/politics/russia-cuba-ukraine-putin-missiles-1.6863359.*

[8] "Kaspersky: 'Now we have to explain the political issues'," *BNAmericas,* June 15, 2022, *https://www.bnamericas.com/en/news/kaspersky-now-we-have-to-explain-the-political-issues.*

[9] Calos Malamud, Mira Milosevich-Juaristi, and Rogelio Núñez, "Latin America in the Ukraine crisis: a pawn in the game for Putin's resurgent Russia," Real Instituto Elcano, March 3, 2022, *https://www.realinstitutoelcano.org/en/analyses/latin-america-in-the-ukraine-crisis-a-pawn-in-the-game-for-putins-resurgent-russia/.*

[10] "Propaganda: Russian Embassy in Mexico Accuses Ukraine of Arming Mexican Cartels with US Weapons," *Puerto Vallarta Daily News,* June 2, 2023, *https://www.vallartadaily.com/propaganda-russian-embassy-in-mexico-accuses-ukraine-of-arming-mexican-cartels-with-us-weapons/.*

[11] Yulia Vorobyeva, "Entrepreneurial newcomers: Russian-speaking migrant smugglers on the U.S. southern border," Global Initiative Against Transnational Organized Crime, May 11, 2023, *https://globalinitiative.net/analysis/russian-migrant-smugglers-us-southern-border/.*

[12] MDN Staff, "More Russian spies in Mexico than any other country: US defense official," *Mexico News Daily,* March 25, 2022, *https://mexiconewsdaily.com/news/more-russian-spies-mexico-us/.*

much of the PRC's food imports.[13] Increasingly, as China's economy cools off from its previous red-hot growth, China is turning toward LAC countries not merely for their raw materials, but as a base of consumers eager to purchase Chinese-manufactured products. Geopolitically, China has long been fixated on the region as home to the majority of sovereign states that continue to recognize Taiwan. The PRC has assiduously chipped away at this number, and three Central American countries—Panama, El Salvador, and Nicaragua—have switched diplomatic recognition from Taiwan to China since 2017. So too has the nearby Caribbean Island nation of Dominican Republic, and in March 2023, the government of Xiomara Castro in Honduras recognized the PRC, opening an Embassy in Beijing on June 11; a move which brought the total number of Taiwanese diplomatic allies in the region down to just 7 countries. In Guatemala as well, which is headed toward Presidential elections at the end of June, outward support for Taiwan may nevertheless belie an internal calculus where recognition is far more contingent. Should recognition of Taiwan slip further in the hemisphere, the PRC will in all likelihood be further emboldened in its rhetoric and provocations directed toward the island.[14]

While the PRC has clear strategic interests underpinning its focus on LAC, China's engagement in the hemisphere is largely regime-agnostic. Nevertheless, high levels of PRC engagement have been associated with worrying trends in recipient countries' democratic health. China often acts as a "lender of last resort," bankrolling authoritarian governments when other sources of financing will not touch these. The China Development Bank and the Export-Import Bank of China offered in excess of USD $137 billion to the region in loans to various sectors, Venezuela being the single greatest recipient of Chinese loans at USD $60 billion.[15] Furthermore, China's public security initiatives have raised concerns after the PRC's "safe cities" surveillance technology was associated with crackdowns on opposition parties in countries like Ecuador under the Correa government, to say nothing of China's assistance with social control and digital monitoring in Venezuela.[16]

Military and security collaboration is also a growing aspect of Chinese activity in LAC. China has sold equipment to military and police forces from countries historically opposed to the United States—such as Venezuela, Cuba, and Bolivia—as well as close American partners like Colombia, Chile, and Ecuador. Venezuela, however, is by far the region's largest buyer of PRC arms. Between 2009 and 2019, $615 million in weapons was sold to Venezuela.[17] China could be poised to make greater arms sales to fill a vacuum left by Russia needing to keep supplies at home due to its invasion of Ukraine. In addition to military sales, the People's Liberation Army has a burgeoning presence in the region, which it maintains through training and visits, permitting it greater familiarity with countries' operational frameworks and preparedness, as well as their strategic doctrine and training routines. China has furthermore exploited a paucity of U.S. police assistance in the region, coupling this with the dire security crises faced by countries throughout the hemisphere, to advance its own model of security assistance.[18]

While China leads with trade and investment, security concerns are never far off, as one report by the Asia Society outlines how China employs "civil-military fusion" in its development projects, ensuring that they are designed to specifications that offer both commercial and military advantages.[19] In Latin America, this manifests in projects like the Espacio Lejano space research station in Argentina, which is effectively off-limits to inspection by Argentine authorities. Analysts have noted that, while certainly capable of its stated purpose of deep space scientific research, the

---

[13] Ryan C. Berg, and Thiago de Aragão "Is Latin America Important to China's Foreign Policy?," *CSIS,* CSIS Commentary, September 9, 2021, *https://www.csis.org/analysis/latin-america-important-chinas-foreign-policy.*

[14] Leland Lazarus and Ryan C. Berg, "What Taiwan Can Learn from Honduras's Switch to China," *Foreign Policy,* March 31, 2023, *https://foreignpolicy.com/2023/03/31/latin-america-taiwan-china-honduras-united-states-diplomacy-tsai/.*

[15] "China-Latin America Finance Databases," The Inter-American Dialogue, Accessed June 16, 2022, *https://www.thedialog.org/map_list/.*

[16] Jaime Moreno, "China Seen Backing 'Digital Authoritarianism' in Latin America," *VOA,* January 14, 2022, *https://www.voanews.com/a/china-seen-backing-digital-authoritarianism-in-latin-america-/6398072.html.*

[17] Lara Seligman, "U.S. Military Wary of China's Foothold in Venezuela," *Foreign Policy,* April 8, 2019, *https://foreignpolicy.com/2019/04/08/us-military-wary-of-chinas-foothold-in-venezuela-maduro-faller-guaido-trump-pentagon/.*

[18] Brian Fonseca and Leland Lazarus, "China Is Exploiting a U.S. Police Void in Latin America," *Foreign Policy,* April 27, 2023, *https://foreignpolicy.com/2023/04/27/cities-summit-americas-united-states-china-police-safe-city-bri/.*

[19] Daniel R. Russel and Blake H. Berger, "Weaponizing the Belt and Road Initiative," The Asia Society Policy Institute, September 2020, *https://asiasociety.org/policy-institute/weaponizing-belt-and-road-initiative.*

station could readily be used for satellite telemetry tracking and control, collecting signals intelligence, and even potentially missile guidance, tools which would serve China well in a potential conflict scenario.[20] Even further south, the PRC is seeking to expand its presence with a new agreement between Chinese state-owned Shaanxi Chemical Industry Group Co. Ltd. and the province of Tierra del Fuego to begin construction on a port in Ushuaia, a key gateway to the Antarctic, and strategic chokepoint along the Drake Passage and Strait of Magellan.[21] In Peru, a mega-port is being built by a state-owned company from China which will become a key link between China and Latin America, ensuring Chinese supply chains of metals, critical minerals and agricultural products.[22] General Laura Richardson in recent testimony before Congress has also raised concerns that Chinese-constructed infrastructure along the Panama Canal could be easily turned to military purposes in the event of a conflict or crisis scenario.

Finally, approximately 100 miles off the coast of Florida, the White House has now confirmed the presence of a PRC-run base, replete with long-range radars and other electronic surveillance equipment directed toward the United States.[23] The revelations underscore how the PRC utilizes its economic heft to extract far more expansive geopolitical advantage. Cuba, undergoing its most severe economic crisis since the collapse of the Soviet Union, reportedly accepted billions of dollars from China to take over and upgrade the facility in a trade which was likely too good to refuse for Havana.[24]

As with Russia, a growing trend of Chinese nationals seeking respite from repressive policies at home have been pursuing circuitous routes to the United States by way of LAC countries. According to U.S. Customs and Border Patrol data, more than 4,000 Chinese nationals were encountered between October 2022 and February 2023 at the Southern Border, a dramatic uptick from the 421 encounters reported during the same period from 2021 and 2022.[25] Typically, these individuals arrive via countries like Ecuador which does not have a visa requirement for Chinese citizens to visit. From there, they travel a long and often dangerous road, together with tens of thousands of Latin American and Caribbean migrants transiting the Darién Gap between Colombia and Panama.

IRAN: OPPORTUNISTIC ENCROACHMENT

Often viewed as a secondary, or even tertiary player in the hemisphere, Iran's engagement with LAC exacerbates many of the challenges outlined above. The continued global sanctions regime against Iran limits its tools for influence and has largely relegated Iranian influence in the hemisphere to Venezuela, Nicaragua, and Cuba, which are already willing to flaunt U.S. sanctions. Here, Iranian engagement has a complementary effect to more well-established and substantive Russian and Chinese efforts.

The docking of Iranian warships in Rio di Janeiro in March 2023 and high-level visits by Iranian officials to Caracas and Managua and Havana suggest Iran is seeking to project military power throughout the region in addition to economic benefit. Diplomatically, it appears Iranian Foreign Minister, Hosein Amir Abdolahian's February 2023 tour of the hemisphere's dictatorships was a preview for an even greater engagement, as President Ebrahim Raisi began making the same circuit of visits on

---

[20] Matthew P. Funaiole, Dana Kim, Brian Hart, Joseph S. Bermudez Jr., "Eyes on the Skies: China's Growing Space Footprint in South America," *CSIS,* Hidden Reach no. 1, October 4, 2022, *https://features.csis.org/hiddenreach/china-ground-stations-space/.*

[21] Laureano Pérez Izquierdo, "Avanza el puerto de China en Tierra del Fuego: el gobernador ratificó con un decreto el memorándum con el régimen," *Infobae,* June 8, 2023, *https://www.infobae.com/politica/2023/06/08/avanza-el-puerto-de-china-en-tierra-del-fuego-el-gobernador-ratifico-con-un-decreto-el-memorandum-con-el-regimen/.*

[22] Tibisay Zea, "A state-owned company from China is building a massive commercial port in Peru", *PRI The World,* September 20, 2022, *https://theworld.org/stories/2022-09-20/state-owned-company-china-building-massive-commercial-port-peru.*

[23] Dave Sherwood and Matt Spetalnick, "Las imágenes de la base cubana que China utiliza para espiar a Estados Unidos y el testimonio de los vecinos: 'Aquí se sabe todo'," *Infobae,* June 14, 2023, *https://www.infobae.com/america/america-latina/2023/06/14/las-imagenes-de-la-base-de-espionaje-china-en-cuba-y-el-testimonio-de-los-vecinos-aqui-se-sabe-todo/.*

[24] Walter Russell Mead, "Russia, China, and Iran in America's Backyard," *The Wall Street Journal,* June 12, 2023, *https://www.wsj.com/articles/adversaries-in-americas-backyard-china-russia-cuba-spy-base-iran-monroe-9504c189.*

[25] Alicia Chen, "Growing numbers of Chinese citizens set their sights on the US—via the deadly Darién Gap," *The Guardian,* March 8, 2023, *https://www.theguardian.com/world/2023/mar/09/growing-numbers-of-chinese-citizens-set-their-sights-on-the-us-via-the-deadly darien-gap.*

June 12.[26] In the past, Iran allegedly sent members of its Quds Force to help Nicolás Maduro stay in power, including with arms shipments.[27] Informed observers have speculated that in return, Maduro may be shipping Venezuelan-made kamikaze drones, or their parts, on regular triangular flights between Venezuela, Tehran, and Moscow.[28]

Another security concern is the continued presence of Hezbollah in Latin America. The group's origins in the region extends back decades, where they were originally concentrated around the Southern Cone, especially the tri-border area of Paraguay. Today, Hezbollah operations have shifted northwards, mainly to Venezuela where they have a sympathetic backer in the form of the Maduro regime.[29] The group has been responsible for helping Maduro launder gold as well, with Israeli intelligence revealing in February 2023 the existence of a gold smuggling operation between Caracas and Tehran facilitated by Hezbollah.[30]

CROSS-CUTTING THEMES

All three extra-hemispheric authoritarian regimes recognize that their goals in Latin America are aligned for the time being, and all have a vested interest in sustaining anti-U.S. regimes, and disrupting U.S. security. In many cases, there is strong complementarity between the interests of these authoritarians. China for instance has high demand for cheap oil, while both Iran and Venezuela need to find clients willing to buy their energy exports in the face of sanctions. At other times, cooperation among autocrats gives different regimes the ability to defray costs and deflect responsibility. Russia for example can supply Nicaragua with arms and equipment while entrusting the training of its repressive apparatus to Venezuelan and Cuban officials.[31]

Accordingly, it must be understood that autocrats around the world follow a similar "playbook" of policies for how to take and hold power, clamp down on dissent, and survive in the face of international pressure. Nicaragua's Foreign Agents Law for instance was closely modeled after Russia's, allowing it to clamp down and expel dissenting voices.[32] Cybersecurity and the information space more broadly represent key vulnerabilities that malign authoritarians view as entry points for influence, many countries in the region still do not take their data security seriously enough.

Another common thread is the linkage between authoritarian regimes and migration. Dictatorships are associated with a number of push factors for migration, the most basic of which is the simple reality that most people do not wish to live under unaccountable and repressive governments. This is evidenced today by the thousands of Russian and Chinese nationals who have uprooted and risked their lives in an attempt to find better conditions oceans away. Autocracies also drive migration by adopting poor economic policies and channeling resources to inner circles while the rest of the country languishes. Venezuela is perhaps the archetypical case of such gross economic mismanagement producing the world's largest migration crisis outside of an active war zone. Authoritarianism is part and parcel of the root causes of migration, and ought to be treated as such in any U.S. response.

---

[26] Arturo McFields, " Latin America's tyrants open their arms to Iran," *The Hill,* June 11, 2023, *https://thehill.com/opinion/national-security/4043440-latin-americas-tyrants-open-their-arms-to-iran/.*

[27] Michael R. Gordon and Ian Talley, "Iranian Arms, Fighters Bolster Maduro Government in Venezuela, U.S. Says", *The Wall Street Journal,* December 2, 2020, *https://www.wsj.com/articles/iranian-arms-fighters-bolster-maduro-government-in-venezuela-u-s-says-11606946275?mod=lead_feature_below_a_pos1.*

[28] Farzin Nadimi, "Iran May Be Outsourcing Kamikaze Drone Production to Venezuela", *The Washington Institute for Near East Policy,* November 17, 2022, *https://www.washingtoninstitute.org/policy-analysis/iran-may-be-outsourcing-kamikaze-drone-production-venezuela.*

[29] Matthew Levitt, "Iranian and Hezbollah Operations in South America: Then and Now," National Defense University, *PRISM 5,* no. 4 (2016): *https://cco.ndu.edu/Portals/96/Documents/prism/prism_5_4/Iranian%20and%20Hezbollah.pdf.*

[30] Amir Bohbot, "Secret Hezbollah gold trade in South America foiled by Israeli intelligence," *The Jerusalem Post,* February 26, 2023, *https://www.jpost.com/middle-east/iran-news/article-732802.*

[31] Julieta Pelcastre, "Cuban Agents Advise Nicaraguan Military," *Diálogo Américas,* August 10, 2019, *https://dialogo-americas.com/articles/cuban-agents-advise-nicaraguan-military/#.ZBuL93bMJPY.*

[32] Ryan C. Berg, "Nicaragua's Upcoming Election Highlights Need for Long-Term Forms of Pressure on the Ortega Regime," *CSIS, CSIS Commentary,* August 6, 2021, *https://www.csis.org/analysis/nicaraguas-upcoming-election-highlights-need-long-term-forms-pressure-ortega-regime.*

RECOMMENDATIONS

The 2022 National Security Strategy notes that "No region impacts the United States more directly than the Western Hemisphere."[33] Unfortunately, resources and political capital have not been commensurate with the scale of the threat posed by the interlocking efforts of Russia, China, and Iran, along with regional authoritarians. A comprehensive resource-backed approach to LAC is urgently needed if the region is to be secure, democratic, and prosperous. This would include, as one example, revising Development Finance Corporation rules to allow financing of projects in middle income counties of the region, especially given the huge disparities in development within different LAC countries.

Strengthen Regional Migration Responses.—Irregular migration remains one of the most profound challenges affecting the entire Western Hemisphere. As authoritarian regimes the world over contribute to mass outflows of people, the United States has an important leadership role to play in identifying and advancing solutions to manage migration, protect the security and rights of individuals in transit, and support host countries. At the same time, the United States should encourage countries with visa-free entry policies for Russian and Chinese nationals to reexamine their screening processes to prevent the espionage apparatuses of these regimes from gaining access to the United States and allies under the guise of humanitarian need. The opening of new migration processing centers in Colombia and Guatemala in this respect represents an important step forward. Reports of Russian efforts to negotiate visa-free entry with Mexico and a number of Caribbean states should also come as cause for concern, and the United States should be active in opposing measures which could facilitate the entry of Russian government agents into the region.

Invest in Digital Capabilities.—Cyber vulnerabilities not only create practical information security risks that damage the national security of Latin American and Caribbean countries, but a lack of general knowledge on cybersecurity opens the door to malign foreign powers offering facile solutions. SOUTHCOM, in partnership with CYBERCOM, and the Cybersecurity and Infrastructure Security Agency (CISA), can lead training with partner countries to outline key risks, and the elements of a better strategy to counter cyber threats.

Counter the Dictator's Playbook.—As it becomes increasingly apparent that autocrats both within LAC and beyond are borrowing from a shared "playbook" of policies and tactics for maintaining their grip on power, the United States must double down on efforts to coordinate a response among like-minded democracies to counter instances of autocratization. Such a "democratic playbook" should include measures such as helping to strengthen democratic institutions, early warning signs for civil society watchdogs to track, forums like the Summit for Democracies which allow international coordination to pressure dictatorships, as well as a reexamination of how U.S. sanctions policy can be more effectively deployed against dictators and would-be autocrats.

Chairman PFLUGER. Thank you, Mr. Hernandez-Roy.

The Chair now recognizes Ms. Brandt for her opening statement of 5 minutes.

STATEMENT OF JESSICA BRANDT, POLICY DIRECTOR, ARTIFICIAL INTELLIGENCE AND EMERGING TECHNOLOGY INITIATIVE, FELLOW, FOREIGN POLICY, STROBE TALBOTT CENTER FOR SECURITY, STRATEGY, AND TECHNOLOGY, THE BROOKINGS INSTITUTION

Ms. BRANDT. Thank you, Chairman Pfluger, Ranking Member Magaziner, and distinguished Members of the subcommittee for inviting me to address you today on the threat posed by nation-state actors in Latin America to U.S. security.

With geopolitical competition resurgent, considerable attention has been paid to Russian and Chinese playbooks and authoritarianism more broadly. As has been widely documented,

[33] White House, National Security Strategy, 22. White House. National Security Strategy of the United States of America. Washington, DC: White House, October 2022, *https://www.whitehouse.gov/wp-content/uploads/2022/10/Biden-Harris-Administrations-National-Security-Strategy-10.2022.pdf.*

Moscow and Beijing use a suite of low-cost deniable tools and tactics to conduct influence operations designed to undermine their democratic competitors and make the world safe for illiberalism. But Russia and China each apply the tool kit differently in Latin America than in their respective home regions. Within Latin America, they operate distinctly from one another in ways that reflect their unique capabilities and goals. Developing a coherent strategy to push back on Russia and China's coercive activities depends on an appreciation of these nuances.

Importantly, although Moscow and Beijing share certain near-term objectives, the two are operating on different trajectories and time horizons toward different long-term aims. Russia is a declining power by many measures, which seeks to disrupt the partnerships and institutions of its mostly Western competitor states here and now as a means of gaining relative advantage. With little to lose and perhaps something to gain for exposure from its asymmetric activities, it's not particularly sensitive to attribution. Seeing the benefits of chaos abroad, its efforts tend to be destructive.

China, by contrast, is a rising power with a great deal to lose from having its coercive activities laid bare. It does not seek disorder, but rather a new order more conducive to its interests, and so its efforts to change the status quo have tended to be more patient.

These nuances carry over into the ways that Russia and China have conducted information operations targeting audiences in the region. Whereas for Russia, building influence in Latin America is a means to the end of disrupting Western alliances and institutions, for China, it's a means of building support for Beijing's way of doing business. Where Moscow has a long history of this sort of activity abroad, China is just beginning to experiment with information manipulation far afield. Russian state media almost never covers Russia. Chinese state media covers China a great deal.

With that in mind, a word about Russia specifically. As you're likely aware, Moscow has made a concerted effort to promote its state media properties to Latin American audiences on-line, often with remarkable success. The Twitter account of RT en Espanol has more followers than RT's primary English language account, and it's retweeted nearly twice as often. On Facebook RT en Espanol has more than twice the followers of RT's English language version and more followers than any other Spanish language international broadcaster. On TikTok, it's more popular than BBC Mundo, El Pais, and Univision.

As it wages its assault on Ukraine, the Kremlin is putting these assets to use to erode support for Western countermeasures among Latin American publics, where opinion about the conflict appears up for grabs. For months, it has blamed Western sanctions for food and fuel shortages affecting the region.

I know themes related to immigration are of interest to the committee. Interestingly, at least within the overt space, there's limited apparent evidence that the Kremlin proactively stokes chaos at the border. The top 5 most retweeted Spanish language Russian state-backed messages on Twitter covering migration thus far this year offer praise for the Mexican president's handling of the issue. Immigration topics have surfaced in known covert information oper-

ations targeting the United States. That activity seems aimed at weaponizing politically divisive issue to exacerbate discord. It's not surprising, then, that some state-backed content on migration boosts domestic criticism of U.S. policy from both left and right.

Unlike Russia, China's ultimate objective is to frame itself as a responsible global power. So its information operations primarily seek to build a positive view of Beijing and its leadership. Its propaganda casts democracy as feckless or hypocritical and highlights the strength of its governance model. Beijing uses immigration policy to cast the United States as hypocritical and its advocacy for human rights around the world. This is in keeping with its strategy of deploying whataboutism to deflect criticism of its own rights record.

Distinguished Members, the United States needs a strategy for pushing back on Russia and China's asymmetric activity in Latin America. It should reflect these nuances, be rooted in the United States' own considerable asymmetric advantages, and uphold democratic values, recognizing that those values are strengths. To that end, there are numerous steps that Washington can take to position the United States for success. Let me propose three.

First, recognizing the range and reach of Russia's information manipulation activity in Latin America, Washington should focus attention and resources on public diplomacy in the region. This could entail investing in U.S. AGM outlets targeted to Latin American audiences, ensuring that the Global Engagement Center is optimally equipped to track Russian propaganda activity there, and supporting research on related themes. It could also entail facilitating best practice exchanges with independent journalists, researchers, fact checkers from across the hemisphere, and engaging democratic governments in the region to build resilience to a shared challenge.

There are more than 40 million Spanish speakers in the United States, and U.S. security interests are directly tied to events in the region. Washington cannot afford to cede the information environment to its competitors.

Second, Washington should conduct messaging campaigns grounded in truthful information to highlight the failures of oppression to audiences in Latin America. These campaigns could build on the successes of the administration's novel strategy of downgrading intelligence related to the war in Ukraine. They could call attention to the fact that although Russia and China position themselves as anti-imperialist powers, both are pursuing an expansionist foreign policies. They might also highlight the costs of China's Belt and Road initiative to the region. Doing so is in keeping with the strategy of exploiting Putin and Xi's fragility to open information.

Third, Washington must equip itself to see across the full threat picture, recognizing that Russian and Chinese coercive activities in Latin America and elsewhere are multidimensional. It's good then that Congress has established the Foreign Maligned Influence Center within DNI to consolidate analysis of this problem set. It's also good that the Center appears a resource to look at the full range of threats which go beyond elections.

As it does all this, Washington should coordinate with partners and allies, because ultimately, this is a contest over principles, and Washington's strong network of partners is perhaps its greatest advantage.

Distinguished Members, by drawing on a sophisticated picture of the complicated ways that Russia and China deploy coercive tools in Latin America, and taking these steps that flow from it, Washington can position itself to protect its interests and the American people.

Thank you.

[The prepared statement of Ms. Brandt follows:]

PREPARED STATEMENT OF JESSICA BRANDT

JUNE 21, 2023

Thank you Chairman Pflugar, Ranking Member Magaziner, distinguished Members of the committee, for inviting me to address you today on the threats posed by nation-state actors in Latin America to U.S. security.

With geopolitical competition resurgent, considerable attention has been paid to Russian and Chinese "playbooks" and authoritarianism more broadly. As has been widely documented, Moscow and Beijing use a suite of low-cost, deniable tools and tactics to conduct influence operations designed to undermine their democratic competitors and make the world safe for illiberalism. They wage these operations using at least four non-military, asymmetric tools: Economic coercion, political subversion, information manipulation, and cyber operations.[1]

Importantly, Russia and China each apply the toolkit differently in Latin America than in their respective home regions. And within Latin America, they operate distinctly from one another, in ways that reflect their unique capabilities and long-term objectives. As I recently argued in the *Washington Quarterly*, together with AEI's Zack Cooper, developing a coherent strategy to push back on Russia and China's coercive activities in Latin America—and elsewhere—depends on an appreciation of these nuances. Many of the observations in this testimony are drawn from that work.[2]

RUSSIAN COERCION IN LATIN AMERICA

Russia takes a different approach to applying the authoritarian toolkit in Latin America than it does in its own region. Within Europe, Moscow endeavors to weaken political leaders and institutions to gain a relative edge over its competitors—in other words, as an end unto itself. In Latin America, Moscow's influence activities aim to dent the prestige of mostly Western liberal governments and institutions and the political model they represent. Which is to say, its activities are largely instrumental—a means to the ends of eroding cohesion within liberal democracies and among them, and to undermining their soft power. Throughout Latin America, the Kremlin works to frustrate relationships between the United States and its partners, deepening relationships with leaders that share Putin's desire to create alternatives to governance institutions that are dominated by the United States and Europe. As analyst Paul Stronski has argued, "Moscow hopes to embarrass Washington, and show that it too can make a foray into its main global adversary's backyard."[3]

Economic Coercion

As elsewhere around the world, Russia uses commercial deals, primarily within the energy sector, as an avenue of influence in the region. To bolster Kremlin ally Nicolas Maduro, Russian state-controlled oil firm Rosneft poured roughly $9 billion into projects in Venezuela between 2010 and 2019. "From the very beginning," con-

[1] For definitions, see: *Authoritarian Interference Tracker.* Alliance for Securing Democracy, *https://securingdemocracy.gmfus.org/toolbox/authoritarian-interference-tracker/#methodology.*

[2] Brandt, J. & Cooper, Z. (2022). Sino-Russian Splits: Divergences in Autocratic Coercion, *The Washington Quarterly, 45:3,* 23–46, *https://doi.org/10.1080/0163660X.2022.2124016.*

[3] Stronski, P. and Sokolsky, R. (2017). *The Return of Global Russia: An Analytical Framework,* Carnegie Endowment for International Peace, *https://carnegieendowment.org/2017/12/14/return-of-global-russia-analytical-framework-pub-75003.*

ceded an executive involved in the effort, "it was a purely political project."[4] More recently, in order to build support for its confrontation with Western governments over Ukraine, the Kremlin softened the terms of loans it had made to Cuba worth more than $2 billion. Both countries were among the five that abstained from or declined to participate in a U.N. vote last year denouncing Russia's brutal invasion.[5]

Political Subversion

Because the Kremlin's activities in Latin America are designed to strengthen ties with illiberal partners, rather than weaken the cohesion of liberal competitors, the Kremlin does not appear focused on undermining democratic political processes in Latin America, as it does closer to home. Moscow has, though, deployed private-security contractors linked to the Wagner group to prop up its ally in Caracas in opposition to U.S. interests, and its mercenaries have looked for opportunities to expand their presence in the region, from Haiti to Mexico.[6] Russia's economic and political influence activities in the region are by no means the primary driver of migration to the United States. However, to the extent that they facilitate corruption, make governments less responsive to their citizens, erode the rule of law, and otherwise undermine good governance, they contribute to migration's root causes.

Information Manipulation

Within the information domain, Moscow has made a concerted effort to promote its state media properties on-line, often with remarkable success. The Twitter account of RT en Español (@actualidadRT) has more followers than RT's primary English-language account (@RT_com) and is retweeted nearly twice as often. Of the five most frequently retweeted Russian state media and diplomatic accounts on Twitter thus far this year, three target Latin American audiences (@ActualidadRT, @mae_russia, @SputnikMundo).[7] Last year, Russian Ministry of Foreign Affairs' Spanish-language account (@mae_russia) was more frequently retweeted than its Russian-language one (@MID_rf), even though the latter tweeted more than five times as frequently.[8] The same is true on other platforms. On Facebook, RT en Español has more than twice the followers of RT's English language version, and more followers than any other Spanish-language international broadcaster. On TikTok, it is more popular than BBC Mundo, El Pais, Telemundo, and Univision.[9]

As it wages its unprovoked assault on Ukraine, the Kremlin is putting these assets to use to erode support for Western countermeasures among Latin American publics, where opinion about the conflict appears up for grabs. For months, it blamed Western sanctions for food and fuel shortages affecting the region. "The Russian military operation in Ukraine does NOT threaten the food supply," argued the Russian MFA on Twitter in Spanish, for example, asserting that the the "real reasons" for shortages include "myopic U.S. and European policies" and "illegitimate sanctions against Europe."[10] Spanish is the fourth most spoken language in the

---

[4] Lowe, C. & Sagdiev, R. (2019). "How Russia sank billions of dollars into Venezuelan quicksand," *Reuters, https://www.reuters.com/investigates/special-report/venezuela-russia-rosneft/.*

[5] Others included Bolivia, El Salvador, and Nicaragua. Resolution A/RES/ES–11/1, "Aggression against Ukraine: resolution/adopted by the General Assembly," *https://digitallibrary.un.org/record/3959039.*

[6] Roth, A. (2019). "Russian mercenaries reportedly in Venezuela to protect Maduro," *The Guardian, https://www.theguardian.com/world/2019/jan/25/venezuela-maduro-russia-private-security-contractors;* Tsvetkova, M. and Zverev, A. (2019). "Kremlin-linked contractors help guard Venezuela's Maduro," *Reuters, https://www.reuters.com/article/us-venezuela-politics-russia-exclusive/exclusive-kremlin-linked-contractors-help-guard-venezuelas-maduro-sources-idUSKCN1PJ22M;* De Luce, D. (2023). "Leaked documents: Russian Wagner Group mercenaries look for business close to U.S.," *NBC News, https://www.nbcnews.com/politics/national-security/leaked-documents-russian-wagner-group-mercenaries-haiti-rcna79440;* Banco, E., Aarup, S.A., and Carrier, A. (2023). "Inside the stunning growth of Russia's Wagner Group," *Politico, https://www.politico.com/news/2023/02/18/russia-wagner-group-ukraine-paramilitary-00083553.*

[7] *Hamilton 2.0 Dashboard* (2023). Alliance for Securing Democracy, *https://securingdemocracy.gmfus.org/hamilton-dashboard/.*

[8] Brandt, J., & Wirtschafter, V. (2022). *Working the Western Hemisphere.* Brookings. *https://www.brookings.edu/research/working-the-western-hemisphere/.*

[9] *The Global Information Wars: Is the U.S. Winning or Losing?, Before the Subcommittee on State Department and USAID Management, International Operations, And Bilateral International Development of the Senate Foreign Relations Committee,* 118th Congress (2023) (Statement of Jessica Brandt, Brookings Institution). *https://www.foreign.senate.gov/download/05/04/2023/050323_brandt_testimony.*

[10] Cancillería de Rusia (@mae_russia), Twitter, June 21, 2022, c; RT en Español (@ActualidadRT), Twitter, June 6, 2022, *https://twitter.com/ActualidadRT/status/1533947341811638272.* For additional sample content see *https://www.brookings.edu/wp-content/uploads/2022/12/FP_20221216_russia_propaganda_brandt_wirtschafter.pdf.*

world, and Russian content targeting the region could have significant global reach.[11]

Interestingly, at least within overt space—among state media and diplomats on Twitter, and on state-backed news websites—there is limited apparent evidence that the Kremlin proactively stokes chaos at the border. The top five most retweeted Spanish-language Russian state-backed messages on Twitter covering migration thus far this year offer praise for Mexican President Lopez Obrador's handling of the issue.[12] Immigration topics have surfaced in known covert information operations targeting the United States, but that activity seems aimed at weaponizing a politically divisive issue to exacerbate discord.[13] Unsurprisingly, some Russian state-backed content focused on immigration boosts domestic criticisms of U.S. policy.[14]

Cyber Operations

In its own region, Moscow conducts cyber operations to punish entities that expose Russian malfeasance, steal information that it can later weaponize in an information operation, and to disrupt critical infrastructure, making it more difficult for democracies to govern themselves.[15] Because its activities in Latin America primarily aim to foster friendships, there is little evidence that Russia penetrates computer networks to alter or collect data, or to disrupt institutions or political processes in the region.

CHINESE COERCION IN LATIN AMERICA

China, like Russia, takes a different approach to applying the authoritarian toolkit in Latin America than it does in its own region. Closer to home, Beijing has been considerably more assertive in undermining its opponents than elsewhere around the world, including in Latin America, where target countries have at times benefited from Beijing's efforts to build influence using positive inducements.

Economic Coercion

Boycotts, tariffs, import restrictions, and export quotas—these are among the mechanisms that China has used to coerce its neighbors in response to actions Beijing perceived as undermining its interests, exercising its leverage as the top trading partner of most countries in its home region. In Latin America, by contrast, Beijing is focused on building leverage that it can apply in the future, using the Belt and Road Initiative (BRI) to expand its engagement with more than 20 countries in the region.[16] These coercive economic activities foster dependences that make Latin American governments less responsive to their citizens, and therefore undermine good governance. Thus, they too may contribute to the root causes of migration.

Political Subversion

In Latin America, Bejing uses some of the same political inducements that it does to cultivate influence among China's neighbors, but with less of an emphasis on direct subversion. China tends to use carrots, rather than sticks, to build sway, using BRI funding as an incentive to tow Beijing's line. This difference primarily stems from the goal of China's activities in the region: to position itself as helpful to Latin

---

[11] Brandt & Wirtschafter (2022).

[12] RT en Español (@ActualidadRT), Twitter, May 6, 2023(a), *https://twitter.com/i/web/status/1654737760018898944;* RT en Español (@ActualidadRT), Twitter, May 6, 2023(b), *https://twitter.com/i/web/status/1654828357140336644.*

[13] *S. Rept. 116–290—Russian Active Measures Campaigns and Interference in the 2016 U.S. Election, Volume II.* (2023, June 20), *https://www.congress.gov/congressional-report/116th-congress/senate-report/290/1;* "Senate Intel Committee Releases Bipartisan Report on Russia's Use of Social Media" (2019), U.S. Senate Select Committee on Intelligence, *https://www.intelligence.senate.gov/press/senate-intel-committee-releases-bipartisan-report-russia-%E2%80%99s-use-social-media.*

[14] Ekimenko, S. (2022). "Texas' Greg Abbott Slams 'Hypocrite-in-Chief' Biden After WH Dubs Migrant Transport 'Illegal Stunt'," *Sputnik International, https://sputnikglobe.com/20220916/texas-gov-abbott-slams-hypocrite-in-chief-biden-after-wh-calls-migrant-bussing-illegal-stunt—1100838329.html?utm__source=dlvr.it&utm__medium=twitter;* RT en Español (@ActualidadRT), Twitter, May 11, 2023, *https://twitter.com/i/web/status/1656522016995041280.*

[15] Brandt, J. and Taussig, T. (2020). "Europe's Authoritarian Challenge," *The Washington Quarterly, 42:4,* 133–153, *https://doi.org/10.1080/0163660X.2019.1693099.*

[16] Roy, D. (2023). *China's growing influence in Latin America.* Council on Foreign Relations. *https://www.cfr.org/backgrounder/china-influence-latin-america-argentina-brazil-venezuela-security-energy-bri#:?:text=As%20of%202023%2C%20Beijing%20has,agreement%20with%20-Uruguay%20are%20ongoing.)*

American societies in their battle against hypocritical, over-reaching democracies, led by the United States.

Information Manipulation

Because China's ultimate objective is to frame itself as a responsible global power, Beijing's information operations primarily seek to build a positive view of China and its leadership. In Latin America, as elsewhere, Beijing's propaganda apparatus promotes narratives that cast democracy as feckless or hypocritical and highlights the strength of its governance model.[17] In the global south, during the height of the COVID crisis, Beijing undertook a tailored messaging campaign arguing that its Sinovac vaccine, which does not require cold chain storage, should be the option of first resort.[18] In its propaganda targeting overseas audiences, Beijing uses U.S. immigration policy to cast the United States as hypocritical in its advocacy for human rights elsewhere around the world.[19] "For a long time, the United States has been giving lessons to other countries on human rights," China's People's Daily recently tweeted in Spanish, "But the way the U.S. treats migrants and refugees at home highlights their hypocrisy on this issue."[20] This is in keeping with Beijing's strategy of using whataboutism to deflect criticism of its own rights record.

Cyber Operations

While in Asia, there is considerable concern about the use of information networks designed and run by Chinese companies, amid concerns that equipment sourced from vendors in China could contain back doors that enable surveillance by Beijing, that is not as much the case in Latin America.[21] Within the region, China has provided surveillance systems to at least 9 countries, including Argentina, Chile, Brazil, Mexico, and Venezuela.[22] To the extent that these systems undermine political and human rights, they too may contribute to the root causes of migration.

DIFFERENCES BETWEEN RUSSIAN AND CHINESE APPROACHES TO COERCION IN THE REGION

Although Putin and Xi work from the same playbook, their approaches reflect their unique capabilities, as well as their distinct goals. Moscow and Beijing share certain near-term objectives, but the two are operating on different trajectories and time horizons, with different points of leverage and long-term aims. Russia is a declining power by many measures, which seeks to disrupt the partnerships and institutions of its mostly Western competitor states here and now as a means of gaining relative advantage. With little to lose and perhaps something to gain from exposure, it is not particularly sensitive to attribution for its coercive activities. Seeing the benefits of chaos abroad, its efforts tend to be destructive. China, by contrast, is a rising power with a great deal to lose from having its coercive activities laid bare. It does not seek disorder, but rather a new order more conducive to its interests, and so its efforts to change the status quo have tended to be more patient.[23] Both countries are most active in their own regions. For Russia, building influence in Latin America is a means to the end of disrupting Western alliances and institutions. For China, it is a means of building support for Beijing's way of doing business.

These nuances carry over into the ways that Russia and China conduct economic coercion in the region. For Russia, this activity leverages its status as a commodity

---

[17] Brandt (2021).

[18] Schafer, B., Frankland, A., Kohlenberg, N., & Soula, E. (2021). *Influence-enza: How Russia, China, and Iran have shaped and manipulated coronavirus vaccine narratives.* Alliance For Securing Democracy. *https://securingdemocracy.gmfus.org/russia-china-iran-covid-vaccine-disinformation/.*

[19] Lan, L. (2021). "Whipping migrants shows US human rights hypocritical," *Global Times, https://enapp.globaltimes.cn/article/1234865;* China News [. . .] (@Echinanews), April 28, 2023, *https://twitter.com/Echinanews/status/1652129574145097728/photo/1.*

[20] Pueblo En Línea (@PuebloEnLinea), June 9, 2022, *https://twitter.com/PuebloEnLinea/status/1534823562699104257.*

[21] Brands, H. (2021). "Huawei's Decline Shows Why China Will Struggle to Dominate," *Bloomberg, https://www.bloomberg.com/opinion/articles/2021-09-19/huawei-s-decline-shows-why-china-will-struggle-to-dominate.*

[22] *AI Global Surveillance Technology.* Carnegie Endowment for International Peace, *https://carnegieendowment.org/publications/interactive/ai-surveillance.*

[23] Brandt, J. (2021). How Autocrats Manipulate Online Information: Putin's and Xi's Playbooks, *The Washington Quarterly, 44:3,* 127–154, DOI: 10.1080/0163660X.2021.1970902; Brandt, J. (2023). *AidData: Autocratic approaches to information manipulation: A comparative case study.* AidData, a research lab at William and Mary. *https://www.aiddata.org/publications/autocratic-approaches-to-information-manipulation-a-comparative-case-study.*

exporter, with energy amounting to half of its exports.[24] For China, its coercive economic practices primarily draw on the size of its market, which gives it leverage over trading partners, as well as its relative wealth, which it uses to support friendly politicians.

Russia and China differ significantly in their use of political subversion as well. Moscow's intelligence agencies are much better equipped at understanding how to influence foreign systems than those of Beijing, since the Kremlin has made the use of asymmetric tools a leading component of its foreign policy for decades. The Kremlin has a high tolerance for risk and is comfortable deploying security services abroad. China, by contrast, has less experience with political subversion far afield. To the extent that Chinese operatives have been involved in subversion, they have tended to focus on China's neighbors.[25] But the differences don't just stem from different capabilities. Political subversion is a tool more fit for Russia's purposes (undermining the cohesion of democratic societies and their institutions) than China's (building a new international order).

Russia and China have both conducted information operations targeting audiences in the region, but likewise, in different ways and toward different ends. Where Moscow has a long history of this sort of activity abroad, China is just beginning to experiment with information manipulation far afield. Where Moscow aims to tarnish the appeal of Western systems, China works to position itself as an attractive alternative. Russian state media almost never cover Russia; Chinese State media cover China a great deal.[26]

IMPLICATIONS FOR POLICY MAKERS

The United States needs a strategy for pushing back on Russia and China's asymmetric activity in Latin America. It should reflect these nuances, be rooted in the United States's own considerable asymmetric advantages, and uphold democratic values, recognizing that those values are strengths. To that end, there are numerous steps that Washington can take to position the United States for success. Let me propose three.

First, recognizing the range and reach of Russia's manipulation activity in Latin America, Washington should focus attention and resources on public diplomacy in the region. Concerns over terrorism and resurgent geopolitical competition have driven attention to the Middle East and Asia, and as a result, U.S. public diplomacy financing overseen by the State Department has deprioritized the Western Hemisphere.[27] Washington could make new investments in entities like Voice of America (VOA) targeted at Spanish language audiences. Of the 12 overseas bureaus currently operated by VOA, none are in Latin America.[28] This should change. Such an approach could also include ensuring that the Global Engagement Center (GEC) is optimally equipped to track Russian information manipulation activity in Latin America. There are more than 40 million Spanish speakers in the United States and U.S. security interests are directly tied to events in the region. Washington cannot afford to cede the information environment to its competitors.[29]

Second, Washington should conduct messaging campaigns grounded in truthful information to highlight the failures of repression to audiences in Latin America. These campaigns could build on the success of the administration's novel strategy of downgrading intelligence related to the war in Ukraine to shape how it is perceived.[30] They could call attention to the fact that although Russia and China position themselves as "anti-imperialist" and "anti-colonial" powers, both are pursuing expansionist foreign policies. They might also highlight the costs of China's BRI to

---

[24] "Russia (RUS) Exports, Imports, and Trade Partners," *Observatory of Economic Complexity,* last modified January 2022, *https://oec.world/en/profile/country/rus.*

[25] Schrader, M. (2020). *Friends and Enemies: A Framework for Understanding Chinese Political Interference in Democratic Countries,* Alliance for Securing Democracy, *https://securingdemocracy.gmfus.org/wp-content/uploads/2020/05/Friends-and-Enemies-A-Framework-for-Understanding-Chinese-Political-Interference-in-Democratic-Countries.pdf.*

[26] Brandt (2021).

[27] Custer, S., Burgess, B., Baehr, A., & Dumont, E. (2022). *AidData: Assessing U.S. Historical Strategic Communications: Priorities, Practices, and Lessons From the Cold War Through the Present Day.* AidData, a research lab at William and Mary. *https://docs.aiddata.org/reports/gf01/gf01-02/Assessing-US-Historical-Strategic-Communications-Priorities-Practices-and-Lessons-from-the-Cold-War-through-the-Present-Day.html.*

[28] Brandt. *Testimony on The Global Information Wars* (2023).

[29] Brandt. *Testimony on The Global Information Wars* (2023).

[30] Brandt, J. (2022). Preempting Putin: Washington's Campaign of Intelligence Disclosures is Complicating Moscow's Plans for Ukraine. Brookings. *https://www.brookings.edu/blog/order-from-chaos/2022/02/18/preempting-putin-washingtons-campaign-of-intelligence-disclosures-is-complicating-moscows-plans-for-ukraine/.*

the region. Many publics have soured on the environmental destruction and unsustainable debt that too often come along with Chinese investments.[31] Many of the region's recipient countries are democracies, and drawing attention to those shortcomings can better inform their voters. Doing so is in keeping with a strategy of exploiting Putin and Xi's weaknesses, recognizing their fragility to open information.

Third, Washington must equip itself to see across the full threat picture, recognizing that Russian and Chinese coercive activities in Latin America and elsewhere are multidimensional. It is good, then, that Congress established a Foreign Malign Influence Center (FMIC) within the Office of the Director of National Intelligence to consolidate analysis of adversary use of all four tools of interference. It is also good that FMIC appears to be resourced to look at the full range of threats, which as I and others have documented, go beyond elections.[32] As it undertakes its work, FMIC should aim to cut across traditional stovepipes within Government, and share information where appropriate and feasible with private-sector partners and the public.

As it does all of this, Washington should coordinate with partners and allies to share best practices, standing shoulder to shoulder with other democratic societies to counter foreign interference threats. Ultimately, this is a contest over principles, and Washington's strong network of partners is perhaps its greatest advantage.

Distinguished Members, by drawing on a sophisticated picture of the complex ways that Russia and China deploy coercive tools in Latin America and taking these steps that flow from it, Washington can position itself to protect its interests and the American people.

APPENDIX A

Brandt, J. & Cooper, Z. (2022). Sino-Russian Splits: Divergences in Autocratic Coercion, *The Washington Quarterly,* 45:3, 23–46, *https://doi.org/10.1080/0163660X.2022.2124016.*

Chairman PFLUGER. Thank you, Ms. Brandt.

Of note, this is the subcommittee's sixth hearing on homeland security on what we as a subcommittee are looking at.

I thank you all for your testimony.

Members will now be recognized by order of seniority for their 5 minutes of questioning. An additional round of questioning may be called after all Members have been recognized.

I now recognize myself for 5 minutes of question.

Mr. Hernandez-Roy, a lot of interesting things that were said. Recent reports have indicated that the PRC has established and been operating a signals intelligence collection center in Cuba since 2019. Florida is home to a variety of military installations, sensitive military installations, becoming an emerging technology leader, a financial services hub. There is so much going on there. Can you discuss what type of implications, security implications, that the PRC's collusion with Cuba, if these reports are true, what it actually means to the United States?

Mr. HERNANDEZ-ROY. Well, the reports of some sort of spying activity in Cuba have been confirmed through a number of public sources. So I think we can take that for granted. The extent of the spying, we don't know yet. At least we who look at it through the public information space.

Having a signals intelligence operation in Cuba, it's based just south of Havana, 150 miles from U.S. mainland, is a significant threat, as it can collect information from the whole southeastern

[31] Shepard, W. (2021). How China's Belt and Road became a "Global Trail of Trouble," *Forbes. https://www.forbes.com/sites/wadeshepard/2020/01/29/how-chinas-belt-and-road-became-a-global-trail-of-trouble/?sh=2bc0da0a443d.*

[32] Foreign Malign Influence Center. 50 U.S.C. §3059 (2023). *https://uscode.house.gov/view.xhtml?req=%28title%3A50+section%3A3059+edition%3Aprelim%29.*

United States, in particular, all of SOUTHCOM's activities in the south and also CENTCOM in Tampa. So this would represent a significant threat, a significant gain for the Chinese in terms of their ability to monitor intelligence and monitor traffic of naval operations in the Caribbean, things of that nature. It should be seen as a significant threat and a significant escalation on the part of the Chinese.

Chairman PFLUGER. Thank you.

This committee will be very active in understanding the depth of that threat and what it means to our homeland security, and I appreciate that.

Ms. Dezenski, I would like to focus on a couple of things when it comes to the Southwest Border.

No. 1, when we look at the fentanyl issue and understanding—we had a hearing recently, we examined the relationship between Mexican TCOs and Chinese crime syndicates and how these relationships enable the flow of fentanyl. Do you believe that the PRC is using America's fentanyl crisis as a gray zone tactic?

Ms. DEZENSKI. Thanks for the question.

I think that at a minimum, there's passive engagement on the part of the PRC. They are well aware of the fentanyl challenge, and they're not doing much to help us stop that. Coordination from previous years has pretty much disappeared, even though there's a mound of evidence about the role of Chinese money-laundering networks and manufacturers of precursor chemicals. So it's hard to understand why we can't engage more specifically on that issue, except that I think it's being viewed by the PRC as a strategic weapon against our country.

Chairman PFLUGER. Wow. You don't believe—in your recent article in the *Miami Herald,* you asserted that the United States must expose Chinese hidden hand in America's deadly fentanyl crisis, which you just alluded to the money-laundering aspect. So you believe we should be doing more as a whole-of-Government approach?

Ms. DEZENSKI. Yes. Yes, exactly.

The money-laundering piece of this is critical. If we follow the money, I think we'll actually have an easier time addressing some of these challenges because it's so hard to interdict at the border. Fentanyl pills are small, they're mistaken for other types of commodities. It's extremely difficult to find them. Having said that, I know our Border Patrol is doing a better job, and our Customs interdiction is doing a better job locating it. But having said that, following the money is probably the most important thing that we can do. There's been quite a bit written about the complexity of these money-laundering operations. What's unique about it is that there's this flow, this seamless flow between China, Mexico, and the United States and the role of money launderers here, Chinese money launderers working in the United States and selling U.S. dollar proceeds to Chinese nationals who want access to that money. It's incredible.

So I'm happy to go into more detail on how that works, but I do think that this is the most important vector for us to look at.

Chairman PFLUGER. Let me quickly jump to a related subject.

There is no question in my mind that the PRC is exploiting the crisis at our Southern Border. It was reported yesterday that in

this fiscal year, 127 people have entered this country—apprehended, that is not gotaways that have matched the terror watch list. Is the PRC exploiting the crisis at our Southern Border for their own personal gain?

Ms. DEZENSKI. I think we should assume that any vulnerabilities at our Southern Border are open for authoritarian influence of many kinds. I think that's a safe assumption. If the gaps are there, then those who are working against us are going to use them to their advantage.

Chairman PFLUGER. Thank you.

My time has expired.

I will now recognize the Ranking Member for his 5 minutes of questioning.

Mr. MAGAZINER. Thank you, Chairman.

There is a lot to cover here, but first and foremost, we are in a competition for hearts and minds across the region. For the last two centuries, and particularly during the Cold War, America succeeded by maintaining strong relationships with allies in Latin America that allowed us to counter authoritarian threats and we need to strengthen those relationships now.

So, Ms. Brandt, can you just expand a little bit on what are some of the ways that Russia and China in particular are trying to win hearts and minds in Latin America? Then how can we as a Nation best counter their efforts?

Ms. BRANDT. Both Russia and China bring large propaganda apparatuses that promote content that portrays their preferred narratives of polarizing political events. Both of them use other assets to try to—for Russia, I think most of its activity is aimed, as I said, at driving polarization and division within the United States. Its activities, I think, in Latin America are instrumental to its broader aim of weakening us from within. I think that's in part to prevent us—if we're distracted and divided, it prevents us from playing a more forward-leaning role in the world that promotes our interests.

I think there is also an interest on the part of Russia in denting our soft power, making it harder again for us to exercise leadership in the world.

For China, China comes in behind Russia's efforts to sort-of fracture the cohesion and the unity and appeal of democracies in order to present their model as a viable alternative. Both of these countries are doing that in the region.

Mr. MAGAZINER. Will they ever use U.S. voices to amplify their rhetoric? So, for example, if there are prominent U.S. individuals that talk about military strikes in Mexico or talk about—repeat Russian talking points with regard to the Ukraine invasion, will China or Russia take clips of Americans repeating those false and dangerous narratives and use them to try to win hearts and minds for China and Russia in Latin America?

Ms. BRANDT. Both Russia and China amplify domestic voices. I mean, as I said, for Russia, this is primarily about stoking division and polarization within our country. For China, it's about sort-of boosting the reach and resonance of its message, finding fellow travelers that add a sort-of degree of legitimacy to these messages and also eliminate a layer of culpability.

Mr. MAGAZINER. Thank you.

Ms. Dezenski, you wrote in your testimony about the significance of the CHIPS and Science Act and other investments that the United States have made to try to bring more manufacturing and other economic activity back to this hemisphere. Can you just expand a little bit on that, on the importance of investments like those that are made in the CHIPS and Science Act? Also how we can better engage with our regional partners again to win hearts and minds through commerce here in our hemisphere?

Ms. DEZENSKI. Sure. Thank you very much.

There's no doubt that there's huge potential to utilize trade relationships and the potential for economic integration with both Mexico and into Latin America. As companies think about whether they want to stay in China, and the government considers new mechanisms around outbound investment and other policies that might encourage pivoting out of China, supply chains, particularly critical ones, need to go somewhere. The idea that we could have them closer to home is both valuable and attractive from an economic integration perspective.

So it's almost like a perfect opportunity to look at new strategies to build those economic alliances, but mindful of the economic security objectives in doing so, that we want mutual benefit, we want security, we need trade facilitation, we want access to critical goods, particularly in the time of global shocks. Mexico is fairly well-positioned for this, although not entirely. But as you go further south in the hemisphere, there's the chance I think that we'll miss this opportunity if we don't have the right security backbone in place.

This is a point that I wanted to make about the role of DHS and how important it is to ensure that we have that secure footprint which allows trade and commerce to be facilitated and ultimately has the right objective in terms of creating environments where people don't feel that they have to come to our border.

Mr. MAGAZINER. I know I am running low on time, but I will just emphasize again, if China is going to Latin America and offering money and infrastructure and security, the United States has to counter that with more than rhetoric. We need to invest in these partnerships, otherwise our adversaries will be happy to fill that void.

So I thank you all and I yield back.

Chairman PFLUGER. The gentleman's time has expired.

The Chair now recognizes the gentleman from New York, no stranger to law enforcement, former detective for the NYPD, Mr. D'Esposito.

Mr. D'ESPOSITO. Well, thank you, Mr. Chairman, and good morning, everyone.

I am going to just take a minute to follow up on the Chairman's remarks. I know he only had a few seconds left, but I think it is important to discuss and talk about.

So obviously it is no secret that authoritarian regimes relish in the opportunity to shine a spotlight and even encourage challenges for the United States of America. How might authoritarian regimes, including Venezuela, Cuba, Russia, and the PRC, take advantage of the current border crisis created by Joe Biden and Sec-

retary Mayorkas that our Nation is experiencing? I will really leave that for any of you.

Mr. HERNANDEZ-ROY. Thank you, Congressman.

I think there's a number of ways they can take advantage of what's happening at the Southern Border. First of all, just encourage migration from their own countries by cracking down on their populations, sending more people, creating more chaos, sowing more division within the United States on how to effectively respond. That is one way they're clearly doing it.

The other way, presumably, which I've provided an example in the Venezuelan context, and one of my colleagues has said it's a distinct possibility, is they can be taking advantage of the massive amounts of people, 2.4 million interventions last year. Within that space of 2.4 million people you can try to get people that are undesirable, that are going to work for the interests of these regimes in the United States. So I think that's a vulnerability. I have no direct evidence of that happening. I have mentioned direct evidence of that happening in the Venezuelan context, sending spies to Colombia. It's a distinct possibility that the United States needs to be taking seriously.

Ms. DEZENSKI. I'll just add one angle to this that I think we need to consider.

So as we see increased engagement in places like Venezuela, with Iran, Russia, we should be mindful of the potential that local populations may become part of extremist movements, and that could be fueled by this increasing engagement from authoritarian interests in these countries. How do we relate that to what's happening at the Southwest Border? Well, it's much as Chris has identified, which is with the massive inflow of people, we have the needle in the haystack problem again to try to figure out who those extremists might be. We have an identity management problem at the border, and somehow we need to figure that out because it's going to become more and more difficult as we're trying to manage an influx of legitimate economic migrants and political migrants from a place like Venezuela. How do we know if we're allowing for extremist threats to come into the country? So we're going to have to be more sophisticated about figuring that out.

Mr. D'ESPOSITO. I agree. I am sorry.

Ms. BRANDT. Well, I was just going to add from my analysis, which again, is focused on the open source space, I see this less as Russia trying to drive populations to the border as much as it is to weaponize the polarizing nature of debates within this country around migration. But again, we don't know what we don't know. I think the challenge for us I think is to sort-of think capaciously about the challenges so that we can get ahead of them without also making Russia 10 ft tall.

Mr. D'ESPOSITO. So obviously there are real threats, whether it is the regimes, whether it is our open border. I know some would like to argue that climate change is our biggest threat, but I think these pose a bigger threat to our country and our freedoms than anything else.

Just to follow up on what we talked about, because I truly believe that this is also a threat, what is your thoughts on the CCP and the fact that there have been stories that they would embed

assets into larger groups of nationals making the journey from China to Mexico or other areas along our Southwest Border?

Mr. HERNANDEZ-ROY. Well, since I mentioned that was a possibility, I guess I'll try to answer that.

I have, like Ms. Brant, we work on public information, so I have no direct information on that. But I go back to the example that has happened in other cases.

I just wanted to add something to my previous intervention, which is that Venezuela has been known publicly to have sold passports to Hezbollah operatives and to bring people out of Syria as well with Venezuelan passports. So that's another potential vulnerability. People from that part of the region using Venezuelan passports. Where are they going?

Mr. D'ESPOSITO. Right? Probably not going there to do good things.

My time has expired, Mr. Chairman. I yield back.

Chairman PFLUGER. The gentleman's time has expired. The Chair now recognizes gentleman from California, my good friend, Mr. Correa.

Mr. CORREA. Thank you, Mr. Chairman. Appreciate this hearing. It is very timely and very important. Thank the witnesses for being here today.

I hear your statements. Latin America, there are challenges and we talk about an open border, we talk about regimes. I didn't hear a lot of talk about poverty, the challenges in Latin America, and in alternatives.

Talk about history a little bit. The Pan American Highway was built in 1920's, 1930, and through the 1950's, and we essentially financed the construction of that highway south of Mexico through Panama—almost to Panama—except for the Darién Gap—because of our strategic interest in fighting against communism. Honduras has a four-lane highway. You know who paid for that? The United States of America. We have forgotten the role that we played in the Americas throughout history. That has been our area of national interest. Today we wake up, last 3 years, China has signed more than 30 agreements with Latin America, free trade agreements. Twenty Latin American nations signed on to China's Belt and Road Initiative.

I am trying to figure out what is going on. Is our private sector asleep at the wheel? We have this challenge of these precious metals that China is controlling around the world. They are part of Latin America and nobody is discussing these issues. I am at a loss here.

Ms. Dezenski, you mentioned DHS stepping up. Apparently, our private sector is not doing a good job. So I guess we as legislators need to take your recommendations and move forward because China, Russia, Iran, I don't care what those folks are doing, I care about what is in our power to do. Our power is to move forward. We are sitting here pointing fingers at them. If you want to win a race, you focus on your lane, don't be chasing the other person. Focus, then we can do the best.

In Latin America, 20–30 years ago, when you would see a food box that said donations from America, the goodwill that was there

was tremendous—tremendous. Where is that going today? Have we forgotten the lectures? The lessons of history?

I only have 2 minutes, but I want to give you an example. We talk about the Cuban electronic espionage base by China. My understanding, please fact check me, that was actually started operating in 1999, and that was actually upgraded in 2019. Let's think about history of Cuba, OK. Obama lifted some of the restrictions, trade with Cuba. Cuba's private sector exploded. Two-thousand seventeen, Trump administration reversed that position and added additional few other restrictions. President Biden has essentially followed the Biden model. I am trying to figure out what are the incentives that we are giving folks in this hemisphere to work with the United States.

I am going to open it up to the three of you in the 1 minute that I have to help us figure out a road map here, because I don't like the fact that our American influence in our backyard is going down the drain.

Thank you.

Ms. DEZENSKI. Thank you so much.

There's so many things to bring up in response to all of your good points. I would just make the following.

No. 1, with regard to the private sector, we need to do a better job of——

Mr. CORREA. I mean, you know, and I will give you here an example. Venezuela, you can throw rocks at what is going on in Venezuela. I don't like the fact that probably the world's largest oil reserves are now under the influence of China and Russia. What are we doing to counter that? Very quick, specific question, what are we doing to get back our influence in that area of the world? More sanctions?

Ms. DEZENSKI. I would suggest that we need to de-risk to make it easier for Western companies and Western investment to go into the region. Part of that——

Mr. CORREA. Is that in our power, is that in Venezuela's power, Russia's power, or China's power?

Ms. DEZENSKI. Oh, it's absolutely in our power. It's a very positive step that we could take.

Mr. CORREA. Thank you.

Mr. Chairman, I am out of time. Thank you very much for indulging me, sir.

Chairman PFLUGER. The gentleman's time has expired.

The Chair now recognizes the gentleman from Arizona, a Navy SEAL, Mr. Crane, for his 5 minutes of question.

Mr. CORREA. Mr. Chairman, if I may interrupt you. I wanted to ask unanimous consent that Ms. Jackson Lee be permitted to sit with us in this subcommittee and be part of the questioning. Thank you.

Chairman PFLUGER. Yes, the Chair will entertain that. Thank you, Ms. Jackson Lee, for showing up.

Now, Mr. Crane.

Mr. CRANE. Thank you, Mr. Chairman. Thank you to all our guests and panelists who have come here today.

I wanted to know if any of you guys saw the article in yesterday's *Associated Press* titled, "Pentagon Accounting Error Provides

Extra $6.2 Billion for Ukraine Military Aid". Anybody see that headline? Anybody read that story? No? OK.

Are you guys aware that to date, the United States has sent $113 billion to Ukraine? Anybody? OK. Does it surprise you guys when you see stories like that? Accounting error, $6.2 billion to Ukraine? Accounting error up here to the tune of $6.2 billion. Mr. Roy, does it surprise you when you see errors to that extent?

Mr. HERNANDEZ-ROY. An error of that magnitude could only be justified if the economy of the United States was hundreds of trillions of dollars. It's a rather surprising headline, I would say.

Mr. CRANE. Thank you.

As I listen to your testimonies and knowledge about some of the unrestricted and asymmetric warfare right here in our own Western Hemisphere, down in Latin America by the Chinese, Russians, and Iranians, I want to ask you guys, does it bother any of you when we see all this money going to someplace over in Europe that happens to be a very corrupt country that most Americans can't even point to on a map, when we have all this nefarious activity going on right in our own backyard?

I want to start with you, Ms. Brandt.

Ms. BRANDT. I think we have to be able to walk and chew gum at the same time. I mean, I think the challenges that we face in our hemisphere are enormous. As I've argued, we need to pay more attention there. I also think Ukraine is on the front lines of the conflict between democracies and authoritarian challengers.

Mr. CRANE. Yes, that seems to be the general consensus in this town. The problem is, ma'am, when you talk about walking and chewing gum at the same time, you have to take into account that the United States of America has about $32 trillion in debt, right? So we don't even have this money that we continue to send over in Ukraine. Do you see that as a problem, ma'am?

Ms. BRANDT. As I said, I think our support for Ukraine is important and consequential to our national security interest. It's fundamental.

Mr. CRANE. OK. What about our national debt? Do you think that is important?

Ms. BRANDT. That's beyond my expertise.

Mr. CRANE. It is actually pretty common-sense.

What about you, Ms. Dezenski? What do you think about our national debt and this idea up in this town that we can continue to spend hundreds of billions of dollars of the American taxpayers' money that we don't even have, yet let alone when you look at some of these threats that we are talking about in Latin American countries, right in our backyard, we don't seem to have the resources to make sure that our own border security is in order and secure?

Ms. DEZENSKI. I think the most challenging thing about the threats in Latin America, and perhaps even at the Southwest Border, is that for years, we've probably underestimated it. It seems like what we're dealing with now is the equivalent of a soft underbelly in the Western Hemisphere. That will require us to think a little bit more strategically and creatively about what Latin America policy should be, how we bring together more resources around

economic security, and how we balance that out with what we have to do in the rest of the world.

Mr. CRANE. Thank you, ma'am.

Mr. Hernandez-Roy, are you familiar with the saying peace through strength?

Mr. HERNANDEZ-ROY. Pardon me? Could you repeat that, please?

Mr. CRANE. Are you familiar with the saying peace through strength?

Mr. HERNANDEZ-ROY. Vaguely, yes.

Mr. CRANE. What do you think the opposite of that would be, Mr. Hernandez-Roy?

Mr. HERNANDEZ-ROY. War through weakness.

Mr. CRANE. Yes. War, chaos through weakness. That is exactly where we find ourselves right now. War, chaos because of weakness. We are facing a world on fire because of weakness, incompetence, and internal corruption.

I want to read this for the American people that might be watching this. Hard times create strong men, strong men create good times. Good times create weak men, and weak men create hard times. We are all aware that our current leadership is pretty weak, falls in public regularly, struggles to put sentences together, and is embroiled in multiple layers of corruption.

My point is this. Elections have consequences. If we want to continue to see this global dumpster fire continue, then we should, by all means, keep this current administration in place. If we want to return to peace through strength, we must reinstall somebody who projects strength and puts America and Americans first.

Thank you all for coming.

I yield back.

Chairman PFLUGER. The gentleman's time has expired.

The Chair now recognizes the gentleman from New York, Mr. Goldman.

Mr. GOLDMAN. Thank you very much, Mr. Chairman. Thank you for having this hearing.

I certainly hope my colleague from Arizona will look to reduce our deficit by examining our $860 billion defense budget.

I want to focus a little bit right now on what gives China and Russia the opportunity to have such significant influence in Latin America. I am not actually sure which one of you is sort-of the foremost expert among the panel in terms of the upheaval, disarray, and cratering governmental issues that are going on in Latin America, especially Central America.

But in the last 2 to 4 years—Ms. Dezenski, you seem to be focused on this—can you describe a little bit about what has been going on in terms of upheaval in governments in Central and Latin America.

Ms. DEZENSKI. Thank you for the question.

Let me talk a little bit about China. You've asked about China and Russia in the region and how they're exerting that influence and how that came to be and maybe what the implications are for governments in the region. I'll take on the China piece of this, which is very much driven by their brilliant use of their trade relationships.

Mr. GOLDMAN. I am sorry, I just want to interrupt because I think we have a lot of attention and you all have spoken very much on how China infiltrates and influences, and they are doing the same thing in Africa as well. But I want to talk a little bit about the political situation, the governmental upheaval in the countries, in Nicaragua, Honduras, El Salvador, Guatemala, to name a few. There are others.

Maybe Mr. Hernandez-Roy, you want to talk a little bit about what has been going on in the last 2 to 4 years in that region that has also caused so many more citizens from there to seek refuge in other countries?

Mr. HERNANDEZ-ROY. I think there's a couple of points to be made that aren't necessarily totally related. But why so many people are seeking refuge is because they're living under dictatorial regimes. They're being oppressed, they're being persecuted, they're being arbitrarily detained. People who have nothing to do with political activism, just because they might be in the wrong place at the wrong time, are being imprisoned. Venezuela for the last 10 years has had a revolving door of at least 300 political prisoners. Since the massive protests in 2014 and again in 2017, something like 16,000 or 17,000 people have been detained in Venezuela. In Nicaragua, since 2018, during the protests of 2018, there were 355 people that were murdered by the by the regime. Since then, journalists, civil society activists, students, over 400 NGO's have lost their legal personality, 600,000 people have fled the country. That's what's going on in those regimes.

But going back a little further, talking about the political upheaval, if you go back 20 years, Latin America 20 years ago and today is a profoundly unequal part of the world. Probably the most unequal if you look at gini coefficients. Populists in that part of the world, particularly Hugo Chavez, were able to leverage that discontent and use Venezuela's massive oil wealth at the time—this was before the economic collapse in Venezuela and when oil prices were sky-high—to spread the wealth around, to keep like-minded politicians, both in Venezuela and in friendly countries abroad in power, to create friends through corruption. There's a well-known PetroCaribe and Petrofraude scheme where billions, if not hundreds of billions of Venezuelan petrodollars were spread around the region. If you look at the region 10 years ago, there was one dictatorship. You look at the region today, there's three dictatorships. There's at least two semi-authoritarian regimes that are on the way to becoming dictatorships.

There's one completely failed state, which is Haiti. Against the backdrop of all that chaos, Russia and China have multiple opportunities to get involved. They have ideological—at least the Russians have ideological affinity with many of these populist movements. The Chinese are more pragmatic. They're really primarily interested in business and making money and securing primary commodities for their economy. But I think all of that history, both 20 years ago and more recent, is what is the upshot of what you're seeing today.

Mr. GOLDMAN. Thank you for that explanation.

Ms. Brandt, I just have a couple of seconds, but I am curious how you would view that vacuum to provide the opportunity, espe-

cially—I know your expertise is more Russia, how Russia can interfere and influence those regimes.

Chairman PFLUGER. We will do about 20 seconds here.

Ms. BRANDT. I guess I would just say very quickly, to the extent that Russia's and China's coercive economic activity and political subversive activity make governments less responsive to their citizens, they undermine rule of law, they facilitate corruption I think they—speaking to your question, I think they contribute to the root causes of migration and so——

Mr. GOLDMAN. They exacerbate the situation that already exists.

Ms. BRANDT. Yes. I think Russia's by no means responsible, but it's not helping.

Mr. GOLDMAN. Right.

Thank you, Mr. Chairman, for indulging me.

I yield back.

Chairman PFLUGER. The gentleman's time has expired.

The Chair now recognizes the gentle lady from Texas, Ms. Jackson Lee, for her 5 minutes of questioning.

Ms. JACKSON LEE. Mr. Chairman, first of all, let me thank you and the Ranking Member for your courtesies. I am deeply involved and interested in this long-running story of our interaction with those who have become adversaries.

Let me say to Mr. Christopher Hernandez-Roy, you view it as important for us to be engaged with South and Central America, do you not?

Mr. HERNANDEZ-ROY. Yes, ma'am.

Ms. JACKSON LEE. We have adversaries, but we need to be a major positive force in those regions. Would you agree that this era of our time is one of the greatest migrations that any of us may have seen coming from that part of the hemisphere?

Mr. HERNANDEZ-ROY. I would agree, ma'am, that we are at historic times in terms of migration in the entire region, not necessarily just from Central America.

Ms. JACKSON LEE. Absolutely. I said Central and South America.

Mr. HERNANDEZ-ROY. Yes, ma'am.

Ms. JACKSON LEE. Yes. I appreciate that because we are actually in an era, in a decade, maybe 2, of the greatest migration, at least of this current era around the world. I mean, I have watched flows of traffic going from many different places. I make that point as I pursue my line of questioning. I thank this committee for this hearing, because we do need to counter bad guys in Latin America, in Iran, Russia, and otherwise other places as well.

I was really baffled by a filing of articles of impeachment for what is really both a historical fact and will not be solved by impeachment. The late John McCain tried to solve it, as we did, joining with him by comprehensive immigration reform. You do note that that is valuable? I will just answer my own question on that.

Let me pursue important line of reasoning for China and Russia. Let me ask Ms. Brandt, if you would, in Iran—and I thought we had Iran in this discussion, but if not, I am going to add it to the discussion—we have countries like France and Albania stopping freedom-loving Iranians from peacefully protesting or having meetings suggesting that Iran now is spreading its wings to intimidate those nations that have to receive its oil products. What is your in-

terpretation of that power that they are using to denounce democracy around the world and as a tyrannical nation?

Ms. BRANDT. Well, Russia, China, and Iran I think are all interested in denting the prestige of liberal democracy around the world. It's a part of a tactic to I think make democracy less appealing to would-be rights advocates at home and so helping autocrats to tighten their grip on power, which I think is fundamentally in their self interest. Then again, it's about sort-of weakening their global competitors.

You mentioned comprehensive immigration reform and I would say there's another way that this connects with the conversation that we're having today, which is—I'm mindful of Kennen's sort-of admonition that we need to sort-of resist the temptation to become that against like which we are coping, or something to that effect. The idea here is that we need to lead into our own asymmetric strengths in this asymmetric competition and our vibrant, open society is one of them. And this——

Ms. JACKSON LEE. I have another question, so—allow you to finish your point on that.

So basically we should lean in when these countries are trying to tamp down democracy and we should lean in our friends in France and Albania in terms of denying that free speech for those Iranians. I would hope that would be the case.

But let me also talk about some of the tactics that Russia has used. Certainly the Ukraine war is dastardly and devastating, not instigated by the United States or the Western world. They have taken to using hostages to extract and strangle relationships with foreign countries. Would you comment on this hostage approach so that America knows we shouldn't be intimidated by that and we should fight hard for our hostages to be returned? I guess this way you can finish your overall point.

Then with China it is all about the technology and artificial intelligence. The meeting of Secretary Blinken. How do we frame our lean-in to those issues and those countries?

Ms. BRANDT. Yes, I think that's where I was going, which is that there's another layer to this competition which is not just within the information domain, but within the technology domain. There it's essential that we again lean into our strengths, which is our vibrant, open, innovation economy. Our immigration policy is relevant to that because we want to make sure that we are the top. We have an edge in talent. It's critically important. We want to make sure that we maintain that edge by being an attractive place for talent to come.

Ms. JACKSON LEE. Well, the hostages situation?

Chairman PFLUGER. The gentlelady's time has expired.

Ms. JACKSON LEE. Thank you.

Chairman PFLUGER. The Chair now recognizes the gentlelady from Nevada, Ms. Titus.

Ms. TITUS. Well, thank you very much.

I apologize for being late. I hope I don't repeat something.

I sit on the Foreign Affairs committee and so we hear a lot about the malign influences of China and Russia. Russia more politically, China more economically. In fact, we just heard about China build-

ing the port in Lima. So we know the Belt and Road extends all over the world.

But I would like to ask you about China's relations with Taiwan and how they respond to other countries in Latin America as they in turn have different affairs with Taiwan.

Recently, I believe that Secretary Blinken said that we don't support independence of Taiwan. I don't know how that is going to play in Latin America, but we know that Latin America's support for Taiwan has been waning. It is now down to seven countries, I think. Coupled with China's authoritarian regime, relations with such governments as Cuba and Venezuela, I wonder how this is going to impact our push for democracy in Latin America or our just even trade relations between the United States and Latin American countries as they tend to lean more in the direction of China over the Taiwan issue.

Anybody.

Mr. HERNANDEZ-ROY. Yes. There's no doubt that—as you correctly said, there are still—the the largest number of Taiwan allies are in Latin America globally. You're correct about the number of seven. Taiwan recently lost one ally. In March, Honduras switched allegiance from Taiwan to the PRC, which had been a campaign promise of that country's president. The largest two countries that are still allies of Taiwan are in the Western Hemisphere, Guatemala and Paraguay. Guatemala is about to have an election. The issue of whether it will continue to recognize Taiwan is, I think, up in the air. Paraguay did recently have an election and I think for the time being, it is secure in its continuing relationship with Taiwan and not the PRC.

But this is clearly one of the objectives of the PRC in the region, is to continue to peel away Taiwan's allies.

Ms. TITUS. Anybody else.

Well, thank you. I think that is something we ought to keep a look at.

The question is about regime change. China and Russia are using different tactics, overt and covert, to influence countries in Latin America. The United States doesn't have a very good history of this. If we don't like them, we have gone in and tried to throw them, overthrow them. This is particularly true again for Cuba, Venezuela, and Nicaragua. So how do we try to counter China's influence, offer an alternative, and still deal with that history of meddling that many people have long memories about?

Ms. DEZENSKI. Thank you for the question.

I think this is a particularly challenging problem for us. When China engages with countries, particularly in the global south, they typically employ their policy of non-interference, which means they come ostensibly to engage in economic integration. They'll work with whatever regime is in power. They'll often play by local rules, which could facilitate how China uses opaque contracts, employs corruption, any number of tools that cater particularly to weak democracies or authoritarian regimes, where there's more likelihood that opacity will kind-of drive the conversation and rule the day. So I think we have a real challenge in terms of how to counter that. We need to get at those issues first and foremost by protecting our own interests, our own capital, our engagement, staying

true to our democratic values, pushing on anticorruption, stopping the money laundering, calling out the bad behavior. Because if we don't do that, we've really lost the game. We really need to focus on these governance principles. But then we need to take it a step further, which is show up in the region for the long term with the right kind of economic commitments to drive that kind of economic security that we were talking about earlier, and maybe in the process keep some supply chains closer to home.

Ms. TITUS. We don't want to force them to make a choice. We don't want to put it in those contexts, but we want to let them know they have options in countries.

Thank you. I think my time is up.

I yield back.

Chairman PFLUGER. The gentlelady's time has expired.

We will now enter a second round of questioning, again, alternating sides based on seniority.

The Chair now recognizes myself for 5 minutes of questioning.

I think it has been a great discussion so far. I am incredibly worried about what the PRC is doing. The Chinese Communist Party not only is right at our doorstep, I mean, they are literally inside of our country in a lot of different ways. I think the Chinese spy balloon highlighted that this subcommittee held a hearing on that. We are hearing today the vast array of initiatives that the CCP is using, economic militarily, influence and information operations campaigns. The fact that we now know, which is completely unacceptable, that they have a surveillance and spy machine that is ongoing inside Cuba, which is less than 100 miles away from our shores. I think for all these reasons, it really is incredibly important that we focus on it.

Ms. Dezenski, in your written testimony, as well as in your responses to questions here, you talk about the true autocratic behemoth in the region, China, which has ramped up its economic investment throughout the hemisphere, driving debt dependency, antidemocratic vision of surveillance states. You talk about the critical minerals that they are acquiring inside Latin America, you talk about the 29 different ports that they have established. I mean, they are literally knocking at our doorstep. I would like to really further investigate your ideas.

Previously in your testimony, you talked about you were there when we stood up DHS. It was created to have a more unified whole-of-Government approach to counter new and emerging asymmetric terrorist threats. These threats are right there. So what is that approach economically, specifically, and also militarily? If you have any thoughts on that.

Ms. DEZENSKI. Thank you so much.

The approach is, for certain, a multifaceted one. We really need to think about this from a whole-of-Government picture. We'll never have the centralized industrial policy focus that China has, but arguably we don't need it if we use all of the tools in our own toolkit to bring a combination of security, investment, economic integration, better political engagement with allies and friends and partners in the region. All of this needs to work together. We need a big strategy around this.

In terms of the more specific actions that could be taken around some of these threats that we've identified around port security, for example, we really need to get a handle on these nodes of commerce where we see this layering of technology, surveillance, infrastructure investment, the potential to use commercial operations to support military, the transport of military supplies, for example. There are a lot of vulnerabilities in this commerce structure, this commerce ecosystem that connects into the DHS agenda very, very closely. But I'm not sure that we've really made the pivot around that operational readiness, that we've taken the analysis and the intelligence, that big picture. Then is it being driven by the right boots on the ground, the right engagement?

So there's multifacets to this, but I think we need to get at an asymmetric approach where we identify what those most critical elements of Chinese influence are and go after them. We're not going to compete in terms of the size of our trade relationships. We just won't be everywhere that China is. Frankly, we don't have to be. We don't have to spend as much money through some equivalent of the Belt and Road initiative, but we need to use those tools that we have in a much more effective way.

Chairman PFLUGER. Ms. Brandt, it seems to me over the past 10 to 20 years that we have been ignoring our neighbors to the south in many ways. It seems that during that time, the People's Republic of China, led by the Chinese Communist Party, have just inched their way into that territory with a goal of influencing those countries in a way that undermines our own national security. Are you seeing something similar to that?

Ms. BRANDT. Yes. Concerns about terrorism and resurgent geopolitical competition have shifted the focus to the Middle East and to Asia. To some extent, we've deprioritized engagement in our own region. As all of us have described here today, I think we're the poorer for it.

Chairman PFLUGER. Mr. Hernandez-Roy, I have got 12 seconds left.

Mr. HERNANDEZ-ROY. I think that Chinese motivation is primarily economic, but it's from a power that is obviously a Communist dictatorship. With that comes corruption, comes antidemocratic practices, and that leads to it opens up spaces for all sorts of nefarious things to go on.

Chairman PFLUGER. Those nefarious things are killing 100,000 Americans a year through fentanyl. They are creating chaos, money laundering, criminal organizations, destabilizing the region just to the south of us.

I appreciate your testimony here. I hope that this committee can urge our colleagues throughout the rest of Congress to take the actions that you are recommending and to do more when it comes to securing our own country through the stabilization in South and Central America.

With that, my time has expired.

I recognize the Ranking Member for 5 minutes.

Mr. MAGAZINER. Thank you, Chairman.

Another aspect of this that I would like to focus on for a moment is the importance of rare earth minerals, particularly lithium and others. No coincidence that we are seeing China make investments

in commerce and diplomacy in areas around the world that are rich in these rare earth minerals, including in South America in particular. Ms. Dezenski, I noticed that you touched on this in your testimony and others. Could you just expand on that a bit more? What is happening with rare earth minerals in South America? What should we as a Nation be doing in order to prevent our adversaries from cornering the market essentially, for these important rare earth minerals?

Ms. DEZENSKI. Thank you very much.

Yes, we have a big challenge in Latin America. As I've noted in my testimony, the so-called Lithium Triangle of Argentina, Bolivia, and Chile is home to over half of the world's known lithium reserves. China has been working to corner that market. U.S. companies have had, to date, somewhat limited success. There was a bid put forward by a U.S. group of companies in the last year or so, and it was beat out by a Chinese conglomerate and under some strange circumstances where the U.S. bid was knocked out because it was submitted 10 minutes late or something strange like that. So there's a lot of competition going on right at the source of this. We have not been in an ideal position to address it from a political perspective because China has really leveraged its relationships, its trade relationships, to support its interests. Because China is the processing behemoth with 65 percent of the refining capacity around lithium in particular, it's very difficult to break that.

One thing that we will need to look at is how to do so. Whether it's moving some processing to the United States or working with partners in the region to identify other areas of processing, this could be an asymmetric opportunity for us. We need to get at the kind-of the point in the supply chain that is most critical, and processing is really a key part of that.

Mr. MAGAZINER. Thank you.

Switching gears a bit, Mr. Hernandez-Roy, in an article that you co authored, you remarked that among U.S. presidents, President Biden has shown some of the most knowledge and appreciation for Latin America. One of the examples that you cited in the article was the decision to invite the Brazilian and Colombian presidents to the United States within their respective first years in office. Brazil and Colombia historically have been two of our most important allies in the hemisphere.

Can you talk a little bit about what more we could be doing to strengthen our relationships with Brazil and with Colombia in particular, and why those relationships are so important in the context of competition with our autocratic competitors?

Mr. HERNANDEZ-ROY. Absolutely. If I may, just very, very quickly on your last question, with regard to critical minerals and Argentina specifically, and its lithium deposits, which are some of the largest. Argentina is exporting about 9 percent of its lithium to the United States, and something like 49 percent, if if memory serves, to China. I've been told by representatives of that government that they prefer it to be the other way around, but that's just the way the economics are right now. The IRA Act provides incentives to members, to countries that have FTA agreements with the United States in terms of critical minerals. Argentina does not have an FTA agreement and is seeking an exemption under that. So that's

one thing that the United States could do to counter Chinese influence.

With regard to your other question, Brazil and Colombia, Colombia, as you've pointed out correctly, is a long-standing U.S. partner and ally dating back to the 1990's when Colombia was at risk of being overrun by narco-trafficking. The United States invested heavily in that country and it became one of its closest allies, beating back the security threat to Colombia and building up its democracy. It remains a key ally in the United States, despite a change of posture by this particular government in terms of its outlook.

Brazil is the largest economy in Latin America, and obviously is an important trading partner with the United States, but it's also an important trading partner with China. Therefore, in fact, I think the Chairman earlier alluded to the fact that—well, he said Latin America as a whole, I'm not sure that's entirely accurate, but I'm pretty confident at this point that China is is Brazil's largest trading partner, and therefore we have an interest to strengthen relationship with Brazil, to find ways to compete with China in Brazil.

Mr. MAGAZINER. My time has expired.

Thank you.

Mr. D'ESPOSITO [presiding]. The gentleman's time has expired.

I now recognize myself for 5 minutes.

Mr. Hernandez-Roy, as was mentioned by some of my colleagues, our weakness, or the view of this country being weak or administration being weak, has led to threats. The PRC's role in Latin America has grown rapidly since 2000. The PRC state firms are major investors in Latin America's energy, infrastructure, and space industries. Just want to give you some numbers. By 2021, PRC trade in the region totaled $450 billion, and economists predict that it could exceed $700 billion by 2035. Of particular concern, and as was discussed, the PRC's infrastructure in the region has displayed dual use that could have security implications for this great country.

Could you explain the concept of dual-use infrastructure and the impact the facilities could have on homeland security?

Mr. HERNANDEZ-ROY. Sure. I can mention at least three specific examples.

The Chinese now control the loading and unloading facilities in the Panama Canal. They're building, and it's almost finished, a very large port in Peru. Last week, if I'm not mistaken, they inked an agreement with the regional government of Tierra del Fuego in the very southern tip of Argentina to build a port that would control the Drake Strait—I think that's the name of the Strait—that would control access to the fishing fields off of Antarctica. Then again in Argentina, it has a space port in Argentina that's ostensibly for research and to track Chinese satellites. It is essentially a piece of sovereign Chinese territory within Argentina. The Argentine authorities cannot even set foot on this property. Each one of those things has a dual use. They have a peaceful use for commerce, for research, for scientific research, and for the movement of trade goods. But each one of them can also be used in a second capacity—this is where the term dual-use comes from—for military capacity. The Chinese space station can be used to track U.S. sat-

ellites, it could be conceivably used to track intercontinental ballistic missiles. Ports can be used as refueling and supply and logistics hubs for Chinese warships. Ports can be closed, facilities can be sabotaged in the event of a conflict. The Panama Canal is obviously one of the most strategically important areas in the hemisphere.

So each of those investments, each of those pieces of infrastructure that the Chinese have either bought or built, has a dual use.

Mr. D'ESPOSITO. Thank you.

So, obviously, it is a real threat. What do you believe that this committee and our colleagues in this Congress could do to deter and to really get a handle on the dual-use infrastructure that is causing a threat to this Nation?

Mr. HERNANDEZ-ROY. That's not an easy solution.

Mr. D'ESPOSITO. Not in a minute and 44 seconds.

Mr. HERNANDEZ-ROY. I think the easiest thing to do is to prevent it before it happens. So in that sense, the United States can do a number of things. It can provide new mechanisms or fix old mechanisms to have more development financing in the region. For instance, the DFC is prevented from providing financing to middle-income, middle- and upper-income countries. It can only provide financing to lower- and lower-middle-income countries. There's only five countries that qualify as lower- and lower-middle-income countries in Latin America. They're all in Central America. However, it's well-known that there are huge disparities within a country in terms of their economic development. So changes to those rules, for instance, could allow more financing to some of the South American countries to counter some of the infrastructure financing from China. The United States can replenish the capital in the Inter-American Development Bank. That's another large multilateral institution that can provide more lending for infrastructure in the region. There's examples like that in my—I'm over the time. But those are kinds of the kinds of things that the United States can do to prevent these dual-use things from being built in the first place.

Mr. D'ESPOSITO. Thank you very much.

I now recognize Mr. Correa from California for 5 minutes.

Mr. CORREA. Thank you, Mr. Chairman.

I wanted to, in my 5 minutes that I have, let me ask all of you for your opinion. It is a big topic, a lot of ways we can go, but specifically, how does Department of Homeland Security, what are some of the actions that we can take to begin to turn the ship around, so to speak? You mentioned, and I agree with, the investment in the area. I would prefer a Marshall Plan that is accompanied by some economic reform, anticorruption. But that is the big picture. Specifically here today, homeland security. I am going to ask each one of you, what can we do to begin to address, to begin to bring attention to what I believe is 20–30 years of being asleep at the wheel?

Ms. Dezenski.

Ms. DEZENSKI. Thank you.

One thing that really strikes me about where we are now facing these economic security threats, a broader range of threats to the

homeland, is how much of what was built after 9/11 has kind-of fallen by the wayside.

Let me give you an example. After 9/11, we spent a lot of time thinking about how to secure the ports, we had something called the Container Security Initiative, we had the Customs Trade Partnership Against Terrorism, we had a number of international engagements that exerted U.S. leadership and provided a basis for much more strategic engagement with partners around the world. Some of that we've lost. I think we need to get back to a more strategic footprint, whether we're putting people on the ground or we're using the "digital boots" on the ground, some combination of these things. We need more eyes and ears, and we need to drive that footprint based on a better analysis of where the threats are and where we need to have that deeper engagement. We have the opportunity to do that at ports. We can do that with key players in the supply chain. We can do that through better interagency coordination. All of these things need to happen.

Mr. CORREA. Mr. Hernandez-Roy.

Mr. HERNANDEZ-ROY. Thank you, Congressman.

The commenting on DHS is really beyond my expertise. But what I will say—you mentioned a couple of things. You mentioned a Marshall Plan. The U.S. influence in Latin America was probably at its highest in the 1960's after President Kennedy launched something called the Alliance for Progress, which was essentially a Marshall Plan for the region. It provided development assistance on a massive scale. At the time, it was the largest development assistance package that the United States had ever implemented, and it had significant effects on reducing poverty in the region, which is something you mentioned earlier. I would also say that what the United States needs to do is create better conditions in the region to prevent threats from washing up on our shores. So that it goes back to this idea of an Alliance for Progress. We have argued, we at CSIS, some of us have argued that the United States should entertain a new Alliance for Progress, or 2.0 at some point. Ms. Brandt.

Ms. BRANDT. I said in my testimony that China and Russia both apply the course of toolkit in Latin America differently than in their home regions. China in particular, at home, closer to home, it's really weaponizing the leverage that it has as its own region's largest trading partner. But abroad, it's really patiently building leverage that it can sort-of use later. So we're closer to home, those countries have sort-of faced the sharpest or like the brunt, the sharpest elements of China's toolkit. Farther abroad, I think they've really benefited in some ways from China's use of inducements, positive inducements.

So I think the task for us is to both provide alternatives, as you've suggested, and then also to tell a more compelling story about what we offer, right. Ultimately, competition is about the pursuit and use of advantages. So just sort-of rather than a tit-for-tat reactive approach to authoritarian moves, we need to do an assessment of what our own strengths are and I think go at authoritarians, where they're weak. I think one such fragility is to open information.

Mr. CORREA. One final quick question here to all of you.

You mentioned the popularity of TikTok social media. I think probably 90 percent—excuse me, about 70 percent of the world uses a smartphone. Latin America is the same thing. Great communication device. You have a lot of Latin Americans living in the United States. You have a lot of cross-cultural influence. How can you use that, what I would call continuing American goodwill, to really influence and try to continue to integrate this continent the way it was before, I should say?

Please.

Ms. BRANDT. Yes. I mean, we have 40 million native Spanish speakers in the United States and some of the best content creators in the world. So we should be leveraging those assets, especially in our communication in the region. Right. I'm thinking about, like, low-cost content distribution agreements that would allow some of our content to be shown in the region, for example.

Mr. CORREA. In my last 25 seconds, in your opinion, three of you, kind of a yes-or-no question, is Congress doing enough to make sure that we are present in Latin American countries? That is, are we visiting enough, are we paying enough attention? Yes, no—5 seconds?

Ms. BRANDT. Yes. I would just say it's incredibly important that we focus attention and research.

Mr. CORREA. Are we putting enough attention? Yes, no——

Ms. BRANDT. I think there's more we can do.

Mr. CORREA. Sir?

Mr. HERNANDEZ-ROY. I think there's more we can do. Not just Congress, but also the Executive.

Mr. CORREA. Ms. Dezenski.

Ms. DEZENSKI. There's more that we can do.

Mr. CORREA. Thank you very much.

Mr. Chair, I yield.

Mr. D'ESPOSITO. Thank you, sir. The gentleman's time's expired.

I now recognize my friend from Arizona, Mr. Crane.

Mr. CRANE. Thank you, Mr. Chairman.

Again, I realize we are talking about Latin American countries today and the influence of China, Russia, and Iran down there. That being said, I do want to ask a question. Is anybody on the panel aware how many men conducted the attacks on the World Trade Center during 9/11? Anybody? Anybody know the number?

Mr. HERNANDEZ-ROY. Could you repeat the number of? Pardon me, the number of what?

Mr. CRANE. The number of men who conducted the attacks on the World Trade Center. Anybody know the answer to that? How many men? How many terrorists?

Mr. HERNANDEZ-ROY. That was somewhere in the neighborhood of 12 to 20, I believe.

Ms. DEZENSKI. It was about 17.

Mr. CRANE. Yes, it was around that—19 men. The reason I bring that up is because in 2021 CBP reported 4,103 encounters of Russian citizens along our Southwest Border. It continues to increase. Following the start of the war in Ukraine, this number jumped from 21,763 in 2022 and then in 2023, it rose again to 33,000.

Now let's go to China. In the first 3 months of 2023, we saw 9,711 individuals coming from China encountered at our Southern

Border. That obviously doesn't count the number of gotaways, which we can't count, but it is substantially more than the 3 years. Since again we are in homeland security, does it concern anybody on the panel knowing the current state of our Southern Border, to see these numbers increasing from the very countries that we are talking about in our Southern Hemisphere?

Mr. Roy, does it concern you to hear those numbers increasing?

Mr. HERNANDEZ-ROY. I think there's a two-part answer to that. The numbers are increasing in part, in large part because there are freedom-loving people in those countries——

Mr. CRANE. Absolutely.

Mr. HERNANDEZ-ROY [continuing]. Who also want to leave their repressive regimes and come to the United States.

Mr. CRANE. We understand that. We all understand that. But does it concern you, just knowing how I opened with only it only took 19 individuals to conduct one of the greatest attacks on the United States ever?

Mr. HERNANDEZ-ROY. It is a concern of mine, given my experience within the region and what other dictatorships have done in the region to infiltrate spies into neighboring allies.

Mr. CRANE. Absolutely. Do you guys think that either China or Russia might be smart enough to figure out that our Southern Border is pretty porous? Even our own President, while he was a candidate, said, if you want to come to the United States, come? Does that concern you? How about you, Ms. Dezenski? Sorry if I pronounce that wrong.

Ms. DEZENSKI. No, it is fine. Thank you. Yes, it is a concern. When the vulnerabilities are known, they can be exploited. As the immigration flow continues to grow, it becomes a more difficult challenge to figure out the very small number of people within a very large number coming across the border that are actually of security interest and concern. This is a problem we've had for a very long time.

Mr. CRANE. Yes. Let me ask a follow-on, ma'am. Do you think we should finish the wall that we started building on our Southern Border?

Ms. DEZENSKI. It's probably outside of my scope to comment specifically on the wall because I'm not following where things are at, but I do firmly believe that we need to be able to control the border.

Mr. CRANE. OK.

Ms. Brandt, what about you?

Ms. BRANDT. Like Ms. Dezenski, that's sort-of beyond the focus of my research. I will say, of course, I think we should have a secure Southern Border. Also, as I said, one of our greatest advantages is our open, welcoming, being an attractive destination for talent. So we need to ensure that we continue to be that kind of place that bolsters freedom-loving people around the world.

Mr. CRANE. It is interesting when I hear people come up here and they testify before this committee and they say—I ask about should we complete a wall and you guys say, oh, that is outside of my scope. I know you guys are very smart or you wouldn't be here. I read your bios. You are both very smart. You guys both have a lot of common sense. Do you guys have walls around your house?

Do you guys have walls in your backyard? Do you know why there are walls at prisons? Do you know why most schools have walls? Do you know why most castles have walls? I am asking a question. It as a pretty simplistic question, and the American people are tired of it.

Ms. BRANDT. I think our openness is a competitive advantage. I mean, not the openness of our border like literally, but our open welcoming environment. The openness of our society.

Mr. CRANE. Well, Ms Brandt, I would love to see you tell that to some of the people in my district who have lost their loved ones to fentanyl. Do you think that is an advantage to have parents that are losing their kids to fentanyl?

Ms. BRANDT. I don't mean the literal—no, of course not. Of course not.

Mr. CRANE. Because that is a byproduct of what you are talking about, ma'am.

Ms. BRANDT. Of course not. I'm not speaking about the literal openness of the border, but our——

Mr. CRANE. That is what you said, openness.

Ms. BRANDT. I'm clarifying that I mean the openness of our society.

Mr. CRANE. Thank you. I yield back.

Mr. D'ESPOSITO. The gentleman's time has expired.

I want to thank the witnesses for their valuable testimony, the Ranking Member and Members for their questions.

The Members of the subcommittee may have some additional questions for the witnesses and we would ask the witnesses to respond to those in writing.

Pursuant to committee rule VII(D), the hearing record will be open for 10 days.

Without objection, the subcommittee stands adjourned.

[Whereupon, at 11:46 a.m., the subcommittee was adjourned.]

4613

PROTECTING THE U.S. HOMELAND: FIGHTING THE FLOW OF FENTANYL FROM THE SOUTHWEST BORDER

HEARING

BEFORE THE

SUBCOMMITTEE ON BORDER SECURITY AND ENFORCEMENT

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

JULY 12, 2023

Serial No. 118–21

Printed for the use of the Committee on Homeland Security



Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

54–231 PDF WASHINGTON : 2023

COMMITTEE ON HOMELAND SECURITY

MARK E. GREEN, MD, Tennessee, *Chairman*

MICHAEL T. MCCAUL, Texas
CLAY HIGGINS, Louisiana
MICHAEL GUEST, Mississippi
DAN BISHOP, North Carolina
CARLOS A. GIMENEZ, Florida
AUGUST PFLUGER, Texas
ANDREW R. GARBARINO, New York
MARJORIE TAYLOR GREENE, Georgia
TONY GONZALES, Texas
NICK LALOTA, New York
MIKE EZELL, Mississippi
ANTHONY D'ESPOSITO, New York
LAUREL M. LEE, Florida
MORGAN LUTTRELL, Texas
DALE W. STRONG, Alabama
JOSH BRECHEEN, Oklahoma
ELIJAH CRANE, Arizona

BENNIE G. THOMPSON, Mississippi, *Ranking Member*
SHEILA JACKSON LEE, Texas
DONALD M. PAYNE, JR., New Jersey
ERIC SWALWELL, California
J. LUIS CORREA, California
TROY A. CARTER, Louisiana
SHRI THANEDAR, Michigan
SETH MAGAZINER, Rhode Island
GLENN IVEY, Maryland
DANIEL S. GOLDMAN, New York
ROBERT GARCIA, California
DELIA C. RAMIREZ, Illinois
ROBERT MENENDEZ, New Jersey
YVETTE D. CLARKE, New York
DINA TITUS, Nevada

STEPHEN SIAO, *Staff Director*
HOPE GOINS, *Minority Staff Director*
NATALIE NIXON, *Chief Clerk*

SUBCOMMITTEE ON BORDER SECURITY AND ENFORCEMENT

CLAY HIGGINS, Louisiana, *Chairman*

MICHAEL GUEST, Mississippi
MARJORIE TAYLOR GREENE, Georgia
TONY GONZALES, Texas
MORGAN LUTTRELL, Texas
JOSH BRECHEEN, Oklahoma
MARK E. GREEN, MD, Tennessee *(ex officio)*

J. LUIS CORREA, California, *Ranking Member*
SHRI THANEDAR, Michigan
ROBERT GARCIA, California
DELIA C. RAMIREZ, Illinois
BENNIE G. THOMPSON, Mississippi *(ex officio)*

NATASHA EBY, *Subcommittee Staff Director*
BRIEANA MARTICORENA, *Minority Subcommittee Staff Director*

CONTENTS

Page

STATEMENTS

The Honorable Clay Higgins, a Representative in Congress From the State of Louisiana, and Chairman, Subcommittee on Border Security and Enforcement:
Oral Statement 1
Prepared Statement 3
The Honorable J. Luis Correa, a Representative in Congress From the State of California, and Ranking Member, Subcommittee on Border Security and Enforcement:
Oral Statement 3
Prepared Statement 5
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security:
Prepared Statement 6
The Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas:
Prepared Statement 7

WITNESSES

Mr. Kemp L. Chester, Senior Advisor to the Director of National Drug Control Policy, Office of National Drug Control Policy, Executive Office of The President:
Oral Statement 11
Prepared Statement 13
Mr. Steven W. Cagen, Assistant Director, Homeland Security Investigations, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security:
Oral Statement 18
Prepared Statement 19
Mr. James Mandryck, Deputy Assistant Commissioner, Office of Intelligence, U.S. Customs and Border Protection, U.S. Department of Homeland Security:
Oral Statement 24
Prepared Statement 26
Mr. George Papadopoulos, Acting Chief of Operations, Drug Enforcement Administration, U.S. Department of Justice:
Oral Statement 30
Prepared Statement 32
Mr. Tyrone Durham, Director, Nation-State Threats Center, Office of Intelligence and Analysis, U.S. Department of Homeland Security:
Oral Statement 37

FOR THE RECORD

The Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas:
Bill 54
Article 65

PROTECTING THE U.S. HOMELAND: FIGHTING THE FLOW OF FENTANYL FROM THE SOUTHWEST BORDER

Wednesday, July 12, 2023

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON BORDER SECURITY AND ENFORCEMENT,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:21 p.m., in room 310, Cannon House Office Building, Hon. Clay Higgins (Chairman of the subcommittee) presiding.

Present: Representatives Higgins, Gonzales, Luttrell, Brecheen, Correa, Jackson Lee, Thanedar, Garcia, and Ramirez.

Also present: Representatives D'Esposito, Ivey, and Goldman.

Mr. HIGGINS. The Committee on Homeland Security Subcommittee on Border Security and Enforcement will come to order.

Without objection, the subcommittee may recess at any point.

The purpose of this hearing is to receive testimony from Government experts on the elaborate drug operations conducted by the transnational criminal organizations along the United States-Mexico border which threaten the safety and security of American communities.

From the importation of precursor chemicals for production from China to the distribution of fentanyl in the United States, transnational criminal organizations are wreaking havoc on American communities, and the Committee on Homeland Security seeks answers.

I now recognize myself for an opening statement.

Good afternoon, gentlemen. Thank you for being here, and welcome to the Subcommittee on Border Security and Enforcement hearing on fighting the flow of fentanyl from the Southwest Border.

The purpose of today's hearing is to examine the Biden administration's failures and perhaps to examine some areas of shared success with previous administrations.

We welcome our witnesses from the Office of the National Drug Control Policy, the Department of Homeland Security, the Drug Enforcement Administration, and I thank you all for being here today.

I'd like to begin by thanking our Customs and Border Protection front-line agents and officers who work tirelessly every day to protect our country despite the negligent policies that they're subject to and the lack of support that they have reported from the Biden administration.

Every day, transnational criminal organizations use America's complex highway systems to smuggle illicit drugs, such as deadly fentanyl, and human beings into our country. These criminal organizations pose an enormous threat to the United States, as they undermine our public safety and flood our streets with drugs.

The Centers for Disease Control and Prevention, the CDC, cites drug poisoning as the leading cause of mortality due to injury in the United States. Over 150 people die in our Nation every day from overdoses related to synthetic opioids like fentanyl.

Fentanyl has poured across our borders and into the streets of America while the Biden administration continues to implement policies that have, in fact, emboldened and enriched these transnational criminal organizations.

It would be impossible to discuss the free flow of fentanyl at our borders without mentioning China's significant role in the shipping of precursor chemicals to the Mexican cartels. The cartels and China have a complicated money- and drug-laundering operation. This operation kills Americans every day. In fact, according to the CDC, fentanyl is the leading cause of death of Americans age 18 to 45.

As the flow of illegal immigrants continues to overwhelm Customs and Border Protection, it's inevitable that more and more drugs will slip through our defenses and into our country. As long as the Biden administration continues to fail enforcement of our immigration laws, the cartels will continue to reap the benefits.

Secretary Mayorkas has been derelict in his duties and has failed this country. He's continuously refused to enforce immigration law. He refused to prosecute illegal entries and refused to utilize previous immigration tools that had been proven effective. These actions have increased the flow of illegal aliens into this country, enriched the Mexican cartels, and overwhelmed our front-line agents and officers, which has led, of course, to more and more drugs flowing into the United States.

There's quantifiable impact of this destruction on our country. As drugs have poured into the United States, overdose deaths have increased every year, from 92,000 in 2020 to 109,680 in 2022. These are our brothers, our sisters, our family, our friends and neighbors. The Biden administration must reconcile with this devastation, and it's our job in Congress to hold the administration accountable.

The cartels have quickly learned to outmaneuver the system we had in place. With the help of the Chinese Communist Party and the Biden administration's ineffectiveness, they've smuggled an unprecedented amount of fentanyl and trafficked these dangerous and deadly drugs into our country, have taken a record number of American lives, and brought in regular billion-dollar profits. They've torn countless scores of thousands of American families apart.

This subcommittee will not allow the Biden administration, nor Secretary Mayorkas, to sweep their failures under the rug.

Today, this hearing will expose the arterial bleed at our Southern Border and the ensuing fight against synthetic opioids that has made its way to the forefront of all of our lives.

I yield back the balance of my time, and I look forward to hearing from our witnesses.

[The statement of Chairman Higgins follows:]

STATEMENT OF CHAIRMAN CLAY HIGGINS

JULY 12, 2023

Good afternoon and welcome to the Subcommittee on Border Security and Enforcement hearing on fighting the flow of fentanyl from the Southwest Border. The purpose of today's hearing is to examine the Biden administration's haphazard fight to disrupt the flow of fentanyl into the United States. I would like to welcome our witnesses from the Office of National Drug Control Policy, Department of Homeland Security, and the Drug Enforcement Administration for being here today.

Most recently, I was appointed by Speaker McCarthy to serve on the Task Force to Combat Mexican Drug Cartels. The purpose of the task force is to examine cartel operations, educate the American people on the impacts of cartel violence, provide legislative recommendations, and most importantly help save lives. I look forward to working with my colleagues in this crucial endeavor.

Every day, Transnational Criminal Organizations uses America's complex highway systems to smuggle illicit drugs, such as deadly fentanyl, and humans into our country. These criminal organizations pose an enormous threat to the United States as they undermine our public safety and flood our streets with drugs.

The Centers for Disease Control and Prevention (CDC) cites drug poisoning as the leading cause of mortality due to injury in the United States. Of the more than 105,000 drug poisoning overdose deaths in 2022, more than 75 percent involved opioids including fentanyl.

Under the Biden administration, America has been suffering from wave upon wave of misery flooding across our Southwest Border. Fentanyl has poured across our borders and into the streets of America while the Biden administration continues to implement policies that embolden and enrich these Transnational Criminal Organizations.

Mexican cartels rely on China for the precursor chemicals used to make synthetic opioids. The Sinaloa and Cártel de Jalisco Nueva Generación (CJNG) are the two biggest importers of synthetic opioids into the United States, and both rely on a complex system with partners in China to import fentanyl precursors. The precursors are then processed in labs in Mexico and then smuggled into the United States.

We would be mistaken not to mention China's significant role in the shipping of precursors and laundering of money. It is vital that the Biden administration recognize China's role in providing the vital ingredients used in illicit products that are killing United States youth. In fact, according to the CDC, fentanyl is the leading cause of death of Americans ages 18–45.

As the flow of illegal immigrants continues to overwhelm Customs and Border Protection, it is inevitable that more and more drugs will slip through our defenses and into our country.

Secretary Mayorkas has been derelict in his duties to this country and has continuously refused to enforce immigration law, refused to prosecute illegal entries, and refused to utilize previous immigration tools at his disposal. These actions have increased the flow of illegal aliens into this country, enriched Mexican cartels, and overwhelmed our front-line agents and officers, which has led to more and more drugs flowing into the United States.

The reckless open-border policies set by President Biden and Mayorkas have greatly benefited the Mexican cartels. The cartels quickly learned to outmaneuver the system, and with the help of the Chinese Communist Party, they have smuggled an unprecedented amount of fentanyl, taken a record number of American lives, brought in billion-dollar profits, and have torn families apart.

Secretary Mayorkas' blatant disregard for the security and sanctity of the American people has wounded our great nation deeply. This subcommittee intends to hold Secretary Mayorkas and the Biden administration accountable for their actions.

With that, I yield back the balance of my time and look forward to hearing from our witnesses.

Mr. HIGGINS. Without objection, I'd like to waive on the gentleman from New York, Mr. D'Esposito.

Mr. D'Esposito will be permitted to sit on the dais for this subcommittee hearing and ask questions of the witnesses.

I recognize the Ranking Member.

Mr. CORREA. Thank you, Mr. Chairman.

Again, thank you very much for holding this most important hearing on transnational criminal organizations and, of course, fentanyl.

Mr. Chairman, I want to ask also unanimous consent that Mr. Ivey and Mr. Goldman be permitted to sit with the subcommittee and question today's witnesses.

Mr. HIGGINS. Without objection.

Mr. CORREA. Again, Mr. Chairman, thank you for holding this most important hearing.

We also need to dismantle fentanyl supply lines. The surging resources to conduct inbound inspections are badly needed. We need to work collaboratively to make sure that these seizures lead to arrests and prosecutions of those engaged in these illegal, dangerous businesses.

That's why I'm glad to hear about the Department's recent successes in operations like Blue Lotus, the Four Horsemen—both of these that have seized nearly 10,000 pounds of fentanyl that were destined to go to our communities. Of course, these operations also resulted in almost 300 arrests. I understand the Department has used the intel from these successes to move to the next phase, which is to target and prevent other fentanyl from entering the United States.

I hope our witnesses today will share about—a little bit of information about the two new operations being moved ahead, which are Operation Artemis and Operation Rolling Wave.

For today's witnesses from the White House, DEA, CBP, and Homeland Security Investigations, or HSI, I want to hear in your testimony about how the administration has been working to mitigate these threats to our country as well as to Main Street.

We know transnational criminal organizations and the illicit supply of fentanyl are not new challenges. In fact, the number of fentanyl seizures began to increase in the summer of 2020 under the previous administration. As you know, the threat of fentanyl does not begin or end at our Southern Border.

We need to also improve our public health care response to this crisis and address the addiction plaguing our communities, while providing support for those that are trying to recover from drug addiction.

Of course, to tackle transnational criminal organizations and fentanyl, we can't just focus on seizures alone. We also need to go after their profits and supply chains. Again, let me repeat: We also need to go after their profits and supply chains.

I'm glad to hear that, under this administration, Homeland Security Investigation has continued Operation Pelican Bones, which seeks to disrupt the financial tools used by transnational criminal organizations to launder money; as well as Operation Hydra that goes after the precursors needed to create fentanyl; and, of course, Operation Chain Breaker that targets the equipment needed to manufacture pills.

Initiatives like these, gentlemen, to dismantle illicit networks and limit TCOs' financial accesses are needed. Yet we also need to recognize that this is a global threat, a world-wide threat. Strong and collaborative partnerships with international partners are critical to dismantling transnational criminal organizations.

That's why this morning the Chairman and I introduced the bipartisan Cooperation on Combating Human Smuggling and Trafficking Act, which would direct Homeland Security Investigations to expand its Transnational Criminal Investigative Units. These vetted and trained units of foreign law enforcement work with HSI to investigate transnational criminal organizations. They need to stop human smuggling and the flow of dangerous drugs before they reach our borders.

I hope my colleagues across the aisle will continue to join me in calling for responsible action, like expanding these transnational criminal investigative units and putting more resources toward our ports of entry, instead of throwing around harmful rhetoric about invading Mexico, our second-largest trading partner and, of course, a critical partner in fighting transnational crime.

While I have focused primarily on the law enforcement action we can take to dismantle transnational criminal organizations, we must also recognize that this isn't the only border issue. It's also a public health care challenge. These criminals across the world seek to make record profits at the cost of lives—American lives on Main Street. There is wide-spread, untreated drug addiction in our streets, leading some individuals to consume dangerous substances that may be laced with fentanyl.

Hope our witnesses today from the Office of National Drug Control Policy can speak also to the administration's strategy to reduce the demand for illicit drugs on our streets.

Again, I want to thank the witnesses for taking time from your very busy schedules to talk to us today. I welcome your suggestions how we in Congress can help you better accomplish your job.

Thank you very much, and I now turn it back to Chairman Higgins for today's proceedings.

[The statement of Ranking Member Correa follows:]

STATEMENT OF RANKING MEMBER J. LUIS CORREA

JULY 12, 2023

I would like to start by thanking Chairman Higgins for holding today's hearing on transnational criminal organizations and fentanyl. For today's witnesses from the White House, DEA, CBP, and Homeland Security Investigations (HSI), I look forward to hearing your testimony about the administration's actions to mitigate these threats.

We know transnational criminal organizations and the illicit supply of fentanyl are not new challenges. In fact, the number of fentanyl seizures began to increase in the summer of 2020 under the previous administration. But the threat of fentanyl does not begin or end at the Southern Border.

We need to improve our public health response to this crisis and address the addiction plaguing our communities while providing support to those recovering. We also need to dismantle fentanyl supply chains, surging resources to conduct inbound inspections, and working to indict, arrest, and prosecute those engaged in this illegal business. That's why I was glad to hear about the Department's recent successes in Operations Blue Lotus and Four Horsemen, which seized nearly 10,000 pounds of fentanyl headed for our communities and resulted in 284 arrests.

I understand that the Department has used the insights gained from these two operations to launch the next phase of its campaign to target and prevent fentanyl from entering the United States. I hope our witnesses will share more about the two new operations, Operation Artemis and Operation Rolling Wave. To tackle transnational criminal organizations and fentanyl, we can't just focus on seizures. We also need to go after their profits and supply chains.

I am glad that, under this administration, Homeland Security Investigations has continued Operation Pelican Bones—which seeks to disrupt the financial tools used

by transnational criminal organizations to launder money—as well as Operation Hydra, which goes after the precursor chemicals needed to create fentanyl, and Operation Chain Breaker, which targets the equipment needed to manufacture pills. Initiatives like these are critical to dismantle illicit networks and limit TCOs' financial access. But we also need to recognize that this is a global threat, and strong, collaborative partnerships with international partners are critical to dismantling transnational criminal organizations.

That's why this morning the Chairman and I introduced the bipartisan Cooperation on Combatting Human Smuggling and Trafficking Act, which would direct Homeland Security Investigations to expand its Transnational Criminal Investigative Units. These vetted and trained units of foreign law enforcement work with HSI to investigate transnational criminal organizations, aiming to stop human smuggling and the flow of dangerous drugs before they reach our borders.

I hope my colleagues across the aisle will continue to join me in calling for responsible action, like expanding these transnational criminal investigative units and putting more resources toward our ports of entry, instead of throwing around harmful rhetoric about invading Mexico—one of our closest trading partners and a critical partner in the fight against transnational crime.

While I have focused primarily on the law enforcement actions we can take to dismantle transnational criminal organizations, we must recognize that this isn't only a border security challenge or law enforcement challenge. It's a public health challenge, as transnational criminal organizations seek to make record profits at the cost of American lives. There is wide-spread untreated addiction for drugs, leading some individuals to consume dangerous substances that may be laced with fentanyl. I hope our witness from the Office of National Drug Control Policy can speak to the administration's strategy to reduce the demand for illicit drugs in our communities.

Again, I appreciate all of witnesses' willingness to appear today to discuss how we can increase our efforts to combat this serious threat. I welcome any suggestions about how Congress can help you accomplish your missions.

Mr. HIGGINS. I thank Ranking Member Correa.

All the Members of the committee are reminded that opening statements may be submitted for the record.

[The statements of Ranking Member Thompson and Hon. Jackson Lee follow:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JULY 12, 2023

Let me start by saying that tackling the drug crisis is one of our most pressing national security, law enforcement, and public health challenges, and we must do more to protect American lives. Fentanyl presents the newest iteration of a drug problem that America has had for decades.

One way Congress can help protect Americans is to allocate resources to aggressively target the source of drug trafficking—Transnational Criminal Organizations or TCOs. We must understand that these organizations, including cartels south of our border, operate as a business. They are profit-driven. They are violent and criminal. But they are not political or ideological. Transnational criminal organizations profit from the demand for illicit drugs and at the expense of American lives.

The Biden administration, through the agencies testifying today among others, are working tirelessly to combat the TCOs and drug traffickers. Rather than waste resources building a wall or using migrants as scapegoats, the Biden administration has made historic investments in border security and in fighting the scourge of fentanyl. The administration has directed resources to the places where the drugs are actually entering this country.

We know that about 90 percent of fentanyl is trafficked in cars and trucks through ports of entry, not between them. Even the fentanyl caught between ports of entry is mostly seized in vehicles at checkpoints or out at sea—not on the backs of migrants. In addition, it's important to recognize that U.S. citizens, not undocumented migrants, represent more than 85 percent of convictions for fentanyl trafficking.

The Biden administration has invested in technology at the ports of entry to scan travelers, vehicles, and cargo entering the United States with the intent to distribute illicit drugs. With these investments, seizures are now at a record high. Unfortunately, CBP is only able to scan about 2 percent of passenger vehicles and just 15 percent of commercial vehicles. Imagine the amount of drugs we could stop from

coming into the country if we invested as much in non-intrusive inspection technology as Republicans want to spend on more border wall.

This whole-of-Government approach led to the administration to establish Operations Blue Lotus and Four Horsemen this spring. Under these initiatives, CBP, HSI and State and local partners stopped nearly 10,000 pounds of fentanyl from entering our communities and conducted 284 arrests for fentanyl-related charges in just 2 months. These operations are just a couple measures in the Biden administration's multi-pronged strategy to combat TCOs and curtail the flow of illicit fentanyl.

I want to commend Customs and Border Protection and other agencies for their coordinated efforts to increase the number of seizures and related investigations. I can't help but note that just a few years ago my Republican colleagues touted drug seizures as a measure of success under the Trump administration.

Now that the Biden administration has record seizures due to its investments and its commitment to detection and interdiction efforts, my Republican colleagues are criticizing the administration. This is the height of hypocrisy.

While I appreciate the administration's efforts to stop fentanyl and other drugs from entering our communities, it's important to recognize that this is just one part of the solution. Law enforcement and border security alone will never be enough. We must also tackle this crisis with treatment and recovery options to restore people's health and break the devastating cycle of addiction.

I urge my Republican colleagues to work together to provide the necessary resources to Federal agencies to combat TCOs and prevent fentanyl trafficking.

STATEMENT OF HONORABLE SHEILA JACKSON LEE

JULY 12, 2023

Thank you, Chairman Higgins and Ranking Member Correa, for the opportunity to speak today and thank you to the witnesses who are here.

My thanks to our hearing witnesses:

- Mr. Kemp Chester, senior advisor of National Drug Control Policy
- Mr. Steven Cagen, assistant director of Homeland Security Investigations
- Mr. James Mandryck, deputy assistant commissioner, Office of Intelligence, CBP
- Mr. George Papadopoulos, acting chief of operations, DEA
- Mr. Tyrone Durham, director, Nation-State Threat Center.

As a member of the House Judiciary and Homeland Security Committees I have a unique view on the threat that fentanyl poses to our children, families, communities, and our Nation.

As the Ranking Member of the Judiciary Committee's Subcommittee on Crime and Federal Government Surveillance I introduced The Stop Fentanyl Now Act of 2023.

The Stop Fentanyl Now Act, a is important bill that will protect children and youth from fentanyl, fentanyl-related synthetics, and fentanyl-laced substances.

As illicit fentanyl floods our communities, fentanyl-related deaths continue to increase at a devastating rate—claiming nearly 200 lives each day in every corner of the country.

No community is safe from this public health crisis.

As illicit fentanyl floods our communities, fentanyl-related deaths continue to increase at a devastating rate—claiming nearly 200 lives each day in every corner of the country.

TEXAS STATISTICS

In my home State of Texas, fentanyl was linked to more than 1,600 fatal overdoses in 2021 while the CDC reports that there were more than 70,000 fentanyl-related deaths in the United States in that same year, including roughly 1,500 individuals under the age of 20.

In 2022, more than 2,000 people died from fentanyl in Texas, killing more than 5 Texans aged 18–45 per day.

I want to again reiterate unintentional fentanyl use, given that 97 percent of the 870 unintentional synthetic opioid deaths in Texas in 2022 were fentanyl-related.

NATIONAL STATISTICS

Fentanyl is now the leading cause of accidental death for young Americans, killing more people than suicide, car accidents, or gun violence.

No community is safe from this public health crisis.

It is found in every part of the United States.

Every drug purchased on the internet, on the street, or from people can contain fentanyl regardless of the form (powders, capsules, pills, and more).

The U.S. Drug Enforcement Administration found that 1 in 3 counterfeit pills on the market contained a potentially lethal dose of fentanyl.

Kids of color have been the hardest hit by the fentanyl crisis, with the highest increase in deaths among Native American, Latinx, and Black youth.

More than 5,000 children and teens have died from overdoses involving fentanyl in the past two decades, according to data published in the Journal of American Medical Association (JAMA) Pediatrics (on May 8, 2023).

More than half of those deaths occurred in the first 2 years of the COVID–19 pandemic.

Fentanyl was involved in 1,557 adolescent deaths in 2021, a thirty-fold increase since 2013; when the wave of overdose deaths involving synthetic opioids started in the United States.

A surge that began in 2018 led to a nearly three-fold increase in deaths among older adolescents and a nearly six-fold increase among children younger than 5.

In 2021, 40 infants and 93 children ages 1 to 4 died from a fentanyl overdose.

Specifically, fentanyl has been mistaken by children as candy and chalk.

According to the DEA, bright-colored fentanyl pills designed to hook children have been spotted in nearly two dozen States.

The DEA also suggested cartels are coloring blocks of the drug so that it resembles sidewalk chalk.

These fatal pediatric overdoses involving fentanyl mirror trends seen in adults.

In 2021, nearly 70,000 U.S. adults fatally overdosed on fentanyl, the biggest spike in overdose deaths in the country's history.

Since 1999, however, the vast majority of pediatric deaths from fentanyl have been among older teens ages 15 to 19 (89.6 percent).

Teen deaths from fentanyl have surged overthe past few years—tripling overall and increasing 5 times for Black teens—according to provisional data from the Centers for Disease Control.

In 2021, 77 percent of all teen overdose deaths involved fentanyl.

The FDA also recently warned of "rainbow fentanyl" manufactured to look like candy to appeal to children.

Experts agree the surge of fentanyl deaths is overwhelmingly traceable to social media, where children can easily buy prescription and other drugs, many of which are counterfeit and contain lethal doses of fentanyl.

For all ages, 43.8 percent of deaths occurred at home, and 87.5 percent were unintentional.

And the drug is now the primary agent noted in the pediatric opioid crisis.

In particular, accidental exposures to fentanyl patches continue to be deadly to children.

According tothe FDA, children can overdose on new and used fentanyl patches by putting them in their mouth or sticking the patches on their skin.

This can cause death by slowing the child's breathing and decreasing the levels of oxygen in their blood.

H.R. 4272, THE STOP FENTANYL NOW ACT OF 2023

The *Stop Fentanyl Now Act of 2023* is a necessary response to the recent surge in overdoses and death that is claiming thousands of young lives each year.

My bill would:

- Provide training and resources to ensure schools and teachers can administer opioid overdose reversal drugs or devices;
- Stop the on-line sale of little pink pills and other brightly-colored pills that have been used to target and drive addiction among youth—and have contributed to the recent surge in fentanyl-related overdoses and deaths;
- Require HHS and DOJ to develop and implement a national strategy to educate the public about fentanyl, fentanyl-related synthetics, and fentanyl-laced substances;
- Provide grants to States to develop and implement treatment programs for individuals addicted to these substances;
- Decriminalize fentanyl test strips and provide grants to States that adopt similar legislation;
- Encourage DOJ to increase resources available to law enforcement agencies to combat the trafficking of these substances;
- Require DOJ to establish an interagency task force to coordinate Federal, State, and local efforts to combat the trafficking of these substances;

- Require HHS to conduct research to better understand the effects of these substances, develop new treatments for individuals addicted to them, and determine best practices for prevention; and
- Enhance penalties for offenses involving the distribution or manufacture of adulterated or misbranded drugs, doing so with the intent to defraud or mislead, as well as promotion or sale of adulterated or misbranded drugs on-line.

The *Stop Fentanyl Now Act of 2023* is comprehensive legislation that broadly covers distribution of fentanyl-related synthetics and fentanyl-laced substances by seeking to break the supply chain that is now on-line and more available to our youth while punishing those who are criminally engaged in such activity that is aimed at destroying young Americans.

The bill also addresses demand for these drugs by educating the public, including parents, teachers, and teens, and providing treatment to those who suffer from substance use disorders.

The *Stop Fentanyl Now Act of 2023* rejects the urge to criminalize drug usage in order to address the problems caused by fentanyl and recognizes that non-illicit fentanyl has medical uses.

And while we must stop the criminal production and distribution of fentanyl and fentanyl-related synthetics, we must also recognize that mass criminalization and incarceration will never solve the problems associated with drugs of any kind.

We cannot incarcerate our way out of the country's latest epidemic of drug abuse, especially when they involve mandatory minimum sentencing schemes that fall hardest on low-level offenders and do nothing to promote public safety or get drugs off the street.

While we must be committed to securing our border, if we want to protect our children and stop the senseless loss of life caused by fentanyl, fentanyl-related substances, and fentanyl-laced substances, the Federal response must focus on prevention and education, treatment, interdiction, and enforcement.

We must pass this legislation to truly protect Americans from the scourge of fentanyl-related deaths.

This multi-disciplinary, whole-of-Government approach is doable and should be done.

Failure to do so could be the cost of saving more lives.

Thank you, I yield back the remainder of my time.

ATTACHMENT.—DEA TRAFFICKER-QUANTITIES OF "RAINBOW FENTANYL" ARRIVE IN NEW YORK

October 04, 2022

https://www.dea.gov/press-releases/2022/10/04/trafficker-quantities-rainbow-fentanyl-arrive-new-york

One person was arrested and approximately 15,000 fentanyl pills were seized as part of an ongoing investigation into a fentanyl trafficking organization. The fentanyl pills, in various colors, were destined for distribution throughout New York City and had been concealed in a LEGO box to deter law enforcement attention. The fentanyl pills were also imprinted with "M" and "30" to resemble "30 M", Oxycodone Hydrochloride 30 mg pills.

This significant seizure, the largest to date in New York City, signals more widespread distribution of these dangerous colorful pills. The case highlights Mexican cartels' most recent tactics to attract the public while deceiving them about the lethal drugs. The Sinaloa Cartel and Jalisco New Generation Cartel are mass-producing fentanyl pills in rainbow colors to not only brand their products, but use colors and dyes to mimic candy and/or legitimate prescription drugs.

Frank A. Tarentino III, Special Agent in Charge of the U.S. Drug Enforcement Administration's New York Division, Bridget G. Brennan, New York City's Special Narcotics Prosecutor, New York City Police Commissioner Keechant L. Sewell and New York State Police Superintendent Kevin P. Bruen announced the seizure and arrest following the arraignment of Latesha Bush.

"Rainbow fentanyl is a clear and present danger, and it is here in New York City," said DEA Special Agent in Charge Frank Tarentino. "Approximately forty percent of the pills we analyze in our lab contain a lethal dose; and in a recent 15-week enforcement operation, DEA New York seized half a million lethal pills. These staggering statistics underscore the importance of reminding the public that just one pill can kill; and this operation alone removed the equivalent of 500,000 lethal doses of fentanyl from circulation in the Empire State. In the same reporting period, DEA seized the equivalent of over 36 million lethal doses nationally."

NYC Special Narcotics Prosecutor Bridget G. Brennan said, "Using happy colors to make a deadly drug seem fun and harmless is a new low, even for the Mexican cartels. Fentanyl is already involved in more than 80 percent of overdose deaths in the city. If you take any drug sold on the street or through the internet, regardless of its medicinal markings or festive appearance, you risk your life. My office and our partners are committed to intercepting lethal fentanyl and ensuring that these rainbow-colored pills don't lead more people down a sad path of substance use and overdose death."

"Disguising fentanyl as candy—and concealing it in children's toys—will never hide the fact that fentanyl is a deadly poison that harms our communities, our families, and our city," said Police Commissioner Keechant L. Sewell. "The criminal complaint unsealed today is another example of the NYPD's relentless commitment to never stop working to rid New York city of illegal drugs and I want to thank the Special Narcotics Prosecutor for the city of New York, the DEA New York Division, the New York State Police, and everyone else involved in this case for their exceptional work."

New York State Police Superintendent Kevin P. Bruen said, "I want to thank our members and law enforcement partners for their unwavering work in stopping the flow of illegal drugs throughout our State. The arrest of Latesha Bush and the seizure of these lethal drugs are the direct result of a commitment to aggressively target and pursue criminals who perpetuate the distribution of these narcotics. Together, we will continue to eliminate these operations and those who seek to destroy the quality of life within our communities."

A criminal complaint filed by the Office of the Special Narcotics Prosecutor (SNP) charges Bush, of Trenton, N.J., with Criminal Possession of a Controlled Substance in the First and Third Degrees.

Bush was arraigned in Manhattan Criminal Court on Friday, September 30, 2022. Bail was set at $25,000 cash/$150,000 insurance company bond/$100,000 partially secured surety bond.

The investigation was conducted by DEA's New York Drug Enforcement Task Force (NYDETF) Group T–12, which is comprised of agents and officers with DEA New York Division and the New York City Police Department. SNP's Investigators Unit assisted in the investigation.

On Wednesday, September 28, 2022, at approximately 7:11 p.m., members of NYDETF Group T–12 were conducting surveillance as part of an ongoing investigation into narcotics trafficking when they allegedly observed Bush carrying what-appeared to be a black tote bag wrapped around a large object as she entered a vehicle in front of 475 10th Avenue in Manhattan.

Upon stopping the vehicle, agents and officers allegedly found Bush in the rear seat, with two black tote bags and a yellow LEGO container also in the rear seat. Inside the LEGO container were several brick-shaped packages covered in black tape lying next to LEGO blocks. The black tape covering one of the packages had been partially opened, exposing multi-colored pills inside. A subsequent examination of the packages revealed they contained approximately 15,000 pills.

During the investigation, agents and officers learned that just prior to the arrest, Bush had travelled from New Jersey to the vicinity of 475 10th Avenue in a rental car. Agents and officers also learned that the multi-colored fentanyl pills allegedly originated in Mexico.

DEA laboratory analysis of the narcotics seized in New York is pending. Preliminary testing indicated the presence of fentanyl.

Last week the DEA announced the results of the third phase of the One Pill Can Kill initiative focused on combatting the fake pill threat which led to the seizure of more than 10.2 million fentanyl pills and approximately 980 pounds of fentanyl powder during the period of May 23 through Sept. 8, 2022. The amount of fentanyl taken off the streets during this surge is equivalent to more than 36 million lethal doses removed from the illegal drug supply. Additionally, 338 weapons were seized, including rifles, shotguns, pistols, and hand grenades. There were 390 cases investigated during this period, 51 cases are linked to overdose poisonings and 35 cases link directly to one or both of the primary Mexican cartels responsible for the majority of fentanyl in the United States—the Sinaloa Cartel and the Jalisco New Generation Cartel (CJNG). In addition, 129 investigations are linked to social media platforms, including Snapchat, Facebook Messenger, Instagram, and TikTok.

Special Agent in Charge Frank A. Tarentino thanked the New York City Office of the Special Narcotics Prosecutor, the New York City Police Department, the New York State Police, SNP's Special Investigations Bureau and Investigators Unit and Group T–12 of the New York Drug Enforcement Task Force.

Mr. HIGGINS. I'm very pleased to have a distinguished panel of witnesses before us today on this very important topic, and I ask that our witnesses please rise and raise your right hands.

[Witnesses sworn.]

Mr. HIGGINS. Let the record reflect that the witnesses have answered in the affirmative.

Thank you, gentlemen. Please be seated.

I'd now like to formally introduce our witnesses.

Mr. Kemp Chester is a senior advisor to the director of National Drug Control Policy. Previously, Mr. Chester served for 27 years as a United States Army officer, serving in a number of command and staff positions within the United States and abroad. In his current role, Mr. Chester directs policy focused on addressing the production and trafficking of illicit drugs, including the United States counternarcotics relationships with China and India.

Our witness seated at the table next to Mr. Chester is Mr. Steven Cagen. He serves as the assistant director of the Countering Transnational Organized Crime Division for Homeland Security Investigations, where he leads a wide array of operations investigating TCOs and narcotics trafficking. Mr. Cagen comes with 25 years of Federal law enforcement experience, including combating drugs and arms trafficking in Mexico City and working his way through the ranks of Senior Executive Service.

Thank you for being here, sir.

Mr. James Mandryck is deputy assistant commissioner in the Office of Intelligence at the United States Customs and Border Protection. In his role, Mr. Mandryck supports the day-to-day operations of CBP's intelligence enterprise, including the tactical and operational analysis that drives law enforcement operational activities. Mr. Mandryck previously served as a senior executive overseeing the National Border Security Intelligence Watch.

Thank you for being here, good sir.

Our next witness is Mr. George S. Papadopoulos, who was most recently appointed as United States Drug Enforcement Administration's principal deputy administrator. That's quite a title. Prior to this role, Mr. Papadopoulos served as the agency's acting chief of operations, where he oversaw all operational and enforcement matters for the DEA.

Thank you for being here today, good sir.

Mr. Tyrone Durham is the acting director of the Nation-State Threat Center in the Office of Intelligence and Analysis at the Department of Homeland Security.

I thank you, Mr. Durham, for joining us today.

I thank all the witnesses for joining us.

I now recognize Mr. Chester for 5 minutes to summarize his opening statement.

STATEMENT OF KEMP L. CHESTER, SENIOR ADVISOR TO THE DIRECTOR OF NATIONAL DRUG CONTROL POLICY, OFFICE OF NATIONAL DRUG CONTROL POLICY, EXECUTIVE OFFICE OF THE PRESIDENT

Mr. CHESTER. Chairman Higgins, Ranking Member Correa, and Members of the subcommittee, thank you for the opportunity to testify today on the very real challenge we confront from the pro-

duction and trafficking of deadly synthetic opioids across our borders and into our communities.

I know I don't need to remind anyone here that someone in America dies from a drug overdose or poisoning about every 5 minutes of every hour of every day. That is why the President made ending the opioid epidemic a key pillar in his unity agenda, challenging us to change the trajectory of this crisis and save American lives.

Not long ago, the dominant model of drug trafficking involved plant-based drugs like cocaine or heroin or methamphetamine made from crude chemicals, moved through a hierarchical drug-trafficking organization and eventually sold in a face-to-face cash transaction somewhere in the United States. While that structure still exists, it has been joined by a synthetic opioid production and supply chain that operates as a global business and exploits the structure of legitimate commerce to obtain precursor chemicals, move funds, and make internet-based sales of raw materials and finished drugs using both fiat and cryptocurrency.

Today, the ability of an American teenager to find illicit drugs is literally in the palm of their hand and as simple as opening a social media app.

We are in the midst of a strategic transition between two eras, where the cultivation and production of large volumes of plant-based drugs has not ended, but the era of small-volume, high-potency synthetic opioid production has clearly begun.

This problem does not start at our border and it will not end at our border. It is a national security and economic prosperity problem, as much as it is a law enforcement and public health one.

In April of this year, the administration announced its strategic approach to disrupt the global illicit fentanyl supply chain. We call this approach commercial disruption, which focuses and synchronizes all the tools of national power to simultaneously attack four key vulnerabilities in the supply chain: precursor chemicals; the pill presses, dye molds, and encapsulating machines used to create counterfeit pills; the commercial shipping that moves these items around the world; and the flow of financial benefits and operating capital to those involved in the illicit drug industry.

As part of this, we maintain close and mutually-beneficial partnerships with key countries, such as Mexico and India, who play a role in preventing the proliferation of these dangerous synthetic drugs and in advancing our efforts to disrupt their supply chain.

So for an issue in which United States and PRC interests align, we are disappointed that they have chosen not to substantively engage with the United States on counternarcotics for more than a year. But this is a global problem, and the United States leadership is essential.

Under our leadership, the international community has scheduled nearly a dozen precursor chemicals, and we've raised global awareness of the illicit synthetic drug supply chain.

Last week, Director Gupta joined Secretary of State Blinken for the first meeting of the global coalition against synthetic drugs. More than 80 countries convened at the ministerial level to accelerate efforts against synthetic drugs.

Our efforts to reduce the presence of these drugs in our communities must be closely linked with our equally strong efforts to decrease their use. The administration is committing a historic level of resources to lower the demand for these drugs and keep Americans safe from their harms. The simple truth is it cannot be easier to get illicit drugs in America than it is to get treatment.

We are seeing some signs of progress. Just today, the CDC released new data on provisional drug overdose deaths, showing a continued flattening of drug overdose deaths through early 2023, halting a period of rapid increase from 2019 to 2021.

But that is not enough. Now is the time to redouble our efforts, accelerate our work, and move this Nation and the world beyond a crisis that has vexed us for the better part of a decade. People in the throes of addiction are in a fight every day, and they should expect nothing less from us as well.

On behalf of Dr. Gupta and the hard-working people at the Office of National Drug Control Policy, I would like to thank this subcommittee and your Congressional colleagues for your leadership and bipartisanship on this incredibly difficult issue. Ending the opioid and overdose epidemic demands the best efforts of us all, and we look forward to continuing our work with you.

Thank you, and I look forward to your questions.

[The prepared statement of Mr. Chester follows:]

PREPARED STATEMENT OF KEMP L. CHESTER

WEDNESDAY, JULY 12, 2023

Chairman Higgins, Chairman Pfluger, Ranking Member Correa, Ranking Member Magaziner and Members of the Subcommittees, thank you for the opportunity to testify today on the very real challenge we confront from the production and trafficking of deadly synthetic opioids across our borders and into our communities. I am honored to join my colleagues from the Departments of Homeland Security and Justice, who are vital partners in implementing the National Drug Control Strategy, and in keeping our country and our communities safe.

INTRODUCTION

I am sure I do not need to remind anyone in this room that over a 1-year period we have lost more than 109,000 Americans to a drug overdose or poisoning, more than 69 percent of which can be attributed to a synthetic opioid like illicit fentanyl and other substances that are structurally similar to fentanyl. That is someone in America dying from a drug overdose or poisoning about every 5 minutes, every hour, of every day.

Alongside those we have lost are those who have suffered a non-fatal overdose. It is estimated that for every fatal overdose there are 14 non-fatal overdoses—more than 1.5 million in 2022 alone. Additionally, 46 million people in America, almost 14 percent of the population, are currently suffering from substance use disorder. Too many Americans—those we have lost to overdoses, those who have overdosed but did not lose their lives, and those living with a substance use disorder—have either succumbed to drug use or carry the burden of it in some way.

This is why the President made ending the opioid and overdose epidemic a key pillar of his Unity Agenda, challenging us to reduce the number of drug overdose deaths, put quality public health services within reach for people with substance use disorder, and strengthen public safety by disrupting the drug production and trafficking pipeline that profits by harming Americans.

THE ENVIRONMENT OF DRUG PRODUCTION AND TRAFFICKING

There was a time, not very long ago, that drug production was limited to processing poppy, or harvesting coca, or manipulating over-the-counter pharmaceuticals with crude chemicals to make methamphetamine. Those finished drugs were moved through a hierarchical drug trafficking organization to a street-level retailer, and eventually sold in a face-to-face cash transaction on a street corner somewhere in

the United States. That was the dominant model of drug trafficking we saw for decades.

While that drug production and trafficking structure still exists, it has been joined by a synthetic opioid production and supply chain that is, in essence, a global business enterprise that demonstrates access to huge capital resources, conducts routine collaboration among raw material suppliers across international borders, uses advanced technology to fund and conduct business, and possesses the capacity for product innovation and strategies to expand markets.

These synthetic opioid producers and traffickers operate as free-riders on the back of the 21st Century global economy that moves products, ideas, and money across borders with incredible speed, and they exploit that legitimate economic structure to sustain and enhance their illicit business. This includes key activities such as the provision of precursor chemicals, some of which are unregulated, and their finished products that can be shipped in plain sight around the world; physically dislocated payments that include the movement of funds across borders; and the internet-based sales of raw materials and finished drugs using both fiat and cryptocurrency.

And these synthetic opioids—principally fentanyl and its analogues, though there are others—that are killing Americans are manufactured outside of the United States and brought across our borders and into our communities by a variety of means. Today, an American teenager can find illicit drugs in the palm of their hand, and simply by opening a social media app.

We find ourselves in the midst of a strategic transition between two eras, where the cultivation and production of large volumes of plant-based drugs like heroin and cocaine has not ended, but the era of small volume, high-potency, synthetic drug production has clearly begun.

While we need to address the on-going plant-based drug problem that continues to harm our citizens, we must simultaneously develop and implement the means necessary to confront the emerging synthetic opioid production and trafficking environment that is defined by complexity, dynamism, and resiliency. This requires increased effort, a more sophisticated approach, better use of the tools available to us, and the application of new tools we have not traditionally employed against the illicit drug problem. We cannot simply charge into the future by doing the exact same things we have been doing, but just trying to do them better, and we cannot address the most dynamic and complex drug production and trafficking environment in history with the same strategies that may have served us well in the past but are insufficient for the challenges we face today.

While the administration is aggressively pursuing investments in non-intrusive inspection equipment, artificial intelligence, machine learning, and more, to prevent these drugs from crossing our geographic borders, we must bear in mind that this problem does not start at our border and it will not end at our border. It starts with the illicit synthetic opioid production in another country and ends in an emergency department or morgue somewhere in America. For the United States, it is a national security and economic prosperity problem as much as it is a public safety and public health one, and we must face it head-on with the bold, comprehensive, and determined strategic approach it deserves.

Doing so requires strong leadership from the White House providing unity of both purpose and effort across the Federal Government; strong bilateral relationships with key countries that share responsibility to address the problem and must be part of the solution; and perhaps, most importantly, the United States' global leadership.

THE ADMINISTRATION'S STRATEGIC APPROACH

The President has declared "that international drug trafficking, including the illicit production, global sale, and widespread distribution of illegal . . . fentanyl and other synthetic opioids . . . constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States." In April of this year, the administration announced its Strengthened Approach to Crack Down on Illicit Fentanyl Supply Chains, a whole-of-Government approach to save lives by disrupting the trafficking of illicit fentanyl and its precursors into American communities. We call this approach Commercial Disruption, and it focuses and synchronizes our national security and public safety capabilities, including innovative approaches, against criminal facilitators and enablers, and attacks four key vulnerabilities in the illicit fentanyl supply chain to maximize our impact across the drug producers' and traffickers' spectrum of capabilities:

- The precursor chemicals, including unregulated chemicals that can be used to create immediate precursors.

- The pill presses, die molds, and encapsulating machines used to create the pills that are killing far too many Americans.
- The drug producers' ability to move raw materials like precursors and manufacturing machinery around the world via commercial shipping.
- The flow of financial benefits and operating capital to individuals and groups directly and indirectly involved in the illicit drug industry.

Targeting those four critical elements will allow us to remove the advantages fentanyl producers and traffickers currently enjoy, disrupt their production and supply chains, and reduce the availability of these dangerous substances in America's communities.

As part of this approach, we are also working much more closely with our private-sector partners. The vast majority of the physical and virtual terrain on which drug traffickers operate such as the dark web, e-commerce sites, mail and express consignment shippers and freight forwarders, banks, cryptocurrency vendors, legitimate chemical suppliers, and pill press and die manufacturers, are private-sector entities. And some of them likely have no idea they are a constituent part of an illicit business enterprise.

We must raise a sophisticated awareness of this environment with the commercial sector around the world, and engage with them in a full partnership, so we can sift out the unwitting from the knowing and intentional actors here in the United States and abroad, and then focus our efforts on the latter in a more precise way.

BILATERAL RELATIONSHIPS WITH KEY COUNTRIES

A second significant aspect of addressing this challenge is maintaining close and mutually beneficial partnerships with key countries who not only play a role in preventing the global proliferation of these dangerous synthetic drugs, but will also play a role in advancing our global efforts to disrupt the global supply chain.

Mexico.—We have redoubled our efforts with the government of Mexico, working alongside it as it does more to address fentanyl production and trafficking. President Biden has stressed the importance he places on this issue with President Lopez Obrador, and our two governments are working more closely than ever on the fentanyl problem to establish tangible goals, assess progress, and follow-through on mutual commitments.

Given the combination of our shared border, our two-hundred-year bilateral relationship, and the negative effects that drug producers and traffickers in Mexico have on both sides of the border, it is vitally important that our bilateral relationship be characterized by mutual respect, and a sense of the shared responsibility we have to address the shared threat of drug trafficking and its associated criminality. Further, we have strengthened all of North America in our work with Mexico and Canada through the trilateral North American Drug Dialogue.

Just as the United States does not have to lose 109,000 people to drug overdoses or poisonings every year, the people of Mexico can have a future free from an expectation of unaccountable criminality and the scourge of drug production that corrupts their towns, victimizes their families, and pollutes their natural spaces.

The People's Republic of China.—As we are leading the global effort to disrupt the production and trafficking of these drugs, we look forward to the People's Republic of China (PRC) joining us in that effort.

However, no one should mistake our willingness to engage for an acceptance of the status quo, especially on an issue felt so acutely in the United States and when so many lives have been impacted. Years of seizure and law enforcement data show that unscrupulous elements within the PRC have been a major source for precursor chemical shipments, pill presses, and die molds entering the Western Hemisphere.

This is also an issue in which the interests of the United States and China align, and our past engagement on the counternarcotics issue has brought some impressive results, including the domestic scheduling of fentanyl as a class, which had an immediate impact on reducing the flow of fentanyl and its analogues directly from the PRC. The United States will work with the PRC whenever possible to fully address the grave and growing problem of illicit synthetic drug production and trafficking at the global level.

Given the gravity of this issue, it is disappointing that the PRC has chosen to not take substantive steps to counter illicit synthetic drug production and trafficking for more than a year. With leadership comes accountability, and while the PRC plays a major role in this global problem, it has thus far declined to play a constructive role in helping to solve it. Last week, as nearly 100 countries and international organizations gathered in a demonstration of deep concern and a desire for tangible solutions to the grave and growing problem of illicit synthetic drug production and trafficking, the PRC declined its invitation to participate in the virtual ministerial

meeting to launch the Global Coalition to Address Synthetic Drugs. We sincerely hope that the PRC can find the political will to address this problem commensurate with its capability to do so.

India.—The United States and India have been growing our counternarcotics relationship since 2020 through a bilateral counternarcotics Working Group, addressing the law enforcement, multilateral, regulatory, and drug demand reduction dimensions of this problem with a focus on tangible results and mutually beneficial outcomes.

During Prime Minister Modi's recent visit to the White House, the two leaders committed to work toward a broader and deeper bilateral Drug Policy Framework for the 21st Century. Under this new framework, we will look to expand cooperation and collaboration to disrupt the illicit production and international trafficking of illicit drugs, including synthetic drugs, such as fentanyl and amphetamine-type stimulants, and the illicit diversion of their precursors within India's chemical industry. They also committed to a holistic public health partnership to prevent and treat illicit drug use, address workforce shortages and skilling requirements across both countries, and showcase a secure, resilient, reliable, and growing pharmaceutical supply chain as a model for the world.

The world's oldest democracy, working in close partnership with the world's largest, cannot only achieve tangible and positive results, but will model for the rest of the world how great nations can work together to counter threats, seize opportunities, and demonstrate sincere partnership in addressing one of the most significant global issues we face.

STRONG UNITED STATES GLOBAL LEADERSHIP

Finally, as important as our bilateral relationships are, this is a global problem, and global problems require global solutions. The United States has learned a great deal from its opioid epidemic, and no other country has the depth of experience, expertise, or political wherewithal to lead on this issue. And that leadership involves not only sharing every single lesson we have learned the hard way over the past several years with our partners, but also serving as an example of how we are navigating this complex problem with care for those suffering from the disease of addiction, while systematically dismantling the global infrastructure of those who continue to reap obscene profits through the suffering and death of Americans.

The international community has successfully scheduled nearly a dozen precursor chemicals with global partners through the United Nations Commission on Narcotic Drugs, including 5 fentanyl precursors at the request of the United States.

We have led in raising global awareness of the nature of the global illicit synthetic drug supply chain, and are working to make common-sense and responsible measures to disrupt the exploitation of legitimate commerce a global norm.

And we have led by example, by committing billions of dollars, more than half our Federal drug control budget, to public health measures to prevent our youth from falling into the cycle of drug use and addiction, reduce the harms caused by these drugs and save lives, extend treatment services to everyone who needs and wants them, and making our communities and workplaces recovery-ready.

It is an unfortunate fact that there are three kinds of countries in the world: those who have a synthetic opioid problem and are dealing with it; those who have the problem but do not yet know it; and those who will have a problem with fentanyl or another synthetic opioid in the coming years. Too much illicit fentanyl production occurs, generating too much money, and absent decisive action this illicit market will expand exponentially around the world. It is important for all nations to put into place, now, the protective measures that will prevent this expansion and protect their people.

On July 7, Director Gupta joined Secretary of State Blinken for the first meeting of the Global Coalition to Address Synthetic Drug Threats. This ministerial-level meeting, hosted by the United States, brought together nearly 100 countries and international organizations to accelerate efforts against illicit synthetic drugs by: (1) Preventing the illicit manufacture and trafficking of synthetic drugs, (2) detecting emerging drug threats and drug use patterns, and (3) promoting public health interventions and services to prevent and reduce drug use, overdose, and other related harms. This first-of-its-kind global coalition will develop concrete solutions, drive national actions, and leverage the collective effort of like-minded countries who agree that countering illicit synthetic drugs must be a global policy priority.

COMPLEMENTING OUR PUBLIC SAFETY EFFORTS WITH A STRONG PUBLIC HEALTH RESPONSE

Because there is a complex interplay between the availability of drugs in the United States and their use, our public safety efforts to reduce their presence in our communities must be closely linked with our equally strong public health efforts to reduce their use. Traffickers are not going to import products no one wants, and individuals cannot overdose on drugs that are not available for them to purchase.

Therefore, disrupting the flow of drugs into the United States is not only vital to keep drugs from harming our citizens, but is especially important as the means to relieve the pressure of the steady flow of drugs into our communities and to allow our historic investments in public health interventions to take hold. The simple truth is that if it is easier to get illicit drugs in America than it is to get treatment, we will never bend the curve.

The administration has been working to greatly expand access to addiction treatment, harm reduction interventions, youth substance use prevention programs, and recovery support services. Much of this work is being done in partnership with Congress, and I want to thank the Members of this committee and the Congress at large for your support of numerous pieces of legislation in helping to address this crisis. These include the bipartisan omnibus Government funding bill, which included key provisions to help lower barriers to treatment and deliver necessary tools and resources to our communities to address the overdose crisis, such as the bipartisan Mainstreaming Addiction Treatment Act and the Medication Access and Training Expansion Act. Thanks to these provisions, prescribers across the country will be able to treat their patients who have opioid use disorder with buprenorphine, a medication proven to help people achieve recovery, without obtaining additional Federal licensing.

The Office of National Drug Control Policy has also funded the development of a number of model State laws to help local jurisdictions across the country expand access to naloxone, improve treatment in jails and prisons, and deploy settlement funds from the various opioid lawsuits effectively, among others. Similarly, ONDCP has worked with its partners across the Government to make permanent the COVID–19-related flexibilities that expanded access to treatment, and support people in recovery.

We are seeing signs of progress. The latest report on 12-month rolling data shows the number of drug poisoning deaths in the United States flattened in 2022 after a period of sharp increase from 2019 to 2021, and the number of fatal drug overdoses has decreased from its peak of 110,378 projected for the 12-month period ending March 2022.

But that is not enough. Now is the time to redouble our efforts, accelerate our work, and move this Nation, and the world, beyond a crisis that has vexed us for the better part of a decade. People in the throes of addiction are in a fight every day, and they should expect nothing less from us as well.

CONCLUSION

The administration's leadership on this critical issue, the close collaboration among partners within the United States and around the world, and the work of the Members of this committee and your colleagues in Congress have kept this issue at the forefront of our national consciousness and are changing the trajectory of this particularly complex national security, public safety, and public health challenge. We have much work ahead of us, and your partnership will be as critical in the months ahead as it has been thus far.

On behalf of Dr. Gupta and the hard-working people at the Office of National Drug Control Policy, I would like to thank the committee and your Congressional colleagues for your foresight and leadership on this incredibly difficult issue. Ending the opioid and overdose epidemic demands the best efforts of us all: The entirety of the Federal Government; States, Tribes, and local communities; private-sector partners and stakeholders; and the Congress, which has time and again demonstrated a strong spirit of bipartisanship on this issue.

The Office of National Drug Control Policy looks forward to continuing its work with this committee, the Congress, and our other partners to disrupt the production and trafficking of these dangerous drugs, prevent drug overdoses and poisonings, and save American lives.

Mr. HIGGINS. Thank you, Mr. Chester.

I now recognize Mr. Cagen for 5 minutes to summarize his opening statement.

STATEMENT OF STEVEN W. CAGEN, ASSISTANT DIRECTOR, HOMELAND SECURITY INVESTIGATIONS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. CAGEN. Thank you, Chairman.

Chairman Higgins, Ranking Member Correa, and distinguished Members of the committee, thank you for the opportunity to be here today to discuss Homeland Security Investigations' efforts to disrupt and dismantle transnational criminal organizations and combat the flow of illicit fentanyl into the United States.

As a principal investigative component of Department of Homeland Security, HSI combats transnational criminal organizations at every critical location within an illicit supply chain: internationally, where TCOs operate and manufacture illicit narcotics; at our Nation's physical borders, where smugglers attempt to exploit America's legitimate trade, travel, and financial systems; and domestically, where the criminal organizations earn substantial profits from selling this poison to our friends, neighbors, and family members.

The threat posed by TCOs is pervasive. These organizations do not limit themselves to a single criminal enterprise and have evolved beyond narcotics smuggling into poly criminal organizations involved in weapons trafficking, cyber crime, human smuggling, money laundering, and more, all of which HSI investigates.

HSI combats TCOs by using its unique, broad investigative authorities to enforce over 400 Federal laws and target TCOs from multiple investigative angles. Simply put, HSI attacks the entire illicit network.

Mexican cartels have taken over fentanyl production and operate on an industrial scale, where they obtain precursor chemicals from China and synthesize these chemicals in Mexico to produce the deadly poison.

Chinese criminal organizations further facilitate the trafficking and distribution of fentanyl pills through the sale of industrial pill press equipment to Mexican cartels.

The Mexican cartels' ability to traffic deadly fentanyl into the United States is greatly enhanced by Chinese money-laundering organizations. Chinese money-laundering organizations have developed sophisticated networks in the United States, Mexico, China, and throughout Asia to facilitate their money-laundering schemes. These organizations have a vast global infrastructure to clean illicit proceeds for various criminal organizations, mostly including Mexican cartels.

HSI's counter-TCO efforts begin abroad, where we have the largest international investigative presence within DHS, comprised of hundreds of HSI special agents, strategically assigned in 93 offices in 56 countries. This includes offices located in Mexico, where the vast majority of fentanyl is produced; and throughout the Asian-Pacific region, where the precursor chemicals originate.

HSI's international efforts are greatly enhanced by our Transnational Criminal Investigative Units, or TCIUs, comprised of vetted foreign law enforcement officials and prosecutors, who lead some of HSI's most significant and mutually beneficial extraterritorial investigations and prosecutions targeting TCOs.

At our Nation's physical borders, HSI works with our DHS partners to combat TCO movements of illicit goods. HSI's Border Enforcement Security Task Force, or BEST task forces, represent one of the agency's premiere tools for turning border seizures into TCO-toppling investigations.

HSI's partnerships, including task force officers from CBP and DEA, are integral to the whole-of-Government approach in countering TCOs that traffic narcotics that threaten public safety of the United States.

There are currently 90 BESTs comprised of law enforcement officers from more than 200 agencies and National Guard units.

HSI is simultaneously attacking the illicit narcotic supply chain through an intelligence-based counternarcotics operation that blends traditional investigative and analytical techniques with interagency collaboration, industry partners, and computer-based tools to disrupt and dismantle the chemical supply chain. The interdiction of precursor shipments plays a key role in disrupting the TCOs' ability to produce a finished product before it even gets to our borders.

HSI's Operation Hydra has seized or disrupted the delivery of more than 3 million pounds of precursor chemicals that were destined for narcotics production in labs in Mexico.

HSI has also launched a targeted enforcement campaign to combat fentanyl. This year, HSI and CBP initiated Operation Blue Lotus, which surge resources to key locations, both domestically and internationally, to target fentanyl and develop criminal cases along the Southwest Border. Operation Blue Lotus resulted in the seizure of more than 8,200 pounds of fentanyl, thereby decreasing the flow of illicit fentanyl smuggled into the United States from Mexico, while simultaneously illuminating TCO networks.

Working alongside our partners here today, HSI remains dedicated to stemming the flow of illicit narcotics at every critical location within the supply chain.

Thank you again for the opportunity to appear before you today and your continued support for HSI in our enduring effort to attack the flow of illicit fentanyl into the United States.

I look forward to your questions today.

[The prepared statement of Mr. Cagen follows:]

PREPARED STATEMENT OF STEVEN W. CAGEN

WEDNESDAY, JULY 12, 2023

Chairman Higgins, Ranking Member Correa, and distinguished Members: Thank you for the opportunity to appear before you today to discuss Homeland Security Investigations' (HSI) efforts to disrupt and dismantle transnational criminal organizations (TCOs) and combat the flow of illicit fentanyl into the United States. With more than 6,800 special agents located in hundreds of offices throughout the United States and the world, HSI investigates, disrupts, and dismantles terrorist, transnational, and other criminal organizations that threaten our Nation's security. My statement today will focus on the broad spectrum of illicit activities perpetrated by TCOs, HSI's collaborative efforts to combat TCOs, and the resources needed to ensure continued success in the disruption and dismantlement of TCOs domestically and internationally.

As the principal investigative component of the Department of Homeland Security (DHS), HSI is responsible for investigating transnational crime. In collaboration with its partners in the United States and abroad, HSI special agents develop evidence to identify and advance criminal cases against TCOs, terrorist networks and facilitators, and other criminal elements that threaten the homeland. HSI works

with prosecutors to arrest and indict violators, execute criminal search warrants, seize criminally-derived money and assets, and take other actions with the goal of disrupting and dismantling TCOs operating throughout the world. These efforts help protect the national security and public safety of the United States.

TCOs flood the United States with deadly drugs, including illicit fentanyl and other opioids. HSI conducts Federal criminal investigations at every phase of the illicit drug supply chain: internationally, where TCOs operate and manufacture illicit drugs; at our Nation's borders and ports of entry (POEs), where smuggling cells attempt to exploit America's legitimate trade, travel, and transportation systems; and in communities throughout the United States. HSI combats TCOs through multiple avenues of criminal enforcement. Not only does HSI target the narcotics smuggling activities of the TCOs, it also targets the financial networks they utilize to fund and profit from their illegal activity. HSI also targets the various other illegal activities the TCOs employ to fuel their criminal organizations, including human smuggling and trafficking, cyber crime, intellectual property rights violations, and fraud.

EVOLUTION OF TRANSNATIONAL CRIMINAL ORGANIZATIONS

Criminal organizations in the 21st Century do not limit themselves to a single criminal enterprise. These criminal organizations have expanded beyond narcotics smuggling and have morphed into poly criminal TCOs involved in the associated crimes of weapons trafficking, human trafficking, human smuggling, money laundering, and other crimes—all of which HSI investigates. Rather than narrowly focusing on a single element of the TCOs, HSI combats TCOs by using its unique and broad investigative authorities to enforce over 400 Federal laws. Investigative efforts must be broad in scope to fully dismantle enterprises that transcend borders.

TCOs have also evolved beyond insular entities and have sought out partnerships with competing TCOs in furtherance of their criminal activities. For example, the illicit collaboration between Chinese TCOs and Mexican cartels has created a complex criminal ecosystem that is fueling money laundering and narcotics trafficking operations, specifically illicit fentanyl, into and within the United States. Chinese money-laundering organizations have developed sophisticated networks in the United States, Mexico, China, and throughout Asia to facilitate money-laundering schemes. These organizations utilize their vast global infrastructure to clean illicit proceeds for various criminal organizations, including Mexican cartels. Moreover, as Mexican cartels have taken over fentanyl production and operate on an industrial scale, they are obtaining precursor chemicals from China and synthesizing these chemicals in Mexico to produce fentanyl. Mexican cartels then smuggle the fentanyl into the United States in either powder or pill form for distribution. HSI is attacking this illicit narcotics supply chain through an intelligence-based counternarcotics operation that blends traditional investigative and analytical techniques with interagency collaboration, industry partnerships, and computer-based tools.

Chinese TCOs also facilitate the trafficking and distribution of illicit fentanyl pills by providing the Mexican cartels with the pill press equipment to make the fake oxycodone pills. They are made to look identical to prescription oxycodone but are laced with deadly fentanyl. These fake pills are the most common type of illicit fentanyl pill, and are responsible for thousands of overdose fatalities, as the user believes they are taking a real oxycodone pill. In order to manufacture these pills, Mexican cartels require industrial pill press equipment to turn powdered fentanyl into pill form. The Mexican cartels are purchasing these pill presses directly from Chinese manufacturers that are producing the equipment specifically for illicit activity. HSI is actively disrupting the pill press supply chain, and to date has seized over 1,500 pill presses and parts used to make deadly fentanyl-laced pills.

HSI INTERNATIONAL EFFORTS

HSI's efforts to combat TCOs and illicit fentanyl begin abroad. HSI has the largest international investigative presence within DHS, comprising hundreds of HSI special agents assigned to 93 offices in 56 countries. These include offices in Mexico, where the vast majority of illicit fentanyl is produced, and throughout the Asia-Pacific region, where synthetic drug precursor chemicals often originate.

HSI special agents abroad develop and foster relationships with host Government law enforcement partners to exchange information, coordinate and support investigations, and facilitate enforcement actions and prosecutions to disrupt and dismantle TCOs. HSI and its counterparts in other countries identify and disrupt sources of illicit drugs, transportation and smuggling networks, and money-laundering operations. These efforts by HSI and its partners aim to prevent dangerous

narcotics and other illicit goods from reaching our borders and also stop illicit outbound flows of illegally derived currency and weapons.

Transnational Criminal Investigative Unit Program

The effectiveness of our international counternarcotics efforts is greatly enhanced by HSI's Transnational Criminal Investigative Unit (TCIU) Program. TCIUs are comprised of vetted foreign law enforcement officials and prosecutors who support some of HSI's most significant extraterritorial investigations and prosecutions targeting TCOs. HSI has established 15 TCIUs around the world. These consist of more than 600 vetted and trained law enforcement officers across North, Central, and South America, the Caribbean, the Middle East, and Asia. In fiscal year 2022, TCIU efforts world-wide resulted in 3,800 criminal arrests and the seizure of nearly $18.6 million and over 350,000 pounds of narcotics and precursor chemicals.

Targeting the fentanyl precursor chemical supply chain is an integral element of HSI's approach to stopping the production of illicit drugs. HSI blends interagency and foreign collaboration, industry partnerships, financial intelligence, and computer-based tools to identify, target, and interdict precursor chemical shipments destined for Mexican cartels. Disruptions to the procurement phase can have an outsized impact on the narcotics production supply chain. Mexican cartels operate on an industrial scale when procuring precursor chemicals, and many interdiction efforts are led by investigators and prosecutors in the Mexican Attorney General's office who comprise the HSI Mexico City TCIU. In fiscal year 2022, efforts by the TCIU resulted in more than 120 criminal arrests and the seizure of approximately $1.1 million and 18,200 pounds of precursor chemicals. The TCIU also leads investigations targeting the labs where the chemicals are synthesized into illicit drugs.

National Targeting Center—Investigations

HSI's National Targeting Center—Investigations (NTC–I) was established in 2013 in collaboration with U.S. Customs and Border Protection's (CBP) National Targeting Center to further our shared border security mission. NTC–I supports the entire border security continuum, from CBP interdictions and HSI investigations, to the joint exploitation of intelligence. Through NTC–I, HSI supports all of DHS's domestic and international offices by targeting illicit precursor chemical movements within the commercial air and maritime transportation systems.

The combination of NTC–I targeting and foreign action through HSI's TCIUs is critical to stopping the flow of illicit drugs and dismantling TCOs. Using these resources, HSI targets the supply chains responsible for foreign origin shipments of precursor chemicals destined for Mexico. Thus far, this methodology has resulted in the seizure of approximately 3.3 million pounds of dual-use precursor chemicals intended for making illicit fentanyl and methamphetamine.

HSI DOMESTIC EFFORTS

HSI's ability to conduct complex large-scale investigations represents one of DHS's best weapons for dismantling TCOs. Part of HSI's mandate is to turn individual border seizures and arrests into multi-jurisdictional, multi-defendant investigations to disrupt, dismantle, and prosecute high-level members of TCOs. HSI special agents work every day with CBP officers and in coordination with other Federal, State, local, and Tribal law enforcement partners to identify and investigate drug-smuggling organizations attempting to introduce illicit contraband into the United States.

CBP's expansion of non-intrusive inspection (NII) scanning at Southwest Border POEs is poised to increase the number of CBP-origin seizures, which HSI special agents are required to investigate. To keep pace, HSI will require additional staffing to support the investigation and prosecution of individuals associated with POE seizures. Recent HSI Congressional appropriations tied to NII expansion represent an important initial step. HSI is moving quickly to deploy these new resources to Southwest Border POEs receiving NII augmentation. Given the required NII expansion to all land border POEs, additional staffing will be essential to ensure HSI retains adequate personnel to respond to these seizures and to conduct the complex investigations intended to degrade and remove TCO threats to the homeland.

Border Enforcement Security Task Forces

The Jaime Zapata Border Enforcement Security Task Force (BEST) Act was signed into law in December 2012. The Act was named in honor of Jaime Zapata, an HSI special agent who, while working to combat violent drug cartels, was killed in the line of duty in Mexico. This law amended the Homeland Security Act of 2002 to formally establish the BEST program, with the primary mission of combating emerging and existing transnational organized crime by employing a threat-based/risk mitigation investigative task force model that recognizes the unique resources

and capabilities of all participating law enforcement partners. In June 2022, the Bipartisan Safer Communities Act provided HSI with statutory authority to reimburse the salaries for State and local law enforcement task force officers who participate in BESTs.

BESTs eliminate the barriers between Federal and local investigations, close the gap with international partners in multinational criminal investigations, and create an environment that minimizes the vulnerabilities in our operations that TCOs have traditionally capitalized on to exploit our Nation's borders. There are currently 90 BESTs located across the United States, including Puerto Rico and the U.S. Virgin Islands, comprising approximately 1,000 law enforcement officers and personnel representing Federal, State, local, Tribal, and international law enforcement agencies, as well as National Guard units. In fiscal year 2022, BESTs initiated more than 5,300 investigations resulting in more than 6,000 criminal arrests and seizures of more than 317,000 pounds of narcotics, more than 480,000 pounds of precursor chemicals, and more than $206 million of illicit proceeds and assets.

Operation Blue Lotus

HSI has also launched targeted enforcement campaigns to combat illicit narcotics, particularly fentanyl. Between March 13, 2023 and May 10, 2023, CBP and HSI launched Operation Blue Lotus to facilitate and increase fentanyl interdictions at and between the POEs and develop criminal cases along the Southwest Border. Focusing operations at the ports of San Ysidro and Otay Mesa, California, and Nogales, Arizona, Operation Blue Lotus aimed to curtail the flow of illicit fentanyl smuggled into the United States from Mexico, while simultaneously illuminating TCOs networks. Operation Blue Lotus successfully resulted in the combined seizures of over 8,200 pounds of fentanyl.

Building upon the success of Operation Blue Lotus, on June 12, 2023, HSI launched Operation Blue Lotus 2.0 to strategically leverage its administrative, civil, and criminal law enforcement authorities to attack fentanyl distribution. Operation Blue Lotus 2.0 focuses operations along the border and interior facilities, including express consignment and international mail locations, to combat fentanyl trafficking nodes and target the smuggling of fentanyl and other illicit narcotics in the United States.

CYBER-RELATED EFFORTS

TCOs have become increasingly tech-savvy. For example, many have adopted anonymous cryptocurrency transactions through darknet marketplaces. These transactions may involve foreign vendors, but the result is the shipment of illicit drugs to or within our country.

Cyber Crimes Center

To keep pace with rapidly-evolving criminal techniques, HSI created the Cyber Crimes Center (C3) to provide investigative assistance, training, and equipment to support domestic and international investigations of cyber-related crimes for DHS. C3 supports HSI's mission through the programmatic oversight and coordination of investigations of cyber-related criminal activity and provides a range of forensic, intelligence, and investigative support services across all HSI programmatic areas.

C3's cyber investigators and analysts support HSI on-line undercover investigations targeting market site operators, vendors, and prolific buyers of opioids and other contraband on the darknet. C3 also supports tracing and identifying illicit proceeds derived from criminal activity on the dark web and investigating the subsequent money-laundering activities. Digital forensics play an ever-increasing role in investigating complex multinational narcotics organizations, and C3's Computer Forensics Unit and the HSI Computer Forensic Program are critical tools in combating the flow of drugs into the United States. C3's Computer Forensics Unit also provides forensic training and support to our Federal, State, local, Tribal, and international law enforcement partners.

A top priority for HSI is to improve collective law enforcement capabilities by providing training to partner law enforcement agencies. For example, C3 developed a cyber-training curriculum with a focus on darknet investigations and illicit payment networks associated with opioid smuggling and distribution. Since 2017, HSI has delivered this training course to more than 12,000 Federal, State, local, and international law enforcement personnel in over 70 locations world-wide.

ILLICIT FINANCE—FOLLOWING THE MONEY

One of the most effective methods for dismantling TCOs engaged in narcotics trafficking is to attack the criminal financial networks that are the lifeblood of their operations. HSI special agents work to identify and seize the illicit proceeds and in-

strumentalities of crime and target financial networks that transport, launder, and hide such proceeds. As a customs agency with significant access to financial and trade data, HSI is uniquely positioned to identify TCO schemes to hide illicit drug proceeds within legitimate commerce. HSI's financial efforts in fiscal year 2022 resulted in 2,607 arrests, 1,600 criminal indictments, 1,028 convictions, and the seizure of more than $4.2 billion in illicit currency and other assets (as valued at the time of seizure).

National Bulk Cash Smuggling Center

Despite the rise of alternative stores of value, such as virtual assets, bulk cash smuggling remains a key mechanism for TCO repatriation of drug proceeds. Criminal actors often avoid traditional financial institutions, which must comply with Bank Secrecy Act reporting requirements—instead repatriating their illicit proceeds through conveyances such as commercial and private aircraft, passenger and commercial vehicles, and maritime vessels, as well as via pedestrian crossings at our land borders.

Established in 2009, HSI's National Bulk Cash Smuggling Center (BCSC) is a critical component of the agency's and overall U.S. Government's efforts to combat bulk cash smuggling by TCOs. The BCSC operates strategic programs that leverage advanced data analytics, interagency partnerships, and law enforcement technology systems to identify complex money-laundering networks and provide support for HSI financial investigations. The criminal intelligence functions of the BCSC provide operational analysis in support of HSI-led interdiction efforts, including port profiles highlighting cash-flow activity at targeted POEs and corridor analyses to assist in planning the timing, location, and strategy for interdiction operations. The BCSC also administers a targeted, investigation-focused license plate reader program to identify larger criminal networks and a warrant-based GPS tracking program that provides valuable intelligence on the behaviors of criminal groups engaged in bulk cash smuggling. Since its inception through fiscal year 2022, the BCSC has initiated or substantially contributed to the seizure of bulk cash totaling over $1.73 billion.

TCOs are increasingly augmenting bulk currency smuggling with use of alternate value platforms in response to financial regulations and law enforcement efforts to identify money-laundering networks. A single movement of TCO proceeds may involve bulk cash, stored value cards, money orders, cryptocurrency, wire transfers, funnel accounts, and trade-based money laundering (TBML). HSI adapts to evolving criminal methodologies by leveraging new law enforcement technologies to identify money-laundering activity through these emerging alternate value platforms and seize criminal assets.

Trade-Based Money Laundering

TBML is the process of disguising criminal proceeds through international trade to hide their illicit origins. As the U.S. Government's primary law enforcement agency that investigates TBML, HSI utilizes data resources—maintained by DHS encompassing trade, travel, and financial information—to identify TBML schemes. HSI has established several national initiatives that target specific TBML schemes and provides subject-matter expertise, analytical support, and enforcement-related support to HSI special agents. Specifically, HSI has the ability to intercept and interdict trade and individuals associated with TBML that have a nexus to the borders of the United States and provide the necessary information to initiate criminal investigations targeting this activity.

Integral to these efforts are HSI-established Trade Transparency Units (TTUs), which combat the growing threat of international money laundering by TCOs via trade-based money laundering. The TTUs accomplish this mission using partner country data-sharing programs and the Data Analysis & Research for Trade Transparency Systems program. Through established partnerships, the TTUs have access to foreign trade, travel, and financial information used to support on-going criminal investigations and to address TBML on a global scale. These partnerships are based on bilateral agreements between the United States and 19 partner countries for the sharing of trade and financial information. Through the TTUs, HSI field offices can request information pertaining to companies and individuals that would otherwise be unavailable without the bilateral agreements.

Cryptocurrency

Cryptocurrencies are increasingly used to facilitate domestic and cross-border crime. They can be exploited by any criminal organization, and this is especially true as it pertains to on-line distribution of fentanyl, methamphetamine, and other illicit drugs.

Cryptocurrencies are attractive to TCOs because they offer a relatively fast, inexpensive, and pseudonymous system of transactions. HSI investigations related to cryptocurrency have risen from one criminal investigation in 2011 to over 530 criminal investigations in fiscal year 2023 to date. In fiscal year 2022, HSI seized nearly $4 billion (valued at the time of seizure) in cryptocurrency. This substantial increase signifies growing confidence in cryptocurrency use by criminals and criminal networks.

CONCLUSION

Thank you again for the opportunity to appear before you today and for your continued support of HSI and our efforts to use our unique authorities and global footprint to dismantle TCOs and combat the flow of illicit fentanyl into the United States. I look forward to your questions.

Mr. HIGGINS. Thank you, Mr. Cagen.

I now recognize Mr. Mandryck for 5 minutes to summarize his opening statements.

STATEMENT OF JAMES MANDRYCK, DEPUTY ASSISTANT COMMISSIONER, OFFICE OF INTELLIGENCE, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. MANDRYCK. Chairman Higgins, Ranking Member Correa, and distinguished Members of the subcommittee, thank you for the opportunity to testify here today about the fentanyl threat and CBP's intelligence and data-driven response and approach to combating this proliferation of this dangerous drug.

CBP uses multifaceted approaches to counter fentanyl. Our approach includes advanced detection capabilities, such as specialized canines and nonintrusive inspection equipment; intelligence collection; research and analysis; laboratory testing and scientific analysis; domestic and foreign partnerships; and most importantly, the experience, expertise, and dedication of the CBP work force.

This enforcement posture has led to record-level seizures, including over 22,000 pounds of fentanyl so far this fiscal year, the equivalent of over 90 million doses and over a billion dollars in cartel profits.

Today I'd like to provide a little more information about the composition of the fentanyl seized by CBP, current production and smuggling trends, and the significance of our enforcement efforts within this threat landscape.

When it comes to composition, this fiscal year, 88 percent of the fentanyl seized by CBP has been in pill form, continuing the trending shift away from powder. The concerning shift indicates an increased sophistication of the transnational criminal organizations to control production and mimic legitimate pharmaceuticals that ultimately target unsuspecting end-users.

Another growing trend we've witnessed is the expanded use of xylazine as an adulterant in fentanyl to extend the user's high. Xylazine, a central nervous system depressant, is not an opioid, so naloxone does not reverse its effects, making this dangerous synthetic combination even more deadly.

The production of illicit fentanyl entering the United States shifted back in 2020. At that time, fentanyl was produced as a finished product in China, then smuggled into Mexico, and then onward to the United States. Over the past 3 years, production has shifted to Mexico-based TCOs that infiltrate supply chains to import pre-

cursor and pre-precursor chemicals, primarily from China, and then recruit or coerce scientists to produce metric tons of finished fentanyl.

Through intelligence-led operations such as Operation Artemis, CBP has identified previously unknown logistical supply chains, some of whom that transship to the United States before arriving in Mexico, discoveries that have led to changes in cargo inspections and processing and resulted in significant seizures of precursors, pill presses, and dye molds, as well as the identification of unknown criminal actors.

Within Mexico, we continue to see elevated levels of violence between cartels along lucrative smuggling corridors, especially in Mexico's northern border states.

TCOs involved in trafficking synthetics have begun to expand from historic strongholds in western Mexico to access additional smuggling corridors in eastern Mexico through newfound alliances. These types of alliances have always been driven by monetary gain. What has changed is how profits from these illicit activities are transferred and distributed.

Historically, CBP saw a major portion of illicit proceeds depart the United States as bulk cash currency. However, TCOs are increasingly taking advantage of technologies like cryptocurrency and informal value transfer systems, such as the Chinese underground banking system, to reduce their risk of cross-border interdiction.

Exploitation of these systems allows for immediate transfers of illicit profits into the—from the United States to the TCO hierarchy in Mexico. In many cases, these money transfers are done cheaper than historic laundering options and, in most cases, with guaranteed success for the customer.

Furthermore, TCOs continue to seek opportunities to move their illicit profits from the United States without currency or monetary instruments, including trade-based money laundering and the acquisition of firearms in the United States that are smuggled into Mexico to help control those corridors.

The complex challenges require strong and deliberate partnerships across the Government at all levels, as well as with our international partners.

Exemplified by the success of recent intelligence and data-driven operations such as Operation Blue Lotus, Four Horsemen, Rolling Wave, and Operation Artemis are CBP's hand-in-hand work with our investigative partners becoming critical disrupting and dismantling the networks behind fentanyl synthesis. In just 2 months, Operation Blue Lotus and Operation Four Horsemen resulted in the seizure of nearly 10,000 pounds of fentanyl and almost 300 arrests.

CBP is currently executing Operation Artemis and Operation Rolling Wave, which target the illicit procurement, manufacturing, and trafficking of fentanyl and precursor chemicals by leveraging investigative, prosecutorial, and regulatory resources, and enhancing law enforcement information sharing and coordination.

In addition to our close work with U.S. partners, CBP has strong relationships with foreign and industry partners across the globe to further detect, disrupt, and dismantle criminal organizations. The consistent evolution of technology and the adaptability of

transnational criminal groups requires us to become more adaptable and combat these challenges.

I thank you for your continued support for CBP and the opportunity to testify in this important topic today. I look forward to your questions.

[The prepared statement of Mr. Mandryck follows:]

PREPARED STATEMENT OF JAMES MANDRYCK

JULY 12, 2023

INTRODUCTION

Chairman Higgins, Ranking Member Correa, and distinguished Members of the subcommittee, thank you for the opportunity to discuss U.S. Customs and Border Protection's (CBP) efforts to combat the dynamic threat of transnational criminal organizations (TCOs) and prevent the entry of dangerous illicit drugs, including fentanyl, into the United States.

The reach and influence of TCOs continues to expand across and beyond the Southwest and Northern Borders. These criminal organizations are sophisticated and operate with immense capability, capacity, and nearly unlimited resources. TCOs increasingly demonstrate the intent and ability to produce and modify synthetic drugs, making detection and identification difficult. They also continually adjust their tactics, techniques, and operational procedures to circumvent detection and interdiction by law enforcement, including transporting smaller quantities of drugs and improving concealment techniques.

As others have testified,[1] synthetic opioids like fentanyl—a synthetic opioid that is 80–100 times stronger than morphine—and its analogues are produced using precursor chemicals made available by criminal elements, often in the People's Republic of China. The precursor chemicals are shipped to Mexico where TCOs use these precursors to finish production. This fentanyl is either sold in powder form or pressed into pills. These drugs are then smuggled across the Southwest Border, most often through ports of entry (POEs).[2]

Because there is no single tool or capability that can detect all suspected threats in all situations and environments, CBP uses a multifaceted, intelligence-driven approach that combines advance targeting, sophisticated detection capabilities, specialized canines, non-intrusive inspection technology (NII), laboratory testing, scientific analysis, domestic and foreign partnerships, and information sharing. Most importantly, we also have dedicated, highly-trained officers, agents, and intelligence research specialists whose experience and expertise are essential components of all CBP's efforts to combat transnational threats and prevent the entry of illegal drugs into U.S. communities.

Our enforcement approach enables the agency to nimbly shift resources and swiftly respond to emerging threats, such as the deadly threat posed by illicit fentanyl, fentanyl analogues, other synthetic opioids, and methamphetamine, as well as the precursors and other chemicals used in illicit drug production.

DRUG TRENDS AND INTERDICTIONS

As noted above, most illicit drugs, including fentanyl, enter the United States through our Southwest Border POEs, hidden in passenger vehicles or belongings, concealed in commercial trucks, and carried by pedestrians. In fiscal year 2022, for example, nearly 66 percent of illicit drugs seized by weight by CBP at the Southwest Border were seized at POEs.[3]

---

[1] See, e.g., Written testimony, Kemp Chester, Senior Advisor, International Relations and Supply Reduction, Office of National Drug Control Policy, for a February 1, 2023, House Energy and Commerce Committee Hearing. *https://d1dth6e84htgma.cloudfront.net/Witness_Testimony_Chester_HE_02_01_2023_487130aade.pdf?updated_at=2023-02-01T14:37:29.433Z.*

[2] *https://www.cbp.gov/newsroom/stats/drug-seizure-statistics.*

[3] Of the 288,287 pounds of drugs CBP seized at the Southwest Border in fiscal year 2022, 189,682 pounds were seized at POEs. Excluding marijuana, CBP seized 202,631 pounds of illicit drugs at the Southwest Border, of which 179,317 pounds (88.5 percent) were seized at POEs. *https://www.cbp.gov/newsroom/stats/drug-seizure-statistics.* CBP Air and Marine Operations also contributed to drug seizure events with other agencies. These operations resulted in the seizure of approximately 270,000 pounds of drugs in fiscal year 2022. *https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/air-and-marine-operations-statistics.*

CBP seizures of fentanyl have been escalating for several years.[4] In fiscal year 2022, CBP seized nearly 15,000 pounds of fentanyl Nation-wide, with the majority—12,500 pounds—seized at POEs. We have already exceeded that amount this fiscal year. At our POEs alone, fentanyl seizures increased more than 200 percent in fiscal year 2022 compared to fiscal year 2019 and fiscal year 2020 totals combined. In fiscal year 2023 to date, CBP seizures at POEs already exceed more than 17,600 pounds of fentanyl.[5] These seizures permanently removed these drugs from the illicit supply chain, kept them out of our communities, and denied drug trafficking organizations profits and operating capital.

Marijuana, methamphetamine, heroin, and cocaine remain the top-seized drugs by weight but shifting trends over recent years produced significant increases in synthetic drugs like fentanyl. Fentanyl is the most frequently seized illicit synthetic opioid, but CBP has also encountered 31 substances that are chemically similar to fentanyl, as well as 44 unique synthetic opioids that are not from the fentanyl class.[6]

Although our statistics measure drug seizures by weight, CBP estimates it interdicted 1.1 billion potential doses of illicit fentanyl in fiscal year 2022. By the measure of potential doses, CBP fentanyl seizures were only second to methamphetamine, of which an estimated 16 billion doses in fiscal year 2022 were seized.[7] For reference, Earth's population is approximately 8 billion people.

CBP's enforcement efforts focus on detecting and interdicting suspected illicit drugs; quickly anticipating and adapting to changing tactics and techniques used by cartels, traffickers, smugglers, and their networks; enhancing collaboration among key partners; producing actionable intelligence to target the illicit opioid supply chain; and protecting our personnel from exposure to opioids.

DETECTION AND INSPECTION

CBP, with the support of Congress, continues to make significant investments and improvements in our drug detection capabilities and interdiction technology. Our highly-trained officers use narcotic detection canines and a variety of technologies to detect the presence of illicit drugs, including illicit opioids, in all operating environments.

CBP's canine program continues to demonstrate its significant contribution to our efforts to intercept dangerous illicit drugs and disrupt TCO activity. In fiscal year 2022, CBP canine teams assigned to the Office of Field Operations and U.S. Border Patrol assisted in the seizure of more than $19 million in undeclared or illicit drug-related currency, more than 400 firearms, and nearly 290,000 pounds of drugs, including nearly 13,000 pounds of fentanyl—approximately 87 percent of CBP's fentanyl seizures—valued at more than $2.5 billion. The effectiveness of our canine teams is demonstrated daily. For example, in a single event on April 18, 2023, a canine team in Otay Mesa, California, aided in the seizure of 776 pounds of fentanyl pills valued at more than $21 million.[8]

CBP canine teams often work alongside officers conducting other inspection activities. CBP has deployed more than 350 large-scale and 4,500 small-scale NII X-ray and gamma-ray imaging systems to detect the presence of illicit substances, including synthetic drugs such as fentanyl. This technology enables detection of these illicit substances hidden within passenger belongings, cargo containers, commercial trucks, rail cars, and privately-owned vehicles, as well as express consignment carrier and international mail parcels. In fiscal year 2022, CBP officers used large-scale NII systems to scan more than 7.6 million conveyances, which resulted in the interdiction of more than 100,000 pounds of narcotics and approximately $2 million of undeclared U.S. currency.

Canine teams and NII technology are complementary detection and inspection capabilities that are critical to the continued success of CBP's interdiction operations at the POEs. At the core of these efforts are specially-trained officers and specialists using their expertise and experience to maximize technological capabilities and resources. Every seizure we make at the border is important. It stops the flow of drugs into our communities, contributes to investigations, and increases our awareness of emerging trends and illicit networks.

---

[4] *https://www.cbp.gov/newsroom/stats/drug-seizure-statistics.*

[5] As of May 31, 2023.

[6] A complete list can be made available by CBP Laboratories and Scientific Services.

[7] CBP would be happy to brief the subcommittee on its illicit drug dose estimation tool and how it derived these estimates.

[8] *https://www.cbp.gov/newsroom/local-media-release/we-re-spilling-beans-211-million-worth-fentanyl-pills-concealed-within.*

ADVANCE INFORMATION AND TARGETING

CBP's interdiction efforts begin well before a conveyance or shipment arrives at a POE. Advance electronic shipping information,[9] actionable intelligence, and information-sharing partnerships are critical components of CBP's ability to quickly identify, target, and deter the entry of dangerous illicit drugs in all operational environments.

All advance shipment information is automatically fed into the National Targeting Center's (NTC) Automated Targeting System (ATS), an enforcement and decision support system. At CBP's NTC, advance data converges with law enforcement and intelligence records to facilitate the targeting of persons, conveyances, and items of cargo that pose the highest risk to our security in all modes of transportation. Advance information is a critical and effective component of CBP's targeting and interdiction efforts. We continue to pursue solutions to expand advance information opportunities to the land POEs, where—unlike travel processes over air and sea—CBP often receives no advance traveler information, limiting traveler vetting conducted before an individual arrives at a land POE.

In addition to targeting illicit substances directly, CBP and Homeland Security Investigations (HSI) target precursor chemicals shipped through the United States to destinations in Mexico and other countries. While many of the precursor chemicals used to synthesize methamphetamines and synthetic illicit opioids such as fentanyl have legitimate uses, CBP and HSI coordinate with the Drug Enforcement Administration (DEA) to intercept and seize precursors if they can be identified as having been brought into the United States in violation of U.S. law, such as Title 21 of the U.S. Code. CBP also targets production-related equipment such as pill presses and tableting machines. The DEA regulates pill press/tableting machines, and the HSI diversion coordinator works on behalf of DHS to coordinate the investigations of pill press/tableting machine imports being diverted for illicit uses. The HSI diversion coordinator works closely with the NTC to identify and target individuals importing and diverting pill press/tableting machines to produce illicit fentanyl and other synthetic drugs.

The increasing ability of TCOs to produce sophisticated forms of synthetic drugs and develop new ways to smuggle is a challenge to CBP's counter-narcotic efforts. In addition to CBP's advance detection and targeting efforts, CBP's laboratory testing and analysis capabilities are invaluable to the timely identification of suspect substances and the disruption of drug-trafficking networks. These capabilities not only contribute to our targeting and interdiction success, but also aid our intelligence and investigative partners in their criminal prosecution efforts.

ANALYSIS AND INTELLIGENCE

Just as TCOs rapidly evolve their illicit production and smuggling operations, CBP must advance its capabilities to quickly and reliably identify the dangerous substances it encounters and provide analysis for targeting and other enforcement and investigative actions.

Sound analytical methodology centers on providing timely and actionable intelligence to our front-line officers and agents, decision makers, and partners. To strengthen our intelligence posture in responding to this complex threat environment, CBP's Intelligence Enterprise (IE) was established in 2017 as a cohesive, threat-based, data-driven, and operationally-focused effort to leverage the collective intelligence capabilities and expertise across CBP's operational components.

To enhance its intelligence capacity, CBP IE established investment priorities that support a whole-of-agency approach to countering various border threats, such as the use of a common reporting platform to timely share and disseminate threat information to disparate offices. CBP's IE was also responsible for launching the CBP Watch, a situational awareness facility that provides trend analysis and real-time feedback to better support the agency's operational front line 24 hours a day, 7 days a week.

Laboratory Testing

CBP's ability to swiftly and accurately identify suspect substances is a critical part of our ability to determine new production trends and seize illicit drugs, but also a critical tool for partner investigative agencies, such as HSI, to make law enforcement-controlled deliveries that could lead to arrests and the shutting down of criminal networks. CBP officers use various field-testing devices and leverage CBP's

[9] See section 343 of the Trade Act of 2002 (Pub. L. 107–210), as amended; the Security and Accountability for Every Port Act or SAFE Port Act of 2006 (Pub. L. 109–347); and the Synthetics Trafficking and Overdose Prevention (STOP) Act (Pub. L. 107–210) of 2018.

24/7 Narcotic Reachback program to obtain a swift, presumptive identification of a suspect substance from a CBP Laboratories and Scientific Services (LSS) scientist. CBP has also positioned Forward Operating Labs (FOL) at strategic locations where new or emerging substances enter the United States. At the FOLs, LSS can triage quickly if a potentially new analogue of an illicit substance or designer drug is encountered and send it to the LSS INTERDICT Science Center for comprehensive testing. These newly-encountered substances, particularly synthetic opioids or other significant chemicals of interest, are added to the user libraries of the handheld field-testing devices used by CBP officers and agents to rapidly screen suspected substances. Since January 2022, 170 new spectra have been added to the equipment's factory library. Since the start of the designer drug wave in 2009, LSS has identified over 550 new substances.

CBP scientists participate in weekly operational roundtable discussions with intelligence personnel and law enforcement partners from Federal, State, and local agencies to share information on the latest analysis on encountered substances. Based on pollen analysis and suspected controlled substance analysis results, CBP develops intelligence products to share with CBP officers and agents, intelligence analysts, policy makers, and relevant external partners at Federal, State, local, and international organizations to maintain a consistent understanding of the fentanyl threat picture nationally, not just at the borders.[10]

COLLABORATION AND INFORMATION SHARING

Shifting trends and sophisticated TCO tactics mean that now, more than ever, efforts to counter TCO activity require coordination and cooperation across the law enforcement community. CBP leverages collaboration with our Federal, State, local, Tribal, and international partners to address drug trafficking and other transnational threats across all our operational environments. This includes working closely with the Office of National Drug Control Policy's High-Intensity Drug Trafficking Area program and continuous work with other laboratories and the medical community, including coroners and medical examiners, to identify emerging drug threats.

CBP works closely with key partners, including HSI, DEA, the United States Postal Inspection Service, the Federal Bureau of Investigation, and other Federal, State, local, Tribal, and international partners, to share information, coordinate enforcement actions, and facilitate investigations regarding intelligence and seizures. For seizures that do not meet a Federal threshold, intelligence and information derived from these seizures are provided to local, State, and regional task forces for situational awareness and further investigative and prosecutorial actions.

CBP regularly hosts briefings with Federal, State, local, territorial, and Tribal partners regarding the current State of the border, providing a cross-component, multi-agency venue for discussing trends and threats. Engagements focus on interdictions and arrests at both the border and interior areas within the United States. These briefings also include participants from the governments of Canada and Mexico.

Strong international partnerships are a critical part of CBP's ability to respond to the global challenges that affect our border operations. CBP works closely with our foreign partners and contributes to multilateral forums by sharing information and leveraging partner capabilities to combat transnational threats and advance our national security.

CBP also participates in joint operations and multi-agency enforcement teams composed of representatives from international and Federal law enforcement agencies. Working together with State, local, and Tribal agencies, these operations target drug and transnational criminal activity, and often contribute to investigations involving national security and organized crime.

Our partnerships are also invaluable to our enforcement efforts. For example, CBP and HSI recently concluded Operation Blue Lotus, a 2-month, multi-agency effort led by CBP and HSI focused on narcotics smuggling attempts at POEs in Arizona and California. Through targeted inspections at border crossings, cross-border investigations, and the leveraging of advanced analytics and intelligence capabilities, approximately 8,000 pounds of fentanyl, more than 4,600 pounds of methamphetamine, more than 1,050 pounds of cocaine, and more than 72 pounds of heroin were seized—leading to more than 250 arrests by CBP and HSI. U.S. Border Patrol ran a complementary operation between POEs and at checkpoints near the border, leading to additional seizures of approximately 2,500 pounds of fentanyl,

[10] *https://www.cbp.gov/document/fact-sheets/cbp-fentanyl-factsheet.*

6,500 pounds of methamphetamine, 330 pounds of marijuana, 620 pounds of cocaine, and 60 pounds of heroin.

Following the success of these enforcement efforts, DHS recently announced the next special operations of its surge campaign to target and prevent fentanyl from entering the United States.[11] Operation Artemis, led by CBP and supported by HSI, will leverage intelligence and investigative information derived from Operation Blue Lotus to focus on critical junctures in the illicit production and international trafficking of fentanyl and other synthetic drugs by targeting precursor chemicals, pill presses and parts, movement of finished substances, and illicit proceeds. Concurrently, Operation Rolling Wave will surge inspections at U.S. Border Patrol checkpoints along the Southwest Border, covering every sector and leveraging predictive analysis and intelligence sharing. CBP will run a parallel intelligence and analysis operation, Operation Argus, to provide trade-focused analysis in support of Artemis.

In collaboration with multiple Department of Justice components, in particular the Bureau of Alcohol, Tobacco, Firearms, and Explosives, CBP and HSI also lead Operation Without a Trace, a joint platform for our personnel to target and investigate smuggling networks to disrupt and dismantle their illegal gun trafficking operations. Since the initiative's inception in fiscal year 2020, Operation Without a Trace has achieved significant success preventing Mexico-bound gun trafficking, resulting in the initiation of 803 investigations, the execution of 555 arrests, and the seizure of 1,213 firearms, more than 723,203 rounds of ammunition, and $16.5 million in illicit currency.[12]

Finally, CBP established the Southern Border Intelligence Center in April 2023. The Southern Border Intelligence Center, located in Tucson, Arizona, will integrate CBP's Southwest Border Intelligence Enterprise through collaboration within CBP and with the interagency into a single intelligence focal point. The Southern Border Intelligence Center will build and maintain a trans-regional intelligence understanding of the entire Southern Border by integrating CBP's intelligence efforts and collaborating with the interagency.

CONCLUSION

With continued support from Congress, CBP, in coordination with our partners, will continue to deploy critical resources to our Nation's borders to refine the effectiveness of our detection, interdiction, and identification capabilities and combat transnational threats and the entry of illegal drugs into the United States.

CBP will continue investing in our front-line and intelligence capabilities, which are vital to all our law enforcement efforts. CBP will also pursue new partnerships and innovative technology to aid in our layered enforcement strategy to support our fight against this ever-evolving threat.

Thank you for the opportunity to testify today. I look forward to your questions.

Mr. HIGGINS. Thank you, Mr. Mandryck.

I now recognize Mr. Papadopoulos for 5 minutes to summarize his opening statement.

STATEMENT OF GEORGE PAPADOPOULOS, ACTING CHIEF OF OPERATIONS, DRUG ENFORCEMENT ADMINISTRATION, U.S. DEPARTMENT OF JUSTICE

Mr. PAPADOPOULOS. Good afternoon, Chairman Higgins, Ranking Member Correa, and distinguished Members of the subcommittee.

On behalf of the Department of Justice and, in particular, the more than 9,000 employees of the Drug Enforcement Administration, it's my honor to appear before you today.

Today's hearing comes at a critical moment in our country's history, and I thank the committee for bringing attention to this important topic.

Our Nation is in the midst of a devastating drug poisoning epidemic that claimed the lives of nearly 110,000 people in 2022. That's about one death every 5 minutes, or more than 300 mothers

[11] *https://www.dhs.gov/news/2023/06/22/next-phase-dhs-campaign-stop-fentanyl-will-focus-interdiction-and-supply-chain.*

[12] As of March 28, 2023.

and fathers, sisters, and brothers, and most tragically, children dying every day, with countless more nonfatal drug poisonings.

I've had the privilege of being a DEA special agent for 27 years, and have served in locations as diverse as Detroit, Michigan and Athens, Greece. I worked at the DEA Special Operations Division and, most recently, was deputy chief for operations, responsible for all foreign offices. I can assure you that the drug poisoning epidemic that our country is facing today is unprecedented.

In 2022, DEA seized more than 58 million fentanyl-laced pills and 13,000 pounds of fentanyl powder. That's nearly 400 million deadly doses that didn't reach American streets and more than enough to kill everyone in the United States.

The men and women of the DEA are relentlessly focused day in and day out on saving lives by combating the deadly drug poisoning epidemic and bringing those responsible to justice.

As the primary U.S. Government agency responsible for investigating drug trafficking, the DEA leads and coordinates the whole-of-Government law enforcement response to defeat the two cartels responsible for flooding the United States with fentanyl: the Sinaloa and Jalisco cartels.

This is our top operational priority, because these cartels pose the greatest criminal drug threat that the United States has ever faced. They are ruthless and violent global criminal enterprises with members, associates, facilitators, and brokers in all 50 States and in at least 100 countries throughout the world.

The cartels use treachery and deceit to drive addiction and deaths in our country. They mix fentanyl with other drugs, like cocaine, heroin, and methamphetamine, and press it into pills that look like legitimate prescription medication. But the pills that look safe and familiar do not contain any prescription medication. Instead, they contain deadly fentanyl. Many people that died didn't even know they were taking fentanyl. Instead, they believed they were taking a different drug or a real prescription pill.

To save lives and defeat these cartels, the DEA created two counterthreat teams, one for the Sinaloa Cartel and one for the Jalisco Cartel. These teams synthesized DEA intelligence for a data-driven approach to mapping and strategically targeting the cartels' entire network and infrastructure, and to identify key nodes that can be exploited. Our counter-threat teams regularly send target packages to DEA offices across the country and around the world that are used to initiate or enhance investigations.

Along with our interagency partners, we've had some recent success against the cartels. In April, we announced the results of an 18-month undercover investigation, Operation Royal Flush, which resulted in the indictment of 28 members of Sinaloa Cartel, including Chapo Guzman's sons.

The indictment describes the cartel's entire network and supply chain from China to Mexico to Main Street. During this investigation, which included 32 DEA offices around the world and operational activities in 10 countries, we seized more than 22 million potentially deadly doses of fentanyl.

In May, we announced the results of Operation Last Mile, which focused on the cartel's U.S. distributors. During this year-long effort, we arrested more than 3,300 people in the United States,

seized more than $104 million in cash and assets, and took nearly 8,500 guns off the street. Most importantly, we stopped more than 193 million potentially deadly doses of fentanyl before they reached U.S. communities.

Just last month, we announced the results of Operation Killer Chemicals, which focused on the precursor chemicals needed to manufacture fentanyl. We charged 8 Chinese nationals and, for the first time, 4 Chinese companies with conspiracy to manufacture and import fentanyl into the United States. These individuals and companies sold enough precursor chemicals to produce millions of potentially deadly doses of fentanyl.

While we've had some success, there is clearly more work to do. The men and women of the DEA are committed to saving lives and defeating the Sinaloa and Jalisco cartels and will relentlessly pursue cartel leaders, members, associates, and facilitators to ensure that they face justice for their crimes.

Thank you for the opportunity to testify before you today on this important topic. I look forward to your questions.

[The prepared statement of Mr. Papadopoulos follows:]

PREPARED STATEMENT OF GEORGE PAPADOPOULOS

JULY 12, 2023

Chair Higgins, Ranking Member Correa, and distinguished Members of the committee: On behalf of the Department of Justice (Department), and in particular the over 9,000 employees working at the Drug Enforcement Administration (DEA), thank you for the opportunity to appear before you today to discuss DEA's work to save lives and to combat the deadly drug poisoning epidemic in our country.

Americans today are experiencing the most devastating drug crisis in our Nation's history. This is because one drug—fentanyl—has transformed the criminal landscape. Fentanyl is exceptionally cheap to make, exceptionally easy to disguise, and exceptionally deadly to those who take it. It is the leading cause of death for Americans between the ages of 18 to 45, and it kills Americans from all walks of life, in every State and community in this country. The criminal organizations responsible for bringing fentanyl into this country are modern, sophisticated, and extremely violent enterprises that rely on a global supply chain to manufacture, transport, and sell fentanyl, and rely on a global illicit financial network to pocket the billions of dollars in revenue from those sales.

DEA has been hard at work to undertake a transformation of its own to meet this moment. DEA has acted with urgency to set a new vision, target the global criminal networks most responsible for the influx of fentanyl into the United States, and raise public awareness about how just one pill can kill. We have transformed our vision by focusing on fentanyl—the drug killing the most Americans—and the criminal organizations responsible for flooding fentanyl into our communities—the Sinaloa Cartel and the Jalisco New Generation (Jalisco) Cartel. We have transformed our plan by building an entirely new strategic layer—our counter-threat teams for the Sinaloa Cartel and the Jalisco Cartel—that map the cartels, analyze their networks, and develop targeting information on the members of those networks wherever they operate around the globe. We have transformed our execution by providing that targeting information to our 334 offices world-wide, drawing from our global intelligence and law enforcement teams here and abroad, and working as One DEA to take the networks down. And we are seeing results—as demonstrated earlier this year with the indictment of 28 members and associates of the Chapitos network of the Sinaloa Cartel; the arrest of 3,337 associates of the Sinaloa and Jalisco Cartels in the United States who were responsible for the last mile of fentanyl and methamphetamine distribution on our streets and through social media; and the indictment of 4 chemical companies and 8 individuals in the People's Republic of China (PRC) for providing criminal actors in the United States and Mexico with the precursor chemicals and scientific know-how necessary to make fentanyl.

THE DRUG POISONING EPIDEMIC

In 2022, nearly 110,000 people in the United States lost their lives to drug poisonings. Countless more people are poisoned and survive. These drug poisonings are a national crisis.

A majority of the drug poisoning deaths in the United States involve synthetic opioids, such as fentanyl, that are being distributed in new forms. Fentanyl is being hidden in and being mixed with other illicit drugs such as cocaine, heroin, and methamphetamine. Drug traffickers are also flooding our communities with fentanyl disguised in the form of fake prescription pills. These fake pills often are made to appear legitimate using pill presses and marketed by drug traffickers to deceive Americans into thinking that they are real, diverted prescription medications. In reality, these pills are not made by pharmaceutical companies, but drug trafficking organizations; they are highly addictive and are often deadly. DEA lab testing reveals that 6 out of 10 of these fentanyl-laced fake prescription pills contain a potentially lethal dose.

The availability of fentanyl throughout the United States has reached unprecedented heights. In 2022, DEA seized more than 58 million fake pills containing fentanyl, and 13,000 pounds of fentanyl powder, equating to nearly 400 million deadly doses of fentanyl. This is enough fentanyl to supply a potentially lethal dose to every member of the U.S. population. These seizures occurred in every State in the country.

THE DRUG ENFORCEMENT ADMINISTRATION

As the single mission agency tasked with enforcing our Nation's drug laws, DEA's top operational priority is to relentlessly pursue and defeat the two Mexican drug cartels—the Sinaloa Cartel and the Jalisco Cartel—that are primarily responsible for driving the current fentanyl and drug poisoning epidemic in the United States.

In April of this year, the administration announced its Strengthened Approach to Crack Down on Illicit Fentanyl Supply Chains, a whole-of-Government approach to save lives by disrupting the trafficking of illicit fentanyl and its precursors into American communities. This approach synchronizes all the tools of national power to use more effectively against criminal facilitators and enablers. The administration has also increased its collaboration with key international partners to address security concerns that impact North America. For example, under the Bicentennial Framework for Security, Public Health, and Safe Communities between the United States and Mexico, the administration established a cooperative, comprehensive, and long-term approach with specific actions to promote the safety and security of our societies.

DEA is the lead agency on the law enforcement elements in the administration's whole-of-Government response to defeat the cartels and combat the drug poisoning epidemic in our communities. DEA's role in leading the law enforcement response to the fentanyl epidemic protects the safety of agents, officers, and sources. Importantly, a unified response to the fentanyl epidemic ensures that the whole-of-Government is moving in one direction that protects the safety and health of Americans.

DEA operates 30 field divisions with 241 domestic offices, 93 foreign offices in 69 countries, and 9 forensic labs. DEA's robust domestic and international presence allows it to map and target the entire Sinaloa Cartel and Jalisco Cartel networks.

In addition, DEA has launched two cross-agency, counter-threat teams to execute a network-focused operational strategy to defeat the Sinaloa and Jalisco Cartels. The two teams are mapping, analyzing, and targeting the cartels' entire criminal networks. The teams are composed of special agents, intelligence analysts, targeters, program analysts, data scientists, and digital specialists. This network-focused strategy is critical to defeating the Sinaloa and Jalisco Cartels.

We already are starting to see results from our new strategy. As part of the network-focused strategy, DEA investigations recently resulted in charges against 28 members and associates of the Sinaloa Cartel, including leaders, suppliers, brokers, smugglers, and money launderers in multiple countries, for operating the global criminal enterprise that manufactures and traffics most of the fentanyl that comes into the United States.

DEA is simultaneously focused on American communities. We are targeting the drug trafficking organizations and violent gangs located in the United States that are responsible for the greatest number of drug-related deaths and violence. DEA's Operation Overdrive uses a data-driven, intelligence-led approach to identify and dismantle criminal drug networks operating in areas with the highest rates of violence and drug poisoning deaths. In each of these locations, DEA is working with local and State law enforcement officials to conduct threat assessments identifying the criminal networks and individuals that are causing the most harm. DEA works

with State, local, Tribal, and Federal law enforcement and prosecutorial partners to pursue investigations and prosecutions that will reduce drug-related violence and drug poisonings. Phase one of Operation Overdrive took place in 34 locations across the United States, and phase two is currently occurring in 57 locations. So far in Operation Overdrive, DEA and its partners have made over 1,700 arrests, seized over 1,300 firearms, and seized over 13 million potentially deadly doses of fentanyl.

In 2021, DEA launched the "One Pill Can Kill" enforcement effort and public awareness campaign. Through that, DEA and our law enforcement partners have seized millions of fake fentanyl-laced prescription pills and hundreds of pounds of fentanyl powder—equating to millions of potentially lethal doses of fentanyl, which could have entered our communities. Hundreds of these cases were linked to social media platforms, including Snapchat, Facebook, Instagram, and TikTok.

DEA is combating the sale of fentanyl on social media. Drug traffickers are using social media platforms to recruit associates, find customers, and sell fentanyl and other deadly drugs. In particular, drug traffickers use social media to deceptively advertise fake prescription pills—pills that look like Xanax, Percocet, or Oxycodone but actually contain fentanyl—directly to young people and teenagers. DEA has investigated more than 150 cases directly linked to the sale of fake pills containing fentanyl on social media.

DEA also works closely with families who have lost loved ones to drug poisonings. These families are often brave advocates for change, and help ensure that people in their communities are aware of the dangers of fentanyl and fake pills.

DEA is working closely with our local, State, Tribal, territorial, Federal, and international counterparts to target every part of the illegal drug supply chain and every level of the drug trafficking organizations that threaten the health and safety of our communities. To succeed, we must use every tool to combat this substantial threat that is being driven by the Sinaloa and Jalisco Cartels, as well as the Chinese-sourced precursor chemicals and global money-laundering operations that facilitate the cartels' operations.

MEXICAN CARTELS AND DRUG TRAFFICKING

The Sinaloa and Jalisco Cartels pose the greatest criminal drug threat the United States has ever faced. These ruthless, violent, criminal organizations have associates, facilitators, and brokers in all 50 States in the United States, as well as in more than 100 countries around the world.

The Sinaloa Cartel and the Jalisco Cartel and their affiliates control the vast majority of the fentanyl global supply chain, from manufacture to distribution. The cartels are buying precursor chemicals in the PRC; transporting the precursor chemicals from the PRC to Mexico; using the precursor chemicals to mass produce fentanyl; using pill presses to process the fentanyl into fake prescription pills; and using cars, trucks, and other routes to transport the drugs from Mexico into the United States for distribution. It costs the cartels as little as 10 cents to produce a fentanyl-laced fake prescription pill that is sold in the United States for as much as $10 to $30 per pill. As a result, the cartels make billions of dollars from trafficking fentanyl into the United States.

The business model used by the Sinaloa and Jalisco Cartels is to grow at all costs, no matter how many people die in the process. The cartels are engaging in deliberate, calculated treachery to deceive Americans and drive addiction to achieve higher profits.

The Sinaloa Cartel

The Sinaloa Cartel, based in the Mexican state of Sinaloa, is one of the oldest drug-trafficking organizations in Mexico. The Sinaloa Cartel controls drug-trafficking activity in various regions in Mexico, particularly along the Pacific Coast. Additionally, it maintains the most expansive international footprint of the Mexican cartels. The Sinaloa Cartel exports and distributes wholesale amounts of fentanyl, methamphetamine, heroin, and cocaine in the United States by maintaining distribution hubs in cities that include Phoenix, Los Angeles, Denver, and Chicago. Illicit drugs distributed by the Sinaloa Cartel are primarily smuggled into the United States through crossing points located along Mexico's border with California, Arizona, New Mexico, and Texas. The Sinaloa Cartel reportedly has a presence in 19 of the 32 Mexican states. It has been identified that there are currently more than 26,000 members, associates, facilitators, and brokers affiliated with the Cartel in more than 100 countries.

The Jalisco Cartel

The Jalisco Cartel is based in the city of Guadalajara in the Mexican state of Jalisco, and was originally formed as a spin off from the Milenio Cartel, a subordi-

nate to the Sinaloa Cartel. The Jalisco Cartel maintains illicit drug distribution hubs in Los Angeles, Seattle, Charlotte, Chicago, and Atlanta. Internationally, the Jalisco Cartel has a presence and influence through associates, facilitators, and brokers on every continent except Antarctica. The Jalisco Cartel smuggles illicit drugs such as fentanyl, methamphetamine, heroin, and cocaine into the United States by accessing various trafficking corridors along the Southwest Border that include Tijuana, Mexicali, Ciudad Juárez, Matamoros, and Nuevo Laredo. The Jalisco Cartel's rapid expansion of its drug-trafficking activities is characterized by the organization's willingness to engage in violent confrontations with Mexican government security forces and rival cartels. The Jalisco Cartel reportedly has a presence in 21 of the 32 Mexican states. It has been identified that there are currently more than 18,800 members, associates, facilitators, and brokers affiliated with the Cartel in more than 100 countries.

PEOPLE'S REPUBLIC OF CHINA AND PRECURSOR CHEMICALS

Chemical companies within the PRC produce and sell the majority of precursor chemicals that are used today by the Sinaloa and Jalisco Cartels to manufacture fentanyl and methamphetamine. These precursor chemicals from companies within the PRC are the foundation of the fentanyl and methamphetamine that are manufactured and transported from Mexico into the United States and that are causing tens of thousands of drug-related deaths in our country.

According to the State Department's 2023 International Narcotics Control Strategy Report, there are at least 160,000 chemical companies in the PRC. Chemical companies within the PRC distribute and sell precursor chemicals that are used in fentanyl and methamphetamine production around the world. Some companies within the PRC, for example, engage in false cargo labeling and ship chemicals to Mexico without tracking the customers purchasing the chemicals from the PRC and elsewhere.

In recent weeks, DEA has had productive engagements with Chinese counterparts in Beijing and Washington, DC focused on increasing cooperation between our countries. DEA remains ready to work with the PRC and all willing partners to reduce the flow of precursor chemicals and the deadly synthetic drugs they produce.

CHINESE MONEY-LAUNDERING OPERATIONS AND THE CARTELS

The Sinaloa and Jalisco Cartels utilize Chinese Money-Laundering Organizations (CMLOs) in the United States and around the world to facilitate laundering drug proceeds. CMLOs use mirror transfers, trade-based money laundering, and bulk cash movement to facilitate the exchange of foreign currency. The use of CMLOs by the cartels simplifies the money-laundering process and streamlines the purchase of precursor chemicals utilized in manufacturing drugs.

These money-laundering schemes are designed to remedy two separate issues: (1) the desire of Mexican cartels to repatriate drug proceeds into the Mexican banking system, and (2) wealthy Chinese nationals who are restricted by the PRC's capital flight laws from transferring large sums of money held in Chinese bank accounts for use abroad. To address these issues, CMLOs acquire U.S. dollars held by Mexican cartels as a means to supply their customers in the PRC.

RECENT ENFORCEMENT ACTIONS AGAINST THE SINALOA AND JALISCO CARTELS AND PRC-BASED CHEMICAL SUPPLIERS

The Chapitos Network of the Sinaloa Cartel

On April 14, 2023, DEA announced indictments against the Chapitos—the leaders of the Sinaloa Cartel—and their criminal network.

The Sinaloa Cartel supplies the majority of the fentanyl trafficked into the United States, which has resulted in the United States' unprecedented fentanyl epidemic. The Chapitos, the sons of the cartel's notorious former leader Joaquin "El Chapo" Guzman, currently lead the most violent faction of the Sinaloa Cartel. El Chapo was once the world's most dangerous and prolific drug trafficker. Now his sons have stepped in to fill their father's void by flooding the United States with deadly fentanyl and leaving a wake of destruction across families and communities throughout the United States.

Following their father's arrest and subsequent extradition and conviction, we allege that the Chapitos expanded their enterprise with sophisticated fentanyl laboratories in Culiacan, Mexico. We allege that the Chapitos now run the largest, most violent, and most prolific fentanyl trafficking operation in the world. The cartel is highly organized and sophisticated, employing military-grade weapons and vehicles and hundreds of people who protect the cartel and its leadership at all costs. In ad-

dition, we allege that the Chapitos use extreme violence and intimidation, including murder, torture, and kidnapping, to ensure dominance and expand their territory.

The Chapitos pioneered the manufacture and trafficking of fentanyl, and are responsible for the massive influx of fentanyl into the United States over the past 8 years. The Chapitos oversee and control every step in their fentanyl trafficking process and will stop at nothing to ensure the expansion of their operations and the flow of fentanyl into the United States. From procuring fentanyl precursors from illicit sources of supply in the PRC; to distribution in the United States, and, ultimately, reaching the hands of Americans; to the surreptitious repatriation of massive proceeds through money launderers to avoid detection, the cartel has direct involvement—and culpability. Investigations found that even when test subjects died as a result of high-potency fentanyl, the cartel sent the deadly batch to the United States anyway—knowingly poisoning Americans for their own profit.

The indictments charged 28 members of the Chapitos network. These include suppliers of fentanyl precursor chemicals based in the PRC, a broker based in Guatemala assisting with the transport of those chemicals from the PRC to Mexico, managers of clandestine fentanyl laboratories based in Mexico converting the precursor chemicals into fentanyl pills and powder, weapons traffickers and assassins perpetuating extreme violence in Mexico to protect and expand the fentanyl production operation, smugglers transporting the fentanyl from Mexico into the United States, and illicit financiers laundering the proceeds of fentanyl sales from the United States back to Mexico through bulk cash smuggling, trade-based money laundering, and cryptocurrency.

These indictments reflect the work of 32 DEA offices in the United States and abroad, as well as our law enforcement partners and other Department of Justice components, such as the U.S. Attorney's Office. As part of the investigation, the DEA conducted operations in ten countries and seized staggering amounts of illicit materials, including 2,557,000 fentanyl-laced pills, 105 kilograms of fentanyl powder, and 37 kilograms of fentanyl precursor chemicals, amounting to 22,747,441 potentially lethal doses of fentanyl.

Seven of the charged defendants were arrested pursuant to the investigation—in Colombia, Greece, Guatemala, and the United States—with the assistance of DEA's law enforcement partners in the United States and abroad. Ovidio Guzman-Lopez was arrested earlier this year by military officials in Mexico.

Simultaneously with the announcement of these indictments, the Department of State has announced up to nearly $50 million in monetary rewards for information leading to the capture of the defendants who remain at large, and the Department of the Treasury Office of Foreign Assets Control announced sanctions against 2 chemical companies that operate in the PRC, and 5 individuals associated with those companies, for supplying precursor chemicals to drug cartels in Mexico for the production of illicit fentanyl intended for U.S. markets.

Operation Last Mile

On May 5, 2023, DEA announced the results of Operation Last Mile, a year-long national operation targeting operatives, associates, and distributors affiliated with the Sinaloa and Jalisco Cartels who were located in the United States and responsible for the last mile of fentanyl and methamphetamine distribution on our streets and on social media.

In Operation Last Mile, DEA tracked down distribution networks across the United States that are connected to the Sinaloa and Jalisco Cartels. The Operation shows that the Sinaloa and Jalisco Cartels use violent local street gangs and criminal groups and individuals across the United States to flood American communities with huge amounts of fentanyl and methamphetamine, which drives addiction and violence and kills Americans. It also shows that the Cartels, their members, and their associates use social media applications—like Facebook, Instagram, TikTok, and Snapchat—and encrypted platforms—like WhatsApp, Telegram, Signal, Wire, and Wickr—to coordinate logistics and reach out to victims.

Operation Last Mile comprised 1,436 investigations conducted from May 1, 2022 through May 1, 2023, in collaboration with Federal, State and local law enforcement partners, and resulted in 3,337 arrests and the seizure of nearly 44 million fentanyl pills, more than 6,500 pounds of fentanyl powder, more than 91,000 pounds of methamphetamine, 8,497 firearms, and more than $100 million. The fentanyl powder and pill seizures equate to nearly 193 million deadly doses of fentanyl removed from communities across the United States, which have prevented countless potential drug poisoning deaths. Among these investigations, more than 1,100 cases involved social media applications and encrypted communications platforms, including Facebook, Instagram, TikTok, Snapchat, WhatsApp, Telegram, Signal, Wire, and Wickr.

Operation Killer Chemicals

On June 23, 2023, DEA announced Operation Killer Chemicals and the indictments of 4 chemical companies and 8 individuals—all based in the PRC—for knowingly providing customers in the United States and Mexico with the precursor chemicals and scientific know-how to manufacture fentanyl. These indictments are the first-ever charges against fentanyl precursor chemical companies. Two PRC nationals were taken into custody pursuant to the investigation. DEA also seized more than 200 kilograms of precursors in these investigations alone, enough to make millions of deadly doses of fentanyl.

As alleged, these Chinese chemical companies, and the individuals working for them, not only provided customers with the ingredients for fentanyl, they also gave advice on how to mix and substitute ingredients to more efficiently make fentanyl, and employed chemists to troubleshoot and provide expert advice when customers had questions. The individuals also spoke freely about having clients in the United States and Mexico and, specifically, in Sinaloa, Mexico, where the Sinaloa Cartel is based.

The companies went to great lengths to conceal the chemicals during transport. They falsified shipping labels and customs paperwork, claiming the shipments were "dog food" or "raw cosmetic materials" rather than fentanyl precursors. They even disguised the chemicals at a molecular level—adding a molecule to "mask" the precursors so they would not be detected as banned substances during transport, and teaching their customers how to remove that molecule after receipt.

Operation Killer Chemicals made clear that fentanyl precursors are exceptionally cheap. Fentanyl precursors cost less than one cent per deadly dose of fentanyl. In just one example, a defendant sold two kilograms of fentanyl precursors for approximately $1,000, which can make 1.75 million lethal doses of fentanyl. The amount of fentanyl that can be made depends only on the amount of chemicals that can be purchased.

The Operation also showed that fentanyl precursors are easily bought on-line. Although based in the PRC, the chemical companies and individuals reached customers across the world because they advertised fentanyl precursors on social media (on Facebook and LinkedIn), used encrypted applications like WhatsApp to speak with customers and coordinate shipments, and took payment in Bitcoin and other cryptocurrencies.

CONCLUSION

DEA will continue our relentless pursuit of the Sinaloa and Jalisco Cartels—the criminal networks most responsible for fentanyl-related deaths in our country—and we will continue to work tirelessly to defeat these cartels and dismantle every part of their global supply chain, in order to protect the American people. Thank you again for the opportunity to appear before the committee today. I look forward to answering your questions.

Mr. HIGGINS. Thank you, Mr. Papadopoulos.

I now recognize Mr. Durham for 5 minutes to summarize his opening statement.

STATEMENT OF TYRONE DURHAM, DIRECTOR, NATION-STATE THREATS CENTER, OFFICE OF INTELLIGENCE AND ANALYSIS, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. DURHAM. Good afternoon. Chairman Higgins, Ranking Member Correa, and distinguished Members of the subcommittee, thank you for the opportunity to appear before you today.

I'm honored to be here representing the Department of Homeland Security's Office of Intelligence and Analysis and the dedicated intelligence professionals working diligently to keep the homeland safe, secure, and resilient.

As previously stated, the fentanyl drug overdose crisis in the United States, which is fueled by Mexican transnational criminal organizations and their Chinese suppliers of precursor chemicals, continues at epidemic proportions.

As you know, the drug overdose deaths rose from 2019 to 2021, with more than 100,000-plus deaths reported in 2021. Those deaths

specifically involving synthetic opioids, primarily fentanyl, continued to rise during the same time period with more than 70,000 overdose deaths reported at that same time period.

So let's talk about who's responsible. You previously heard about the two Mexican cartels responsible for the activity, the Sinaloa Cartel and the Jalisco New Generation Cartel. These cartels supply U.S.-based affiliates with fentanyl for further distribution and retail-level sale. U.S.-based traffickers then sell fentanyl to users seeking the synthetic opioid. They mix fentanyl with other controlled substances, and they distribute it in the form of counterfeit prescription pills to drive addiction.

China's role in the global fentanyl trade is also a serious concern. China is the source of most of the precursor chemicals required for fentanyl production. A cartel associate brokers the sale and shipment of fentanyl precursor chemicals from China to clandestine labs in Mexico, where the fentanyl is manufactured.

Moreover, as law enforcement scrutiny or legal restrictions increase, suppliers adapt by modifying or changing chemical compounds of precursors, subsequently falling outside the purview of existing controls, to mimic the desired effect. Some Chinese chemists have focused on precursors to precursors, many of which have legitimate uses and are therefore hard to regulate.

There are several reasons why China is such a major source of fentanyl production. First, China has a large and sophisticated chemical and pharmaceutical industry that can produce its precursor chemicals at will and at scale. Second, China has a lax regulatory environment for chemicals, making it easy for traffickers to acquire the precursors they need for fentanyl manufacturing. Third, China's borders are porous, making it easy for fentanyl precursors to be smuggled out of the country, ultimately making their way to Mexico.

The Office of Intelligence and Analysis is producing finished intelligence on drug trafficking and other transborder threats to strengthen engagement between U.S. officials and foreign partners. Specific to drug trafficking threats, our analysis is aimed at identifying key transnational criminal organized crime leadership figures, organizational networks, logistical supply chains, smuggling routes, and the efforts of corruption that stand in the way of dismantling these organized crime groups.

Intelligence products draw upon national-level reporting from the intelligence community fused with DHS-unique data from components, as well as information from our law enforcement partners across all levels of government. This finished intelligence product related to TCOs are written at the widest possible dissemination level for distribution to our Federal, State, local, Tribal, and territorial partners and, when appropriate, shared with our foreign partners in Mexico.

I&A has deployed intelligence personnel, worked closely with DHS components, State and major urban area fusion centers, and other law enforcement agencies to gather, analyze, and report information that is uniquely available from these partners.

Thank you again for the opportunity to appear before you today to discuss this critical threat and for your continued support of the Office of Intelligence and Analysis.

We remain committed to keeping the homeland safe, secure, and resilient, and will continue our efforts at home and abroad to uphold the national security and public safety of the United States.

I look forward to your questions.

Mr. HIGGINS. Thank you, Mr. Durham.

Members will be recognized by order of seniority for their 5 minutes of questioning. An additional round of questioning may be called after all Members have been recognized.

I now recognize myself for 5 minutes of questioning.

Mr. Papadopoulos, I'd like to ask you: In your opening statement, you cited that you've identified major distribution hubs in cities, including Phoenix, Los Angeles, Denver, and Chicago. Is that in your opening statement?

Mr. PAPADOPOULOS. Yes, sir.

Mr. HIGGINS. OK. So a general question would be: Obviously without revealing on-going law enforcement investigations and operations, if you've identified the major hubs of narcotics distributions in these cities—Phoenix, Los Angeles, Denver, and Chicago—can we look forward to major arrests in Phoenix, Los Angeles, Denver, and Chicago?

Mr. PAPADOPOULOS. Yes, sir. As you know, the DEA is constantly working these investigations. I mentioned Operation Last Mile, which was announced in May, which is a year-long effort focusing on the U.S. distributors of these cartels, where we arrested over 3,300 people, seized $104 million in cash and assets, and took about 8,500 guns across—off the street. That was across the entire United States.

Mr. HIGGINS. Understood. The American citizenry asked common-sense questions, and we're sworn by our oath to convey those questions, and it's a good question. If you've identified a narcotics hub and you—that means you're watching it. So we expect those people to be arrested.

The volume of drugs seized and the arrests made is reflective of the realities of effective law enforcement, but also the overwhelming amount of trafficking that we're dealing with and the criminal activity. It's at a level we've not seen in America, and we expect—we expect large numbers of arrests. If we identify these guys, we've got to break their back, make them hate each other. It's just fine with me.

Director Cagen, last Congress, I introduced the Homeland Security Fentanyl Enforcement Act. You're familiar, sir, this bill is written to expand Homeland Security Investigations' authority to investigate narcotics cases under Title 21. Can you explain why HSI is currently unable to conduct independent narcotics investigations?

This gets into some jurisdictional authority that Congress should be involved in, so I—I ask you to clarify.

Mr. CAGEN. Mr. Higgins, thank you for the support on this topic.

HSI enjoys a great, long history and long relationship with the DEA, 25 years-plus, and we look forward to the next 25 years.

Right now, our authority is derived from DEA's designation, which allows us to work together, us to focus on our foreign counterparts, our foreign customs authorities, working with our TCIUs overseas, and to continue to work—actually, Mr. Papadopoulos and

I worked in the same fusion center building together here in the District of Columbia a long time ago and had a great relationship. So we'd just look forward to having that continued relationship moving forward.

Mr. HIGGINS. We—we understand and we appreciate the fact that long-standing relationships have been developed between the law enforcement agencies and working on the ground. But we must ensure that you have the legal pathway—statutory pathway to conduct your investigations, sometimes in cooperation with other agencies but with an independent capability that we must ensure.

So I look forward to speaking with my colleagues more about the Homeland Security Fentanyl Enforcement Act.

Mr. Chester, China is the main country of origin for precursor chemicals for synthetic opioids. These chemicals are then taken by the cartels, who make drugs like fentanyl. We all understand that. You've made that clear.

Can you characterize the coordinated effort between the cartels and China to create and distribute illicit drugs like fentanyl, and how is that changing as we speak?

Mr. CHESTER. Thank you for the question, Congressman. So the first major change happened in 2019, when China scheduled—at the United States' request, scheduled fentanyl as a class. What that did was it had the effect of reducing finished fentanyl from China to the United States to almost zero, and the traffickers got into the precursor business selling those to Mexican cartels for production.

The coordination happens on a couple of different levels. The first one is there's—there is a broker, usually located in Mexico, that works with a broker in the PRC in order to order the chemicals, often from a legitimate chemical company, who fills the bill. Those chemicals are transported and shipped, usually on an unwitting carrier, to one of the ports in Mexico or via air where at the port of entry it is delivered—diverted and then delivered to the drug manufacturers. That's the raw materials.

Then the payment for that is usually done through—through illicit finance enablers and brokers located in the PRC and in Mexico. It is this network of brokers between the drug producers and the raw material suppliers that gives this entire global illicit supply chain its life.

Mr. HIGGINS. Thank you, Mr. Chester. It's a massive network. We intend to break it.

My time has expired.

I recognize the Ranking Member, my friend and colleague, Mr. Correa, the gentleman from California.

Mr. CORREA. Thank you, Mr. Chairman.

I wanted to follow up on the Chairman's last comment on China, their role.

Their cooperation, has it been better in the past? Two-thousand-nineteen, they helped us, classified fentanyl, stopped it. Now you've got the issue of precursors, precursors to precursors, harder to regulate.

Has China helped us over the last year or two? Have you seen that level of cooperation maybe not as good as it's been in the past?

Mr. CHESTER. Thank you for your question. Your question is very prescient, and the answer is cooperation in the past actually has brought results. In fact, in the—in the words of Chinese diplomats, counternarcotics cooperation between the United States and the PRC has been a bright spot.

We were able to do—there was routine law enforcement cooperation. We were able to get fentanyl scheduled as a class. As of late, over more than a year, for a variety of reasons, the PRC has decided not to engage with the United States on—on counternarcotics and a number of other issues.

The United States would like that level of cooperation again, and we have made it clear to the PRC a few things. The first one is we're not blaming the PRC government for this. There are criminal elements within China and Mexico and the United States who keep this global illicit supply chain alive. That's the first thing.

The second thing is our cooperation is absolutely essential in order to help us with that, and we have made some very specific asks of the Chinese government that they could implement very easily in order to be able to help us to do that.

Mr. CORREA. Gentlemen, I just want to say thank you for your good work. You've done a stellar job of doing what you're paid to do.

We talk about commercial disruption, precursors, pills, shipping. It's as though every time you stop one place, something else explodes. I've heard lately that—there is intel now a lot of the precursors are coming in through our ports of entry, pill presses coming into the United States. So every time you bottle something up, another source, another supply seems to emerge.

The one issue that I think probably holds everything together is the finances, the laundering of this money. What can we do to better enable you to stop the flow of these profits?

HSI, you talked about—you know, the Chairman asked you about maybe some other tools you may need. But I would ask all of you: What else can we do as Members of Congress to strengthen your hand to stop the flow of the profits? Because, you know, you dry up the money and the whole machine comes to a stop.

You know, right now, what we are witnessing in this country is a massive transfer of wealth from American pocketbooks to somewhere around the country—excuse me—around the world.

Please, open it up for comments.

Mr. CAGEN. Since you mentioned HSI, I'll—I'll take that.

You know, money is moved in multiple ways, and they're ever-evolving. You just mentioned the fact that—you know, that we stop one thing that the Chinese are doing, and they move in a different way. The same thing happens with money laundering. It's bulk cash, it's trade-based money laundering, it's cryptocurrency movement of money right now.

One thing—and I come back to, you know, begin and end in China. China has taken over. Chinese money-laundering organizations have taken over the network, the money movement network, which we're all focused on as—you know, everybody sitting up here is focused on that. They're able to charge much lower percentages than other people have in the past because of their vast network around the world.

But we are—HSI is—that's what we do. We like to go after their money. We like to go after their toys. Because when you take their money away, then they can't flourish. So we're continuing to——

Mr. CORREA. I asked you directly—I called you out because I've seen you work, and I've seen some of your results. When I've been down to San Isidro, I've taken a tour of your operations.

Mr. CAGEN. Yes, sir.

Mr. CORREA. All of you are doing a stellar job. In the half minute that I have left, I would just ask you all as a challenge to let us know what we can do as Congress to strengthen your hand when it comes to money laundering. It's not an easy solution.

You've got 20 seconds. You're not going to give me the answer. But I'd love all of you to go back and give us some, you know, wish lists, legislatively what tools and what resources you need to stop the flow of drug money.

In my opinion, that's the best punch you can give these folks when it comes to fentanyl.

Thank you, Mr. Chairman. Time is up. I turn it over back to you.

Mr. HIGGINS. The gentleman yields.

The gentleman from Oklahoma, Mr. Brecheen, is recognized for 5 minutes for questioning.

Mr. BRECHEEN. Thank you, Mr. Chairman.

I appreciate you all being here today. There is no doubt this is a crisis. Just in Oklahoma alone, the State that I'm a Representative for, we've seen a 735 percent increase in fentanyl deaths, and that has occurred from 2018 to 2022: 326 deaths in 2022 in Oklahoma. In 2018, it was 39.

I think probably every Member of this committee has some personal point of contact with somebody that they know of who has lost their life or has a direct connection. It's really sad.

I guess what I want to zero in on—and I'll open this up to anyone—if you—if 6 out of the 10 pills that you all are looking at—one of your testimonies a minute ago—are containing lethal overdose elements to the point that you take it unsuspectingly, it can kill you, why are they doing that?

There's an addictive element, right. You're trying to use the addictive element, 10 cents to make, and $30—10 to $30 sold, massive increase in profit.

So can you—I'd be interested in some comments if you—if you can help bring about why they are enabling such a lethal concoction in their pills?

Mr. CHESTER. Congressman, I can start, and then I can turn it over to my colleagues.

I think—I think the first thing is that—that our image of these drug producers and traffickers, I think, traditionally has been that they're evildoers who are out to hurt people when in reality they are disinterested businesspeople who really only want a few things. They want to lower their production costs. They want to lower their risk of detection and interdiction. They want to increase their customer base and increase their profits.

By—and—and a mechanism to do that is to provide the drug user an experience that they did not expect. This is what we saw back in 2015 when we started to see synthetic opioids like fentanyl introduced into the heroin supply chain. This is—this was the door

that opened this up for the United States. What it did, it provided the individual a qualitative effect that they did not expect, and it was used as kind-of a branding.

Because these things are so potent and because they are so potentially lethal, a milligram in the wrong direction will take you from having a qualitative experience that you didn't expect to an overdose death. In a lot of cases, these things are not uniformly mixed, and they're not done well, and it's a lot of cross-contamination that actually leads to the overdose deaths.

The last thing I'll tell you is, in a lot of cases, the unwitting user who may not have an active substance use disorder or does not intend to take fentanyl gets it in another counterfeit pill that they did not expect, like Xanax or Adderall or something like that. This is done in the interest of making money with a casual disinterest as to whether people are harmed or not.

Mr. BRECHEEN. So I want to pivot, because I think somebody else maybe on the panel can answer this. Are you seeing it utilized as a revenge element to—so you're saying, you know, that there's nothing that's in this more than profit margin, but there's a—an evil intent that can lead to murder purposefully.

In your investigations, are you seeing that?

Mr. PAPADOPOULOS. Sir, I can jump in.

So the answer is yes. We have evidence in some of the char-—previous cases I mentioned where the cartels knew that there was deadly fentanyl. The amount of fentanyl that they were sending to United States was deadly, because they tested it on human beings in Mexico, and they still sent it anyway.

As Mr. Chester was saying, these are not mixed in labs. They're not sterile situations. We've seen pills with less than a milligram of fentanyl all the way up to 8 milligrams of fentanyl. The average dose is 2.4 milligrams, and 1 milligrams is considered a potentially deadly dose.

Mr. BRECHEEN. In regards to human trafficking, "Sound of Freedom" is a movie that's, you know, getting a lot of attention right now nationally, and you can sell a drug one time, common—commonly being discussed is—as the human trafficking element, that you can sell an individual multiple times.

What are you seeing with the human traffic—in all of your investigations, where are you seeing the overlap with those that are engaged in human trafficking, prostitution, also alongside the fentanyl trade?

Mr. MANDRYCK. Thank you for the question, sir. So, historically, we had seen the transnational criminal groups focus on narcotics, were solely focused on narcotics. They would charge a piso, or a tax, for migrants to cross.

At the beginning of COVID, where we started to see some of the closures at the ports of entry for nonessential travel, we started to see those criminal groups become more involved in the process holistically. So it wasn't just a couple-hundred-dollar tax; it was a multi-thousand-dollar program to move them throughout the whole chain.

That's what we've continued to see, is that control of the plazas along the border and that full-scale facilitation from start to finish.

Mr. BRECHEEN. Mr. Chairman, would you allow—would you allow if anybody else has any—I know my time has expired. Does anybody else have any—any comments on that?

Mr. CAGEN. I can draw a distinction a little bit between the human smuggling and human trafficking aspect, which I think is where your question was going.

We don't see a direct link between your large-scale criminal organizations that are operating and moving people trafficking-wise, human trafficking-wise, across the border like the transnational criminal organizations. A lot of those folks are already here. People are smuggled into the United States. Then, once in the United States, transnational—or organizations prey on vulnerable populations, and that's when they're turned into trafficking victims.

Mr. BRECHEEN. Thank you.

Mr. HIGGINS. The gentleman yields.

Mr. Thanedar is recognized for 5 minutes for questioning.

Mr. THANEDAR. Thank you, Chairman Higgins. Thank you, gentlemen, for your testimony.

I have heard from both sides of the aisle that transnational criminal organizations and the smuggling of illicit drugs like fentanyl is not just a U.S. problem; it is a global issue. There are bad actors all over the world looking to profit from these deadly drugs. That's why it is important to foster relationships with law enforcement partners and international governments to disrupt and dismantle transnational criminal organizations.

Mr. Cagen, you mentioned this point in your testimony. So my question is for you, Mr. Cagen, and also for Mr. Papadopoulos. Can you—and, in fact, I have three questions. Let me just state those and allow you, either of you, to comment on.

Can you discuss how HSI and the DEA are working and sharing information across the Federal Government, as well as State and local law enforcement partners, to investigate and prosecute these criminal organizations?

No. 2, can you discuss how HSI and DEA are fostering relationships internationally to prevent these deadly drugs from reaching our borders?

No. 3, in April 2023, the Justice Department announced charges against Federal leaders of the Sinaloa Cartel. What role did this partnership play in these critical investigations?

Mr. CAGEN. Thank you very much for the question. I think it's a fantastic question.

I've mentioned it in my opening statement and in a statement already before, HSI and DEA have a long history of working together. I mentioned that we both worked together in the same building, which is actually a fusion center, where we bring in information, intelligence, and 30-plus Federal agencies sit in this building where we share information and ensure that we're taking a whole-of-Government approach toward attacking the cartels and the transnational criminal organizations.

We both have very similar tactics as well when we're working with our international partners. Both have investigative units. Ours is called a Transnational Criminal Investigative Unit. Very different but the same structure. Ours, we've got the ability to work with the Mexican Customs, where we can stop things that are

coming over the ports, like precursor chemicals that are shipped from China over the sea, things like that.

I think that we have a very good international relationship with Mexico and other countries on the working level, which is how we all get our job done to go after transnational criminal organizations.

Mr. THANEDAR. Thank you.

Mr. PAPADOPOULOS. Thank you for the question, sir. So as far as information sharing, we are in, as I mentioned, unprecedented times right now, which I think calls for unprecedented collaboration across the Federal, State, and local governments. We are committed to that. We are using every tool that we have available, including sanctions and rewards for justice, to get the word out.

As far as our international relationships, we have a big international presence also, and that's because we want to be proactive. Most drugs are manufactured outside of the United States, and then they need to be transported here through other countries. So when we're outside of the United States working with our international counterparts, we are being proactive, instead of reactive, waiting for the drugs to get here.

As far as the case that you mentioned, we did work closely on that investigation with other districts and other agencies to put that case together.

Mr. THANEDAR. Thank you so much.

Mr. Chairman, my time is up, so I yield back.

Mr. HIGGINS. The gentleman yields.

My colleague from Texas, Mr. Gonzales, is recognized for 5 minutes for questioning.

Mr. GONZALES. Thank you, Chairman, and thank you for holding this hearing.

I want to talk—I want to use my time to talk about fentanyl as it relates to drones. I think this is an area that the landscape is changing.

If you're watching the war in Ukraine, you're seeing that drones are the future of conflict, and that's no different from fentanyl. What I'm seeing is I'm seeing on a regular basis cartels are using drones to penetrate the United States air space, and they're dropping off packages of fentanyl. Remember, you don't need large quantities in order to make a lot of money off of this. Then they're taking that and they're moving it around.

Well, let me just set the tone. Imagine if you're in a soccer field and all of a sudden there's a drone that flies over with fentanyl and it doesn't drop it to get picked up and get sold somewhere, it just drops it in the stadium. Could we live in that world? Well, guess what? We already live in that world.

So I'm very concerned with the drones that are happening, in particular in the cartels and how it's all related to fentanyl.

My first question is for Mr. Mandryck. Can you speak to any trends or observations you have seen with the recent rise in the use of drones to smuggle drugs across the border?

Mr. MANDRYCK. Thank you, sir. Historically, we have seen drones almost entirely used for surveillance along the border, whether that's at a port of entry or between ports of entry, where

scouts located on the Mexican side would monitor the movements and then facilitate cross-border movement from there.

We have started to see an increased number of sUAS incursions crossing the border, some of which are for surveillance purposes, but we have seen increased use of smuggling of some narcotics, primarily hard narcotics, those that, as you mentioned, don't require larger quantities for movement. We have in place a very strong counter-UAS program with our U.S. Border Patrol and our Air and Marine Operations Center that we would love to give you a more in-depth briefing on the specific capabilities of that.

Mr. GONZALES. Great. Thank you.

I was just in El Paso a few weeks ago, and I visited two areas. One, I visited the Clint Station, Border Patrol station. This is an area in the El Paso Sector, but it's not the main one. It's not what you see on TV. It's one of the sectors that is in the Lower Valley, and it is historically known that this is the area that is most trafficked.

So I was asking the agents there, I was like, How many agents do you have on duty at one time? The answer was two agents. OK.

My next question was, How much contraband have you apprehended this year? Guess what the answer was? Zero. OK.

So the most trafficked area in El Paso County, you only have two agents on duty, and they've apprehended nothing. OK.

Go a little further. You know, outside the city limits of El Paso is a brand-new soft-sided facility. It's like going to the Dallas Cowboys Stadium. OK. It's like Disneyland: 360,000 square feet, larger than six football fields. It's costing taxpayers $400 million a year. Guess how many agents were in that facility? Two hundred eight.

What I'm getting at is we're putting all our resources into the humanitarian piece of it, and there's nobody on the field to actually stop some of the traffic that's happening.

One of the agents told me, Hey, look, I see drones—Tony, I see drones coming back and forth all the time, and I feel powerless. There is nothing I can do as a field agent down on the ground.

What I'm also seeing too is all these procedures—you have to go through all these procedurals to be able to go all the way up the chain in order to get a response back.

Once again, we are living in a different environment where things are tactical. You've got to be able to give the agent the tools that they need to succeed in a real-time environment if we're going to save lives.

I've got 1 minute left. Let me ask one more question. Once again for you, Mr. Mandryck. What can the committee do to ensure that CBP and other appropriate agencies have what they need to combat drones that are illegally crossing our border?

Mr. MANDRYCK. Sir, what a lot of it comes down to is just the adaptability of where we are with the technology, the speed at which that grows. They're very cheap to collect, to produce, so it's kind of a twofold effort. So it's actually attacking logistical supply chains behind those to prevent those being moved into the hands of TCOs to use for facilitation, but also support in the technology to, not just detect, but also safely bring down those pieces of aircraft, and then the exploitation after that significant investment from a technology and an expertise standpoint.

Mr. GONZALES. Well, I'd love to take you up on your offer and sit down and walk through this, in particular to these UAS vehicles that we can defeat, and talk about it, not only in regards to the Homeland Security Committee, but I also sit on the Appropriations Committee. How can we give real money to real programs that work? I'm very interested in that. Would love to follow up with you.

Mr. Chairman, I'm out of time. I yield back.

Mr. HIGGINS. The gentleman yields.

The gentlewoman, Mrs. Ramirez, is recognized for 5 minutes for questioning.

Mrs. RAMIREZ. Thank you, Chairman Higgins and Ranking Member Correa, of the Border Subcommittee for convening today's hearing.

However, I do wish that we could be focused on addressing the root causes of migration rather than having to debunk myths and respond to Republican fearmongering. I sincerely hope we can look beyond the politics and work together to achieve comprehensive immigration reform and address the causes and the concerns we have around this opioid crisis.

We know that nearly 90 percent of hard drugs, such as fentanyl, heroin, and methamphetamines, are seized by CBP at our ports of entry rather than between them. Even when hard drugs are seized between ports of entry, the vast majority are seized at vehicle checkpoints.

Mr. Mandryck, can you confirm that nearly 90 percent of hard drugs seized are at ports of entry? Is that a yes or no?

Mr. MANDRYCK. Yes, ma'am.

Mrs. RAMIREZ. Thank you. Mr. Mandryck, is it true that the vast majority of opioids seized between ports of entry are seized at vehicular checkpoints?

Mr. MANDRYCK. That's correct, ma'am.

Mrs. RAMIREZ. Thank you.

Mr. Mandryck and Mr.—I'm going to do my best because pronunciation is important to me—Mr. Papadopoulos—Papadopoulos. Papadopoulos. Did I get it right? My understanding is that more than 85 percent of the people convicted for smuggling fentanyl are U.S. citizens. Is that accurate?

Mr. MANDRYCK. So, ma'am, I can talk about the seizures and the turnover for the actual prosecutions. When we look at those encounters at the ports of entry, so Office of Field Operations, there's two ways to look at that. That's by weight and by number of events. If we look at it from events, so individual encounters, this fiscal year we're at 73.1 percent are U.S. citizens, the balance being Mexican nationals. If we look at that by weight, we're looking at about 56 percent U.S. citizens. The delta between those two is a lot of the U.S. citizens we see are very small quantity personal use.

Mrs. RAMIREZ. What about convicted for smuggling fentanyl? Is it U.S. citizens, the majority?

Mr. PAPADOPOULOS. Ma'am, I'm going to have to get back to you on that. I don't know the answer to that, but I'll be happy to get back with you.

Mrs. RAMIREZ. Yes, I appreciate it. Thank you.

So, Mr. Mandryck, would it be fair to say that the majority of seizures in between ports of entry, because even with the percent-

ages you gave me, are also from U.S. citizens and U.S. persons more so than from Mexican nationals?

Mr. MANDRYCK. It's a fairly close breakdown. We will have to get back with you on specifics.

Mrs. RAMIREZ. Thank you. Mr. Mandryck, can you also share the percentage of opioids CPB seized on migrants not in vehicles during the fiscal year? Do you have that information?

Mr. MANDRYCK. It's a very small percentage of those who were actually on migrants for opioids. We don't have the firm percentage. We can get back to you.

Mrs. RAMIREZ. So a very small percentage, correct?

Mr. MANDRYCK. Yes, ma'am.

Mrs. RAMIREZ. That's what I thought.

So just to clarify, Mr. Mandryck, would you agree that undocumented persons traveling on foot between ports of entry represent a very small fraction of the people trafficking opioids across our borders?

Mr. MANDRYCK. Yes, ma'am. There's a variety of reasons behind that: the ability to exploit illegal travel with, you know, millions of people each day back and forth, easy concealment techniques, operational security with a countersurveillance of individuals.

Mrs. RAMIREZ. Thank you. Thank you.

We know the alarming number of fentanyl overdoses is emblematic of a larger drug abuse public health crisis that our country is experiencing and has been for decades. I deeply sympathize with the losses that many families, including in the Third Illinois District, are facing. But this issue is broader than one of border security. In the words of Mr. Chester, and I quote, you said that the—hold on 1 second. I want to get it right. Ending the opioid crisis doesn't start at the border and it won't end in the border.

We need—and so I think we need to treat the demand driving this epidemic, and we need comprehensive health care and access to education, treatment for everyone.

Mr. Chester, knowing that, what initiatives is this administration pursuing to prevent substance abuse in our communities and support these in recovery?

Mr. CHESTER. Thank you very much. You stated it correctly, right, the efforts that we take to keep these drugs out of our country have got to be complemented by strong public health efforts in order to be able to reduce their demand. It really starts with prevention, particularly youth prevention. We out of ONDCP manage the drug-free communities program, which is enormously successful, more than 700 coalitions funded around the country, focused at the local level in order to prevent drug use.

The second thing is reducing barriers to treatment, whether those barriers are monetary or regulatory, ensuring that everyone who needs treatment is able to get it. Sadly, about 8 out of 10 Americans who need treatment don't have access to it.

Then the final thing is to create communities and workplaces that are recovery ready, so that individuals in recovery can continue their sustained recovery, stay with their families, get a good job, and not tragically enter back into the population of those using drugs.

Mrs. RAMIREZ. Thank you for your time.

I yield back.

Mr. HIGGINS. The gentlewoman's time has expired.

Mr. D'Esposito, my colleague from New York, is recognized for 5 minutes.

Mr. D'ESPOSITO. Well, thank you, Mr. Chairman, and thank you for allowing me to waive on to the subcommittee this afternoon.

To all of you, thank you for being here.

Prior to serving as a Member of Congress, I was even prouder, I think, to be a Member of the New York City Police Department, retiring there as a detective. I know that just working in the five boroughs of New York City you get to see different district attorneys and what their priorities are, their prosecutorial priorities.

So I guess this is really a question for Mr. Papadopoulos, but it's really open to all of you. Do you see that the people that you're arresting and hopefully eventually prosecuted, are you dealing with different prosecutors with different priorities, and is that hindering your ability to take illegal narcotics?

Mr. PAPADOPOULOS. Sir, thank you for the question. As you know as former law enforcement, you know, we collect the evidence, we gather the evidence, and present it to a grand jury or to a prosecutor's office, and they decide the most appropriate charges. So we don't factor into that, other than collecting the evidence.

Mr. D'ESPOSITO. Right. But what I'm asking is, have you seen it become more difficult with different prosecutors, the effective—really the prosecution of drug arrests? Has it become more difficult as we see different prosecutors having different priorities?

I mean, we see it throughout the United States of America, whether it's in cities like New York or places like California where, you know, crime is rampant, because we see over and over again repeat offenders, people that are—they're being arrested, they're being sometimes prosecuted, and then they are let out to commit more crimes. One of the biggest things that we've seen is repeat offenders.

So have we seen—and the issues on our Southwest Border when we're dealing with, specifically in this hearing, the trafficking of narcotics and fentanyl, have we seen repeat offenders, and has the ability of prosecutors and perhaps their priorities had an effect on the way that you guys are able to really take criminals off the street, and I think most important, keep them off the street?

Mr. PAPADOPOULOS. Yes, sir. So for the border, I'll defer to DHS on what they're seeing there. I will say that, you know, DEA strives to prosecute Federally, not at the local level.

Mr. D'ESPOSITO. Of course.

Mr. PAPADOPOULOS. What we see when we do that is that—more of an impact in terms of crime reduction and sentencing.

Mr. D'ESPOSITO. Right. But even Federal prosecutors, different offices have different priorities, and sometimes we see things headed in a different direction.

So I guess for the border, I'll hand it over to you guys.

Mr. CAGEN. I don't oversee our domestic operations branch, but I will tell you that I don't believe that we have seen much of a change. There's a consistent cadre who works day in and day out on the law enforcement, either CBP or HSI side, that works continuously with U.S. attorneys to take cases to the Federal level.

I can take that as a get-back. If there's something different, I can let you know.

Mr. D'ESPOSITO. OK. Perfect.

Mr. MANDRYCK. Sir, I'd have to go with our DEA and HSI colleagues. When we get seizures, they're turned over to them for the prosecution.

Mr. D'ESPOSITO. Great.

I yield back. Thank you, Chairman.

Mr. HIGGINS. The gentleman yields.

My colleague, Mr. Ivey, is recognized for 5 minutes for questions.

Mr. IVEY. Thank you, Mr. Chairman.

Before I start asking questions, I'd like to commend the Chair for putting this hearing together. I waived in to the committee today and had just come over from another hearing, so I just picked up the witness testimony. I came in and asked—I looked at the list, and I asked staff, Well, who are their witnesses and who are our witnesses? They said, Well, this looks like it's pretty much straight down the middle.

I must agree. I appreciate the fact that you put together a balanced hearing that's been very informative. It's the first one I've had like this since I got to Congress.

Mr. HIGGINS. You're always welcome.

Mr. IVEY. Thank you, sir.

I did want to follow up on Mr. Gonzales' questions about the drones issue. Because when we went down to—I guess it was in Brownsville, and we were talking with some of the Border Patrol agents, they were echoing what he said. They said there's a lot of drones, that it's increased a lot, that more of them are being used to now ship the drugs, and that they were outnumbered. The ratio of 17:1 sticks out in my mind for some reason.

I think, Mr. Correa, we were trying to get some—and I don't know if it happened or not—but some language in the bill that we passed to try and see if we could get additional funding to increase your capability to get drones to try and respond to the amount that they're using. I know they're very well-funded, they're keeping up with technology, and we have to hustle to keep up with them.

But I did want to make sure that that's something that would be helpful to you. We—you know, resources are short, but if you need additional help with the drone counter push on our part, you know, I would like to hear what your position is on that.

Mr. MANDRYCK. Absolutely, sir. Drones are something that's not going away. We're going to continue to see those, whether it's surveillance or narcotics movement.

We also support the vast majority of seer activities that take place, so Super Bowl, large-scale events with the counter-UAS approach. So it's a holistically beneficial program.

Mr. IVEY. Yes. I think there's legislation that's coming through the House, but it's got multiple committees because there's multiple types of jurisdiction. So that means it's got a hard path to travel, but hopefully we can get there. With your push, it might help to move it forward. So thank you for that.

I wanted to ask you too about China and some of their activities. I think one of you said that they have porous borders, and so it's easy for, you know, bad actors to ship precursors and the drugs

out. Then I believe it was Mr. Chester who mentioned that, to the extent China is being cooperative, it can really enhance our efforts to reduce the drug flow.

What kinds of additional steps can we take, in your view? I know this is ticklish. You're not State Department necessarily. But what can we do to help to address that? Because if we can help to cut it off at the source, that would really help our issues here.

Mr. CHESTER. You know, thanks very much. I work with my State Department colleagues on this literally every day, and they do a remarkable job, help managing this relationship.

I think the first thing is we need dialog with the PRC government, routine collaboration like we've had in the past. That's the first thing.

The second thing that we've specifically asked them to do is we've presented them with what we call the three asks. The first one is implement quality know-your-customer standards, so that the shippers of precursors, pill presses, dye molds, encapsulating machines know that they're going to go to a legitimate business and they're just not filling every single order. The second one is to properly label those items in accordance with World Trade Organization standards, so that pill press parts are labeled as pill press parts, so that they can be inspected, and motorcycle parts are labeled as motorcycle parts. The third thing is to agree with the United States and other countries on the—and it's a finite list, of legitimate uncontrollable chemicals because they have so many legitimate uses that can be combined and turned into precursor chemicals for making synthetic opioids or other synthetic drugs.

Three things that are really just due diligence on the part of any responsible country that not only the PRC but all countries—and we've talked to all countries about doing this—in order to be able to help dry up this permissive environment in which these items can move around in plain sight.

The last thing is the PRC needs to join with us in partnership at the global level, and this is particularly true in light of the establishment of this global coalition. They hold a major role in this problem, and they should, as any great nation, hold a major role in its solution as well. We look forward to them engaging with us and doing that.

Mr. IVEY. I thank you for that.

I yield back the balance of my time. Thank you again, Mr. Chairman.

Mr. HIGGINS. The gentleman yields.

My colleague from Texas, Ms. Jackson Lee, is recognized for 5 minutes for questioning.

Ms. JACKSON LEE. Let me thank the Chairman and Ranking Member. I was just in Judiciary, so I'm somewhat delayed and may be asking questions that have already been asked.

But let me start with the principal deputy administrator of the DEA, Mr. Papadopoulos, and really hone in on the DEA's work with respect to opioids and the fact that fentanyl, which is synthetic, is found in drugs for medical use, and it is sometimes used to lace other drugs, and as well sold on-line, come in pink pills, multicolored pills.

How difficult is the fight for fentanyl, and what are the elements the DEA uses? I know there's some on the criminal side. You deal with scheduling of drugs, not yet scheduled fentanyl. But how difficult is this fight?

Mr. PAPADOPOULOS. Yes. Thank you, ma'am. So we are using all the tools that we have available and the authorities that we have been given to battle this unprecedented epidemic that we're facing right now. As you mentioned, we are having millions of pills come into the United States. Six out of 10 have a potentially lethal dose. That's up from 4 out of 10 last year. So we are committed to doing everything we can to prevent the overdose deaths that are happening throughout the country.

Ms. JACKSON LEE. Well, what is your—let me get you to be more extensive. Everything you can. But what are the—are you targeting certain areas? How do you incorporate the fact that there's medical uses? You know, are you seeing a criminal element that is separate and apart from the cartels? Because fentanyl is everywhere. Can you comment on that, please?

Mr. PAPADOPOULOS. Yes. So we are—domestically, I mentioned Operation Last Mile, which resulted in the distributors—cartel distributors arrests in the United States. Also, we have Operation Overdrive, which is data-driven, and it focuses on areas of the country that have high number of overdose deaths and drug-related violence. We're working with our State and local partners to identify those areas.

Most recently, we are in 57 cities in 36 States. Phase 1, which ended last year, resulted in significant decreases in fatal shootings and homicides in Philadelphia in the Kensington area. Phase 2 is on-going, and phase 3 is coming soon. So we're doing that.

We also have Operation Overdose Justice, which focuses on deaths resulting from fentanyl, where we partner with local counter—State and local counterparts to bring the most appropriate charges when somebody does die either through a fake prescription pill or if it's fentanyl that's mixed with another drug.

Ms. JACKSON LEE. Let me thank you very much. I am in the business of stopping fentanyl and particularly the impact that it's had on our children. I want to ask Mr. Chester what is being done as relates to research or treatments on opioid addiction, but particularly the impact on school children.

At this time, Mr. Chairman, I'd like to introduce into the legislation—my legislation, which is Stop Fentanyl Now Act of 2023. I hope that there will be an opportunity for this legislation to be reviewed in this committee, Judiciary, and I know that there's an Energy and Commerce component. But included in here is the ability for more institutions to use the strips. Some States outlawed them as being a criminal element.

So, Mr. Chester, you want to comment particularly focused on school children and the crisis we have?

Mr. CHESTER. Yes, Congresswoman. Thank you very much. The first thing is our strong emphasis, and particularly in the National Drug Control Strategy, on youth prevention. This is not only preventing at the individual level but looking at the environmental factors that may lead to eventual substance use. That's the first thing.

The second thing, as you mentioned, fentanyl test strips. I would also like to mention naloxone and increasing the availability of naloxone to get it in the hands of everyone who needs it so that anyone who suffers an opioid overdose, who doesn't need to die, that overdose can be reversed with the use of naloxone. Those are two important components of harm reduction. In the National Drug Control Strategy, this is the first time that harm reduction has been mentioned in a National Drug Control Strategy.

The last thing, when you talk about treatment, we have wonderful professionals at the National Institutes of Drug Addiction, at NIDA, who do research on this. I think the most important thing that we can do now is reduce barriers to treatment, particularly medication treatment for opioid use disorder, to ensure that everyone who needs treatment has access to it. That's probably the most critical important thing that we can do in order to take the oxygen out of this illicit supply that's being pulled across our borders.

Ms. JACKSON LEE. Mr. Chester, thank you. But I wanted to end on your testimony, because if we can cut the desire, then the supply has nowhere to go. It is in our schools. My legislation, Stop Fentanyl Now Act, does naloxone, does the strips, and you have indicated it is a holistic approach.

I just want to end, Mr. Chairman, by—I'm not sure if I did get a answer, but I'm asking unanimous consent to introduce in the record the Stop Fentanyl Now Act.

Mr. HIGGINS. Without objection.

[The information follows:]

(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. 4272

To provide public awareness and outreach regarding the dangers of fentanyl, to expand the grants authorized under the Comprehensive Opioid Abuse Grant Program, to expand treatment and recovery services for people with opioid addictions, and to increase and to provide enhanced penalties for certain offenses involving counterfeit pills.

IN THE HOUSE OF REPRESENTATIVES

Ms. JACKSON LEE introduced the following bill; which was referred to the Committee on _____

A BILL

To provide public awareness and outreach regarding the dangers of fentanyl, to expand the grants authorized under the Comprehensive Opioid Abuse Grant Program, to expand treatment and recovery services for people with opioid addictions, and to increase and to provide enhanced penalties for certain offenses involving counterfeit pills.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stop Fentanyl Now Act of 2023".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The United States is in the midst of the worst opioid epidemic in history.

(2) Illicit fentanyl is typically mixed into heroin or pressed into counterfeit pills made to look like controlled prescription drugs such as oxycodone, hydrocodone, and Xanax.

(3) From September 29 through December 15, 2021, the DEA seized more than 1,500 pounds of substances containing fentanyl and 8.4 million fentanyl-laced, fake prescription pills. The seizures were directly linked to at least 39 overdose deaths and included at least 76 cases that involved buying and selling drugs on social media apps. Over the course of that year, the DEA seized over 15,000 pounds of substances containing fentanyl and 20.4 million fake pills, with roughly four out of every 10 pills containing lethal doses of fentanyl.

(4) The widespread availability of illicit fentanyl, the proliferation of counterfeit pills resembling prescription drugs but containing illicit fentanyl or other illicit drugs, and the ease of pur-

chasing pills through social media have increased fatal overdose risk among adolescents.

(5) According to the Centers for Disease Control, overdose deaths reached a historic high of more than 90,000 drug overdose deaths in 2020, a 31 percent increase compared with the previous year and in 2021, there were more than 106,000 reported drug overdose deaths in the U.S., with deaths involving synthetic opioids (primarily fentanyl) numbering 70,601.

(6) Between 2019 and 2021, more than 2,200 adolescents overdosed, 96 percent of whom were between the ages of 15 and 19. Fentanyl was involved in 84 percent of the deaths. While counterfeit pill evidence was present in 25 percent of adolescent overdose deaths, this is likely an underestimate because pills present at the scenes of the overdose deaths were not always tested.

(7) Many overdose deaths are preventable with public health interventions such as education, harm reduction, and treatment access.

(8) Public education campaigns can teach teenagers, parents, and others on the dangers of fentanyl and counterfeit pills and educating individuals on mitigating practices can be beneficial, in-

cluding emphasis on not initiating drug use, not using drugs while alone, using fentanyl test strips, and having overdose reversal drugs readily available.

(9) Opioid antagonists, such as naloxone, can be used during emergencies to reverse opioid overdoses and are effective at preventing fatal drug overdoses.

(10) The Centers for Disease Control and Prevention reported that despite an increase in prescriptions for emergency opioid antagonists, not enough of the medication is getting into the hands of those who need it most.

(11) Expanding access to emergency opioid antagonists and encouraging people to obtain emergency opioid antagonists are in the best interest of the health and safety of the public.

(12) Increasing access to medications like methadone and buprenorphine that effectively treat opioid use disorder can save lives.

(13) Greater access to drug detection tools such as fentanyl strips are a low-cost method of helping prevent drug overdoses and reducing harm.

SEC. 3. COMPREHENSIVE OPIOID ABUSE GRANT PROGRAM.

Section 3021 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10701(a)) is amended—

(1) in subsection (a), by adding at the end the following:

"(11) Developing, implementing, or expanding a program that provides training and resources for teachers and other school officials in public or private middle schools, high schools, institutions of higher education (as such term is defined in section 101 of the Higher Education Act of 1965), or area career and technical education schools (as such term is defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006) on—

"(A) carrying and administering an opioid overdose reversal drug or device approved or cleared by the Food and Drug Administration; or

"(B) acquiring such a drug or device for teachers and other school officials who have received such training to so carry and administer such a drug or device."; and

(2) by adding at the end the following:

"(g) PREFERENTIAL CONSIDERATION.—In awarding grants under this part, the Attorney General may give

preferential consideration to an application from an applicant in a State that—

"(1) has in effect a law that exempts from criminal and civil liability teachers and other school officials who carry or administer in good faith an opioid overdose reversal drug or device approved or cleared by the Food and Drug Administration if trained to carry or administer such drug or device; or

"(2) has in effect a law that exempts from criminal or civil liability the possession, sale, or purchase of fentanyl drug testing equipment, including fentanyl test strips.".

SEC. 4. PREVENTION AND TREATMENT OF FENTANYL-LACED SUBSTANCE USE.

(a) PREVENTION.—The Secretary of Health and Human Services, in consultation with the Attorney General, shall develop and implement a national strategy to prevent the use of fentanyl, fentanyl-related substances, and fentanyl-laced substances. The strategy shall include the following elements:

(1) Education and outreach to the public about the dangers of fentanyl, fentanyl-related substances, and fentanyl-laced substances.

(2) Development of treatment programs for individuals who are addicted to fentanyl and fentanyl-related substances.

(b) TREATMENT.—The Secretary of Health and Human Services shall provide grants to States and localities to support the development and implementation of treatment programs for individuals who are addicted to fentanyl and fentanyl-related substances.

SEC. 5. ENHANCED LAW ENFORCEMENT EFFORTS.

(a) INCREASED RESOURCES.—The Attorney General shall increase the resources available to law enforcement agencies to combat the trafficking of fentanyl, fentanyl-related substances, and fentanyl-laced substances. The Attorney General shall prioritize the following activities:

(1) Investigation and prosecution of individuals who traffic fentanyl, fentanyl-related substances, and fentanyl-laced substances.

(2) Disruption of the supply chain for fentanyl, fentanyl-related substances, and fentanyl-laced substances.

(3) Prevention of the importation of fentanyl, fentanyl-related substances, and fentanyl-laced substances into the United States.

(b) INTERAGENCY COORDINATION.—The Attorney General shall establish an interagency task force to coordi-

nate the efforts of Federal, State, and local law enforcement agencies to combat the trafficking of fentanyl, fentanyl-related substances, and fentanyl-laced substances.

SEC. 6. RESEARCH.

The Secretary of Health and Human Services shall conduct research on the following topics:

(1) The effects of fentanyl, fentanyl-related substances, and fentanyl-laced substances on human health.

(2) The development of new treatments for individuals who are addicted to fentanyl and fentanyl-related substances.

(3) The best practices for preventing the use of fentanyl, fentanyl-related substances, and fentanyl-laced substances.

SEC. 7. INCREASE IN PUNISHMENT.

Section 303(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(a)) is amended by adding at the end the following:

"(9)(A) Notwithstanding subsection (a)(1), any person who violates subsection (a), (b), (c), or (g) of section 301 with respect to any drug, if such violation results in—

"(i) serious bodily injury, shall be imprisoned not more than 10 years, fined not more than $1,000,000, or both; or

"(ii) death, shall be imprisoned for any term of years or for life, fined not more than $5,000,000, or both.

"(B) Notwithstanding subsection (a)(2), any person who violates subsection (a), (b), (c), or (g) of section 301 with respect to any drug with the intent to defraud or mislead, if such violation results in—

"(i) serious bodily injury, shall be imprisoned not more than 20 years, fined not more than $5,000,000, or both; or

"(ii) death, shall be imprisoned for any term of years or for life, fined not more than $10,000,000, or both.

"(C) Any person who violates subsection (a), (b), (c), or (g) of section 301 with respect to any drug promoted or sold online shall, in addition to the punishment provided for such violation, be sentenced to a term of imprisonment of not more than 5 years.".

SEC. 8. EXCLUSION OF FENTANYL DRUG TESTING EQUIPMENT FROM TREATMENT AS "DRUG PARAPHERNALIA".

Section 422(f) of the Controlled Substances Act (21 U.S.C. 863(f)) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) the possession, sale, or purchase of fentanyl drug testing equipment, including fentanyl test strips.".

SEC. 9. SENSE OF CONGRESS.

It is the sense of Congress that fentanyl deaths should be addressed by—

(1) increasing funding for prevention and treatment programs, including—

(A) programs that provide education and treatment for people who are at risk of opioid addiction or overdose; and

(B) school-based programs, community outreach programs, and treatment centers;

(2) expanding access to naloxone (a medication that can reverse the effects of an opioid overdose)

11

such as by making naloxone available over-the-counter or by providing subsidies for its purchase;

(3) cracking down on the trafficking of fentanyl, including—

(A) increased efforts both domestically and internationally;

(B) increased funding for law enforcement agencies;

(C) increased penalties for fentanyl trafficking; and

(D) working with other countries to stop the flow of fentanyl across borders;

(4) improving data collection and analysis, including the improvement of Federal data collection and analysis on fentanyl deaths, to better understand the scope of the problem and identify effective prevention and treatment strategies; and

(5) supporting research on new treatment options, including—

(A) support for research on new treatment options for opioid addiction and overdose; and

(B) funding for research on new medications, new delivery methods, and new approaches to treatment.

Ms. JACKSON LEE. Additionally, I want to introduce into the record, "Fentanyl is dominating headlines, but there's a more comprehensive drug problem happening in Texas." It goes on to talk about the broader crisis, synthetic opioids are not taken alone, and so health care and law enforcement officials are dealing with multiple deadly drugs at once. That means we must cut into the desire. I use that term because it's desire because you're addicted.

[The information follows:]

SUBMITTED FOR THE RECORD BY HONORABLE JACKSON LEE

FENTANYL IS DOMINATING HEADLINES, BUT THERE'S A MORE COMPREHENSIVE DRUG PROBLEM HAPPENING IN TEXAS

Lawmakers are passing laws in an attempt to slow the rise in fentanyl overdoses, but drug advocates warn the opioid is mostly a booster for other illegal drugs.

by Stephen Simpson

June 19, 2023, 5 AM Central

Fentanyl has been in the headlines across Texas, grabbing the attention of State leaders worried about the drug crossing over the State's border with Mexico and overdose deaths among young people.

But often left out of the discussion is that the drug is one part of a broader addiction crisis in the State. The synthetic opioid is rarely taken alone, and health care and law enforcement officials are dealing with multiple deadly drugs at once.

The illicit use of fentanyl began increasing in Texas around 2015, quickly sparking a crisis. Obtained with a doctor's prescription, the synthetic opioid can be an effective pain reliever. But there's been a rise both in the illegal use of the drug and now the manufacture of counterfeit prescription drugs that contain fentanyl but are packaged to look like something else, in an effort to cause addiction and generate repeat buyers.

"It's certainly, at this moment, the drug and the drug supply that is the most dangerous," said Katharine Neill Harris, a drug policy fellow at Rice University's Baker Institute for Public Policy.

Opioids, including heroin, prescription pills, and fentanyl, have caused the most overdose deaths in Texas, according to a Texas Health and Human Services report that studied death certificate data from 2010 to 2019.

And because opioids are often mixed with other drugs, there's been a rise in deaths known as polysubstance overdoses. The most recent state data shows those deaths reaching a rate of four per 100,000 people in 2019.

The most prevalent drug combinations were commonly prescribed pills, like hydrocodone and oxycodone, mixed with depressants like benzodiazepines and psychostimulants that include amphetamine and methamphetamine.

"That is the reason I caution very much against focusing on one drug," Neill Harris said. "Fentanyl is certainly a big problem. But I don't think it's necessarily the last drug crime crisis that we are going to face."

The role of methamphetamine in the illegal drug market has been pushed aside in headlines as images of drug use in the South turned from exploding meth labs to potentially deadly fentanyl pills. But drug experts say meth has made an unwanted comeback as meth manufacturers have begun making a stronger product.

"Meth is eating everybody's lunch and nobody's talking about it. Meth is crawling up on everybody," said Peter Stout, president and chief executive officer of the Houston Forensic Science Center. "Meth fatalities are way up even if you look at the Texas numbers."

Experts say if Texas wants to solve the overdose problem, officials here must fully realize the state has an overall drug issue that goes beyond fentanyl. Here's a look at the broader drug situation across Texas.

WHAT ARE THE DRUG TRENDS?

When the University of Texas at Austin's Addiction Research Institute studied calls made to poison control centers, admissions to drug treatment programs and drug seizures in 2021, researchers found the most common drugs flowing across the State's southern border from Mexico were methamphetamine, heroin, cocaine, marijuana, fentanyl, benzodiazepines like Xanax, and synthetic cannabinoids more commonly known as "spice" or K2.

While marijuana is still popular in Texas, its role in the illegal drug market has diminished greatly as 25 states across the country so far have passed laws to legalize it. When Texas legalized hemp in 2019, the prosecution of low-level pot cases declined due to the costly testing needed to determine if a vape pen liquid or a gummy contains marijuana or hemp because both come from the same plant species.

But hemp contains less than 0.3 percent of tetrahydrocannabinol, or THC, the ingredient in marijuana that gets you high. Anything with less THC is hemp.

Synthetic narcotics like fentanyl, meanwhile, have shot up the ranks of causes of overdose deaths. In the past 5 years, deaths from synthetics have surpassed deaths from other opioids, heroin and depressants.

WHAT IS FENTANYL?

Illegally manufactured fentanyl is a perilous chemical experiment, a stew of synthetic opioids.

Opium derived from poppies has long been used as a painkiller and recreational drug. Opioids like fentanyl or oxycodone are chemical concoctions that duplicate those effects.

Fentanyl was created in 1960 and approved for use in America in 1968. It's most commonly used as a sedative and pain reliever for patients. Legally obtained fentanyl is usually administered to patients through pills, intravenous therapy, skin patches or nasal spray.

But it can also be distilled and blended to produce a fine powder that can be easily added to other drugs.

Its potent molecules scurry straight to the brain, where thousands of receptors, similar to tiny satellite dishes, pull in signals from cells in the body. They have different jobs, some gathering information to control organ functions, others emotions or moods.

Fentanyl latches on to the receptors that signal pain and shuts them down. And when those receptors are turned off, the human body reacts in ways that can be fatal, including shutting down lungs and other vital organs.

The drug is considered 100 times more potent than morphine and 50 times more potent than heroin.

Fentanyl isn't the only drug mixture that has the Federal Drug Enforcement Administration concerned as the growing threat of xylazine is starting to make its way into Texas.

XYLAZINE: A NEW THREAT

Xylazine is a tranquilizer, as opposed to a painkiller, doing its work by numbing nerves rather than switching off receptors in the brain. It targets the central nervous system, the nerve highways running in and out of the spinal column that carries messages to the rest of the body.

Developed in 1962, it's used by veterinarians to keep elephants and horses calm enough to be examined or have their teeth cleaned. It mostly comes in liquid form and is sold in vials or preloaded syringes.

When tranquilizers are used, the spinal column sends messages to the brain to slow down a bit. This produces a sense of calm and elation, which is why tranquilizers are also used to treat anxiety, panic attacks and sleep disorders.

The Drug Enforcement Administration reported the first instances of this tranquilizer being used in illegal drug activity in the early 2000's by drug dealers in Puerto Rico when they began mixing it with other substances. The practice has now spread across the United States and has been found recently in Texas mixed with fentanyl.

Xylazine has been found in a growing number of overdose deaths across the country and is commonly encountered in combination with fentanyl, cocaine, heroin and a variety of other drugs.

METH

Methamphetamine is a white, odorless, crystalline powder that was developed early in the 20th century from its parent, amphetamine, and was originally used in nasal decongestants and inhalers. It can come in liquid form, which is easily made into a crystal form by drug traffickers. The highly addictive stimulant outpaced all others in the 2021 UT study of Texas drug trends.

The drug targets the brain and the spinal cord to create a sense of well-being or euphoria. Symptoms can include talkativeness, decreased appetite and a pleasurable sense of well-being. Meth also speeds up the body's systems to sometimes lethal levels by increasing blood pressure and heart and respiratory rates.

Texas drug labs have recently started seeing meth being placed in counterfeit Adderall pills, meaning a segment of meth users might be unaware they are even addicted to the drug.

HEROIN

Heroin is made from morphine, a natural substance taken from the seed pod of an opium poppy plant typically grown in Asia, Mexico and Colombia. It's often portrayed in film and television as a needle drug, but the substance can also be snorted or smoked. In the past, heroin was often mixed with crack cocaine, but fentanyl has become the primary substance being added to poppy plant extract. Dealers will often "cut" heroin with other substances to allow them to sell more of it at a higher price.

The 2021 UT study of drug trends showed that Texas has avoided the heroin overdose crisis seen in other states because Mexican black tar heroin is the most common version of the drug found in the state. Black tar heroin tends to have an average purity of 28 percent and cannot be easily mixed with fentanyl.

"Tar" heroin is usually sold in small balloons from which the user extracts the sticky substance from the balloon by mixing it with water over heat.

COCAINE/CRACK

Cocaine, the highly addictive stimulant made from coca leaves, was used more than a century ago to treat a wide variety of illnesses and was often used by early surgeons to block pain before local anesthetics were developed. Frequent use can alter brain structure and function. Users can inject or snort the powdered version of cocaine. "Crack" is the term often given to cocaine after it has been refined into a smokable substance.

WHAT CAN BE DONE?

Lawmakers in Texas have recently tried to tackle the state's overdose problem by aggressively attacking fentanyl distribution and use by means of enforcement and awareness.

Last week, Gov. Greg Abbott signed four bills to combat the growing fentanyl crisis, including House Bill 6, which classifies overdoses from the synthetic opioid as "poisonings," triggering murder charges for those convicted of giving someone a fatal dose of the synthetic opioid.

"These four laws will forever change Texas through new protections that will help save lives," he said in a press release. "In 2022, more than 2,000 people died from fentanyl in Texas—more than five a day. It is the No. 1 killer of Americans ages 18–45."

Other measures signed by Abbott will establish a Fentanyl Poisoning Awareness Month in October and require public schools to provide students with staff to assist with fentanyl abuse prevention and drug poisoning awareness. A fourth law will allow the distribution of Narcan or other opioid antagonists to Texas colleges and universities.

However, bold substance abuse measures like legalizing test strips were once again rejected by lawmakers.

Neill Harris, the drug policy fellow at Rice University's Baker Institute for Public Policy, said to combat fentanyl and the next impending drug crisis, the state must increase access to medical substance abuse treatments over enforcement measures.

"Until we have policies that address the demand, we're going to continue to have a problem with drug use," she said. "Law enforcement has always had problems with reducing the drug supply. We look back over decades and it has never been effective at slowing down the supply. Because there's always a demand. It's just simple economics."

Michele Steeb, a senior fellow at the Texas Public Policy Foundation, a conservative think tank, said their organization views addiction as a complex brain disorder disease.

"Well-supported scientific evidence shows that brain disruptions reduce brain function which inhibits the ability to make decisions and regulate one's actions, emotions, and impulses," she said. " . . . Diseases require treatment."

If the State can't control the supply, Neill Harris said, it's time to focus on reducing the harm of drug use by legalizing testing strips, making substitute drug treatment like methadone more available and giving more substance use options to the uninsured.

Ms. JACKSON LEE. So I thank you, Mr. Chairman. I hope you will consider—and the Ranking Member, your courtesies—but I hope you will consider the legislation because we have to find a multiple level of dealing this.

To the other witnesses, my time is gone, so I just want to express my recognition of your presence here, Mr. Cagen, Mr. Mandryck, Mr. Durham. I did not get a chance, but I'm well aware of the work that you're doing and the challenges that we all have.

I yield back.

Mr. HIGGINS. Yes, ma'am. The gentlewoman yields.

The Ranking Member and I and perhaps our colleague, Ms. Lee, have other questions. So I'm going to open for a second round of questioning and recognize myself.

Mr. Papadopoulos, some things are law and some percentages and statistics are law enforcement-sensitive, so I recognize that. But I'm going to ask you to share with America, to the extent that you can, so that the citizenry can comprehend just what an overwhelming challenge we face regarding the fentanyl that's already in our country.

As we consider the volume seized, which is an unprecedented amount. You guys are pretty much seizing everything you have operational capability to seize, and it's an incredible job that you're doing. But regarding the volumes seized, regardless of at ports of entry or between ports of entry, can you share with America what you would consider to be a number that the public could consume and would not interfere with the operations—what's the percentage of seizures versus the totality of volume that has come into our country?

Mr. PAPADOPOULOS. Sir, thanks for the question. I don't—I think DEA strives to seize as much—as many drugs as possible. We don't find any acceptable amount of drugs entering the United States.

Mr. HIGGINS. Of course.

Mr. PAPADOPOULOS. So we continue to do whatever we can.

Mr. HIGGINS. Of course. You're seizing all you—I would imagine if you had twice the staff, you'd be seizing twice the volume that you have right now. There's so much out there.

A drug dealer told me last year, he said, Cap, we have so much fentanyl, we're giving it away. It's why people are dying. They want their product to be more popular on the streets, so they're making it heavier. This is a guy who's been in the game for quite some time, is incarcerated. He said that they essentially are giving volumes away, and when people start dying, they reel it back. He said that they abandoned volumes of fentanyl if they're going to cross State lines, if they're moving an operation to another State, because it's so much cheaper to replace the fentanyl than it is to risk the inter-State trafficking.

So you're seizing unbelievable volumes of fentanyl. But how does that volume compare with what, in your estimation, would be the total? Are you seizing 25 percent, 50 percent, 15?

Mr. PAPADOPOULOS. Sir, I'd like to consult our intelligence division on that. I don't know that—I would want to give you a more precise answer.

Mr. HIGGINS. Right next to you.

Mr. PAPADOPOULOS. This is DHS, but yes.

Mr. MANDRYCK. Sir, so a little explanation first. The challenge with something like fentanyl is being synthetic, there's no agriculture-based place to get an initial estimate. So unlike cocaine or marijuana where we can kind of do an oversight to see general cultivation estimates, we can't do that with synthetics like fentanyl or methamphetamine.

When we look at it holistically from an intelligence perspective, it's probably within that 25 percent mark based off demand.

Mr. HIGGINS. Thank you. I think that's an honest answer. That's an honest answer, and this will paint the picture for America of the challenge that we face.

I yield the balance of my time and recognize the Ranking Member for additional questions.

Mr. CORREA. Thank you, Mr. Chairman.

I'm going to follow up on your question from a different perspective. Ports of entry, Mr. Mandryck—and correct me if I'm wrong here—but only 2 or 3 percent of our passenger cars are actually inspected right now with nonintrusive technology. Fifteen to 17 percent of our commercial vehicles are inspected, and you have these record volumes of seizures. It's—the Biden administration now is talking about going to 40 percent inspection of vehicles coming through and maybe 70 percent of commercial vehicles by 2026.

I'm going to ask you to straight line and speculate. What's it going to do to the seizures at the border?

Mr. MANDRYCK. Sir, as part of the layered approach, the nonintrusive inspection has become a key part of it. With that, you know, 2 percent in the passenger vehicles, that's yielded a significant volume of overall seizures. So that extrapolation from that 2 percent to 40 percent, we'll have significant increase in seizures. Once you layer in things like the officer intuition, the canine capabilities, those seizure volumes are going to continue to increase.

Mr. CORREA. Again, if I heard you earlier, all of you, your testimony, you're looking at drones now being a way, by the way, of actually bringing in fentanyl into the United States. Is that correct?

Mr. MANDRYCK. There certainly is that potential, yes, sir.

Mr. CORREA. I mean, I don't know what a drone costs, and I don't know what the value of a payload would be. But if we do a cost-benefit analysis, I'd imagine you can just flood any part of our border or borders to come up with a very profitable situation.

Mr. MANDRYCK. Yes, sir. The majority of the drones we've seen commercially available, things like the DJI, a couple hundred dollars to a thousand dollars of payload capacity is, you know, 5-ish kilograms, plus or minus, depending on what you're willing to pay.

Mr. CORREA. How much would that be in terms of value of fentanyl?

Mr. MANDRYCK. Depending on if it's——

Mr. CORREA. You've got a $200 drone. What's the value of the payload?

Mr. MANDRYCK. You could easily have, you know, a million dollars' worth per flight and continuous flights throughout the day.

Mr. CORREA. How much?

Mr. MANDRYCK. Easily have a million dollars per——

Mr. CORREA. A million dollars. So that's a pretty good return on your investment.

I know, this last week I was in my district, and I took a tour of a contractor that's about to put out a manu-—manufacturing really a system, not only of radar, but radar to interfere with the controls of drones as they move forward. I would imagine that's also in your horizon in terms of investing for our national defense and border defense? Yes? No?

Mr. MANDRYCK. Yes, sir.

Mr. CORREA. Again, gentlemen, I would just come back to my earlier statement and challenge that I made, which is, let us know what we, the Members of Congress, need to look at to help you do a better job of defending our country against fentanyl and other negative things that come in. You're the experts. You know, we look at little patterns, little tidbits of what's going on, but you're the experts, and you need to let us know what it is that you need.

So thank you, Mr. Chairman. I yield the rest of my time to you.

Mr. HIGGINS. The gentleman yields.

The gentlewoman, Ms. Lee, is recognized for additional questions.

Ms. JACKSON LEE. I thank the Chairman.

I want to just follow the line of questioning that I did not get a chance, and it might be redundant, redundant, redundant, but maybe asked in a different way.

Whether it's the DEA or whether it's CBP and others, can I get—was it said—total amount in dollar value that's coming into the United States? Second, is most of it coming through the ports of entry, legal ports of entry?

Mr. MANDRYCK. Ma'am, I can begin to answer that question for you. So, so far in fiscal year 2023, we're at just about 20,000 pounds of fentanyl seized by CBP along the border, 18,000 pounds of that with our Office of Field Operations at our ports of entry, and a little over 2,000 pounds with the U.S. Border Patrol.

Ms. JACKSON LEE. Would you be able to capture what that might be in street value or any value?

Mr. MANDRYCK. It's a little bit tougher, depending on the purity levels, powder versus pill format. With Operation Blue Lotus, as I had mentioned, alongside Four Horsemen, we've seized about 10,000 pounds that had a street value of about $90 million.

Ms. JACKSON LEE. DEA, do you have a different number of what you've been able to deal with?

Thank you. Thank you very much.

Mr. PAPADOPOULOS. Ma'am, we've seized, this fiscal year, approximately 57 million pills, which is about the same amount that we seized last year, and about 13,000 pounds of fentanyl powder. Again, the amounts vary. Pills can run anywhere from a few dollars if you're buying wholesale, all the way up, you know, if you're just buying a single pill, $10 to $20 a pill. So it's hard to estimate.

Ms. JACKSON LEE. What have you found—how difficult is the—first of all, to say what you've seen, if you're working with collaborative agencies of on-line sales and how difficult it is to catch the on-line sales. I give the example that is so tragic and so difficult, loving parents, great athlete, middle schooler, high schooler, A student, or average student, loved by all. One moment they're going upstairs to go to bed, and the next moment, in the morning hours, they are not with us. Pink pills, the on-line sales, the sale to children.

Mr. PAPADOPOULOS. Yes, ma'am. Social media and on-line sales are an increasing problem that we are keeping a very close eye on. The cartels are advertising and selling on social media. In Operation Last Mile, which I mentioned earlier, which was the U.S. distributors, it was over 1,400 cases. About 40 percent of them in-

volved social media. So it is a certain issue that we are keeping an eye on.

As you mentioned, all these deaths are tragedies, of course. I would point out that we had family members last summer come into DEA headquarters and tell us their stories, and they shared stories similar to what you just mentioned. We started the Faces of Fentanyl, which is in our lobby. It started with a couple of hundred pictures. It is now up to 5,000 pictures. It covers 8 walls in the DEA headquarters lobby that every DEA employee has to walk past to get to work that works at headquarters. The youngest person on that wall is 17 months old and the oldest person is 70 years old. A lot of them did buy the pills that ended up killing them over social media.

Ms. JACKSON LEE. This—our approach to getting that—again, my legislation deals with enhanced penalties that's on the back side of it for those utilization on social media to sell pills. So it's on the criminal end, it has the treatment end, as Mr. Chester emphasized. But, anyhow, you know how do we do an eagle eye on that, those sales on that phone or that iPad or when you're alone and you order them and they come in whatever package or you send it to somebody else and you have pink pills and you take them?

Mr. PAPADOPOULOS. Yes, ma'am. That goes back to getting the word out. Public awareness is a big part of this, in addition to enforcement. The social media companies, frankly, have to do more.

When I was growing up, if you wanted to buy drugs, you needed to know somebody that had them or where to go to get them. Right now, everybody with a smartphone knows a drug dealer, unfortunately, and that includes our kids. So getting the word out is going to help with that.

I mentioned earlier, we're in an unprecedented crisis which requires unprecedented collaboration, including with social media companies, because with that collaboration we will save lives.

Ms. JACKSON LEE. Thank you very much. I think you're absolutely right. I am a rabid supporter of the First Amendment, but we have a crisis of—you've got 5,000 and growing. We have a crisis around children, and there is a level of responsibility that we must demand. I thank you for these numbers.

Thank you. I yield back.

Mr. HIGGINS. The gentlewoman yields.

I thank the witnesses for their valuable testimony and Members for their questioning.

Members of the subcommittee may have some additional questions for the witnesses and we would ask that the witnesses respond to these in writing. Pursuant to committee rule VII(D), the hearing record will be held open for 10 days.

Without objection, the subcommittee stands adjourned.

[Whereupon, at 4:04 p.m., the subcommittee was adjourned.]

4687

OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

WEDNESDAY, JULY 12, 2023

Serial No. 118–32

Printed for the use of the Committee on the Judiciary



Available via: *http://judiciary.house.gov*

U.S. GOVERNMENT PUBLISHING OFFICE

52–977 WASHINGTON : 2023

COMMITTEE ON THE JUDICIARY

JIM JORDAN, Ohio, *Chair*

DARRELL ISSA, California
KEN BUCK, Colorado
MATT GAETZ, Florida
MIKE JOHNSON, Louisiana
ANDY BIGGS, Arizona
TOM McCLINTOCK, California
TOM TIFFANY, Wisconsin
THOMAS MASSIE, Kentucky
CHIP ROY, Texas
DAN BISHOP, North Carolina
VICTORIA SPARTZ, Indiana
SCOTT FITZGERALD, Wisconsin
CLIFF BENTZ, Oregon
BEN CLINE, Virginia
LANCE GOODEN, Texas
JEFF VAN DREW, New Jersey
TROY NEHLS, Texas
BARRY MOORE, Alabama
KEVIN KILEY, California
HARRIET HAGEMAN, Wyoming
NATHANIEL MORAN, Texas
LAUREL LEE, Florida
WESLEY HUNT, Texas
RUSSELL FRY, South Carolina

JERROLD NADLER, New York, *Ranking Member*
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
STEVE COHEN, Tennessee
HENRY C. "HANK" JOHNSON, JR., Georgia
ADAM SCHIFF, California
ERIC SWALWELL, California
TED LIEU, California
PRAMILA JAYAPAL, Washington
J. LUIS CORREA, California
MARY GAY SCANLON, Pennsylvania
JOE NEGUSE, Colorado
LUCY McBATH, Georgia
MADELEINE DEAN, Pennsylvania
VERONICA ESCOBAR, Texas
DEBORAH ROSS, North Carolina
CORI BUSH, Missouri
GLENN IVEY, Maryland
BECCA BALINT, Vermont

C O N T E N T S

WEDNESDAY, JULY 12, 2023

OPENING STATEMENTS — Page

The Honorable Jim Jordan, Chair of the Committee on the Judiciary from the State of Ohio 1
The Honorable Jerrold Nadler, Ranking Member of the Committee on the Judiciary from the State of New York 3

WITNESS

The Honorable Christopher Wray, Director, Federal Bureau of Investigation
Oral Testimony 7
Prepared Testimony 10

LETTERS, STATEMENTS, ETC. SUBMITTED FOR THE HEARING

All materials submitted for the record by the Committee on the Judiciary are listed below 114

Materials submitted by the Honorable Zoe Lofgren, a Member of the Committee on the Judiciary from the State of California, for the record
- An article entitled, "FBI resisted opening probe into Trump's role in Jan. 6 for more than a year," June 19, 2023, The Washington Post
- An article entitled, "Showdown before the raid: FBI agents and prosecutors argued over Trump," March 1, 2023, The Washington Posts

Materials submitted by the Honorable Adam Schiff, a Member of the Committee on the Judiciary from the State of California, for the record
- A letter to the Honorable Jim Jordan, Chair of the Committee on the Judiciary, from David C. Weiss, United States Attorney, June 30, 2023
- A letter to the Honorable Lindsey Graham, Ranking Member of the Senate Judiciary Committee, from David C. Weiss, United States Attorney, July 10, 2023

Materials submitted by the Honorable Pramila Jayapal, Member of the Committee on the Judiciary from the State of Washington, for the record
- A report from the Director of National Intelligence from the Office of the Director of National Intelligence Senior Advisory Group Panel on Commercially Available Information
- A document from entitled, "Legal Loopholes and Data for Dollars," Center for Democracy & Technology

An article entitled, "Republican Eyes Sweet Home for New FBI Headquarters in Alabama," July 11, 2023, Wall Street Journal, submitted by the Honorable Barry Moore, a Member of the Committee on the Judiciary from the State of Alabama, for the record

Materials submitted by the Sheila Jackson Lee, a Member of the Committee on the Judiciary from the State of Texas, for the record
- A tweet by Kyle Seraphin, May 30, 2023
- A response to statement made by a Republican colleague
- A report entitled, "Strategic Intelligence Assessment and Data on Domestic Terrorism," October 2022, FBI and DHS

IV

Page

A tweet from Matthew Foldi dated July 12, 2023, submitted by the Honorable Mike Johnson, a Member of the Committee on the Judiciary from the State of Louisiana, for the record
A press release entitled, "31 Individuals Involved in a Drug Trafficking Organization inMarion County and Lorain County Indicted," June 22, 2023, U.S. Attorney's Office, Northern District of Ohio, submitted by the Honorable Mary Gay Scanlon, a Member of the Committee on the Judiciary from the State of Pennsylvania, for the record
An email thread discussing FBI SAR product ideas before inauguration day 2021, Jan. 15, 2021, submitted by the Honorable Jerrold Nadler, Ranking Member of the Committee on the Judiciary from the State of New York, for the record
Materials submitted by the Honorable Harriet Hageman, a Member of the Committee on the Judiciary from the State of Wyoming, for the record
A letter to the Honorable Jim Jordan, Chair of the Committee on the Judiciary, from the Honorable Rand Paul, Ranking Member of the Senate Committee on Homeland Security & Governmental Affairs from the State of Kentucky, July 11, 2023
A letter to Susan Ferensic, Assistant Director of Weapons of Mass Destruction Directorate of the FBI, from the Honorable Lindsey Graham, Ranking Member of the Senate Committee on the Judiciary from the State of South Carolina, and the Honorable Rand Paul, Ranking Member of the Senate Committee on Homeland Security & Governmental Affairs from the State of Kentucky, April 20, 2023
A letter to Christopher Wray, Director of the FBI, the Honorable Lindsey Graham, Ranking Member of the Senate Committee on the Judiciary from the State of South Carolina, and the Honorable Rand Paul, Ranking Member of the Senate Committee on Homeland Security & Governmental Affairs from the State of Kentucky, June 20, 2023
An image of a text message from Hunter Biden, submitted by the Honorable Matt Gaetz, a Member of the Committee on the Judiciary from the State of Florida, for the record
An email thread discussing FBI SAR product ideas before inauguration day 2021, submitted by the Honorable Jerrold Nadler, Ranking Member of the Committee on the Judiciary from the State of New York, for the record
An article entitled, "Jan 6 protestor Ray Epps reveals he's forced to live in RV hiding after death threats over FBI informant conspiracy: Feds confirm he's NEVER worked for them as he slams right-wing theorists using him as scapegoat," April 24, 2023, Daily Mail, submitted by the Honorable Henry C. "Hank" Johnson, a Member of the Committee on the Judiciary from the State of Georgia, for the record
Materials submitted by the Honorable Glenn Ivey, a Member of the Committee on the Judiciary from the State of Maryland, for the record
An article entitled, "All the Ways Trump, not his foes, sought to 'weaponize' the Government," July 10, 2023, The Washington Post
An article entitled, "A Deeply Ironic Reinforcement of Right-Wing Misinformation," The Washington Post
An article entitled, "Restricting the Government from Speaking to Tech Companies Will Spread Disinformation and Harm Democracy," July 5, 2023, Just Security
A letter to Chair Jason Smith, Chair of the House Committee on Ways and Means, from Abbe David Lowell, Counsel for Robert Hunter Biden, June 30, 2023

QUESTIONS AND RESPONSES FOR THE RECORD

Questions to FBI Director Christopher Wray, submitted by the Honorables Ted Lieu from the State of California, Cori Bush from the State of Missouri, Matt Gaetz from the State of Florida, and Andy Biggs from the State of Arizona, Members of the Committee on the Judiciary, for the record
No response received at time of print.

OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION

Wednesday, July 12, 2023

HOUSE OF REPRESENTATIVES

COMMITTEE ON THE JUDICIARY

Washington, DC

The Committee met, pursuant to notice, at 10:05 a.m., in room 2141, Rayburn House Office Building, Hon. Jim Jordan [Chair of the Committee] presiding.

Members present: Representatives Jordan, Issa, Buck, Gaetz, Johnson of Louisiana, Biggs, McClintock, Tiffany, Massie, Roy, Bishop, Spartz, Fitzgerald, Bentz, Cline, Gooden, Van Drew, Nehls, Moore, Kiley, Hageman, Moran, Lee, Hunt, Fry, Nadler, Lofgren, Jackson Lee, Cohen, Johnson of Georgia, Schiff, Cicilline, Swalwell, Lieu, Jayapal, Scanlon, Neguse, McBath, Dean, Escobar, Ross, Bush, and Ivey.

Chair JORDAN. The Committee will come to order. Without objection, the Chair is authorized to declare a recess at any time. We welcome everyone to today's hearing on Oversight of the FBI. The Chair now recognizes the gentleman from Texas, Mr. Gooden, to lead us in the Pledge of Allegiance.

ALL. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all.

Chair JORDAN. The Chair now recognizes himself for an opening statement. Eight days ago, eight days ago on July 4th, in the Western District of Louisiana, the Court found that the Federal government suppressed Americans' First Amendment free speech rights. In his conclusion on page 154, the Court said this, the judge said this:

> Plaintiffs are likely to succeed on the merits in establishing that the Government has used its power to silence the opposition: Opposition to COVID–19 vaccines, opposition to COVID–19 mask and lockdowns, opposition to the lab leak theory of COVID–19, opposition to the validity of the 2020 election, opposition to President Biden's policies, statements that the Hunter Biden laptop was true, and opposition to policies of the Government officials in power. All were suppressed.

It is quite telling that each example or category of suppressed speech was conservative in nature. The court further writes, "the U.S. Government seems to have assumed a role similar to an Orwellian Ministry of Truth." Specific to the FBI, the Court said this:

The FBI's failure to alert social media companies that the Biden laptop story was real and not Russian disinformation is particularly troubling.

The FBI had the laptop in their possession since December 2019, and had warned social media companies repeatedly to look out for "hack and dump operation by the Russians prior to the 2020 election."

Even after Facebook, specifically asked whether the laptop story was Russian disinformation, the FBI refused to comment, resulting in social media companies' suppression of the story and as a result, millions, millions of our fellow citizens did not hear the story prior to the November 3, 2020, election. Additionally, the FBI was included in industry meetings, bilateral meetings, received and forwarded alleged misinformation to social media companies, and actually misled companies in regard to the laptop story.

When the Court said the FBI misled, that is a nice way of saying they lied. They lied, and as a result, important information was kept from we, the people, days before the most important election we have, the election of the President of the United States, election of the Commander in Chief.

In a survey last fall, four out of five Americans said they believed there is a two-tiered system of justice in America today. They said that because there is. They said that because of what they have witnessed. Think about what Americans have seen, National School Board Association, left-wing political group writes the White House and asks them to treat parents at school board meetings as terrorists. The Garland Justice Department does just that. They put together a memo, set up a dedicated line of threat communication and a snitch line on parents. As a result, parents get investigated by our FBI, get a threat tag associated with their name, 25 of them. Because whistleblowers came and told us they were investigated by the Federal Bureau of Investigation.

Americans have seen the FBI's Richmond Field Office put together a memorandum saying pro-life Catholics are extremists. They have seen 20 FBI agents, SWAT team members show up at the home of Mark Houck and arrest him in front of his wife and seven children, even though he had indicated he would be happy to turn himself in. What was he arrested for? Him and his 12-year-old son were praying outside an abortion facility. Some guy starts screaming in his son's face and he did what frankly any dad would do, defended his child.

What is interesting is the National School Board Association apologized for the letter, but the Attorney General refuses to rescind his directive. The FBI did rescind, thank goodness, the Richmond Catholic memorandum, but they refuse to tell Congress who wrote it and who approved it. Mr. Houck, when he got his day in court, he was acquitted by a jury of his peers.

Americans' speech is censored, parents are called terrorists, Catholics are called radicals, and I haven't even talked about the spying that took place of a Presidential Campaign or the raiding of a former President's home. Maybe what is more frightening is what happens if you come forward and tell Congress. You are a whistleblower, come tell the legislature, come tell the Congress what is going on, look out. You will be retaliated against. Ask Garrett O'Boyle. He told Congress about these issues. They took his

clearance. They took his pay. They took his kids' clothes. Ask Gary Shapley, a 14-year veteran at the IRS. Handled some of the biggest international tax fraud cases at the agency. He comes forward and the Justice Department kicks him off the case.

Here is what is truly unbelievable, here is what is amazing. With all that history, with all that, the Justice Department, the FBI, want the taxpayers they censored, the parents they labeled, the pro-life Catholics they call radical, they want them to pay for a new FBI headquarters. They want FISA reauthorization of the 702 program in its current form in the Director's opening statement. I mean you can't make this stuff up.

There are 204,000 reasons why Republicans will oppose FISA reauthorization in its current form. Two hundred and four thousand times, the FBI improperly searched the 702 data base. Unlike the FBI censorship, in the Court's opinion, that was focused on conservatives, the FBI's illegal scrutiny wasn't just limited to conservatives. BLM supporters were illegally scrutinized by the FBI as well. I hope our Democrat friends will join us in opposing reauthorization of Section 702 the way it is currently done. I think they will. I hope they will work with us in the appropriations process to stop the weaponization of the government against the American people and end this double standard that exists now in our justice system.

With that, I yield to the gentleman from New York for an opening statement.

Mr. NADLER. Mr. Chair, not that long ago, an oversight hearing of the FBI in this Committee would have been a relatively bipartisan exercise. My colleagues on both sides of the aisle would have asked legitimate questions about the functioning and mission of the Bureau. Some of the questions may have been tough. Debate may have gotten a little heated when we discussed important topics like privacy and discrimination. Our questioning would have been grounded in advancing and overseeing the FBI's dual missions of enforcing Federal laws and countering national security threats on American soil. In short, despite our disagreements, we would have done our duty as Members of the Judiciary Committee.

Today, unfortunately, House Republicans will fall well short of that mark. For them, this hearing is little more than performance art. It is an elaborate show designed with only two purposes in mind, to protect Donald Trump from the consequences of his actions and to return to the White House in the next election. Don't take my word for it. Chair Jordan announced his plan last August, just days after the FBI searched Mar-a-Lago. He told an audience at CPAC, the Conservative Political Action Conference, that the investigation into Trump's wrongdoing was designed to

> ... help frame up the 2024 race and I hope and I think President Trump is going to run again and we need to make sure that he wins.

Let me repeat that. "We need to make sure that he wins."

In pursuit of this goal, Chair Jordan and Committee Republicans have claimed for months that the FBI is corrupt, rotten, politicized, and their favorite word, weaponized, against the American people. Chair Jordan has launched an array of baseless investigations into the FBI, most premised on absurd conspiracy theories. Some so absurd that the Chair cannot possibly believe them to be true. This

is where the extreme MAGA leadership of this Congress has brought us today. Today, House Republicans will attack the FBI for having had the audacity to treat Donald Trump like any other citizen. The strategy is simple, really. When in doubt, Chair Jordan investigates the investigators. The FBI dared to hold Trump accountable, so Republicans must discredit the FBI at all costs.

You will hear claims today that the FBI's decision to investigate Donald Trump was somehow unfair. You will hear the Republicans attack the indictment of former President Trump on 37 counts related to his gross mishandling of national security information, including information regarding defense and weapons capabilities of both the United States and foreign countries, the United States nuclear programs, potential vulnerabilities of the United States and its allies to military attack, and plans for possible retaliation in response to a foreign attack.

The facts are made clear in the indictment.

> The unauthorized disclosure of these classified documents would put at risk the national security of the United States, foreign relations, the safety of the United States military, and human sources and the continued viability of sensitive intelligence collection methods.

Indeed, the indictment goes on to describe how the former President made such unauthorized disclosures, with him boasting about and showing his classified documents to numerous individuals without proper security clearance. You will hear claims today that this indictment against Trump was unfair, maybe even that it was unlawful. You will hear that the FBI should have just asked Trump a little more nicely, one more time, to hand over the documents. You will hear that the case was a political investigation from the start, orchestrated by a liberal-loving FBI that ensures Trump will be wrongfully vilified at every turn.

These claims, of course, are completely untethered from the evidence. Even if you believe, as Chair Jordan claims, that President Trump has committed no crime, surely we can agree that it is dangerous and profoundly irresponsible to have taken these documents from the White House and left them unsecured in Mar-a-Lago.

Again, don't take just my word for it, Trump's Secretary of Defense Mark Esper said that the former President's handling of this information put U.S. service members' lives and the national security at risk. Trump's hand-picked Attorney General Bill Barr, with whom I agree on very little, hit the nail on the head when he described the former President's legal troubles as,

> ... entirely of his own making. He had no right to those documents. The Government tried for over a year quietly and with respect to get them back and he jerked them around. When he faced a subpoena, he didn't raise any legal argument. He engaged in the course of deceitful conduct. That was a clear crime if those allegations are true.

The former President could have at any time, for months, simply returned the documents and avoided prosecution. House Republicans do not want to talk about any of that. They seem incapable of assigning any agency or responsibility to Donald Trump for problems that are Trump's and Trump's alone.

You might hear today about a man named Steven D'Antuono, the former Special Agent in Charge of the Washington Field Office during the investigation into the documents. Last month, Committee

Republicans brought him in for an interview and shortly after that, Chair Jordan released a letter purporting to describe Mr. D'Antuono's testimony. In fact, Chair Jordan's summary of Mr. D'Antuono's words are a vast mischaracterization of what he actually said. Here is just one example. Chair Jordan has claimed that Mr. D'Antuono said he had "no idea" why the Mar-a-Lago investigation was run out of the FBI's Washington Field Office instead of the Miami Field Office. What the Chair hides are that just seconds later, Mr. D'Antuono explained that "the venue is here" meaning Washington, DC, for the classified documents, that it was "not out of the ordinary for Washington to be lead office running the investigation" and said that Washington has "most experience and knowledge in working public corruption cases" and are "the experts in classified document investigations." Mr. Jordan did not share the full record with the American public because it does not fit his chosen narrative.

My staff has worked to have a minimally redacted version of Mr. D'Antuono's full testimony release and I urge you to read the words for yourself in their entirety. When you compare his actual words to Mr. Jordan's characterization, you will understand why I feel like this hearing room has become a theater. Frankly, that goes for many things that we will hear from the Republicans today. You can expect to hear that the FBI is retaliating against its conservative employees and has a deep-seated conspiracy to support liberal candidates and ideology. These claims are based on the words of several individuals, people Republicans are somewhat laughably calling whistleblowers. In fact, evidence shows that these individuals were suspended for violating serious FBI policy. One provided an unauthorized interview to Russian State-owned media. Another leaked information about an on-going investigation, placing FBI agents and witnesses at risk. Another said that he wanted to use a senior FBI official as "target practice."

Chair Jordan invited some of these so-called Whistleblowers to testify before the Weaponization Subcommittee in May. As it turns out, two of the witnesses were ultimately paid $250,000 each for their testimony, money raised in part by former Trump aide Kesh Patel and paid by a check with memo line reads "for holding the line."

Yet, Republicans today will try to claim that it is the FBI, and not these witnesses, who are somehow corrupt. Republicans today will also attack President Biden, starting with the IRS investigation into Hunter Biden. They will ignore the fact that U.S. Attorney David Weiss had the authority to bring charges in any district he saw fit and was able to operate fully free of interference. They do not want to acknowledge that despite years of investigation, President Biden has not been found to have engaged in any wrongdoing. Instead, they will try to convince you that Hunter Biden would have been charged with far more serious crimes had it not been for U.S. Attorney Weiss being blocked by the Biden political machine. Once again, when they do not like the outcome, they investigate the investigators and work to discredit the outcome.

Republicans will make false claims about the FBI's Foreign Influence Task Force, claiming that it is somehow censoring conservatives. In fact, the task force plays a key role in making sure that

Russia, China, Iran, and other foreign entities do not again interfere in our elections.

According to Committee Republicans, the task force's efforts to track and prevent foreign influence operations amount to attacks and conservative speech, a nonsensical claim considering that the Foreign Influence Task Force has nothing to do with censoring American free speech and in fact, helps to ensure that American voices are heard by stopping Russian troll farms.

Make no mistake, in making these claims, Republicans have all but rolled out the red carpet and begged Russia to once again interfere in our elections because they believe that doing so will get Trump reelected in 2024. That is the goal of Republicans today. Republican claims that the FBI has been weaponized, their personal attacks on Director Wray, their repeated calls to "defund the FBI," these are not victimless acts. They are a clarion call to anti-government extremists and that call is being heard.

Last year, Director Wray faced multiple credible death threats. FBI employees faced more threats in the months after the Mar-a-Lago search than they had in the entire prior year. The problem has gotten so bad that the FBI has had to stand up an entire new unit dedicated to combating threats to FBI agents and staff. It is far past time that Republicans realize the consequences of their actions.

Republicans may want to downplay Trump's behavior and blame the FBI for his downfall. No matter what they say, Trump risked the safety and security of the United States to remove those documents from the White House, then lied to the government instead of returning to them. Donald Trump must be held accountable and attempts to shield him from the consequences of his own actions are both transparent and despicable.

Ultimately, no matter how many times Republicans attack Director Wray or the FBI or the investigation at Mar-A-Lago, I trust in the rule of law. Mr. Trump will have his day in court. I believe the system will hold him accountable and I thank the men and women of the FBI who helped bring the classified information to safety and protect the national security of our Nation.

Thank you for being here today, Director Wray. I hope your agents will not be disheartened by what they hear today and will continue this kind of work essential to the safety of our Nation. I thank the Chair and I yield back.

Chair JORDAN. The gentleman yields back. Just for the record, the pronunciation of the former Assistant Director in charge of the Washington Field Office is D'Antuono, something that the Ranking Member might have known if he had actually shown up at the deposition like I did. With that, without objection, all other opening statements will be included in the record.

We will now introduce today's witness.

The Honorable Christopher Wray has been the Director of the FBI since 2017. He previously served as the Assistant Attorney General for the Criminal Division of the Department of Justice, the principal Associate Deputy Attorney General, and Associate Deputy Attorney General, and as Assistant U.S. Attorney for the Northern District of Georgia. Director Wray has also worked in private prac-

tice at King & Spaulding LLP. We welcome our witness and thank him for appearing today. We will begin by swearing you in.

Director, would you please rise, raise your right hand, you have done this before. Do you swear or affirm under penalty of perjury that the testimony you are about to give is true and correct to the best of your knowledge, information, and belief so help you God?

Let the record show that the witness answered in the affirmative. Please know that your written testimony will be entered into the record in its entirety. Accordingly, we ask that you summarize your testimony in five minutes. We will give you two extra minutes if you like, Director. Then you know how this works. There will be five minutes of questioning and my guess is every single member is going to have questions for you.

So, again, thank you for being here, Director Wray. You are recognized for your opening statement.

STATEMENT OF THE HON. CHRISTOPHER A. WRAY

Mr. WRAY. Thank you, good morning, Chair Jordan, Ranking Member Nadler, and Members of the Committee. In the time that I have before we get to your questions, I want to talk about the sheer breadth and impact of the work the FBI's 38,000 employees are doing each and every day because the work the men and women of the FBI do to protect the American people goes way beyond the one or two investigations that seem to capture all the headlines.

Take violent crime. Last year alone, working shoulder to shoulder with our partners in State and local law enforcement, the FBI arrested more than 20,000 violent criminals and child predators. That is an average of almost 60 bad guys taken off the streets per day every day.

For our work going after the cartels exploiting our Southwest border to traffic fentanyl and other dangerous drugs into communities nationwide, the FBI is running well over 300 investigations targeting the leadership of those cartels. Working with our partners, we have already seized hundreds of kilograms of fentanyl this year alone, stopping deadly drugs from reaching their intended destinations in States all over the country and saving countless American lives.

Or the thousands of active investigations we now have into the Chinese government's efforts to steal our most precious secrets, rob our businesses of their ideas and innovation, and repress freedom of speech right here in the United States. That is just scratching the surface. The men and women of the FBI work tirelessly every day to protect the American people from what is really a staggering array of threats. We don't do that work alone. The FBI now leads more than 750 task forces nationwide, made up of more than 6,000 State and local task force officers or TFOs, as we call them, for more than 1,800 different State and local agencies. Each of those TFOs represents an officer, a deputy, or an investigator that a local police chief, sheriff, or State superintendent was willing to send our way, certainly not because they didn't have enough work to do in their own department, but because they saw the tremendous value that our FBI-led task forces bring. We are honored and humbled by their trust in us and grateful for their partnership.

The numbers don't tell the whole story. To truly appreciate the impact the FBI and our partners are having, you have got to look at the cases. Just last month, for instance, the FBI charged 31 members of two drug-trafficking organizations responsible for distributing dangerous drugs like fentanyl, cocaine, and methamphetamine throughout the area around Marion, Ohio. In that one investigation run out of the FBI's two-man office in Mansfield, we worked with partners from multiple local police departments and sheriff's offices to take kilos of fentanyl off Marion streets, enough lethal doses, I should add, to kill the entire population of Columbus, Cleveland, and Cincinnati combined.

It is a great example of how even a small office with a small personal footprint, the FBI is working big cases hand in hand with our State and local partners to have an outside impact in our communities.

The FBI has got thousands of employees working scores of investigations like that all over the country to protect the American people. Those men and women who choose to dedicate their careers, their lives, really, to this kind of work and fulfilling the FBI mission are inspiring.

At a time when so many other law enforcement agencies have had a difficult time with recruiting and retention, the Bureau continues to attract applicants in near record numbers. In fact, after the first couple of years of my tenure, the number of Americans applying to be special agents tripled the pace from when I started, reaching the highest levels in about a decade.

At the same time, inside the FBI, our special agent attrition has remained in the low, single digits and would be the envy of almost any employer. Even with these bigger numbers, the folks we are continuing to add continue to be top notch. The percentage of both veterans, and special agent hires with prior law enforcement experience has remained as steady as ever, between 25–30 percent. Add to that in a job market where applicants have a whole lot of other opportunities, the percentage of those new agent-trainees that also have advanced degrees is up and now approaches about 50 percent of every class at Quantico.

The thing that unites them all is a commitment to public service, a willingness to put others above themselves and that is true from the bottom of the organization to the top.

Since becoming Director, I have worked hard to assemble and cultivate a leadership team that embodies those values and characteristics. It is a team that I purposely chose because they walked the walk out in the field. Just taking our top eight leaders as an example, they all came up through the Bureau as line agents. They have worked in 21 different field offices and have a combined 130 years of field experience. They include a West Point grad, veterans of the Army, Air Force, and Marines, as well as a former police officer and State trooper. Not a single one is a political appointee, not one.

Today's FBI leaders reflect the best of our organization, an organization that is made up of 38,000 men and women who are patriots, professionals, and dedicated public servants, and that is the real FBI. I have now visited every single one of our 56 field offices twice, some of them more than twice. I speak constantly with local

chiefs and sheriffs from all 50 States who work closely with us every day; with judges, coast to coast, who see and hear our work up close; with business leaders who turn to us for help with cyber-attacks, with Chinese economic espionage, with victims and their family's people that we protect from gangs and predators. The FBI they tell me about consistently, almost resoundingly, is the same FBI that I see, an FBI that is respected, appreciated, trusted, and it is there for them when they need us the most. That is the FBI that inspires me and that I am proud to be here today to represent. Thank you.

[The prepared statement of the Hon. Mr. Wray follows:]

Department of Justice

STATEMENT OF

CHRISTOPHER A. WRAY
DIRECTOR
FEDERAL BUREAU OF INVESTIGATION

BEFORE THE
HOUSE JUDICIARY COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES

AT A HEARING TITLED
"FEDERAL BUREAU OF INVESTIGATION OVERSIGHT"

PRESENTED
JULY 12, 2023

STATEMENT OF
CHRISTOPHER A. WRAY
DIRECTOR
FEDERAL BUREAU OF INVESTIGATION

BEFORE THE
HOUSE JUDICIARY COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES

AT A HEARING TITLED
"FEDERAL BUREAU OF INVESTIGATION OVERSIGHT"

PRESENTED
JULY 12, 2023

Good afternoon, Chairman Jordan, Ranking Member Nadler, and Members of the Committee. Thank you for inviting me to appear before you today. I do so on behalf of the men and women of the Federal Bureau of Investigation ("FBI"), who tackle some of the most complex national security and criminal threats every day with perseverance, professionalism, and integrity – sometimes at the greatest of costs. I am extremely proud of their service and commitment to the FBI's mission and to ensuring the safety and security of communities throughout our nation.

Despite the many challenges our FBI workforce faces, I am immensely proud of their dedication to protecting the American people and upholding the Constitution. The list of diverse threats we face underscores the complexity and breadth of the FBI's mission: to protect the American people and uphold the Constitution of the United States. I am prepared to discuss with you what the FBI is doing to address these threats and what the FBI is doing to ensure that our people adhere to the highest of standards while it conducts its mission.

Key Threats and Challenges

Our nation continues to face a multitude of serious and evolving threats ranging from homegrown violent extremists to hostile foreign intelligence services and operatives, from sophisticated cyber-based attacks to Internet facilitated sexual exploitation of children, from violent gangs and criminal organizations to public corruption and corporate fraud. Keeping pace with these threats is a significant challenge for the FBI, and requires us to stay current with constantly evolving technologies. Our adversaries—terrorists, foreign intelligence services, and criminals—take advantage of technology, including the Internet and social media, to facilitate illegal activities, to recruit followers, to encourage terrorist attacks and other illicit actions, and to disperse information on building improvised explosive devices and other means to attack the United States. The breadth of these threats and challenges are as complex as at any time in our

history. And the consequences of not responding to and countering threats and challenges have never been greater.

The support of Congress, including this Committee, is critical in helping the FBI do its part to thwart these threats and face these challenges. That support enables us to establish strong capabilities and capacities to assess threats, to share intelligence, to leverage key technologies, and—often most importantly—to hire some of the best talent to serve as Special Agents, Intelligence Analysts, and professional staff. We are continuously enhancing a workforce that possesses skills and knowledge to deal with the complex threats and challenges we face today—and will face tomorrow. We are building a leadership cadre that views change and transformation as a positive tool for keeping the FBI focused on the key threats facing our nation.

Today's FBI is a national security and law enforcement organization that uses, collects, and shares intelligence in everything we do. Each FBI employee understands that, to defeat the key threats facing our nation, we must constantly strive to be more efficient and more effective. Just as our adversaries continue to evolve, so, too, must the FBI. We live in a time of acute and persistent terrorist and criminal threats to our national security, our economy, and indeed our communities. These diverse threats underscore the complexity and breadth of the FBI's mission: to protect the American people and uphold the Constitution of the United States.

National Security

Top Terrorism Threats

Protecting the American people from terrorism—both international and domestic—remains the FBI's number one priority. The threat from terrorism is as persistent and complex as ever. The threats from international terrorism, domestic terrorism, and state-sponsored terrorism all remain at elevated levels, requiring continued investment and vigilance.

The greatest terrorism threat to our Homeland comes from lone actors or small cells who radicalize—typically online—and look to attack soft targets with easily accessible weapons. We see these threats manifested within both Domestic Violent Extremists ("DVEs") and Homegrown Violent Extremists ("HVEs"), two distinct threats, both of which are located primarily in the United States and typically radicalize and mobilize to violence on their own. Individuals who commit violent criminal acts in furtherance of social or political goals stemming from domestic influences are described as DVEs, whereas HVEs are individuals who are inspired primarily by global jihad but are not receiving individualized direction from Foreign Terrorist Organizations ("FTOs").

Domestic and Homegrown Violent Extremists are often motivated and inspired by a mix of social or political, ideological, and personal grievances against their targets. Recently, they have focused on accessible targets, including civilians, law enforcement and the military,

symbols or members of the U.S. government, houses of worship, retail locations, and mass public gatherings. Lone actors present a particular challenge to law enforcement and intelligence agencies. These actors are difficult to identify, investigate, and disrupt before they take violent action, especially because of the insular nature of their radicalization and mobilization to violence, as well as their limited discussions with others regarding their plans.

The top domestic terrorism threat we face continues to be from DVEs we categorize as Racially or Ethnically Motivated Violent Extremists ("RMVEs") and Anti-Government or Anti-Authority Violent Extremists ("AGAAVEs"). In May 2022, a RMVE in the United States conducted an attack in Buffalo, NY, that resulted in the deaths of 10 innocent individuals. The number of FBI domestic terrorism investigations has more than doubled since the spring of 2020. As of the end of fiscal year 2022, the FBI was conducting approximately 2,700 investigations within the domestic terrorism program. The FBI was also conducting approximately 4,000 investigations within its international terrorism program in fiscal year 2022.

The FBI uses all tools available at its disposal to combat domestic terrorism. These efforts represent a critical part of the National Strategy for Countering Domestic Terrorism, which was released in June 2021, and which sets forth a comprehensive, whole-of-government approach to address the many facets of the domestic terrorism threat.

As for international terrorism, the FBI assesses that HVEs are the greatest, most immediate threat to the Homeland. Rather than receiving individualized direction from FTOs, HVEs are people inspired by FTOs—including the self-proclaimed Islamic State of Iraq and ash-Sham ("ISIS") and al-Qa'ida and their affiliates—to commit violence. A HVE's lack of a direct connection with an FTO, ability to rapidly mobilize without detection, and use of encrypted communications can pose significant challenges to our ability to proactively identify and disrupt potential violent attacks. For example, on New Year's Eve last year in New York City, an HVE attacked three New York Police Department Officers using an edged weapon.

The FBI remains concerned about the Taliban takeover of Afghanistan and the intent of FTOs, such as ISIS and al-Qa'ida and their affiliates, to carry out or inspire large-scale attacks in the United States.

Despite its loss of physical territory in Iraq and Syria, ISIS remains relentless in its campaign of violence against the United States and our partners—both here at home and overseas. ISIS and its supporters continue to aggressively promote hate-fueled rhetoric and to attract like-minded violent extremists with a willingness to conduct attacks against the United States and our interests abroad. We are also concerned about ISIS's successful use of social media and messaging applications, like other foreign terrorist groups, to advocate for lone-offender attacks in the United States and Western countries. They use videos and other English language propaganda that have specifically advocated for attacks against civilians, the military, law enforcement, and intelligence community personnel.

Al-Qa'ida also maintains its desire to conduct and inspire large-scale, spectacular attacks. Because continued pressure has degraded some of the group's senior leadership, we assess that, in the near term, al-Qa'ida is more likely to continue to focus on cultivating its international affiliates and supporting small-scale, readily achievable attacks in regions such as East and West Africa. Over the past year, however, propaganda from al-Qa'ida leaders continued to seek to inspire individuals to conduct their own attacks in the United States and other Western nations.

Iran and its global proxies and partners, including Iraqi Shia militant groups, continue to attack and plot against the United States and our allies throughout the Middle East. Iran's Islamic Revolutionary Guard Corps-Qods Force ("IRGC-QF") continues to provide support to militant resistance groups and terrorist organizations. Iran also continues to support Lebanese Hizballah and other terrorist groups. Hizballah has sent operatives to build terrorist infrastructures worldwide. The arrests of individuals in the United States allegedly linked to Hizballah's main overseas terrorist arm, and their intelligence collection and procurement efforts, demonstrate Hizballah's interest in long-term contingency planning activities here in the Homeland. Hizballah Secretary-General Hassan Nasrallah also has threatened retaliation for the death of IRGC-QF Commander Qassem Soleimani. This willingness to seek retaliation against the United States was reflected in charges the Department brought in 2022 against a member of the IRGC, working on behalf of the Qods Force, with a plot to murder a former national security advisor.

While the terrorism threat continues to evolve, the FBI's resolve to counter that threat remains constant. As an organization, we continually adapt and rely heavily on the strength of our Federal, state, local, Tribal, territorial, and international partnerships to combat all terrorist threats to the United States and our interests. We use all available lawful investigative techniques and methods to combat these threats. We collect, analyze, and share intelligence concerning the threats posed by violent extremists, in all their forms, who desire to harm Americans and U.S. interests. And we will continue to share information and encourage the sharing of information among our numerous partners through our Joint Terrorism Task Forces across the country, as well as our Legal Attaché offices around the world.

In addition to fighting terrorism, countering the proliferation of weapons of mass destruction materials, technologies, and expertise, preventing their use by any actor, and securing nuclear and radioactive materials of concern are also top national security priority missions for the FBI. The FBI considers preventing, mitigating, investigating, and responding to weapons of mass destruction ("WMD") terrorism a "no-fail" mission because a WMD attack could result in substantial injuries, illness, or loss of lives, with significant social, economic, political and other national security consequences. In collaboration with Federal, state, local, Tribal, territorial, and other partners, The FBI integrates complementary efforts to counter WMD terrorism. An example of this collaboration is the FBI-led Weapons of Mass Destruction Strategic Group. This interagency crisis action team spans more than fifteen departments and agencies to coordinate the federal government's response to WMD threats and incidents.

Alongside the FBI, the Department of Homeland Security maintains the largest footprint on the Strategic Group.

Cyber

Cyber-criminal syndicates and nation-states continue to innovate and use unique techniques to compromise our networks and maximize the reach and impact of their operations. Those techniques include selling malware as a service and targeting vendors as a way to access scores of victims by hacking just one provider.

These criminals and nation-states believe that they can compromise our networks, steal our property, extort us, and hold our critical infrastructure at risk without incurring any risk themselves. In the last few years, we have seen—and have publicly called out—the People's Republic of China ("PRC"), the Democratic People's Republic of Korea ("DPRK"), and Russia for using cyber operations to target U.S. COVID-19 vaccines and research. We have seen the far-reaching disruptive impact a serious supply-chain compromise can have through the SolarWinds-related intrusions, conducted by the Russian Foreign Intelligence Service. We have seen the PRC working to obtain controlled dual-use technology and developing an arsenal of advanced cyber capabilities that could be used against other countries in the event of a real-world conflict. As these adversaries become more sophisticated, we are increasingly concerned about our ability to detect and warn about specific cyber operations against U.S. organizations. One of the most worrisome facets is their focus on compromising U.S. critical infrastructure, especially during a crisis.

Making things more difficult, there is often no bright line that separates where nation-state activity ends and cybercriminal activity begins. Some cybercriminals contract or sell services to nation-states; some nation-state actors moonlight as cybercriminals to fund personal activities; and nation-states are increasingly using tools typically used by criminal actors, such as ransomware.

So, as dangerous as nation-states are, we do not have the luxury of focusing on them alone. In the past year, we also have seen cybercriminals target hospitals, medical centers, educational institutions, and other critical infrastructure for theft or ransomware, causing massive disruption to our daily lives. Incidents affecting medical centers, in particular, have led to the interruption of computer networks and systems that put patients' lives at an increased risk, at a time when America has faced its most dire public health crisis in generations.

We have also seen the rise of an ecosystem of services dedicated to supporting cybercrime in exchange for cryptocurrency. Criminals now have new tools to engage in destructive behavior—for example, deploying ransomware to paralyze entire hospitals, police departments, and businesses—as well as new means to better conceal their tracks. It is not that individual malicious cyber actors have necessarily become much more sophisticated, but that they can now more easily rent sophisticated capabilities.

We must make it harder and more painful for malicious cyber actors and criminals to carry on their malicious activities. Using its role as the lead federal agency for threat response, the FBI works seamlessly with domestic and international partners to defend their networks, attribute malicious activity, sanction bad behavior, and take the fight to our adversaries overseas. We must impose consequences on cyber adversaries and use our collective law enforcement and intelligence capabilities to do so through joint and enabled operations sequenced for maximum impact. And we must continue to work with the Department of State and other key agencies to ensure that our foreign partners are able and willing to cooperate in our efforts to disrupt and bring to justice the perpetrators of cybercrime.

An example of this approach is the coordinated international operation announced in April 2023 against Genesis Market, a criminal online marketplace offering access to data stolen from over 1.5 million compromised computers around the world containing over 80 million account access credentials. Genesis Market was also a prolific initial access broker in the cyber crime world, providing criminals a user-friendly database to search for stolen credentials and more easily infiltrate victims' computers and accounts. As part of this operation, law enforcement seized 11 domain names used to support Genesis Market's infrastructure pursuant to a warrant authorized by the U.S. District Court for the Eastern District of Wisconsin. A total of 22 international agencies and 44 FBI field offices worked with the FBI Milwaukee Field Office investigating the case. And on April 5, the U.S. Department of the Treasury announced sanctions against Genesis Market.

In total, along with our Department colleagues, we took over 1,000 actions against cyber adversaries in 2022, including arrests, criminal charges, convictions, dismantlements, and disruptions. We enabled many more actions through our dedicated partnerships with the private sector, with foreign partners, and with federal, state, and local entities. We also provided thousands of individualized threat warnings and disseminated 70 public threat advisories by way of Joint Cybersecurity Advisories, FBI Liaison Alert System ("FLASH") reports, Private Industry Notifications ("PINs"), and Public Service Announcements ("PSAs")—many of which were jointly authored with other U.S. agencies and international partners.

Along with our partners in the interagency, the FBI has devoted significant energy and resources to these partnerships, especially those involving the private sector. We are working hard to push important threat information to network defenders, but we have also been making it as easy as possible for the private sector to share important information with us. For example, we are emphasizing to the private sector how we keep our presence unobtrusive in the wake of an incident, as well as how we protect identities and other information that the private sector shares with us. We are also committed to providing useful feedback and to improving coordination with our government partners so that we are speaking with one voice. But we need the private sector to do its part, too. We need the private sector to come forward to warn us and our partners—and warn us quickly—when they see malicious cyber activity. We also need the private sector to work with us when we warn them that they are being targeted. Significant cyber incidents—SolarWinds, Cyclops Blink, the Colonial pipeline incident—only

emphasize what we have been saying for a long time: the government cannot protect against cyber threats on its own. We need a whole-of-society approach that matches the scope of the danger. There is no other option for defending a country where nearly all of our critical infrastructure, personal data, intellectual property, and network infrastructure sits in private hands.

In summary, the FBI is engaged in a myriad of efforts to combat cyber threats, from improving threat identification and information-sharing inside and outside of the government to developing and retaining new talent, to examining the way we operate to disrupt and defeat these threats. We take all potential threats to public and private-sector systems seriously and will continue to investigate and hold accountable those who pose a threat in cyberspace.

Foreign Intelligence Threats

Top Threats

Nations such as China, Russia, and Iran are becoming more aggressive and more capable in their nefarious activity than ever before. These nations seek to undermine our core democratic, economic, and scientific institutions. They employ a growing range of tactics to advance their interests and to harm the United States. Defending American institutions and values against these threats is a national security imperative and a priority for the FBI.

With that, the greatest long-term threat to our nation's ideas, innovation, and economic security is the foreign intelligence and economic espionage threat from the PRC. It's a threat to our economic security—and, by extension—to our national security. The PRC government aspires to reshape the international rules-based system to its benefit, with little regard for the democratic ideals that underpin it. The pursuit of these goals is often with little regard for international norms and laws.

When it comes to economic espionage, the PRC uses every means at its disposal against us—blending cyber, human intelligence, diplomacy, corporate transactions, and other pressure on U.S. companies operating in the PRC, to achieve its strategic goals to steal our companies' innovations. These efforts are consistent with the PRC government's expressed goal to become an international power, modernizing its military and creating innovative-driven economic growth.

To pursue this goal, China uses human intelligence officers, co-optees, and corrupt corporate insiders, as well as sophisticated cyber intrusions, pressure on U.S. companies in China, shell-game corporate transactions, and joint-venture "partnerships" that are anything but a true partnership. There's also nothing traditional about the scale of their theft. It is unprecedented in the history of the FBI. American workers and companies are facing a greater, more complex danger than they have ever dealt with before. Stolen innovation means stolen

jobs, stolen opportunities for American workers, stolen national power, and stolen leadership in the industries.

National Counterintelligence Task Force ("NCITF")

As the lead U.S. counterintelligence agency, the FBI is responsible for detecting and lawfully countering the actions of foreign intelligence services and organizations as they seek to adversely affect U.S. national interests. Recognizing the need to coordinate similar efforts across all agencies, the FBI established the NCITF in 2019 to create a whole-of-government approach to counterintelligence. The FBI established this national-level task force in the National Capital Region to coordinate, facilitate, and focus these multi-agency counterintelligence operations, and to programmatically support local Counterintelligence Task Force ("CITF") operations. Combining the authorities and operational capabilities of the U.S. Intelligence Community, NT-50 departments and agencies, law enforcement agencies around the country, and local CITFs in each FBI field office, the NCITF coordinates and leads whole-of-government efforts to defeat hostile intelligence activities targeting the United States.

The Department of Defense ("DoD") has been a key partner in the NCITF since its founding. While the FBI has had long-term collaborative relationships with DoD entities such as the Air Force Office of Special Investigations, Naval Criminal Investigative Service, and Army Counterintelligence, the NCITF has allowed us to enhance our collaboration with each other for greater impact. We plan to emphasize this whole-of-government approach as a powerful formula to mitigate the modern counterintelligence threat.

Transnational Repression

In recent years, we have seen a rise in efforts by authoritarian regimes to interfere with freedom of expression and punish dissidents abroad. These acts of repression cross national borders, often reaching into the United States. Governments such as the PRC, the Russian Federation, and the Government of Iran stalk, intimidate, and harass certain people in the United States. This is called transnational repression. It is illegal, and the FBI is investigating it.

Transnational repression can occur in different forms, including assaults and attempted kidnapping. Governments use transnational repression tactics to silence the voices of their citizens, U.S. residents, or non-citizens connected to the home country. This sort of repressive behavior is antithetical to our values as Americans. People from all over the world are drawn to the United States by the promise of living in a free and open society—one that adheres to the rule of law. To ensure that this promise remains a reality, we must continue to use all of our tools to block authoritarian regimes that seek to extend their tactics of repression beyond their shores.

Our nation is confronting multifaceted foreign threats seeking both to influence our national policies and public opinion and to harm our national dialogue and debate. The FBI and our interagency partners remain focused on foreign malign influence operations—which include subversive, undeclared, coercive, and criminal actions used by foreign governments in their attempts to sway U.S. voters' preferences and perspectives, shift U.S. policies, increase discord in the United States, and undermine the American people's confidence in our democratic institutions and processes.

Foreign malign influence is not a new problem, but the interconnectedness of the modern world, combined with the anonymity of the Internet, have changed the nature of the threat and how the FBI and its partners must address it. Foreign malign influence operations have taken many forms and have used many tactics over the years.

The FBI is the lead Federal agency responsible for investigating foreign malign influence threats. Several years ago, we established the Foreign Influence Task Force ("FITF") to identify and counteract foreign malign influence operations targeting the United States. The FITF is led by our Counterintelligence Division and comprises agents, analysts, and professional staff from the Counterintelligence, Cyber, Counterterrorism, and Criminal Investigative Divisions. It is specifically charged with identifying and combating foreign malign influence operations targeting democratic institutions inside the United States.

The domestic counterintelligence environment is more complex than ever. We face a persistent and pervasive national security threat from foreign adversaries, particularly the Governments of Russia and China, conducting sophisticated intelligence operations using coercion, subversion, malign influence, cyber and economic espionage, traditional spying, and non-traditional human intelligence collection. Together, they pose a continuous threat to U.S. national security and our economy by targeting strategic technologies, industries, sectors, and critical infrastructures. Historically, these asymmetric national security threats involved foreign intelligence service officers seeking U.S. government and U.S. Intelligence Community information. The FBI has observed foreign adversaries employing a wide range of nontraditional collection techniques, including the use of human collectors not affiliated with intelligence services, foreign investment in critical U.S. sectors, and infiltration of U.S. supply chains. The FBI continues to adjust our counterintelligence priorities and posture to address the evolving and multifaceted threat.

Criminal Threats

The U.S. faces many criminal threats, including financial and health care fraud, transnational and regional organized criminal enterprises, crimes against children and human trafficking, and public corruption. Criminal organizations—domestic and international—and individual criminal activity represent a significant threat to security and safety in communities across the nation.

Violent Crime

Violent crimes and gang activities exact a high toll on individuals and communities. Many of today's gangs are sophisticated and well-organized. They use violence to control neighborhoods and boost their illegal money-making activities, which include robbery, drug and gun trafficking, fraud, extortion, and prostitution rings. These gangs do not limit their illegal activities to single jurisdictions or communities. The FBI is able to work across such lines, which is vital to the fight against violent crime in big cities and small towns across our nation. Every day, FBI Special Agents work in partnership with Federal, state, local, and Tribal officers and deputies on joint task forces and individual investigations.

FBI joint task forces—Violent Crime Safe Streets, Violent Gang Safe Streets, and Safe Trails—focus on identifying and targeting major groups operating as criminal enterprises. Much of the FBI criminal intelligence is derived from our state, local, and Tribal law enforcement partners, who know their communities inside and out. Joint task forces benefit from FBI surveillance assets, and our sources track these gangs to identify emerging trends. Through these multi-subject and multi-jurisdictional investigations, the FBI concentrates its efforts on high-level groups engaged in patterns of racketeering. This investigative model enables us to target senior gang leadership and to develop enterprise-based prosecutions.

By way of example, the FBI has dedicated tremendous resources to combat the threat of violence posed by MS-13. The atypical nature of this gang has required a multi-pronged approach. We work through our task forces here in the United States, while simultaneously gathering intelligence and aiding our international law enforcement partners. We do this through the FBI's Transnational Anti-Gang Task Forces ("TAGs"). Established in El Salvador in 2007 through the FBI's National Gang Task Force, Legal Attaché San Salvador, and the United States Department of State, each TAG is a fully operational unit responsible for the investigation of, primarily, MS-13 operating in the northern triangle of Central America and threatening the United States. This program combines the expertise, resources, and jurisdiction of participating agencies involved in investigating and countering transnational criminal gang activity in the United States and Central America. There are now TAGs in El Salvador, Guatemala, and Honduras. Through these combined efforts, the FBI has achieved substantial success in countering the MS-13 threat across the United States and Central America.

We are committed to working with our Federal, state, local, and Tribal partners in a coordinated effort to reduce violent crime in the United States.

Transnational Organized Crime ("TOC")

More than a decade ago, organized crime was characterized by hierarchical organizations, or families, that exerted influence over criminal activities in neighborhoods, cities, or states. But organized crime has changed dramatically. Today, international criminal enterprises run multi-national, multi-billion-dollar schemes from start to finish. Modern-day criminal enterprises are flat, fluid networks with global reach. While still engaged in many of

the "traditional" organized crime activities of loan-sharking, extortion, and murder, modern criminal enterprises are also involved in trafficking counterfeit prescription drugs containing deadly fentanyl, targeting stock market fraud and manipulation, cyber-facilitated bank fraud and embezzlement, illicit drug trafficking, identity theft, human trafficking, money laundering, alien smuggling, public corruption, weapons trafficking, kidnapping, and other illegal activities. TOC networks exploit legitimate institutions for critical financial and business services that enable the storage or transfer of illicit proceeds. Preventing and combating transnational organized crime demands a concentrated effort by the FBI and Federal, state, local, Tribal, and international partners.

As part of our efforts to combat the TOC threat, the FBI is focused on the cartels trafficking dangerous narcotics, like fentanyl, across our border. The FBI has 323 pending investigations linked to cartel leadership and 78 of those investigations are along the southern border. Additionally, the FBI actively participates in 17 OCDETF Strike Forces across the United States, investigating major drug trafficking, money laundering, and other high priority transnational organized crime networks. On top of that, we are pursuing healthcare fraud investigations against medical professionals and pill mills through our prescription drug initiative, investigating the gangs and criminal groups responsible for distributing dangerous substances like fentanyl through our Safe Streets Task Forces, and disrupting and dismantling DarkNet marketplaces for prescription opioids and drugs like fentanyl through our Joint Criminal Opioid Darknet Enforcement team.

While the FBI continues to share intelligence about criminal groups with our partners and combines resources and expertise to gain a full understanding of each group, the threat of transnational crime remains a significant and growing threat to national and international security with implications for public safety, public health, democratic institutions, and economic stability across the globe. TOC groups increasingly exploit jurisdictional boundaries to conduct their criminal activities overseas. Furthermore, they are expanding their use of the Darknet to engage in illegal activity while exploiting emerging technology to traffic illicit drugs and contraband across international borders and into the United States.

Crimes Against Children and Human Trafficking

Every year, thousands of children become victims of crimes, whether it is through kidnappings, violent attacks, sexual abuse, human trafficking, or online predators. The FBI is uniquely positioned to provide a rapid, proactive, and comprehensive response. We help identify, locate, and recover child victims. Our strong relationships with federal, state, local, Tribal, and international law enforcement partners also help to identify, prioritize, investigate, and deter individuals and criminal networks from exploiting children.

But the FBI's ability to learn about and investigate child sexual exploitation is being threatened by the proliferation of sites online on the Darknet. For example, currently, there are at least 30 child sexual abuse material sites operating openly and notoriously on the Darknet. Some of these exploitative sites are exclusively dedicated to the sexual abuse of infants and

toddlers. The sites often expand rapidly, with one site obtaining 200,000 new members within its first four weeks of operation.

Another growing area of concern involving the sexual exploitation of children is the explosion in incidents of children and teens being coerced into sending explicit images online and extorted for money – a crime known as financial sextortion. In 2022, law enforcement received over 7,000 reports related to the online financial sextortion of minors, resulting in at least 3,000 victims, primarily boys, and more than a dozen suicides. A large percentage of these sextortion schemes originate outside the United States, primarily in West African countries such as Nigeria and Ivory Coast. The FBI continues to collaborate with other law enforcement partners and the National Center for Missing and Exploited Children to mitigate this criminal activity, and provide the public with informational alerts and victim resources regarding these crimes.

The FBI has several programs in place to arrest child predators and to recover missing and endangered children. To this end, the FBI funds or participates in a variety of endeavors, including our Innocence Lost National Initiative, Innocent Images National Initiative, Operation Cross Country, Child Abduction Rapid Deployment Team, Victim Services, over 80 Child Exploitation and Human Trafficking Task Forces, over 50 International Violent Crimes Against Children Task Force officers, as well as numerous community outreach programs to educate parents and children about safety measures they can follow. Through improved communications, the FBI also has the ability to quickly collaborate with partners throughout the world, which plays an integral role in crime prevention.

The Child Abduction Rapid Deployment Team is a rapid response team with experienced investigators strategically located across the country to quickly respond to child abductions. Investigators are able to provide a full array of investigative and technical resources during the most critical time period following the abduction of a child, such as the collection and analysis of DNA, impression, and trace evidence, the processing of digital forensic evidence, and interviewing expertise.

The FBI also focuses efforts to stop human trafficking of both children and adults. The FBI works collaboratively with law enforcement partners to disrupt all forms of human trafficking through Human Trafficking Task Forces nationwide. One way the FBI combats this pernicious crime problem is through investigations such as Operation Cross Country. Over a two-week period in 2022, the FBI, along with other federal, state, local, and Tribal partners, executed approximately 400 operations to recover survivors of human trafficking and disrupt traffickers. These operations identified and located 84 minor victims of child sex trafficking and child sexual exploitation offenses, and located 37 actively missing children. Furthermore, the FBI and its partners located 141 adult victims of human trafficking. In addition to recovering victims, the law enforcement activity conducted during Operation Cross Country led to the identification and arrest of 85 suspects for child sexual exploitation or human trafficking offenses.

Although many victims of human trafficking recovered by the FBI are adult U.S. citizens, the FBI and its partners recognize that foreign nationals, children, and other vulnerable populations are disproportionately harmed by both sex and labor trafficking. We take a victim-centered, trauma-informed approach to investigating these cases and strive to ensure the needs of victims are fully addressed at all stages. To accomplish this, the FBI works in conjunction with other law enforcement agencies and victim specialists on the federal, state, local, and Tribal levels, as well as with a variety of vetted non-governmental organizations. Even after the arrest and conviction of human traffickers, the FBI often continues to work with partner agencies and organizations to assist victims and survivors in moving beyond their exploitation.

Reauthorization of Section 702 of the Foreign Intelligence Surveillance Act

Before closing, I would be remiss if I didn't underscore an urgent legislative matter directly relevant to our discussion today. As the Committee knows, at the end of December Section 702 and other provisions of the Foreign Intelligence Surveillance Act will expire unless renewed.

Loss of this vital provision, or its reauthorization in a narrowed form, would raise profound risks. For the Bureau in particular, either outcome would mean substantially impairing, or in some cases entirely eliminating, our ability to find and disrupt many of most serious security threats I described earlier in my statement.

I am especially concerned about one frequently-discussed proposal, to require the government to obtain a warrant or court order from a judge before personnel may conduct a "U.S. person query" of information previously obtained through use of Section 702. A warrant requirement would amount to a *de facto* ban, because query applications either would not meet the legal standard to win court approval; or because, when the standard could be met, it would be so only after the expenditure of scarce resources, the submission and review of a lengthy legal filing, and the passage of significant time – which, in the world of rapidly evolving threats, the government often doesn't have. That would be a body blow to the FBI, which relies on this longstanding, lawful capability to rapidly uncover previously hidden threats and connections, and to take swift steps to protect the homeland when needed.

To be sure, nobody more deeply shares Members' concerns regarding past FBI compliance violations related to FISA, including the rules for querying Section 702 collection using U.S. person identifiers, than I do. These violations never should have happened and preventing recurrence is a matter of utmost priority. Fortunately, the Administration's initial response to these episodes was rigorous, and already has yielded significant results – in dramatically reducing the number of "U.S. person queries" by the FBI of the Section 702 database, and in substantially improving its compliance rate. Moreover, as we publicly announced last month, the Bureau is implementing further measures both to keep improving our compliance and to hold our personnel accountable for misuse of Section 702 and other FISA

provisions – including through an escalating scheme for employee discipline, culminating in possible dismissal.

Together with other leaders of the Intelligence Community and the Department of Justice, I remain committed to working with this Committee and others in Congress, on potential reforms to Section 702 that would not diminish its critical intelligence value. There are many options for meaningfully enhancing privacy and oversight, while fully preserving Section 702's efficacy. Doing that will be critical, in order to ensure the FBI's continuing ability to fulfill its mission of identifying and stopping national security threats within the U.S. homeland.

Conclusion

The strength of any organization is its people. The threats we face as a nation have never been greater or more diverse, and the expectations placed on the FBI have never been higher. Our fellow citizens look to the FBI to protect the United States from all of those threats, and the men and women of the FBI continue to meet and exceed those expectations, every day. I want to thank them for their dedicated service.

Chairman Jordan, Ranking Member Nadler, and Members of the Committee, thank you for the opportunity to testify today. I am happy to answer your questions.

Chair JORDAN. Thank you. We will now proceed under the five-minute rule with questions. The Chair recognizes the gentleman from Louisiana, Mr. Johnson.

Mr. JOHNSON of Louisiana. Thank you, Mr. Chair. Director Wray, this is no time to mince words. The American people have lost faith in the FBI. All our constituents are demanding that we get this situation under control, and we have to do that. That is our responsibility. This is not a political party issue, sir. This is about whether the very system of justice in our country can be trusted any more. Without that, no republic can survive.

See, the American people that we represent are losing count of the scandals that are mounting. The FBI has been involved; they have seen evidence that is being used as a political tool by the Biden Administration. They have seen counterterrorism resources being used against school parents; the homes of conservative political opponents being raided. They have seen conservative States being targeted over their election integrity laws and conservative Catholics and pro-life citizens characterized as violent extremists.

Just last month, as you know, former Special Counsel John Durham sat right in that seat and testified that the Justice Department and the FBI should never have launched the bogus Trump-Russia investigation. His lengthy report reluctantly concluded that the FBI "failed to uphold its mission of strict fidelity to the law."

Just last week, NBC had a poll. Only 37 percent of registered voters now view the FBI positively. Thirty-five percent have a negative view. In 2018, by comparison, 52 percent of the country had a positive view of the FBI. There is a serious decline in the people's faith, and it is on your watch, sir.

Then, July 4th, we had this explosive, explosive 155-page opinion from a Federal Court in my home State of Louisiana that explains in detail that the FBI has been directly involved in what the Court says is, "arguably the most massive attack against free speech in United States history."

The court ordered the White House DOJ and FBI, among others, to immediately cease colluding with and coercing social media companies to suppress American speech, of course, conservative speech in particular.

Director Wray, I find it stunning. You made no mention of this court opinion either in your opening statement today or in this lengthy 14-page report that you prepared on July 12th which is eight days after the Court ruling.

Have you read the ruling, sir?

Mr. WRAY. I am familiar with the ruling, and I've reviewed it with our Office of General Counsel.

Mr. JOHNSON of Louisiana. Are you deeply disturbed by what they have told you about the ruling, if you haven't read it yourself?

Mr. WRAY. Obviously, we're going to comply with the Court's order, the Court's preliminary injunction. We sent out guidance to the field and headquarters about how to do that. Needless to say, the injunction itself is a subject of ongoing litigation. So, I'll decline to comment further on that.

Mr. JOHNSON of Louisiana. Well, let me tell you what the Court concluded because it should be the first thing you think about

every morning and the last thing you think about at night. They said, that, quote, the Court found, apparently,

> The FBI engaged in a massive effort to suppress disfavored conservative speech and blatantly ignored the First Amendment to right to free speech. The evidence shows the FBI threatened adverse consequences to social media companies if they did not comply with its censorship requests.

The Court found that, quote,

> This seemingly unrelenting pressure by the FBI and the other Defendants had the intended result of suppressing millions of protected free speech postings by American citizens.

As a result, the Court states, for example,

> Millions of citizens did not hear about the Hunter Biden laptop story prior to the November 3, 2020 election.

Page 4 of the Court ruling lists some of the important subjects that the Biden Administration and the FBI forced the social media platforms to suppress. The evidence shows you, your agency, the people that directly report to you, suppressed conservative-leaning free speech about topics like the laptop; the lab leak theory of COVID–19's origin; the effectiveness of masks and COVID–19 lockdowns and vaccines; speech about election integrity in the 2020 Presidential Election; security of voting by mail; even parity about the President himself; negative posts about the economy.

The FBI made the social media platforms pull that information off the internet if it came from conservative sources. They did this under the guise that it was disinformation.

Can you define what "disinformation" is?

Mr. WRAY. What I can tell you is that our focus is not on disinformation, broadly speaking, but on the—

Mr. JOHNSON of Louisiana. Well, wait a minute. Yes, it is. Wait it a minute. Your—

Mr. WRAY. Can I answer the question?

Mr. JOHNSON of Louisiana. You can in a minute. Your star witness said in the litigation, Elvis Chan, who's in charge of this, said they do it on the basis of "disinformation." We need a definition of what that is.

Mr. WRAY. Our focus is on malign foreign disinformation; that is, foreign hostile actors who engage in covert efforts to abuse—

Mr. JOHNSON of Louisiana. Mr. Wray—

Mr. WRAY. —our social media platforms, which is something that is not seriously in dispute—

Mr. JOHNSON of Louisiana. I have to stop you for time. That's not accurate. You need to read this Court opinion because you're in charge of enforcing it. The Court has found that—and Elvis Chan testified under oath, in charge of this for you—he said 50 percent, he had a 50 percent success rate in having alleged election disinformation taken down or censored. That wasn't just foreign adversaries, sir. That was American citizens. How do you answer for that?

Mr. WRAY. Well, first, I'm not sure that's a correct characterization of his testimony, but what I—

Mr. JOHNSON of Louisiana. It comes right out of the opinion. You should read it.

Mr. WRAY. —of his testimony, but what I would say is the FBI is not in the business of moderating content or causing any social media company to suppress or censor—

Mr. JOHNSON of Louisiana. That is not what the Court has found.

Mr. WRAY. What I would also say is, among the things that you listed off, I find ironic the reference to the lab leak theory. The idea that the FBI would somehow be involved in suppressing references to the lab leak theory is somewhat absurd when you consider the fact that the FBI was the only—the only—agency in the entire intelligence community to reach the assessment that it was more likely than not that was the explanation for the pandemic.

Mr. JOHNSON of Louisiana. Your agents, your agents pulled it off the internet, sir. That's what the evidence and the Court has found.

Chair JORDAN. The time of the gentleman has expired.

The gentleman from New York is recognized.

Mr. NADLER. Director Wray, House Republicans have attacked the execution of the search warrant of Mar-a-Lago last August as a, quote, "unprecedented raid." Would you consider the execution of the search warrant at Mar-a-Lago a raid?

Mr. WRAY. I would not call it a raid. I would call it the execution of a lawful search warrant.

Mr. NADLER. Can you describe how the search was executed?

Mr. WRAY. Well, we had the case team follow its standard procedure. It has sometimes been described as a SWAT operation. It was not. There was no SWAT involvement. Beyond that, I think I want to be really careful with getting too far into the details now that this case is not only in the hands of a Special Counsel, but, more importantly, in my view, in front of the Court. I learned a long time ago, as a line prosecutor and defense lawyer, to respect the Court process as where I think you should speak.

Mr. NADLER. Were particular steps taken to ensure that the execution of the search warrant did not draw undue attention?

Mr. WRAY. I think there were steps along those lines, yes, sir.

Mr. NADLER. Can you name a couple of them?

Mr. WRAY. Well, among other things, we did not have people coming in so-called "raid jackets," which is often something you would see—

Mr. NADLER. So, in other words, the FBI agents executing the search wore plainclothes, so as not to attract undue attention, and the FBI waited until Trump had left Mar-a-Lago to execute the search. Is that correct?

Mr. WRAY. Yes.

Mr. NADLER. Chair Jordan has attacked the DOJ and the FBI for not attempting to get the documents back from Trump consensually before turning to a search warrant. I want to walk through all the opportunities Trump had to produce these documents, and I have a series of yes-or-no questions.

The National Archives, also known as NARA, first asked Trump to return all Presidential records to them in May 2021, correct?

Mr. WRAY. Well, I don't remember the date, but I remember there was a request by the National Archives.

Mr. NADLER. OK. Then, throughout 2021, NARA made repeatedly followup requests, but, still, Trump failed to comply, correct?

Mr. WRAY. Yes, I would refer you to the pleadings that have been filed in court that lay out in better detail than I could here—

Mr. NADLER. In fact, it was not until January 2022, after NARA warned Trump that failing to return documents could violate the Presidential Records Act, that Trump finally produced 15 boxes of documents to it, correct?

Mr. WRAY. Again, I would just refer to our court filings, which go into great detail about all this.

Mr. NADLER. Even these 15 boxes did not contain all the documents Trump was required to return, correct?

Mr. WRAY. That's my recollection, but, again, I'll refer to the filings.

Mr. NADLER. So, in May 2022, a grand jury had to actually subpoena Trump for the missing documents, correct?

Mr. WRAY. The same answer.

Mr. NADLER. Trump was, then, present on June 3rd, when his attorneys handed over another folder of documents and a certification that all classified material had been returned, correct?

Mr. WRAY. Again, I just want to stick with what's in the Court filings. That sounds right to me, but I really want to be careful to stay within the four corners of—

Mr. NADLER. The certification was false, right? Even then, Trump had not returned all classified material, correct?

Mr. WRAY. I think that is part of the indictment.

Mr. NADLER. He had additional documents hiding in his bathroom and his storage room, in storage units, et cetera. Yes?

Mr. WRAY. Again, I think that's part of the indictment.

Mr. NADLER. So, finally, DOJ and the FBI were required to obtain a search warrant to obtain the classified documents that had not been retained, correct?

Mr. WRAY. The same answer.

Mr. NADLER. The documents retrieved during that search included 69 marked confidential, 98 secrets, and 30 top secrets, is that correct?

Mr. WRAY. The same answer.

Mr. NADLER. So, to sum up, President Trump had many, many chances to voluntarily comply with the FBI and DOJ's requests. Instead, he made the choice to keep these highly classified defense and national security documents, apparently, because he wanted a souvenir.

I find myself in the strange position of agreeing with former Attorney General Bill Barr's statement that Trump brought this on himself. I would add that it's absurd that House Republicans are attacking the FBI and DOJ for doing their job in ensuring that no person is above the law.

I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from Kentucky is recognized for five minutes.

Mr. MASSIE. I thank the Chair.

Director Wray, in light of information provided to us about the FBI's investigation of the January 6th pipe bombs, in an interview with Assistant Director Steven D'Antuono, Chair Jordan and I sent

you a letter a month ago. Some of the information that we found in that interview was that phone data that could have helped to identify the pipe-bomber was corrupted, was unusable. He also wasn't sure who found or how the second bomb was found at the DNC.

Do you know how the second bomb was found at the DNC? When do you plan on answering our letter?

Mr. WRAY. Well, as to the letter, I will work with the Department to make sure we can figure out what information we can provide. As you know, this is a very active, ongoing investigation and there are some restrictions on that, but we will do our best to—

Mr. MASSIE. Yes, we can handle classified information—

Mr. WRAY. Yes.

Mr. MASSIE. —and we fund your Department. So, you need to provide that.

Mr. WRAY. It's not, respectfully, it's not an issue of classification. It's an issue of commenting on ongoing criminal investigations, which is something that, by longstanding Department policy, we are restricted in doing. In fact, the last administration actually strengthened those policies, partly because—

Mr. MASSIE. That's not our policy, though, and we fund you. So, let's move on.

Mr. WRAY. I could State it's partly because—

Mr. MASSIE. Do you know how the second pipe bomb—can you tell us how the second pipe bomb was found at the DNC?

Mr. WRAY. Again, I'm not going to get into that here.

Mr. MASSIE. Nine hundred days ago is when this happened, and you said you had total confidence we'd apprehend the subject. We've found video that looks like somebody, a passer-by, miraculously found this pipe bomb at the DNC, and then, notified the police. Miraculously, I say because it was at specifically the same, the precise time to cause the maximum distraction from the events going on at the Capitol.

Can you show this video that we have, please? I'd like to know if the Director has seen this.

[Video played.]

This is somebody with a mask on wearing a hat. They're walking in front of the DNC, which is out of the view on the righthand side. We'll see them come into view. He goes to one police car. He goes to another police car. He's holding a backpack. He's got a mask on. He's talking to the police. Within a minute, they start scrambling. You'll see the camera turn to the pipe bomb, the location of the pipe bomb.

By the way, that's, I believe, the Metro Police are now getting out of their car, and that's Vice President-Elect detail in the black SUV, I believe, parked about 30 feet from the pipe bomb, eating lunch.

OK. Now, we go over to the location of the pipe bomb. The cameras are scrambling. It appears to me that's not a coincidence; that the person with the backpack who walked by that bench, and then, went up to the police and the detail didn't do that accidentally. They had a purpose in mind. Then, what transpired after that was the result of information that person gave to them.

If that person found the pipe bomb, would they be a suspect?

Mr. WRAY. Well, again, I don't want to speculate about specific individuals. I will tell you that we have done thousands of interviews; reviewed something like 40,000 video files, of which this is one; assessed 500-something tips; reviewed the devices—

Mr. MASSIE. Have you interviewed that person?

Mr. WRAY. We have conducted all logical investigative steps and interviewed all logical individuals at this point.

Mr. MASSIE. Then, you need—it's 900 days—

Mr. WRAY. We're continuing—

Mr. MASSIE. You need to tell us what you found because we're finding stuff you haven't released into the public.

Mr. WRAY. Well—

Mr. MASSIE. In my remaining minute, I want to turn to another issue. George Hill, former FBI Supervisory Intelligence Analyst in the Boston field office, told us that the Bank of America, with no legal process, gave to the FBI gun purchase records with no geographical boundaries for anybody that was a Bank of America customer. Is that true?

Mr. WRAY. Well, what I do know is that a number of business community partners all the time, including financial institutions, share information with us about possible criminal activity. My understanding is that's fully lawful.

Mr. MASSIE. Did you—

Mr. WRAY. In this specific instance—

Mr. MASSIE. Did you ask for that information?

Mr. WRAY. In the specific instance that you're asking about, my understanding is that this information was shared with field offices for information only, but, then, recalled to avoid even the appearance of any kind of overreach. My understanding is that's a fully lawful process.

Mr. MASSIE. Was there a warrant involved?

Mr. WRAY. Again, my understanding is that the institution in question shared information with us, as happens all the time by—

Mr. MASSIE. Did you request the information?

Mr. WRAY. I can't speak to the specifics.

Mr. MASSIE. OK. Well, we've got an email where it says the FBI did give the search queries to Bank of America, and Bank of America responded to the FBI and gave over this information without a search warrant.

Do you believe there's any limitation on your ability to obtain gun purchase data or purchase information for people, for people who aren't suspects from banks without a warrant?

Mr. WRAY. Well, now you're asking a legal question, which I would prefer to defer to the lawyers, since I'm not practicing as one right now, including the Department. What I will tell you is that my understanding is that the process by which we receive information from business community partners across a wide variety of industries, including financial institutions sharing information with us about possible criminal activity, is something that is fully lawful under current Federal law.

Mr. MASSIE. It may be lawful, but it's not constitutional.

I yield back.

Chair JORDAN. The gentleman yields back.

The gentlelady from California is recognized for five minutes.

Ms. LOFGREN. Thank you, Mr. Chair.

Thank you, Director Wray, for being here.

I think it's actually sad that the majority is engaging in conspiracy theories and efforts to try and discredit one of the premier law enforcement agencies in the United States in the effort to try—without really any evidence—make the case that the FBI is somehow opposed to conservative views.

In my view, actually, I'm concerned that the FBI has been reluctant to do its job when it comes to the former President.

I would like to ask unanimous consent to put in the record an article from *The Washington Post*, "FBI Resisted Opening Probe into Trump's Role in January 6th for More Than a Year."

Chair JORDAN. Without objection.

Ms. LOFGREN. Director Wray, would you disagree with the premise of this article that the FBI delayed in looking at Mr. Trump himself? The January 6th Committee—and I was a Member—did find that the ex-President was the center of a wide-ranging conspiracy to overturn the election. Did the FBI start to look right after January 6th at the ex-President?

Mr. WRAY. I'm sorry, I just lost the last part of your question.

Ms. LOFGREN. Did the FBI start looking at the ex-President's role on January 6th starting January 7th or closely to that time?

Mr. WRAY. Well, let me start with, I'm not in the business of kind of commenting or engaging on the truth or falsity of newspaper articles. In this particular instance, as I'm sure you can appreciate, there is an ongoing, very important, ongoing Special Counsel investigation that's now in court.

Ms. LOFGREN. OK.

Mr. WRAY. So, not only do I not want to talk about the ongoing investigation—

Ms. LOFGREN. Well, I respect—

Mr. WRAY. —but the internal deliberations related to it are even more sensitive.

Ms. LOFGREN. I respect that you cannot discuss ongoing investigations.

Let me turn to another item. There's been criticism, and the Ranking Member went through the scenario leading up to the warrant for the documents at Mar-a-Lago, but I'd like to ask unanimous consent to put an article from *The Washington Post*, "Showdown Before the Raid: FBI Agents and Prosecutors Argued Over Trump."

Chair JORDAN. Without objection.

Ms. LOFGREN. It's pretty clear from this article that there was a resistance on the part of the FBI to actually look at the President or pursue that case vigorously. Although you can't comment on it, the article does suggest that FBI agents want to just close the case because the ex-President made an assertion that a search had been made.

Now, we had Mr. D'Antuono in as a witness, and he testified four times that the Mar-a-Lago search had adequate probable cause. Do you agree with that statement?

Mr. WRAY. That the search had probable cause?

Ms. LOFGREN. Correct.

Mr. WRAY. Yes.

Ms. LOFGREN. Thank you.

So, you don't have any dispute that there was probable cause for this warrant? I just want to say, before going to my next question, that over and over again the FBI delayed and showed unprecedented caution before investigating the ex-President, even when there was a potential threat to national security. That's my view. That's very far from the assertion that there was unfair targeting. Let me ask—

Mr. WRAY. Can I just, on that point, if I may, while I can't discuss any specific investigation, my expectation for all our investigations, repeatedly communicated to all our people—and this is especially important in sensitive investigations—is that our folks take great pains to be rigorous, professional, objective, following all our policies and procedures, and do the work in the right way. Sometimes that's frustrating to others.

Ms. LOFGREN. My time is almost up. I want to ask you another question.

In the Senate hearing, in response to Senator Wyden's question of whether the FBI is currently purchasing Americans' location data, you indicated that it was limited to data derived from internet advertising. It's since been reported that the FBI has admitted it bought U.S. location data. Is the FBI purchasing location data from commercial sources without a warrant?

Mr. WRAY. This is an area that requires a little more precision and context for me to be able to answer that fully. So, let me have my staff follow back up with you, so that I make sure that I don't leave something important out.

Ms. LOFGREN. I'll just close with the FBI had 3.4 million backdoor searches of the FISA data base without a warrant in 2021. Can you say whether the FBI is continuing to search the FISA data base without a warrant for Americans?

Mr. WRAY. Well, if you're asking about our use of 702 queries—

Ms. LOFGREN. I am.

Mr. WRAY. —there is no warrant requirement under the Fourth Amendment for those queries. It's fairly well settled. The 3.4 million figure that you're talking about, I guess I would say a couple of things. First, that's not 3.4 million people; that's 3.4 million search terms or query terms. Second, those are not queries in violation of rules. Those are just queries under the procedures—

Ms. LOFGREN. My time has expired, but the Committee—

Chair JORDAN. The gentlelady's time has expired.

Ms. LOFGREN. —will look into the warrant requirement later in the process.

Chair JORDAN. We sure will. We sure will.

The gentleman from Florida is recognized.

Mr. GAETZ. The American people need to understand what just happened. My Democratic colleague just asked the Director of the FBI whether or not they are buying information about our fellow Americans, and the answer is, "Well, we'll just have to get back to you on that." It sounds really complicated.

I have other questions.

I'm sitting here with my father. I will make certain between the man sitting next to me and every person he knows and my ability to forever hold

> a grudge that you will regret not following my direction. I am sitting here waiting for the call with my father.

It sounds like a shakedown, doesn't it, Director?

Mr. WRAY. I'm not going to get into commenting on that.

Mr. GAETZ. Well, you seem deeply uncurious about it, don't you? Almost suspiciously uncurious. Are you protecting the Bidens?

Mr. WRAY. Absolutely not. The FBI does not and has no interest in protecting anyone politically.

Mr. GAETZ. Well, you won't answer the question.

Hold on. You won't answer the question about whether that's a shakedown, and everybody knows why you won't answer it. Because to the millions of people who will see this, they know it is. Your inability to acknowledge that is deeply revealing about you.

Let's go from the uncurious to the downright nosey. How many illegal FISA queries have occurred under your leadership of the FBI?

Mr. WRAY. Well, there are reports that have come out with different numbers about compliance incidents.

Mr. GAETZ. More than a million illegal ones? Because that's what the Inspector General said. The Inspector General said that, "in the 3.4 million of these queries, more than a million in error." Do you have any basis to disagree with that, that assessment by the Inspector General?

Mr. WRAY. I'm not sure, actually, that's a correct characterization of the Inspector General's findings on that, but—

Mr. GAETZ. Oh, well, the internet will remind you of that in moments.

Mr. WRAY. But I—

Mr. GAETZ. Let's now go to what the Court said. The Court said it was over 200,000 that have occurred on your watch. Do you have any basis to disagree with that assessment?

Mr. WRAY. Again, I don't have the numbers, as I sit here right now. What I can tell you—

Mr. GAETZ. It seems like a number you should know—how many times the FBI is breaking the law under your watch, especially if it's like over a million. To not know that number—and I'm worried about your veracity on the subject as well.

Play the video.

[Video played.]

So, there, Senator Lee is asking you whether or not FISA was in any way involved in your January 6th investigation, and you say no. Was that truthful?

Mr. WRAY. I said that I did not believe it was.

Mr. GAETZ. OK. So, now, let's pull up what the Court said, which is something a little different than what you said.

So here—no, that's not the right one. Yes, here we go, right there, it says,

> The government has reported additional significant violations of the querying standard, including several relating to the January 6, 2021, breach of the Capitol.

So, I guess the question, Director Wray, is, did you not know, when you were answering these questions, that the FBI was engaging in these illegal searches, or did you perjure yourself to Senator Lee?

Mr. WRAY. I certainly didn't perjure myself. At the time that I testified in front of the Senate Judiciary Committee, I didn't have that piece of information. I will add—

Mr. GAETZ. Well, that was a Court order. You didn't have that piece of information because the Court hadn't yet rendered a judgment. Did you not know, when you gave the untruthful answer before Senator Lee, that this was going on?

Mr. WRAY. It was a truthful answer. I did not believe FISA had been involved in the January 6th investigation.

Mr. GAETZ. It was. So, you didn't—the answer is, the FBI has broken so bad, that people can go and engage in queries that, when you come before the Congress to answer questions, you're like blissfully ignorant—you're blissfully ignorant as to the unlawful queries. You're blissfully ignorant as to the Biden shakedown regime. It just seems like it gets into kind of a creepy place as well.

Go to our next image on what the Court said.

Just to the American people realize, the Court has smacked you down alleging—or ruling, "FBI personnel apparently conducted queries for improper personal reasons." People were looking themselves up. They were looking their ex-lovers up. Who has been held accountable or fired as a consequence of the FBI using the FISA process as their, like, creepy, personal snoop machine?

Mr. WRAY. There have been instances in which individuals have had disciplinary action and they are no longer with the—

Mr. GAETZ. Name them.

Mr. WRAY. I can't get into it here, but we can follow back up with you.

Mr. GAETZ. Don't you see that's kind of the thing, Director Wray, that you preside over the FBI that has the lowest level of trust in the FBI's history? People trusted the FBI more when J. Edgar Hoover was running the place than when you are. The reason is because you don't give straight answers. You give answers that later a court deems aren't true, and then, at the end of the day, you won't criticize an obvious shakedown when it's directly in front of us. It appears as though you're whitewashing the conduct of corrupt people.

Mr. WRAY. Respectfully, Congressman, in your home State of Florida, the number of people applying to come work for us and devote their lives working for us is over, up over 100 percent since I—

Mr. GAETZ. We're deeply proud of them and they deserve better than you.

Chair JORDAN. The time of the gentleman has expired.

The gentleman from Tennessee is recognized for five minutes.

Mr. COHEN. Thank you, Mr. Chair.

Director Wray, thank you for continuing to serve with all these attempts to sully your name and suggest you've committed crimes, when you've done an excellent job as FBI Director. I don't agree with everything you've done, but mostly I do, and I think the FBI is a premier law enforcement agency, and I support law enforcement. To attack the FBI is to attack law enforcement in general.

A few days after Mar-a-Lago, there was some individual who went after the Cincinnati headquarters of the FBI. Can you tell us a little bit about that and how you think that came about?

Mr. WRAY. So, the incident that you're asking about was, obviously, deeply disturbing. We had an individual wearing a tactical vest, armed with an AR-style rifle and a nail gun, who attempted to forcibly enter and attack our Cincinnati field office.

A subsequent review of the subject's devices and online postings identified a pretty striking anti-FBI, anti-Federal law enforcement hostility. He was calling on others to kill Federal law enforcement, claiming that he felt he was a, in his words, "civil war."

It's, unfortunately, part of a broader phenomenon that we have seen, not just against the FBI—and this is important to add—but against law enforcement all across the country, not just against law enforcement professionals themselves, which is appalling enough, but calling for attacks against their families, which is truly despicable.

Mr. COHEN. That man eventually was captured and eliminated, was he not?

Mr. WRAY. Yes.

Mr. COHEN. A few days later, was the Arizona FBI Department the subject of armed violence—or not violence, but armed protestors?

Mr. WRAY. Well, I know that our Phoenix field office has had a number of very concerning security incidents where people attempted to attack or breach the facility. I can't remember the dates of when that happened, but—

Mr. COHEN. All this has happened kind of in the same sphere. It's been information that's been put out on social media and just in general, and by Members of the Congress, questioning the FBI, questioning law enforcement in general. This has had a deleterious effect on the safety of FBI officials, and you said others like Justice.

The was a story the other day, I believe, about people involved in the prosecution of the former President and threats to them, DOJ personnel, as well as FBI. Is that something that's going on presently? Are there efforts to have a unit at the FBI maybe look into how to protect and defend law enforcement personnel who are threatened with violence?

Mr. WRAY. We did stand up a whole dedicated unit to focus on threats to FBI individuals, FBI employees and FBI facilities, because of the uptick that we saw over that time period.

Mr. COHEN. The January 6th, was beyond a weaponization of government; it was a nuclearization of government against the government. I believe I heard that you said that you didn't have any prior notice or reason to believe that there would be such an event on January 6th. Is that correct?

Mr. WRAY. We did not, to my knowledge at least, have prior knowledge of an attempt, a violent overthrow of and breach of the Capitol Building itself. Certainly, we were concerned about and put out a number of products, intelligence products, to partners and others warning of the potential for violence more generally on that date.

Mr. COHEN. So, there have been—I think Tucker Carlson and some of the Members, colleagues on the other side of the aisle, have said that Ray Epps was a secret government agent helping

encourage this crime, so as to make the President look bad. Do you have any knowledge of Ray Epps being a secret government agent?

Mr. WRAY. No. I will say this notion that somehow the violence at the Capitol on January 6th was part of some operation orchestrated by FBI sources and agents is ludicrous and it's a disservice to our brave, hardworking, dedicated men and women.

Mr. COHEN. Director, I agree with you. I think the FBI has some of the most talented law enforcement people in our Nation and in the world. They are concerned about safety. They tend to, as I understand, lean Republican, but they do their job down the line. That's what they're supposed to do.

I'm happy we have the FBI operating in Memphis and other places to work with our police departments and joint units to protect our citizens, and I thank you for your service to the United States.

I yield back my time.

Chair JORDAN. The gentleman yields back.

The gentleman from California is recognized.

Mr. ISSA. Thank you.

Director, I'm going to followup on my colleague from Memphis. How many individuals who were either FBI employees or people that the FBI had made contact with were in the January 6th entry of the Capitol and surrounding area?

Mr. WRAY. So, I really need to be careful here talking about where we have or have not used confidential human sources.

Mr. ISSA. Was there one or more individuals that would fit that description on January 6th that were in or around the Capitol?

Mr. WRAY. I believe there is a filing in one of the January 6th cases that can provide a little more information about this, and I'm happy to see if we can follow back up with you to provide that.

Mr. ISSA. I just want an answer. Was there one or more? I mean you would know if there was at least one individual who worked for the FBI who entered the Capitol on that day.

Mr. WRAY. I can't—again I just can't speak to that here, but I'm happy to get the Court filing that—

Mr. ISSA. Look, it has been two years and you now come before us. The gentleman asked these questions, makes all kinds of insinuations, and you nod your head yes. Then I ask you simply was there one or more and you won't answer that. So, I am going to make the assumption that there was more than one, more than five, more than 10, and that you are ducking the question because you don't want to answer for the fact that you had at least one and somehow missed understanding that some of the individuals were very dangerous and that there were others inciting individuals to enter the Capitol after others broke windows.

So, I am just going to move on because I think it is time to move on past January 6th. I just—seems that the other side won't.

You are near-cabinet-level individual. You enjoy a term in Senate confirmation. You feel comfortable speaking to other Members, either cabinet-level or subcabinet-level when appropriate to resolve problems within the government?

Mr. WRAY. Absolutely.

Mr. ISSA. OK. So, when the FBI censored the U.S. Government you wouldn't have to just take it down by calling Meta or Google, would you?

Mr. WRAY. I'm sorry. I'm not sure I'm following the question.

Mr. ISSA. Are you familiar with the official verified Russian language account of the United States Department of State that was taken down at your agency's request?

Mr. WRAY. That doesn't ring a bell as I sit here right now, no.

Mr. ISSA. OK. Well, now you have something to take back and look at—

Mr. WRAY. OK.

Mr. ISSA. —because in fact in this bundle that SBU constantly was submitting to various agencies was, in fact, a Russian language statement of the government. Literally, you took down the free speech of the Department of State.

Mr. WRAY. So—

Mr. ISSA. Yes, go ahead.

Mr. WRAY. —you mentioned SBU. I'm not sure we're talking about the same thing, but I will endeavor to provide a little more context, as least as to SBU.

Mr. ISSA. Yes.

Mr. WRAY. So, I believe what you may be referring to, but I'm not sure we're not talking about the same thing, is that when Russia invaded Ukraine the security service of Ukraine, SBU, which is a longstanding good partner of the FBI, asked us for help on a whole range of things. One of those things was to contact U.S. companies on their behalf because the Russians—the invasion had cutoff Ukraine's communications.

So, we did pass through information from the SBU to social media.

Mr. ISSA. Are you also familiar with the fact that President Zelensky has had to clean house at the SBU?

Mr. WRAY. I know there have been a number of personnel changes.

Mr. ISSA. OK. Well, we will followup with this in more detail.

The question I have for you is you are the premier law enforcement operation, and you are a former Department of Justice high-ranking executive at all levels, so would you agree that the job of the FBI is criminal investigation?

Mr. WRAY. It is criminal investigation and to protect the country from national security threats, those two things.

Mr. ISSA. OK. So, the idea that you take information, and you have it taken down, use your authority and the leverage you have to have Meta, Google, Facebook; Facebook being Meta, or Twitter—take down people's information on things like where COVID came from, where do you find the national security interest in that? Where do you find the interest in free speech of American citizens being taken down? I repeat, free speech of American citizens. Where do you have that authority?

Mr. WRAY. So, we don't ask social media companies to censor information or suppress information when it comes to national security threats, certainly. So, what we do is alert them when some other intelligence agency gives us information about a foreign intelligence service being behind some account, we will call social media

companies' attention to that. At the end of the day, we're very clear that it's up to the social media companies to decide whether to do something about it or not—

Mr. ISSA. The suggestion of the most powerful law enforcement operation is not a suggestion. It is in fact effectively an order.

Mr. Chair, I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from Georgia is recognized.

Mr. JOHNSON of Georgia. Thank you, Mr. Chair. We are here today because MAGA Republicans will do anything to protect Donald Trump, their savior, no matter how unfounded or dangerous it may be to do so. Welcome to the legislative arm of the Trump reelection campaign.

A grand jury found probable cause that among other crimes Trump illegally kept highly sensitive national security documents, which put our country and our sources in danger if they got out and which photographs show Trump kept those records in bathrooms, showers, closets, and in the Mar-a-Lago ballroom. MAGA Republicans are afraid that the justice system might hold Trump accountable for his actions so to protect him Republicans are trying to intimidate FBI officials. In case that does not work, Republicans are trying their hardest to discredit the FBI in the eyes of the American public.

When Trump lost in 2020, they tried to make Americans distrust their election systems. Now that the FBI and the Justice Department have sought to hold Trump to the same standard any other American citizen would be held to, MAGA Republicans are telling Americans not to trust the FBI. To protect Trump Republicans are trying to distract us from the real work that the FBI does every day, which is fighting violent criminals, child predators, and fighting domestic terrorists and extremists so as to protect our democracy and our national security. Even worse, MAGA Republicans are stirring up threats that pose a danger to the safety of FBI employees. It is past time that Republicans realize the consequences of their words and put the good of this country over politics.

Now, Director Wray, I want to thank you for your service during a time of unprecedented travail. Director Wray, you were a partner in an international law firm before you took a drastic pay cut to accept the job of FBI Director, isn't that correct?

Mr. WRAY. Yes, that's something my wife reminds me of from time to time.

[Laughter.]

Mr. JOHNSON of Georgia. Let me ask you this, sir: You took this office after Trump fired the former FBI Director Jim Comey, correct?

Mr. WRAY. Yes, sir.

Mr. JOHNSON of Georgia. Did you contact the Trump Administration to offer yourself for this job or did the administration recruit you for the job?

Mr. WRAY. They contacted me and asked me if I would be willing to consider taking on the role.

Mr. JOHNSON of Georgia. So, Trump handpicked you to be the FBI Director?

Mr. WRAY. Yes.

Mr. JOHNSON of Georgia. He expected you to do what he wanted you to do, correct?

Mr. WRAY. Well, that I can't speak to. I can tell you the same thing I told him which is that I'm going to do this job by the book.

Mr. JOHNSON of Georgia. Well, I'll put it like this: He's unhappy with you now, isn't he?

Mr. WRAY. I'll let him speak for himself.

Mr. JOHNSON of Georgia. Well, I think a lot of his acolytes here reflect his intent at this particular time.

Director Wray, are you aware that MAGA Republicans have repeatedly called for the FBI to be defunded?

Mr. WRAY. I have heard some of that language.

Mr. JOHNSON of Georgia. In fact, Republicans on this very Committee have said that your institution should be dismantled, isn't that correct?

Mr. WRAY. Well, I think certain Members have.

Mr. JOHNSON of Georgia. One Member even tweeted, quote, "Defund and dismantle the FBI." Another told *Fox News* that, quote, "Republicans should defund the bureaucracy." A third told the press that he thinks the FBI, quote, "needs to be split up and moved out into pieces." Those are direct quotes and only a small sample of what is out there.

Can you briefly describe for us what the effect would be on our national security and on our domestic tranquility if the FBI were to be defunded or dismantled?

Mr. WRAY. Well, certainly it would be disastrous for 38,000 hard-working career law enforcement professionals and their families, but more importantly in many ways it would hurt our great State and local law enforcement partners who depend on us every day to work with them on a whole slew of challenging threats. It would hurt the American people, neighborhoods, and communities across the country, the people we're protecting from cartels, violent criminals, gang members, predators, foreign and domestic terrorists, and cyber attacks. I could go on and on.

The people it would help would be those same violent gangs and cartels, foreign terrorists, Chinese spies, hackers, and so forth.

Mr. JOHNSON of Georgia. Member—

Chair JORDAN. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Colorado for five minutes.

Mr. BUCK. I thank the Chair.

Director Wray, thank you. Thank you for your work with the FBI and thank you for your history of work in law enforcement. You started out as an AUSA. I am getting this information from Wikipedia, the great font of knowledge in the digital age, so I'm assuming that it is true. You started out as an AUSA. You were nominated by Republican President Bush for the position of Assistant Attorney General in the Criminal Division at the Department of Justice, and you were confirmed by a Republican Senate, if I am correct in that.

Mr. WRAY. Yes, by a unanimous voice vote.

Mr. BUCK. You were then nominated by Republican President Donald Trump to be the FBI Director and again confirmed by the Republican Senate for that position?

Mr. WRAY. Yes, I think there were only five votes against me, and they were all from Democrats.

Mr. BUCK. According to Wikipedia you are still a registered Republican, and I hope you don't change your party affiliation after this hearing is over. I want to thank you. I want to thank you for leading an agency, as you mentioned in your opening statement, that protects Americans from foreign terrorists, an agency that protects Americans from spies from China and Russia, cybercrime, public corruption, organized crime, drug cartels, human traffickers, and white-collar criminals. I want to thank you and the FBI for protecting law-abiding Americans from the evil that exists all around us.

Director Wray, you know this, but it is worth mentioning again anyway. The FBI doesn't protect America because this is a beautiful country. It doesn't protect America just because of the citizens who live in this country. You and the FBI protect America because of the values that we hold, because of our constitutional republic, because this is a special place. The rest of the world knows just how special this place is.

Director Wray, I am concerned about FISA. I am not concerned about FISA in a partisan way, and, frankly, I am not in favor of defunding the FBI, nor am I in favor of splitting up the FBI, nor am I in favor of using the Holman rule for the FBI Director. I am concerned about FISA because I am concerned about what makes this place special and the threats to us. I would love to work with the FBI on how we can protect Americans at the same time protecting the civil liberties of Americans. That area of FISA is what really concerns me.

I know you have gone to great lengths to try to work with FBI agents on how they access information under 702, and I know that at times it has been successful and at times it has not been successful. The spirit of FISA and the spirit of our constitutional republic really demands that the FBI culture shift and it shifts to a place where FBI agents understand that protecting Americans' civil liberties, that protecting the privacy that we all enjoy in this country and even though we screw up, we still enjoy this privacy. In court we have the highest burden of proof the world has ever known, to prove a case beyond a reasonable doubt. That information has to be gathered by the government in a legal way.

So, I fear that we are going to overcorrect on FISA in Congress. That we are going to take away some tools that are necessary because there is a trust factor here that is missing. I would love to know how we can draw that line in a way that assures the civil liberties.

I agree with my colleague from California, and I don't often agree with folks from California, but I agree with my colleague from California that it is essential that we do not get geolocation information from what I consider criminals at big tech and that we protect that information for Americans. You as a law enforcement official should not know where I am necessarily unless you have probable cause to get that information.

I am also concerned about the ability of law enforcement, and particularly the FBI, to access information. When I go on the internet, and I search for a gun vault, or I search for a holster I don't

want the government to know that I own a gun. I think I have that privacy right to make sure the government doesn't know that I own a gun, or any other information that I search for on the internet unless you have got probable cause to make that search.

So, I want to ask you a question with my few seconds, and that is how can you work on the culture in the FBI and help us reach that sweet spot on FISA?

Mr. WRAY. Well, thank you for that. Certainly, we start it with first principles, try to drive home every day to our entire workforce that our mission is to both protect the American people and uphold the Constitution. We have on the issue of FISA clearly had failures in the past. I've been very plain about that. We've implemented a whole series of reforms.

If you look at the reports that have started to come out now from the FISA Court, ODNI, the Justice Department, and from others who have looked at the effect of your reforms, over and over again they are showing significant improvement in compliance. We're talking about the most recent FISA Court opinion finding 98 percent compliance and commending us for moving in the right direction. A DOJ report found 99 percent compliance. Our internal audit found a 14-percent jump up to 96 percent. These are all separate reports looking at the impact of our reforms.

A lot of the public commentary about our failures—and let's be clear, we have had problems. Those problems are unacceptable, and I am determined with my leadership team to fix them. Those problems almost entirely predate those reforms, even though some of them have just come out recently.

So, we're going to keep working at this. That is not a one-and-done from my perspective. I recognize that we need to work with the Congress on this issue, but this is an incredibly important tool. As you know from your own public service—

Chair JORDAN. The time of the—

Mr. WRAY. —as a prosecutor as well, this is an incredibly important tool to protect the American people from very serious foreign threats.

Chair JORDAN. The time of the gentleman is expired.

The gentleman from California is recognized.

Mr. SCHIFF. Thank you, Mr. Director. I want to pick up where Mr. Buck began as well by thanking you for your service. I am glad that we have an opportunity for one Democrat, one Republican in close succession to thank you for your service to the country.

You are being attacked and vilified by some of the Members of this Committee and others outside this Committee because the Justice Department, the FBI has had the audacity to investigate serious allegations of criminal conduct by a former President. I just want a chance to recap how we got to where we are.

During the last administration and for four years the Justice Department took the position, not unprecedented for the department, that a former President could not be—a current President could not be indicted. Now, I think that is a flawed matter as a constitutional principle, but nonetheless that was the view of the Office of Legal Counsel and the Justice Department during the Trump years that the President of the United States could not be indicted.

My Republican colleagues seem to believe that a former President similarly cannot be indicted. That would effectively make a President above the law, beyond the reach of the law. In my view, there would probably be only one thing the Founders would find more politically precarious and dangerous to our Constitution than the indictment of a President or former President, and that is the failure to indict a President or former President when they have engaged in criminal conduct.

The Justice Department, I believe, as Representative Lofgren, my fellow Member of the January 6th Committee, asserted, took a very long time to begin the investigation of Donald Trump and his involvement in January 6th. I believe it began with urgency when it came to the foot soldiers who broke into the Capitol and assaulted police officers that day, but at least what I can tell from the public record the activities of the President himself, some of which were a matter very much of public record such as his tape-recorded conversation with the Secretary of State in Georgia in which he badgered the Secretary to, quote, "find 11,780 votes that don't exist," while that was the subject of investigation by the local District Attorney in Fulton County, it did not appear to be the subject of investigation for more than a year by the Justice Department. To me that is inexplicable. This was never the kind of case in which you could roll up the foot soldiers on the higher-ups because there were multiple lines of effort in this plot to overturn the election.

I do think that the appointment of the Special Counsel has accelerated the investigation of the former President's misconduct and I think that is a positive step for the department and for the country so we can get resolution to this.

Likewise, with Mar-a-Lago, notwithstanding the protests of my colleagues, they were repeated, repeated requests by the Archives to get those documents back from the former President. Then when those were unsuccessful, there was a Grand Jury subpoena that was administered. When that was unsuccessful and only when that was unsuccessful and there was evidence that the former President was still withholding highly classified materials, did the FBI go to the step of a search warrant. That was more than a 1½ years after those initial requests. This was anything but a rush to judgment in the Mar-a-Lago case.

So, I believe the department if anything has exercised enormous caution, I would say too much caution, in the June 6th Commission—Committee's work and oversight to proceed against a former President when there are serious and credible allegations of criminal conduct.

I want to thank you for your stewardship during this incredibly difficult time. I don't think there has been a more difficult time for an FBI Director. Notwithstanding concerns I have expressed none of them go to your integrity or your commitment to the country and I want to thank you for that.

Let me ask you about a different topic, although related to January 6th as well. Let me ask you broadly about domestic violent extremism. I offered an amendment in this Committee, voted down by the Republicans, that we should oversee the increasingly dire threat of domestic violent extremism. One of your recent reports

underscored the rise of this prevalent threat and I would ask you if you would address it today.

Mr. WRAY. So, the rise of domestic violent extremism is something that I and we have been identifying for quite some time. It goes back well before January 6th. In fact, a lot of people don't know this, but the Joint Terrorism Task Forces that we hear about so often at the FBI were largely created in response to domestic terrorism, not foreign terrorism.

In my first few years, as Director we were identifying this issue more and more and that's why we elevated in the Summer of 2019 racially motivated violent extremism to a national threat priority level. We saw I think about a 40-percent increase in the number of domestic violent extremism investigations all before anything to do with January 6th. Obviously since then it has continued.

Domestic violent extremism cuts across the spectrum from the racially motivated violent extremism, militia violent extremism, anarchist violent extremism, environmental violent extremism, and, of course, recently, we've had a lot of violent extremism attacks against prolife facilities. We're investigating those.

So, it really covers a wide spectrum. What they all have in common is three things: Violence or threats of violence motivated by some ideology. It varies in violation of Federal criminal law. That's the domestic violent extremism that I'm talking about when I've identified this phenomenon.

Mr. SCHIFF. Mr. Chair, could I request unanimous consent to enter into the record two letters, both from David Weiss, the Trump-appointed U.S. Attorney in Delaware, rebutting allegations concerning partiality in the investigation of the Hunter Biden case?

Chair JORDAN. Without objection.

Mr. SCHIFF. I thank you.

Thank you, director.

Chair JORDAN. Without objection.

Director, what is the difference between a traditional Catholic and a radical traditional Catholic?

Mr. WRAY. I'm not an expert on the Catholic orders.

Chair JORDAN. Well, your FBI wrote a memo talking about radical traditional Catholics. I am just wondering if you can define it for us.

Mr. WRAY. Well, what I can tell you is you're referring to the Richmond Product, which was a single product by a single field office, which as soon as I found out about it, I was aghast and ordered it withdrawn and removed from FBI systems.

Chair JORDAN. You were aghast? Then why won't you let us talk to the people that put it together?

Mr. WRAY. We are working on finishing an internal review into what happen there.

Chair JORDAN. We have to wait; we the Congress and the American people have to wait until you do an internal review—it is not a criminal investigation going on here—an internal review before we can talk to the people who wrote this?

Mr. WRAY. When we finish our internal review, which will be very soon, we will come back before the Committee and provide a briefing on what we found. Then we can—

Chair JORDAN. Any idea how many Catholics in America?

Well, we appreciate the briefing, but we want to talk to the people who wrote it.

Mr. WRAY. Then we can—

Chair JORDAN. Any idea how many Catholics are in America, director?

Mr. WRAY. No, sir.

Chair JORDAN. There are a lot, over 60 million. What percentage of those are radical traditional Catholics according to the Richmond Field Office of the FBI?

Mr. WRAY. Again, that product is not something that I will defend or excuse. It's something that I thought was appalling and removed it.

Chair JORDAN. Let's read from that product. Page 4 of that product—by the way, the copy you gave us—when can we get a copy that doesn't have all these redactions on it, so we can actually see what the American taxpayers were paying for, to see their rights, their First Amendment religious liberty rights attacked? Let me just read from page 4.

> Provide new opportunities to mitigate extremist threat through outreach to traditional Catholic parishes and the development of sources with the placement and access to report on places of worship.

That is pretty fancy language for they are trying to put informants in the parish, in the church. That is what this memorandum said, Director, from one of your field offices. You won't let us talk to the people who did it. Any response to that?

Mr. WRAY. I didn't know—I was waiting for the question.

Chair JORDAN. No, you think priests should be informants inside the church, Director?

Mr. WRAY. We do not recruit, open, or operate confidential human sources to infiltrate, target, report on religious organizations.

Chair JORDAN. That's not what this said.

It sounds like you were trying to do it in Richmond, Virginia.

Mr. WRAY. No, sir. No, sir.

Chair JORDAN. You weren't?

Mr. WRAY. That's—

Chair JORDAN. This didn't happen? You can assure us that this didn't happen?

Mr. WRAY. That product did not, as best as we can tell, result in any investigative action as a result of it. None.

Chair JORDAN. You know what the motivation for this was? Why would they even think about doing this? You know what the motivation was?

Mr. WRAY. Well again, I think that's what our internal review will find, and I'd rather wait until I hear what the results of that internal review are.

Chair JORDAN. Well, I don't need an internal review. I can read the document. I assume you can do the same. Because it says right there on the same page,

> Richmond assesses extremist interest in radical traditional Catholics is likely to increase over the next 12–24 months in the run-up to the next general election.

Same paragraph,

> Events in which extremists and radical traditional Catholics might have common cause include legislation, judicial decisions in such areas as abortion rights, immigration, affirmative action, LGBTs, immigration, affirmative active, and LGBTQ protections.

It is politics. That is the motivation. In the run-up to the next election. They talk about the border, affirmative action, and abortion rights. It is total politics. I think it is interesting that affirmative—we just got a decision from a bunch of Catholics who sit on the U.S. Supreme Court relative to affirmative action. Politics was the total motivation here. That is what is scary. That is what I think is so frightening and why we—how this happens I don't know.

Five people signed off on it. Five people including the Chief Division Counsel at the Richmond Field Office. I would like to talk to this lawyer. A lot of people in this room went to law school. You had a course on the Constitution. Talks about the First Amendment. I find that really scary.

Again, when do you think we are going to have a chance? How soon you going to complete this internal investigation so we can talk to these folks who put this together?

Mr. WRAY. I expect us to be able to brief the Committee on our internal review later this summer.

Chair JORDAN. Will that briefing include the names of the individuals who put this document together attacking Americans' First Amendment liberty?

Mr. WRAY. I'm not sure yet what it will include because it's not done yet, but when it is, we'll provide you with an appropriate briefing.

Chair JORDAN. What are you doing to fix it, so this doesn't happen again?

Mr. WRAY. Well, we've already started putting place a number of fixes, and those will be further informed by the results of the review.

Chair JORDAN. What are those fixes? More training, more things, that is the same thing you told us on FISA. While you may have some improvement, you still got 204,000 times the data base was illegally searched. So, what are the training and procedures you are putting in place?

Mr. WRAY. Well, I'll put the FISA stuff to the side, although if you have time I can engage in that.

Chair JORDAN. Well, I am just using that as an example of where you have told the same thing, you fix something, and you haven't.

Mr. WRAY. I do not believe the number that you just invoked on the FISA side is since the reforms. The fixes, as you called them—

Chair JORDAN. Can we get an unredacted—

Mr. WRAY. —post-date the numbers that you're referring to.

Chair JORDAN. Director, can we get an unredacted copy—while you are still doing this internal investigation can we at least get an un-redacted copy of this memorandum?

Mr. WRAY. I will find out if there's more of the document that can be shared with you. We've tried to be very careful in what we redact and there's always a basis for it. So, let me go back and see if there's more that we can provide. I know my instructions are to be as sparing as possible in the redactions that we provide.

Chair JORDAN. The gentleman from California is recognized.

Mr. SWALWELL. Director, I think it is quite rich that the guy that has accused you of lawlessness and weaponization is 400 days into violation of his own Congressional Subpoena over January 6th. Quite rich to me that you are hearing all these allegations from somebody who won't even respond to a lawful subpoena.

I want to talk more about your workforce because that is where you started. A couple weeks ago at the bureau you had Family Day. Can you tell us what Family Day is?

Mr. WRAY. Family Day is an opportunity for employees from really all over the FBI. It tends to be primarily from the nearby geographies because of the trip that they have to make, employees to bring their families into FBI headquarters so that they can see a little bit about the place their loved ones work and why mom or dad is spending so much time away from home—

Mr. SWALWELL. Do you see any little kids at Family Day?

Mr. WRAY. Many, many, many. It is an opportunity for us to say thank you to the families. We talked a lot in law enforcement about sacrifice. The reality is that law enforcement officers and professionals are sacrificing to do what they love. Our families are sacrificing because of who they love.

Mr. SWALWELL. What would you say in your experience is the No. 1 worry of a little kid about a mom or dad who is a special agent out in the field?

Mr. WRAY. Obviously, they are worried that their mom or dad won't go home at night because they have been killed. That, in fact, has happened unfortunately all too—

Mr. SWALWELL. It happened in Fort Lauderdale a couple years ago. Is that right?

Mr. WRAY. Laura Schwartzenberger and Dan Alfin, two of our agents, killed in a connection with a child exploitation case down there. It was the single darkest day I have had in this job.

Mr. SWALWELL. I want to turn your attention to an organization called Marco Polo. It is run by a former Trump aide named Garrett Ziegler.

Over the past couple weeks, he has doxed the addresses of a former Special Agent connected to the Hunter Biden case. He has put up the dates of births and pictures of two current special agents who work for you. He has said the name, which I will not say, of an Assistant U.S. Attorney who worked on the Hunter Biden case, that she will answer for her crimes. He will focus everything on her. Justice will be done. It is out of my hands. She will answer.

Do these types of threats and doxing concern you about threats to your workforce and what it could mean?

Mr. WRAY. Well, obviously, what we are most concerned about are the actual acts of violence, which themselves have happened and as we just discussed. This kind of phenomenon, doxing, is itself hugely problematic because the more information, personal information about law enforcement professionals that are out in the internet, the more people who may be unstable or inclined to violence that are out there who can choose to act on it. We are seeing that all too often.

The number of officers across law enforcement killed in the line of duty has been up alarmingly over the last few years. I know that because one of the things I committed to doing early in my tenure was every time an officer, anywhere in the country, is shot and killed in the line of duty, I was going to personally call that sheriff or that chief and on behalf of the FBI express our support and condolences and relay that to the family. I have done that now close to 400 times since I have been in this job.

Mr. SWALWELL. Thank you for doing that. You not only do that, but you also send your SACs, your special agents in charge, to their funerals as well. I have seen that.

Chair, I have counted in this hearing, and we are only about an 1½ hours, the use of the word laptop about 20 times. In fact, in the Chair's opening statement, he said that he is upset that he believes the FBI prevented more Americans from learning about a private citizen's laptop. That is bananas to me. You all are bringing up FISA every single question. You are essentially saying to the American people that you are guardians of personal security and privacy. The 2020 election was determined—

Mr. JOHNSON of Louisiana. Would the gentleman yield?

Mr. SWALWELL. —because the FBI, no, because the FBI didn't let more Americans see a private citizen's nonconsensual nudes. Is that what we are saying here; that you lost the election not because of your ideas, but because a private citizen's laptop wasn't out there?

Mr. JOHNSON of Louisiana. Do you want an answer? Will you yield?

Will you yield?

Mr. SWALWELL. That's bananas. Like you should be a party of ideas not a party of nonconsensual nudes to help you win an election.

Mr. JOHNSON of Louisiana. Will you yield for an answer?

Mr. SWALWELL. It seems like that is what the objection is here today. We should be talking about the mass shootings that occurred over the last 10 days. Instead, this hearing has turned into absolute chaos.

I yield back.

Chair JORDAN. The time of the gentleman has expired.

We bring up FISA because it is up for reauthorization, if the gentleman didn't know, at the end of this year. It was in our witness's opening statement. I didn't bring up the laptop—

Mr. SWALWELL. Whose time are you speaking to, Chair?

Chair JORDAN. The judge last—

Mr. SWALWELL. Point of order. Whose time are you—

Mr. NADLER. Chair, point of order. Whose time are you speaking on?

Chair JORDAN. I am speaking on, not a point of order.

I recognize the gentleman from Arizona.

Mr. BIGGS. Thanks, Mr. Chair.

Director, thanks for being here. Who is Matthew Graves? Who is Matthew Graves?

Mr. WRAY. I believe Matthew Graves, at least the person I am thinking of, is I think the U.S. Attorney in the District of Columbia.

Mr. BIGGS. That is the person I am thinking of, too. Are you aware that he has promised more than 1,000 more individuals will be charged or indicted related to January 6th?

Mr. WRAY. I had not heard that he had said that.

Mr. BIGGS. Well, it seems arbitrary. There are reports that it is kind of a quasi-quota system that he has put together for January 6th prosecutions. Do you approve of targets, goals, quotas in prosecuting alleged criminal conduct?

Mr. WRAY. Well, certainly not quotas. That doesn't make any sense. I mean, goals are a little bit more of an ambiguous term.

Mr. BIGGS. Certainly not quotas.

Mr. WRAY. Certainly not quotas.

Mr. BIGGS. Do you know if any of your personnel at the FBI is involved in the investigations promised that will lead to indictments by the January 6th quota established by U.S. Attorney Graves?

Mr. WRAY. That doesn't sound familiar to me.

Mr. BIGGS. OK. In June 2021, you told this Committee that a small group of people at the U.S. Capitol on January 6th had "all sorts of weapons." Do you remember being here for that Committee hearing and testifying that way?

Mr. WRAY. In general, yes.

Mr. BIGGS. It has been reported that more than 40 FBI personnel, agents, or contractors were in the crowd on January 6th. Is that number accurate?

Mr. WRAY. I don't know if that number is accurate.

Mr. BIGGS. Former Capitol Police Chief Steven Sund reportedly has asserted that the protest crowd was filled with Federal agents. Are you aware of his assertion?

Mr. WRAY. I am not.

Mr. BIGGS. Would you agree with him that it was filled with Federal agents on January 6th?

Mr. WRAY. I would really have to see more closely exactly what he said and get the full context to be able to evaluate it.

Mr. BIGGS. How many agents were actually, agents or human resources were present at the Capitol complex and vicinity on January 6th?

Mr. WRAY. Well, again, it is going to get confusing because it depends on when we deployed and responded to the breach that occurred. Obviously, there were—

Mr. BIGGS. How many were—

Mr. WRAY. —Federal agents—

Mr. BIGGS. Sure, yes, you are talking—and you and I both know we are talking different things here. Please don't distract here, because we are focusing on that those who were there in an undercover capacity on January. How many were there?

Mr. WRAY. Again, I am not sure that I can give you that number as I sit here. I am not sure there were undercover agents on scene.

Mr. BIGGS. I find that kind of a remarkable statement, Director. At this point, you don't know whether there were undercover Federal agents, FBI agents, in the crowd or in the Capitol on January 6th?

Mr. WRAY. I say that because I want to be very careful. There have been a number of court filings related to some of these topics. I want to make sure that I stick within what is in—

Mr. BIGGS. I understand that. I just, I thought I heard you say you didn't know whether there were FBI agents or informants or human sources in the Capitol or in the vicinity on January 6th. Did I misunderstand you? I thought that is what you said.

Mr. WRAY. Well, I referred very specifically to undercover agents.

Mr. BIGGS. Yes. So, are you acknowledging then there were undercover agents?

Mr. WRAY. As I sit here right now, I do not believe there were undercover agents on scene—

Mr. BIGGS. Or any assets?

Mr. WRAY. —FBI agents.

Mr. BIGGS. Did you have any assets present that day in the crowd?

Mr. WRAY. When it comes to what you are calling assets or what we would call confidential human sources, that is a place where, again, I want to be careful, much as I said in response to an earlier question. There are court filings that I think speak to this that I am happy to make sure we get to you, assuming they are not under seal. That can better answer the question than I can as I sit here right now.

Mr. BIGGS. In the same, or excuse me, June 2021 Committee hearing you told us that,

> The FISA Court approved FBI procedures, minimization procedures, collection and procedures, courting procedures, did not find misconduct.

That is what you said. Specifically, you said the FISC found no misconduct.

Yet, three months later the Inspector General found widespread problems in FBI's FISA applications, raising serious questions about the FBI review process of applications, including hundreds of examples of noncompliance with Woods Procedures, for example. We know that from December 2020–November 2021 the FBI conducted 3.4 million warrantless searches of U.S. data under FISA, 3.4 million, up nearly triple the amount of the previous year. It got worse as you were telling us there was nothing to worry about.

Now, your reforms have produced about, reduced it down to 119,000, over 200,000 total, but 119,000 discrete Americans. That just doesn't seem like you have accomplished much there if you have 119,000 illegal searches and queries under FISA.

I will yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from California is recognized.

Mr. LIEU. Thank you, Mr. Chair.

The House Judiciary Committee is responsible for helping to ensure the rule of law. Unfortunately, this Chair ignored a bipartisan Congressional subpoena served on him. The actions of this Chair have undermined the credibility of all Congressional Committees in seeking information from witnesses and have undermined the rule of law.

Now, Director Wray, thank you for your public service and for the service of the brave FBI agents. I am going to ask you a series

of basic questions to get facts out to the American people about our system of justice.

Trump advisor Roger Stone was convicted in a Federal Court, correct?

Mr. WRAY. That is my recollection.

Mr. LIEU. All right. Trump donor Elliott Broidy was convicted in a Federal Court, correct?

Mr. WRAY. Also, my recollection.

Mr. LIEU. The Attorney General at the time for those two convictions was Bill Barr. Which President nominated Bill Barr for Attorney General?

Mr. WRAY. President Trump.

Mr. LIEU. OK. Trump's former lawyer Michael Cohen was convicted on two separate occasions in a Federal Court, correct?

Mr. WRAY. I believe that is correct.

Mr. LIEU. The Attorney General at the time for Cohen's second conviction was Matthew Whitaker. Which President appointed Matthew Whitaker as Acting Attorney General?

Mr. WRAY. President Trump.

Mr. LIEU. OK. Trump's former Campaign Chair Paul Manafort was convicted in a Federal Court, correct?

Mr. WRAY. Yes.

Mr. LIEU. Trump's former Deputy Campaign Manager Mr. Gates was convicted in a Federal Court, correct?

Mr. WRAY. That is my recollection.

Mr. LIEU. Trump's campaign Foreign Policy Adviser George Papadopoulos was convicted in a Federal Court, correct?

Mr. WRAY. Yes, I think he, yes, he pled guilty, yes.

Mr. LIEU. The Attorney General at the time of those three cases was Jeff Sessions. Which President nominated Jeff Sessions for Attorney General?

Mr. WRAY. President Trump.

Mr. LIEU. OK. You were their FBI Director for all those cases at the time. Which President nominated you?

Mr. WRAY. President Trump.

Mr. LIEU. OK. What these facts show is we don't have a two-tiered system of justice. We have one Department of Justice that goes after criminals regardless of party ideology.

All these folks were convicted under the administrations of three separate Republican Attorneys General. It is not the fault of the FBI that Donald Trump surrounded himself with criminals. Donald Trump brought that on himself. Thank you to the FBI for exposing the cesspool of corruption of these Trump associates.

Now, I would like to talk about efforts by MAGA Republicans to defund the FBI. I think it would be useful for the FBI to explain to the American people what your missions are and how critical they are, so, again, a series of basic questions. The FBI's mission includes counterterrorism, correct?

Mr. WRAY. Yes.

Mr. LIEU. OK. That means the FBI works to stop terrorist attacks on American soil, right?

Mr. WRAY. Yes.

Mr. LIEU. OK. The FBI's mission also includes counterintelligence, correct?

Mr. WRAY. Yes.

Mr. LIEU. That means the FBI works to stop espionage of American companies and organizations. Is that right?

Mr. WRAY. Yes.

Mr. LIEU. OK. The FBI's mission includes stopping cybercrime, right?

Mr. WRAY. Correct.

Mr. LIEU. The FBI's mission includes stopping public corruption, right?

Mr. WRAY. Correct.

Mr. LIEU. The FBI's mission includes stopping weapons of mass destruction from being detonated on American soil, right?

Mr. WRAY. Yes, we work with others on it, but yes.

Mr. LIEU. The FBI's mission includes going after organized crime, right?

Mr. WRAY. Yes.

Mr. LIEU. You go after violent crime, correct?

Mr. WRAY. Yes.

Mr. LIEU. You also go after White collar crime, right?

Mr. WRAY. Yes.

Mr. LIEU. The FBI's mission also includes going after child sex trafficking, correct?

Mr. WRAY. Yes.

Mr. LIEU. OK. Republican Members of their caucus, including Members on this Committee, have asked to defund the FBI. One Member on this Committee from Arizona wrote that the FBI "should be defunded and dismantled." What would happen if the FBI was defunded and dismantled?

Mr. WRAY. We would have hundreds more violent criminals out on the street, dozens more violent gangs terrorizing communities, hundreds more child predators on the loose, hundreds more kids left at those predators' mercy instead of being rescued, scores of threats from the Chinese Communist Party being left unaddressed, hundreds of ransomware attacks left unmitigated, terrorist attacks, both jihadist inspired and domestic violent extremists, not prevented that would succeed against Americans.

Single seizures of fentanyl, it is not uncommon right now for a single FBI office in a single operation to seize enough fentanyl to wipe out an entire State. So many, many, many, many more of those lethal doses would be sweeping the country. We have close to 400 I think it is, somewhere between 300–400 investigations into the leadership of the cartels trafficking that fentanyl. So, you would have a significantly greater threat from the southwest border from the cartels. So, those are just a few things that would happen.

Ultimately, the people most hurt by some ill-conceived effort to defund our agency, the people most hurt are the American people that live in every district represented on this Committee.

Mr. LIEU. Thank you, Director Wray and the FBI agents, for protecting Americans.

Chair JORDAN. The time of the gentleman has expired.

The gentleman from California, Mr. Kiley, is recognized.

Mr. KILEY. Good morning, Director Wray. I would like to take you back to 2021. In many parts of the country, schools remained

closed month after month for no good reason. Once schools did nominally open, many instituted draconian testing and quarantine regimes, such as one student is possibly exposed to COVID, everyone goes home for the week. Children as young as toddlers were subjected to harmful mask mandates that defied international norms.

The way some students were treated truly shocks the conscience. Just consider a few examples from my own State of California. A school district in Davis sent an email to parents announcing that their children will be required to eat outside in the rain to reduce exposure to COVID. A school in Sonoma County made young children chew with their masks on, explaining this was to minimize the time spent unmasked. Some schools in Los Angeles limited students to one bathroom break per day and barred them from drinking water outside of the lunch period. A school in the San Ramon Valley made students eat lunch on the ground.

In October of that year, the American Academy of Pediatrics would declare a National State of Emergency in children's mental health, citing dramatic increases in emergency department visits for all mental health emergencies, including suspected suicide attempts.

In the face of this, Director, the Biden Administration decided to take action. It mobilized the sweeping powers of Federal law enforcement. It wasn't to spare kids from such cruelty. Rather, it was to target the parents who were speaking out against it.

The administration coordinated with the National School Board Association on a letter that began with the alarming claim America's public schools and its education leaders are under an immediate threat. The letter cited a handful of news stories, almost all which involved purely expressive activity by parents at school board meetings, and called such activity a form of domestic terrorism. The letter called for the full counterterrorism and law enforcement powers of the Federal government, including authority granted under the PATRIOT Act, to be mobilized to investigate, intercept, and prevent such activity.

The Biden Administration was ready to take this letter and run with it the moment it was received. After all, administration officials had participated in its drafting. Within five days of receiving it, Attorney General Merrick Garland fired off his infamous memo directing Federal action in response to a "disturbing spike in harassment, intimidation, and threats of violence against school administrators, board members, teachers, and staff." In response, the FBI opened 25 assessments against parents and even created a new threat tag.

Director Wray, did Attorney General Garland consult with you or the FBI before issuing that memorandum?

Mr. WRAY. I can't get into discussions that did or maybe more importantly did not happen between the FBI and the Department in advance of the—

Mr. KILEY. Why do you say more importantly did not?

Mr. WRAY. Well, because I will say to you the same thing that I said to all 56 of our field offices as soon as I read the memo, which is that the FBI is not in the business of investigating or po-

licing speech at school board meetings or anywhere else for that matter, and we are not going to start now.

Now, violence, threats of violence, that is a different matter. We are going to work with our—

Mr. KILEY. Right. So, that is what the memo was predicated on. What I am asking you, was there any evidence that you provided to Attorney General Garland that supported that premise that there was an increase in harassment and threats of violence?

Mr. WRAY. I am not aware of any such evidence. I know that we have had a number of our folks who have been up here for transcribed interviews. So, unless some of them shared it, I am not aware of any—

Mr. KILEY. Well, actually what they have shared with us points to just the opposite. You had, for example, a letter from Christopher Dunham, Acting Assistant Director, in March of this year where the FBI acknowledged that it has not observed an uptick of threats directed at school officials since it began tracking the data. Does that sound accurate to you?

Mr. WRAY. Yes, sir.

Mr. KILEY. Is it also true that according to the FBI itself none of the school board related investigations have resulted in Federal arrests or charges?

Mr. WRAY. I think that is correct. I think of the 25, and for context that is 25—

Mr. KILEY. I am sorry. I have limited time. So,—

Mr. WRAY. Yes.

Mr. KILEY. —if that is correct, I would like to move on.

This Committee's investigation concluded that the Justice Department's own documents demonstrated there was no compelling nationwide law enforcement justification for the Attorney General's directive. Do you have any reason to dispute that conclusion?

Mr. WRAY. No.

Mr. KILEY. So, we had an investigation of parents. We had a sweeping mobilization of Federal power against the most protected core First Amendment activity, the right of citizens to speak and petition, on the most important of issues, the education of their children. You are telling me that the entire basis for that, there was no evidence to support it.

Mr. WRAY. Well, I want to be clear. We, the FBI, as I said, were not and did not investigate people for exercising their—

Mr. KILEY. Should Attorney General Garland rescind the memo?

Mr. WRAY. I am sorry?

Mr. KILEY. Should Attorney General Garland rescind that memo?

Mr. WRAY. Oh, that is a question for the Attorney General.

Mr. KILEY. Do you believe he should?

Mr. WRAY. Again, that is a question for the Attorney General.

Mr. KILEY. Do you believe that the Attorney General should apologize to parents who were the subject of that memorandum?

Mr. WRAY. I am not going to speak to that.

Mr. KILEY. Will you apologize for the FBI's own role?

Mr. WRAY. I think the FBI conducted itself the way it should here, which is that we have continued to follow our longstanding rules and have not changed anything in response to that memo.

Chair JORDAN. The time of the gentleman has expired.

The Chair recognizes the gentlelady from Washington.

Ms. JAYAPAL. Thank you, Mr. Chair.

Director Wray, thank you so much for being with us. Thank you for your service to the country.

I do want to focus on some areas of concern around American's civil liberties that I have had longstanding concerns about. In testimony to Senate Intelligence in March, you stated that the FBI had previously purchased commercial data base information that includes location data derived from internet advertising, but that to your knowledge the FBI does not currently purchase data.

Just last month the ODNI declassified a report revealing that the FBI and other agencies do purchase significant amounts of commercially available information about Americans from data brokers. The report notes that commercially available information:

> ... has increasingly important risks and implications for U.S. persons' privacy and civil liberties as commercially available information can reveal sensitive and intimate information about individuals.

It is public information that the FBI uses Babel Street and Venntel, and has a Lexus account. All these companies provide data for purchase. Can you tell me how the FBI uses that data?

Mr. WRAY. Respectfully, this is a topic that gets very involved to explain. So, what I would prefer to do is have our subject matter experts come back up and brief you, and they can answer your questions in detail about it, because there is a lot of confusion that can be unintentionally caused about this topic.

Ms. JAYAPAL. Does the FBI purchase data?

Mr. WRAY. My testimony that you referred to before remains the same. The story about the ODNI report doesn't change that. Again, there is a lot of precision and technical dimensions to this.

Ms. JAYAPAL. Well, I do appreciate that. I am looking at a report that is from the Office of the Director of National Intelligence saying that the FBI purchases data.

Mr. WRAY. I understand that.

Ms. JAYAPAL. Mr. Chair, I ask unanimous consent to enter this into the record.

Chair JORDAN. Without objection.

Ms. JAYAPAL. Do you know if the contracts with data brokers like the ones I described provide location data?

Mr. WRAY. My testimony about purchasing commercial data base information that includes location data derived from internet advertising remains the same, which is that we currently do not do that.

Ms. JAYAPAL. The information that you have that has already been purchased, does it contain location—

Mr. WRAY. Again, I am not trying to be obtuse or difficult here. I just know from experience that the more you drill into this whole issue of commercial data, geolocation data, et cetera, that it gets very involved, in some cases involves pilot projects that are in the past. In some cases, it involves national security information, et cetera.

Ms. JAYAPAL. Director Wray, I do understand that you are—

Mr. WRAY. So, I just want to make sure that we get you the information that you need.

Ms. JAYAPAL. OK. That is great. I will take that. I do want to say that this is just an extremely important issue for the American people to understand how their data is being used. That is location data. That is biometric information. It is medical and mental health information. It is information related to individuals' communications. It is information about people's internet activity. While I understand that this is complicated, that is the reason that you come before us, so that the American people can hear this.

Let me ask you this. Does the FBI have a written policy outlining how it can purchase and use commercially available information?

Mr. WRAY. There are a number of policies that bear on this topic. Again, that could be part of the same briefing that we are happy to provide. I don't dispute at all that this is an important topic. I am simply saying that precisely because it is such an important topic that a minute and 12 seconds counting down is not the best way—

Ms. JAYAPAL. No, I understand that.

Mr. WRAY. That's all.

Ms. JAYAPAL. I am asking whether there is a policy. It sounds like there is a policy. When was that policy last updated?

Mr. WRAY. That I can't, as I sit here right now, I don't have the answer for you on that. Again, there a number of policies that are relevant to this. So that may affect the—

Ms. JAYAPAL. You will commit to providing those to us so that we can explore them—

Mr. WRAY. I will commit to providing you a briefing that will provide hopefully very helpful information to help you understand better this whole topic.

Ms. JAYAPAL. What about a written policy governing how commercially available information can be used in criminal investigations?

Mr. WRAY. I think it is all wrapped up in the same answer I just gave.

Ms. JAYAPAL. The reason that this is so important is because the question is whether the FBI uses that data to generate leads for investigations only or further along in the investigative process.

There is public reporting on DHS contracts with the same data brokers that I mentioned earlier totaling millions of taxpayer dollars. As you know in the 2018 Supreme Court decision in *Carpenter* v. *The United States*, the Court held that it is a violation of the Fourth Amendment for the government to access historical location data without a warrant.

Does the FBI have a written policy interpreting the Supreme Court's decision in *Carpenter*?

Mr. WRAY. If I recall correctly, there was guidance, I can't remember if it is a policy or what, that came out after the *Carpenter* decision. Again, I think that will be encompassed in the briefing that we are talking—

Ms. JAYAPAL. Well, I am going to followup with you. I want to thank you again for your service. This is a critically important issue for the American people to understand.

We have bipartisan support around FISA reauthorization and the concerns we have around FISA reauthorization. Unless we real-

ly understand what measures the FBI is taking to ensure that people's privacy is protected, I think it is going to be a very difficult reauthorization process. I am sure you know that. Thank you, Director Wray.

I yield back.

Chair JORDAN. The gentlelady yields back. I would just say well said. I appreciate your work with colleagues and bipartisan approach in this area. You have friends over here who want to help you on that.

We now go to the gentleman from—I know, Director Wray. If we can go just a couple more, then we will take a little break, if that works for the Director. A couple more on each side, then we can take a break.

[Off mic comments.]

Chair JORDAN. OK. All right. We will go. I think Mr. Moore is up.

Mr. MOORE. Thank you, Mr. Chair.

Director Wray, thank you for being here today. In 2022, you testified before the Senate Judiciary Committee and stated, "I condemn in the strongest possible terms any prospect of retaliation against whistleblowers." Do you still agree with that statement?

Mr. WRAY. Yes.

Mr. MOORE. Do you feel that your actions as the FBI leadership during your tenure live up to that sentiment?

Mr. WRAY. Yes.

Mr. MOORE. Director Wray, a few months ago we heard from—are you familiar with a Special Agent Garret O'Boyle?

Mr. WRAY. I am familiar with the name.

Mr. MOORE. After Mr. O'Boyle came to Congress and blew the whistle on the misconduct at the Bureau, his clearance was unsurprisingly suspended. Did that surprise you? Do you find that suspicious?

Mr. WRAY. I can't discuss a specific security clearance matter, partly because the security clearance determinations are made by ODNI directive, by the security clearance manager, which is not the FBI Director. I don't want to insert myself into the process while appeals are pending, for example.

Mr. MOORE. Well, as a leader, I think it is important. We need to have the opportunity, and you know by law that they have the opportunity to be whistleblowers and talk to Congress and inform us on issues. I think to restore trust in the FBI, it is imperative on you to allow whistleblowers to come forward and for us to have the oversight we need to have to make sure.

We are seeing the polling numbers. The FBI is tanking. It is under your watch, sir. It concerns me for the American people. When I am in the district, the No. 1 concern, and I come from a fairly rural district, is weaponization of the FBI and the DOJ, coming after conservative American citizens who just simply want to have a voice in the process.

So, I would encourage you—Mr. O'Boyle, I understand he has been suspended since September 2023, almost 10 months now. In 2022, he was suspended in 2022. So, almost a year now the man is trying to go without a paycheck. I don't know. Could you make it 10 months without a paycheck, Mr. Wray?

Mr. WRAY. I prefer not to answer that.

Mr. MOORE. Well, you talk about your wife not being really happy, yes, taking a pay cut. Well, can you imagine 10 months later, and you are still going through a process for just a whistleblower coming to the Congress and trying to inform us on issues he sees within the FBI?

I think we could help you in the process if you would allow us. In some ways, we have to look at this whistleblower and other whistleblowers and encourage them to come forward and be truthful with the American people.

Two real quick questions. Why would the FBI offer Christopher Steele a million dollars to verify a dossier about Trump Russian collusion and then the same FBI offer $3 million to Twitter to squash a story on the Hunter Biden laptop? Do you have any idea why a law enforcement agency would be playing into elections?

Mr. WRAY. Well, you raised a number of different issues there. So, first, as to the Steele dossier, that, of course, is a subject treated at great lengths in the Durham Report, which we, and again, predates my time as director in which we—

Mr. MOORE. I understand that.

It was the same agency paying a million dollars to push one story out or try to collaborate one story and $3 million to quiet another story for political opponents. I don't quite understand.

Mr. WRAY. Then I would, as to the second part related to Twitter, I would disagree with your characterization respectfully. When there are payments to social media companies, that is by a longstanding Federal law going back, I think, about four decades where we have to pay companies for their costs in responding to a legal process. It is not just social media companies. It is other kinds of businesses as well.

Mr. MOORE. Well, when those stories get out, and you understand certainly the dossier story, and I know that wasn't under your watch, but also the Hunter Biden laptop story, that to me looks political. To the American people, it looks political. I am just an everyday guy. I am not an attorney, Mr. Wray, just an everyday guy. To me, it looks extremely political. That is why you are having trouble keeping the FBI's reputation afloat.

So, with that, Mr. Chair, I am going to yield the balance of my time. I want to enter one thing to the record, Mr. Chair.

Chair JORDAN. Can you do that after and just yield? Then we will enter it into the record after.

Mr. MOORE. Sure, sure.

Chair JORDAN. Director Wray, did the FBI ask financial institutions to turn over their customers—he yielded the time to me. Did the FBI ask financial institutions to turn over their customers' debit and credit card purchase history in the Washington, DC, area for January 5–6, 2021?

Mr. WRAY. I don't know the answer to that as I sit here right now.

Chair JORDAN. Well, we do, because Bank of America gave this email from the FBI to Bank of America.

Mr. WRAY. Well, I am aware that Bank of America provided information to the FBI. What communications occurred between the FBI and Bank of America about it—

Chair JORDAN. Well, let's read it.

> To recap our morning call, we are prepared to action the following threshold, customers transacting debit card, credit card, Washington, DC, purchases between January 5–6, 2021.

That is scary enough. Then the next bullet point is even more scary. "ANY HISTORICAL," capital letters, all capitals, "ANY HISTORICAL PURCHASE OF A FIREARM." You guys asked financial, at least Bank of America, we think more. Did you guys ask them?

Mr. WRAY. Again, I don't have the full sequence of the back and forth. You have got one. It looks like you have one email that I haven't seen before here. So, I don't know that I have the full exchange that—

Chair JORDAN. Well, does this email trouble you as much as it does Members of the Judiciary Committee, that the FBI is asking for every single—we had Members of Congress here that week, first time they are getting sworn in as a new Member of Congress, their family in town. You are sweeping. They may happen to be a customer of Bank of America. You are sweeping up every debit and credit card purchase of their family who are in town that week because their husband or their dad or their mom is getting sworn in as a new Member of Congress? Then you are also saying overlaying that information with did you, did this person buy a firearm?

Mr. WRAY. The question is?

Chair JORDAN. I am just nervous about that. Are you nervous about that?

Mr. WRAY. As I think I have testified before, my understanding is that our engagement with Bank of America was fully lawful, but that we recalled the leads that were cut to—

Chair JORDAN. Well, if it is lawful, that was my next point. If it is lawful, why did you say we are not going to use these leads? That is what Mr. Jensen testified to when we deposed him, the Director of the Terrorism Unit at the FBI. That is what he testified to. Why did you not use the leads if it was lawful to get the information?

Mr. WRAY. Well, there are—

Mr. NADLER. The Chair is one minute and 18 seconds over time.

Mr. WRAY. Sir, there are plenty of times where there are things that we lawfully can do, but that we decide is better that we not do.

Chair JORDAN. Yes.

Mr. WRAY. I think that is what happened—

Chair JORDAN. The idea that Mr. Massie said earlier. This is lawful, that you can ask this is scary. This is something else we are going to have to change.

With that, I would yield to the gentlelady from, recognize the gentlelady from, excuse me, well, we got a unanimous consent request from Mr. Moore?

Mr. MOORE. Mr. Chair, yes, the *Wall Street Journal* article I would like to enter into the record says, "Republicans eye sweet home for new FBI headquarters in Alabama."

Chair JORDAN. All right. Without objection.

The Chair now recognizes the gentlelady from Texas for five minutes. Then we will take a break, Director.

Ms. JACKSON LEE. Good afternoon. Thank you very much, Director Wray, for your presence here. Thank you to the men and women of the FBI, in particular, for the work that you have done on gun violence and as well the work that you have done in keeping Americans safe.

Let me very quickly move on some issues that have been made a chief part of the work of our friends on the other side of the aisle. Republican Members of this Committee have spent much time of this Congress claiming that various aspects of the U.S. Government have been weaponized against the American people.

Director Wray, are you or your staff or auxiliaries weaponizing the FBI against the American people?

Mr. WRAY. Absolutely not.

Ms. JACKSON LEE. Thank you very much. Let me thank you as well for your civil rights work and emphasize that, in addition, there have been representations that the FBI exaggerates domestic terrorism reports or data. Certainly, January 6th had its many different storytellers. That was an act of domestic terrorism. I don't know how you could have exaggerated that, as evidenced by the Special Congressional Committee we had.

Let's just think of domestic terrorism as it relates to the good men and women of our law enforcement. Take an example in February 2020 in Texas where a White supremacist was engaged in conspiracy involving swatting, a harassment tactic, and all of the emergency services showed up over and over again. Does domestic terrorism impact negatively and dangerously on America's law enforcement and first responders?

Mr. WRAY. Absolutely. Sometimes law enforcement are themselves the intended victims or targets of domestic violent extremism.

Ms. JACKSON LEE. Though you have good, committed individuals, does the—critique is legitimate. That is our job. Does the constant condemnation impact the morale of FBI personnel or those trying to join the FBI?

Mr. WRAY. Well, look, our people are human beings, and nobody likes to see the organization they have dedicated their careers, really their lives, to unfairly criticized. I will tell you, as I said in my opening statement, that the good news is our people are also tough and resilient. Our attrition is in the low single digits and would be the envy of almost any employer. Our recruiting, unlike what is happening in law enforcement more generally—

Ms. JACKSON LEE. Great news.

Mr. WRAY. —is actually up very significantly.

Ms. JACKSON LEE. Thank you. I look forward to it being diverse.

Let me start with our whistleblower journey here. Are you familiar with FBI special agents Kyle Seraphin?

Mr. WRAY. I am familiar with the name.

Ms. JACKSON LEE. Is that yes?

Mr. WRAY. I am familiar with the name.

Ms. JACKSON LEE. Yep. The Committee heard testimony that Mr. Seraphin was suspended after he mishandled his service weapon and then said he wanted to use two female FBI executives as shooting targets. That was testimony of Jennifer Moore, HR, under, human resources under oath from the FBI.

Mr. Seraphin describes himself as a Congressional whistleblower. Committee Republicans will not tell us whether he has been in contact with them. Are you familiar with former FBI agents Garret O'Boyle and Marcus Allen?

Mr. WRAY. Again, I am familiar with the names.

Ms. JACKSON LEE. Thank you. O'Boyle was suspended for accessing information about an ongoing case and then leaking to the press. Allen was suspended for interfering in an investigation of a January 6th suspect. Both Allen and O'Boyle testified before the Weaponization Committee in May. Were you aware of that?

Mr. WRAY. Yes, ma'am.

Ms. JACKSON LEE. I think they are clearly there for all friends and family to see. I assume they wanted to be seen.

Do you know who Kash Patel is, if you know?

Mr. WRAY. Yes, I know who he is.

Ms. JACKSON LEE. He is an aide to President Trump, isn't he, or was an aide or is an aide to President Trump?

Mr. WRAY. Well, he was an individual who served in a number of different roles, both up here on the Hill and in the Executive Branch.

Ms. JACKSON LEE. Thank you. Here is another picture. It is the checks that Seraphin sent to both O'Boyle and Allen. Each check was for $255,194. Let me say that again. These men were paid $255,194 after they testified as so-called whistleblowers. It should be noted that it says here, as it says, for holding the line.

Director, at the time that Seraphin and Patel gave Garret O'Boyle and Marcus Allen these checks, do you happen to know if they were still employees of the FBI?

Mr. WRAY. I can't speak to that. I don't know the answer.

Ms. JACKSON LEE. If they were, 5 CFR 2635, and I would appreciate it if we can get an answer in writing after you go back, whether they were or not, prohibits FBI employees from accepting cash gifts, doesn't it?

Mr. WRAY. Well, there are a whole number of rules that would apply to this. Again, I don't want to weigh in on a specific personnel matter.

Ms. JACKSON LEE. If they were, that rule applies about cash gifts.

Mr. WRAY. I am not aware of a situation in which they could—

Ms. JACKSON LEE. No, but just—

Mr. WRAY. —appropriately accept cash gift.

Ms. JACKSON LEE. Just generally—

Mr. WRAY. Oh.

Ms. JACKSON LEE. —if that applies to FBI agents about not taking cash gifts. Is that correct?

Mr. WRAY. There are definitely rules that apply to special agents accepting cash gifts.

Ms. JACKSON LEE. Thank you. Let me just finish this. Can you explain why an FBI agent should not receive cash?

Let me move to one that I think is extremely important. Mr. Chair, just a moment. Here is what I think is the most interesting piece of this whole puzzle. O'Boyle and Allen are represented by an outfit called Empower Oversight.

Chair JORDAN. Time has expired.

Ms. JACKSON LEE. Empower Oversight is run by former Republicans staffers. Do you know who else Empower Oversight might represent in any way?

Mr. WRAY. I do not.

Mr. JOHNSON of Louisiana. Mr. Chair, I have a unanimous consent request.

Ms. JACKSON LEE. Let me just—

Mr. JOHNSON of Louisiana. The gentlelady's time has expired.

[Off mic comments.]

Ms. JACKSON LEE. Thank you so very much. Thank you. The so-called IRS whistleblower who Jim Jordan had relied on. Does anyone need any further proof that these allegations are ginned up, corrupt political stunts advanced by those who don't want to see us follow the law.

Finally, Mr. Chair, here is another person who wants to join you on the 702. The FBI has begun major reforms. I think we should recognize that. You have been very kind. I yield back my time.

Chair JORDAN. The gentlelady yields back.

I would just point out my guess is they got the money because, they wanted the money because they had to try to, they were trying to feed their family.

Mr. JOHNSON of Louisiana. They actually haven't received the money.

I have a unanimous consent request, Mr. Chair, of a tweet Matthew Foldi put out here during this hearing. Right off the bat Jerry Nadler lies about whistleblower getting $250,000. He says here Marcus Allen has not received $250,000. He has not received or cashed the check that Kyle Seraphin posted online. Enter that into the record.

Chair JORDAN. Into the record.

The Committee will take a five-minute recess, five minutes and then we will come back.

[Recess]

Chair JORDAN. The Committee will come back to order. The Chair now recognizes the gentleman from Virginia, Mr. Cline.

Mr. CLINE. Thank you, Mr. Chair.

Director Wray, thank you for being here. Since we last spoke in Appropriations on April 27, and Special Counsel John Durham delivered his report detailing intelligence activities investigations arising out of the 2016 Presidential Campaign.

When Mr. Durham presented here at the Committee, I asked him these questions. He was able to answer me in yes-or-no answers. I would ask you to do the same.

Did the FBI have an adequate basis on which to launch Crossfire Hurricane?

Mr. WRAY. My understanding is that Mr. Durham found that it did not have a proper basis to elevate it to a full investigation, but that he thought it was an assessment or a preliminary inquiry was appropriate.

Mr. CLINE. Did the FBI fail to examine all available exculpatory evidence?

Mr. WRAY. Well, you say to examine it? Certainly, I think there are failures, significant failures with respect to exculpatory information.

Mr. CLINE. Did the FBI interview all key witnesses in Crossfire Hurricane?

Mr. WRAY. I think Mr. Durham I think found that they did not.

Mr. CLINE. Did the FBI abuse its authority under the Foreign Intelligence Surveillance Act?

Mr. WRAY. Well, certainly, there were violations that were totally unacceptable and in my view cannot be allowed to happen again.

Mr. CLINE. As noted in the report, Crossfire Hurricane investigators had hoped the returns on the Carter Page FISA application would "self-corroborate." Do FBI or DOJ guidelines permit investigators to submit uncorroborated allegations in a FISA application in the hopes that the returns will self-corroborate?

Mr. WRAY. I have never heard of that concept.

Mr. CLINE. OK. Is Crossfire Hurricane the only time the FBI has violated the procedures for the FISA process?

Mr. WRAY. Well, there are a lot of different procedures, but certainly not the only compliance incidence that we have had with respect to FISA.

Mr. CLINE. Director, as I expressed to you upstairs, the American people are outraged. Just this week I had at a townhall, constituents expressing outrage about the actions of those within your agency who have damaged the FBI's reputation and undermined the work, the good work, of the vast majority of hardworking men and women within your agency.

Going down the list, you have the Biden family investigations, you have the anti-Catholic memo. By the way, you mentioned five individuals who contributed to the anti-Catholic memo in the Richmond Field Office. Are they still employed by the FBI?

Mr. WRAY. I don't think I mentioned any specific individuals. I did say that this was a product by a single field office that we took action on immediately. We have an inspection that is underway right now that is looking at how this happened and how we make sure it doesn't happen again.

Mr. CLINE. So, it is possible that individuals will be fired as a result of your review.

Mr. WRAY. Well, I don't want to predetermine or forecast where the review will go. We are going to look at everything from exactly how it happened and what went wrong, and then—

Mr. CLINE. It is possible—

Mr. WRAY. If there are appropriate steps to be taken, we will take whatever the appropriate steps are.

Mr. CLINE. OK. You have the violence against pro-life clinics, you have the investigation of parents speaking at school board meetings, you have the collusion with Big Tech. The FISA abuses of Section 702 is where I want to focus right now.

As you know, Section 702 authorizes warrantless surveillance that is supposed to be targeted toward foreigners abroad, but the surveillance sweeps in a large amount of Americans' communications, and the FBI routinely runs searches of Section 702 data looking for phone calls, emails, and text messages of Americans in so-called back-door searches.

Depending on the year, FBI has conducted anywhere from 3.4 million in 2021 to 200,000 in 2022. Given this fact, do you honestly

think it is fair to continue describing Section 702 as authority targeted only at foreigners abroad?

Mr. WRAY. I do.

Mr. CLINE. It looks like a framework that enables the FBI to spy on countless Americans. Would you agree with that assessment?

Mr. WRAY. Well, I can't speak to what it looks like to certain people. I can tell you that it is an authority focused on foreigners overseas in the context of national security investigations.

I would add to that the FBI's piece of that, the FBI only accesses—so everything we are talking about FBI-related only goes to about three percent of the entire 702 collection. Then within that three percent, this is important now—

Mr. CLINE. OK, I have 30 seconds.

Mr. WRAY. It is important that people understand this. The FBI ends up only accessing content in like 1½ percent of that. So, a little context is appropriate.

Mr. CLINE. I understand. Well, if you are conducting hundreds of thousands or even just hundreds of warrantless searches of Section 702 data for Americans' communications, it is clearly a domestic surveillance tool.

I would argue that I believe it does pose a real problem within the FBI's conduct toward Americans. I speak for many when I say it poses a real problem for the reauthorization of FISA authority for your organization.

With that, I yield back.

Chair JORDAN. The gentleman yields back. The gentlelady from Pennsylvania is recognized.

Ms. SCANLON. Thank you, Mr. Chair.

Thank you, Director Wray, for being here. I am troubled by many of the statements and questions we have heard today that embrace conspiracy theories and disinformation. With these comments, it appears that some of my colleagues are trying to sow division and score political points rather than conduct legitimate oversight of the actual actions and policies of the FBI.

I, like many Americans, would rather Congress focus on doing the people's business and ensuring that the FBI is able to do its job and do it well within the bounds of our constitution and laws.

Now, one of the most serious issues facing American communities now is drug abuse, particularly opioids and fentanyl. In your opening remarks, you mentioned the arrest of 31 U.S. citizens in Northeast Ohio just a couple weeks ago, most hailing from Marion, for drug trafficking.

Can you just take a minute, because I have some other questions, to describe what the FBI is doing to end the scourge of fentanyl and what additional tools you might need from Congress.

Mr. WRAY. So, the FBI is attacking the scourge of fentanyl coming from the Southwest border, in particular, in a variety of ways.

(1) We are using our organized crime task forces to target the supply, the cartels in particular.

(2) We are using our Safe Streets task forces to go after the gangs that are principally responsible, violent gangs, for distributing a lot of this all over our streets.

(3) We are targeting provider abuse, prescription, pill mills, and things like that through our healthcare fraud authorities.

(4) We have something called J–CODE, which focuses on the trafficking of fentanyl on the dark web, which is a real problem.

We have had a number of very significant take-downs there.

We are also doing things like engaging in outreach, raising awareness. We put out a video called Chasing the Dragon with DEA that has been showed in a lot of schools around the country. We are trying to work with the health community.

So, there's a lot of things that we are doing, but this is an epidemic. I don't believe that it is an overstatement. It is something that requires all hands on deck.

Ms. SCANLON. OK. If there are things you think Congress can help you with, please submit that to us afterwards.

Another major threat to our Nation is domestic terrorism, and that is something you have spoken about repeatedly. Like many Americans, I find it unpatriotic and dangerous when Members of Congress embrace dangerous conspiracy theories that undermine our Federal law enforcement and ultimately our democracy.

I find it disingenuous for Members of Congress to harangue the head of the FBI about people losing faith in the FBI when those same Members have been trumpeting lies and conspiracy theories about the agency for months. Words matter, they have consequences. When leaders lie or embrace disinformation, that is dangerous.

In recent years we have seen increasing threats and violence levied against public servants at all levels, including journalists, elected officials, election workers, doctors, nurses, school officials, teachers, librarians, and more.

What these public servants have in common is they became targets for threats and violence when they had the guts to stand up to lies and conspiracy theories promulgated by the former President and his allies.

We have seen MAGA extremists, *Fox News* pundits, Russian internet trolls, and elected officials parrot conspiracy theories and use heated language to convince the American public, without facts, that dedicated public servants are dangerous enemies who should be feared.

Most Americans understand that this is not legitimate political discourse and that this kind of overheated and fact-free rhetoric can in fact encourage political violence. It is not normal, and it should not be part of American public life.

So, Director Wray, you have repeatedly testified about the serious threat that domestic violence extremists present to Americans. These are people who commit violent and criminal acts in furtherance of social or political goals, whether racial and ethnic motivation or anti-government motivation.

Can you talk about the role that mistrust in government and disinformation and conspiracy theories play in the radicalization and recruitment of extremists?

Mr. WRAY. Well, certainly there is a whole host of misconceptions that are out there about any number of institutions, whether it is law enforcement, whether it is the Supreme Court, whether it is any number of institutions. That in the environment that we are

in where there are people who increasingly channel their rage into violence, that causes a problem.

There is a right way under the First Amendment to express what you are angry about and who you are angry with, and we take that very seriously and view as part of our mission not just to protect the American people, but to uphold the Constitution.

When those views are then turned into violence and threats of violence, then we got a problem. Then I think the FBI has to act.

Ms. SCANLON. Thank you. I see my time has expired, but I would seek unanimous consent to introduce into the record a press release from the U.S. Attorney's Office of the Northern District of Ohio entitled, "31 Individuals Involved in a Drug Trafficking Organization in Marion County and Lorain County Indicted."

Chair JORDAN. No objection.

Ms. SCANLON. Thank you.

Chair JORDAN. The Chair recognizes the gentleman from California.

Mr. MCCLINTOCK. Thank you.

Mr. Director, when we abandoned Afghanistan, we released about 5,000 terrorists from the Parwan Detention Facility. One of those terrorists showed up at Abbey Gate 10 days later and killed 13 U.S. Marines. Where are the other 5,000?

Mr. WRAY. I don't know that I can tell you where all 5,000 of them are.

Mr. MCCLINTOCK. Well, let me put it more simply. Have you encountered any here in the United States?

Mr. WRAY. We have quite a few ongoing investigations into foreign terrorist-related subjects, whether they are Al Qaeda-related or Isis-related, that we are conducting as you and I are having this conversation. Certainly,—

Mr. MCCLINTOCK. So, have you encountered any from Parwan here in the United States?

Mr. WRAY. Specifically, I am not sure I can say that. Let me followup and make sure if there is anything more I can provide you on that.

Mr. MCCLINTOCK. Well, meanwhile, we have had about one and a half million know got-aways cross the border as this crisis has unfolded. Any estimate of how many among, of those 5,000 among one and a half million known got-aways may be terrorists?

Mr. WRAY. I know that we have seen an uptick, which is obviously concerning to me, and I can tell from your question concerning to you, in KSTs, as we call them, known or suspected terrorists coming across the Southwest border. Our folks are working very hard to try to do our part to try to keep tabs on those individuals.

Mr. MCCLINTOCK. Speaking of upticks, have we seen an uptick in criminal cartel or cartel-related gang activity in the United States over the last several years?

Mr. WRAY. Yes. The cartels, working in kind of an unholy alliance with dangerous, violent gangs here in the U.S. are responsible not just for the abominable distribution of fentanyl all over the country, but also an awful lot of the violence that comes along with it.

Mr. MCCLINTOCK. That is coming principally across our Southern border?

Mr. WRAY. That is a huge driver of it, certainly.

Mr. MCCLINTOCK. A huge driver. It is reported we have lost contact with the guardians of more than 85,000 unaccompanied minors who have been brought here by the cartels through the Southern border. How many of these children are still unaccounted for?

Mr. WRAY. That I am not sure we have the answer to that. That may be a question for DHS.

Mr. MCCLINTOCK. What is the Woods Procedure?

Mr. WRAY. The Woods Procedure is a procedure for—it has nothing to do with 702. It has to do with traditional FISA, Title 1 FISA, as we call it, and involves having files that have all the underlying documents to support each of the factual assertions in—

Mr. MCCLINTOCK. Is that important to the integrity of FISA applications?

Mr. WRAY. Yes, sir.

Mr. MCCLINTOCK. In February 2020, you assured the Committee that you took these FISA abuses seriously, that you were working to address them. A 1½ year later the Office of the Inspector General reported that you weren't. They reported systemic noncompliance and essentially that some FBI field personnel took the Woods Procedure as a joke.

If we can't trust your past reforms, how seriously should we take your promises of future reform?

Mr. WRAY. I appreciate the opportunity to address this one. So, that OIG finding actually applies to, first, a compliance problems that occurred before all the fixes that I was testifying to you about. Even though the report came out later, it was covering a time period that predated all the fixes and reforms we put in place.

Mr. MCCLINTOCK. Well, your General Counsel assured Mr. Durham that the abuses would not have happened because of the new procedures for supervisorial review, yet some of the worst abuses in Crossfire Hurricane were committed by supervisory agents. So, why should we have any great confidence that it is not going to happen again?

Mr. WRAY. There are a couple different sets of reforms here. So, the first is on the reforms that we put in place in response to the Inspector General's Crossfire Hurricane report.

Mr. MCCLINTOCK. We can't trust your supervisors is the problem. The problem seems to be that this power exists at all and human beings, being what they are, will tend to abuse them. Could you describe the term parallel construction as it relates to evidence produced in FISA searches?

Mr. WRAY. Parallel construction? I am not sure I have used that—

Mr. MCCLINTOCK. Doesn't that refer to the FBI using forbidden information from a 702 search to alert local law enforcement to search for and then produce the same material without revealing that it came from an improper search?

Mr. WRAY. I am just not sure about the use of the term.

Mr. MCCLINTOCK. Well, has the FBI ever employed that particular tactic in prosecuting American citizens?

Mr. WRAY. Not to my knowledge. Again, I can look into that and get back to you.

Mr. MCCLINTOCK. What percentage of FISA warrant applications are rejected by the FISA Court?

Mr. WRAY. I don't know that we have that number. There is usually a back-and-forth with the Court. It is not unusual for the Court to—

Mr. MCCLINTOCK. It is a fraction of percentage, isn't it?

Mr. WRAY. A fraction of a percentage?

Mr. MCCLINTOCK. Yes.

Mr. WRAY. Yes, I don't know if that is right, but it is definitely a small number. I think that is partly because our folks learn over time what the Court expects.

Mr. MCCLINTOCK. Which makes that sound an awful lot like a rubber stamp. I see my time has expired. I yield back.

Chair JORDAN. The gentleman yields back. The gentlelady from Georgia recognized.

Ms. MCBATH. Thank you, Chair.

Good afternoon, Director Wray. Thank you for coming before the Judiciary Committee this afternoon. I have read your testimony.

I want to redirect this questioning for a moment, and I want to focus on the important work that the FBI is tasked with when it continues to do its work with gun violence prevention and keeping our communities safe.

As of today, there have been over 300 mass shootings. That is more the number of days that we have in this year. Statistics will continue to show us over and over again that during the summer, these numbers continue to rise.

Extreme risk protection orders play an important role in law enforcement's response to preventing mass shootings from happening.

What are also known as red-flag laws or orders, they empower law enforcement, along with family members and household members, to petition a court to actually have an individual that appears to be in crisis have those firearms just temporarily taken away or removed from them with a court order, to be returned during expiration of that order.

I have a few questions for you, so if you can answer as directly as you can, I appreciate it. Family members and members of law enforcement can often identify individuals who would pose a risk to themselves or to others within the community when they actually possess a gun.

As the head of the United States' Federal law enforcement agency, do you believe that these red-flag laws and these programs enhance public safety?

Mr. WRAY. I don't want to speak on behalf of any specific legislative proposal, but I will say that I know from experience that a number of States have had good experiences with those laws.

Ms. MCBATH. Thank you. In the past several years, several States have actually enacted those extremist protection orders. In total, we actually have 21 States and the District of Columbia have enacted their own forms of red-flag laws.

If a person who is subject to such an order tries to buy a gun from a federally licensed firearm dealer, would the FBI approve or deny the sale?

Mr. WRAY. Well, I believe if the order is required by State law making it a State prohibitor, and therefore is loaded into the NICS system, then when the background check is run, when the FFL, the Federal Firearms Licensee contacts NICS to proceed with the sale, what would pick up the so-called—the order that you are talking about.

If that is a prohibitor, then that would block the transaction is my understanding.

Ms. MCBATH. So, in the absence of an application or applicable State law, is there a way for the FBI agent to seek an order under Federal law?

Mr. WRAY. I am not aware of any Federal law to that effect.

Ms. MCBATH. Exactly. If an FBI agent has information that someone has been violent many times in the past, but is not able to seek a criminal conviction, is there a way for the FBI to deny the sale of a gun to that person?

Mr. WRAY. We only deny sales for people who are prohibited by law from possessing firearms.

Ms. MCBATH. My bill, the Federal Extreme Risk Protection Order Act, which was passed by the House last Congress, would provide Americans in all States access to these truly lifesaving measures. I have reintroduced this bill again this term.

Last summer Congress also passed the bipartisan Safer Communities Act. Among other critical gun violence provisions in that, the legislation begins to address the problem of gun trafficking.

What steps has the FBI taken to implement or utilize this new law that actually helps to stop gun trafficking?

Mr. WRAY. Well, we are, of course, working closely with the Justice Department to implement all the provisions of the laws that relate to NICS, in particular. The place that has had the biggest impact on us is, certainly, on the additional checks that now would be run for the 18–20 year olds.

We started implementing that last October. It was fully implemented starting in January. It is a big change for us and for the State agencies that are on the receiving end of the request for information. As well as for the FFLs, both the big stores and the mom-and-pops. It is a big change in the system.

I think we have done about 100,000 or so checks of this 18–20, in other words U21 group that we are talking about since the implementation of the act. Those are not all denials, to be clear. Most, in fact, the vast, vast, vast majority of them were sales that appropriately proceeded.

There were some that were of course denials based on the statute.

Ms. MCBATH. Thank you so much, I'm out of time.

Chair JORDAN. The time of the gentlelady has expired. The gentleman from Texas is recognized.

Mr. ROY. Thank the Chair. Thank you, Director Wray, for appearing.

Brian Auten was one of the FBI intelligence analysts who interviewed Igor Danchenko, the principle source of the Steele dossier in January 2017, correct?

Mr. WRAY. I believe that is in the Durham Report.

Mr. ROY. Danchenko explained that the dossier allegations were BS, yet the FBI did not reveal that to the FISA Court. Instead, the FBI continued to use those allegations in two more sworn FISA applications about President Trump and Putin, correct?

Mr. WRAY. Well, again, I want to let Mr. Durham's Report speak for itself.

Mr. ROY. OK, but as Director of the FBI, those are the facts of the FBI under your watch. The FBI—

Mr. WRAY. Well, no, sir, I'm sorry. Just, it's important. Not under my watch. Those were the facts before I—

Mr. ROY. I'm getting to the part under your watch.

Mr. WRAY. OK.

Mr. ROY. The FBI conducted an internal investigation of Auten and sought to suspend him, but Auten appealed, correct?

Mr. WRAY. I can't discuss a specific pending personnel matter.

Mr. ROY. OK, well according to recent reports, those are the facts. Nevertheless, in 2020 after Senators Grassley and Johnson highlighted evidence of potential financial crimes and corruption against the Biden family, the FBI assigned Auten to compile an assessment, which was used to characterize the Biden revelations as Russian disinformation.

The evidence Grassley and Johnson had collected were mostly financial records and could easily have been corroborated as authentic. By then, the FBI had the Hunter laptop in its possession for over a year. So, it knew the lucrative payments to the Bidens from corrupt and anti-American regimes were authentic.

How on earth did the FBI empower an agent under investigation for potentially corrupt performance and abuse of FISA in one politically fraught investigation, a Democrat operative driven case against President Trump, to a play a key role and to undermine a second politically fraught investigation, a case against the Bidens?

How is that possible? How can you allow that to occur in the Federal Bureau of Investigation, as my colleagues on the other side of the aisle, say the elite law enforcement agency of the United States? How does that occur?

Mr. WRAY. I can't at the moment discuss a pending personnel matter. I can tell you that every employee who in any way touched the Crossfire Hurricane matter has been referred to our Office of Professional Responsibility, our disciplinary arm.

Mr. ROY. Are you concerned about this activity by the FBI and what was communicated to the FISA Court? Does that concern you as the Director of the FBI?

Mr. WRAY. I consider the conduct that was described in the Durham Report as totally unacceptable and unrepresentative of what I see from the FBI every day and must never be allowed to happen again.

Mr. ROY. Have there been consequences as a result? Is Mr. Auten—has he had consequences?

Mr. WRAY. Well, again, I can't speak to pending personnel matters, as you would perhaps remember from your own time in law enforcement. Because we were working closely with Mr. Durham and I assigned agents to help him, at his request we slowed down

the administrative process to allow his investigation to complete itself.

Now, that it is complete, our personnel processes are very much ongoing.

Mr. ROY. Well, I think it is more than troubling that under your watch, we see that this continued to occur. You have Auten continue to be empowered after there was an investigation and after there was an effort by the FBI to look into why he would go to the FISA Court and give wrong information.

The issue here has been wrapped up in a cloud of politics, but the fact is the American people deserve to know how the FISA Court is being abused and how it is being abused against a former President and against them in light of the reports that we saw Mr. Johnson of Louisiana put forward that was in a court filing, in a court report.

Want to move on to another topic. On September 23, 2022, 20 heavily armed agents stormed the home of Mark Houck. You are familiar with this?

Mr. WRAY. I am familiar with the Houck case, a little bit, yes.

Mr. ROY. This was after Mr. Houck's lawyer reached out and said he would appear voluntarily because the incident in question occurred almost a year earlier in October 2021. So, a year earlier.

The question here I have, local authorities investigated the incident, but concluded there was no case. After the jury met for roughly an hour, Houck was acquitted. How on earth did Mark Houck end up having the FBI send several armed agents along with local authorities to arrest him at gunpoint? Do you approve it, did you approve of that?

Mr. WRAY. Well, let me start where you ended. Decisions about the manner of an arrest are not something that the FBI Director approves. I defer to and rely on the judgment of the experienced career agents on the ground, who have both the most intimate understanding of the facts and have the training experience to decide how best to effectuate an arrest.

Mr. ROY. Do you know who did order it?

Mr. WRAY. My understanding is that this arrest was conducted in our Philadelphia Division by career agents with a combined 40 years of FBI experience.

Mr. ROY. Do you approve of the raid now in retrospect? Do you think it was appropriate? Do you think it was appropriate for a father to have armed FBI agents along with local agents go to his home, arrest him at gunpoint for alleged violation of the FACE Act a year after the alleged incident after the father had said through his lawyer that he would appear voluntarily?

Do you believe that FBI agents should go to the home of a father in Philadelphia suburbs?

Mr. WRAY. I'm not going to second-guess the judgment of the career agents on the ground who made the determination.

Mr. ROY. You job is to second-guess—

Mr. WRAY. I think your description—

Mr. ROY. Look at what they are doing. Your job is to review what they do. Your job is to protect the American people from the tyrannical FBI storming the home of an American family.

Mr. WRAY. I could not disagree more with your description of the FBI as tyrannical, and I think—

Mr. ROY. You don't believe it's tyrannical that FBI were a part of storming a father's home in suburban Philadelphia?

Chair JORDAN. The time of the gentleman—the time of the gentleman—

Mr. WRAY. Mr. Chair?

Chair JORDAN. The time of the gentleman has expired. The witness may respond, and then we will move to our next witness.

Mr. WRAY. So, respectfully, they did not storm his house. They came to his door. They knocked on his door and identified themselves. They asked him to exit. He did, without incident.

Mr. ROY. [Off mic.] Armed at gunpoint.

Mr. WRAY. Whenever our agents—well, not at gunpoint. Whenever our agents conduct an arrest, they are armed. Our agents are armed virtually all the time, as you may remember from your own experience as a prosecutor.

Chair JORDAN. The gentleman yields back. The Ranking Member has a unanimous consent request.

Mr. NADLER. I ask unanimous consent that this document be placed in the record.

Chair JORDAN. That's pretty—that's not too specific.

Mr. NADLER. I ask unanimous consent to enter the full January 15, 2021, email thread between the Bank of America and the FBI that is about threats to Inauguration Day, instead of the edited version that was shown on the—

Chair JORDAN. I'm happy to have that into the record. Without objection. We champion that. We are going to bring that up again here if we get a chance.

The gentlelady from Pennsylvania is recognized.

Ms. DEAN. Thank you, Mr. Chair.

Director Wray, good to see you. I thank you for being here today. I just want to remind those who are watching at home or here in the room that we are here as an oversight function. We are not here as a political tool to hammer you or your 38,000 public servants, law enforcement men and women, and to try to use you politically.

It surely doesn't feel that way all the time during this. So, I thank you for your service. I thank the men and women for their service. I have a first cousin, technically I guess a first cousin-in-law who for a very long time in the Philadelphia suburbs served as an FBI agent with integrity and honor. So, I think of him, I think of Jack today, as I am doing this.

I read your testimony. Often, over and over, you State the mission of FBI, to protect the American people and uphold the Constitution of the United States. Twofold, protect the American people, uphold the Constitution. Do it by the rule of law. That is what we should be asking about, are we doing that to the best of our ability.

I want to use and examine the case of the Mar-a-Lago documents, because it has been used by the former President as a pitying moment, as though he has somehow been victimized. None of that is normal. These are serious times, and your people have seri-

ous missions about the safety of the American people and doing it lawfully.

Director Wray, a ballroom, a bathroom, a bedroom, are those appropriate places to store classified, confidential information?

Mr. WRAY. Well, again, I don't want to be commenting on the pending case, but I will say that there are specific rules about where to store classified information, and that those need to be stored in a SCIF, a secure compartmentalized information facility. In my experience, ballrooms, bathrooms, and bedrooms are not SCIFs.

Ms. DEAN. Mine too. Yet, that is where the former President chose to put vital information about our national security. He exacerbated the risk, as alleged in the damning 37-count indictment, by evading law enforcement and allegedly even showing some of these classified documents to others who were not either in a SCIF or up to having these informations sent to him.

It was January 2021, having lost the election, 2021, when at noon Mr. Trump has to leave the White House. Of course, it is shown in the affidavit and in the indictment that he left with quite a few boxes.

In May 2021, the National Archives emailed requesting the missing documents from Mr. Trump. His lawyer said that he would provide them, and then never did.

On January 18, 2022, so we are talking a full year later, Mr. Trump finally turned over 15 boxes. Fourteen of them contained documents with classified markings, 30 documents Top Secret.

In June 2022, this is now a 1½ years later, DOJ and FBI recover an additional 38 classified documents from Mar-a-Lago, your FBI, our FBI. A lawyer for Mr. Trump signed a statement at that point. To the best of her knowledge, she said, "all classified materials had been returned."

Surveillance footage of course showed that wasn't the case.

In August 2022, a Federal judge approved a warrant to search Mar-a-Lago. This was not a raid, as some on the other side would like to have a pity party for Mr. Trump. This was not a raid.

They then retrieved another 102 documents with classified markings. Three hundred and some documents taken by the President, improperly stored, and then tried to evade and obstruct justice, as is alleged.

Do you think that the FBI went over the top or was out of line in your participation in retrieving these documents?

Mr. WRAY. Well, again, I don't want to discuss the specifics of a pending case. From everything I have seen, our folks in this case have proceeded honorably and in strict compliance with our policies, our rules, and our best practices.

Ms. DEAN. It seems from what overview we can do, I am taking a look here at the affidavit to get the search warrant to go on in, it was one of your special agents assigned from the Washington Field Office, obviously, we don't know who. Pointed out and made the case for probable cause to go in and to collect these documents.

So, let's take a look at the flip side. What is the harm, what is the danger to either human assets, your employees, national security for Mr. Trump holding onto, moving around, showing Top Se-

cret documents, where is the harm? Eighteen months of this going on.

Mr. WRAY. Well, again, respectfully, I am not going to comment or weigh in on a case that is now pending in front of Federal judges. Speaking more generally, the rules governing the handling of classified information are there for a reason, and people need to be very mindful of those rules.

Unfortunately, the FBI has a steady part of its docket a number of investigations involving mishandling. The reason those rules are there is because classified information, if it gets into the wrong hands, can put human sources in jeopardy.

It can put other kinds of intelligence collection at jeopardy. It can jeopardize our partnerships with foreign liaison services, which are the lifeblood of the intelligence community in many ways.

So, it is serious business, and it needs to be taken seriously. Again, I am not speaking about a particular case, I am just speaking generally.

Ms. DEAN. I very much appreciate it, Mr. Chair. I appreciate it, but I do want to just point out to the world, none of this is normal. It was not normal what took place here.

I yield back.

Chair JORDAN. The gentlelady yields back. Bedroom, bathroom, ballroom. How about a box in a garage.

Mr. IVEY. Mr. Chair—

Chair JORDAN. A beach house in Delaware and the Biden Center. I don't think those are SCIF—

Mr. IVEY. Mr. Chair, point of order.

Chair JORDAN. The gentleman from Texas is recognized.

Mr. GOODEN. Thank you, Mr. Chair.

I want to talk about China, but before I do, I want to just comment, in the last exchange with Mr. Roy, I heard you say certain practices were outrageous to you, and I appreciated that.

I think maybe we would have liked to have heard more of that this hearing, about things, acknowledging failures. I realize there are a lot of positives to talk about, but we do as a Committee want to work with you.

When Chair Jordan asked why so much is redacted in a document, could we perhaps sit down with you, even if it is privately, and you tell us why that needs to be the case? If we ask for the names of these employees that were behind the Catholic issue in Virginia, can we get a commitment that we will eventually get those names? I didn't hear that in that exchange with Mr. Jordan.

Mr. WRAY. Well, you certainly have my commitment that we will work collaboratively with the Committee. We obviously have rules that govern what we can share, and we have to be mindful of those too.

In my experience, that is what the longstanding accommodation process between the Executive Branch, especially law enforcement agencies, and Congress is there for. We absolutely will pursue that in good faith.

I know we have been providing an enormous amount of information. If there are places that we can do better on that, we want to try to do better on that. Again, consistent with our rules.

I'm very mindful of the fact that the whole reason I am in this job is because my predecessor was fired. In a fairly scathing Inspector General Report, one of the things he was criticized for was sharing more information both with the public and frankly with Congress than was consistent with Federal Rules.

Mr. GOODEN. Thank you, thank you for that pledge.

Now, to China. Most Americans don't realize, I don't think, that U.S. companies doing business in China are required to have joint venture agreements. That has been around since 2017 or 2018 I believe. It requires the Chinese Communist Party to have political cells within these enterprises, American enterprises in China.

In the last few weeks, it has come to my attention that they have taken that up a notch and actually gone further, the Chinese have, and said that not only must they be present and have access, but they now control these American businesses. So, they are in essence nationalizing American enterprises in China.

The CEOs I have talked to are afraid to say something. They say they have gone to the FBI; the FBI I think is aware of this. I am about to turn it over to you. My question is: Is this happening and what can be done about it, what do we need to do about it?

Mr. WRAY. Well, I think you have put your finger on a very important issue, and frankly, one that does not get the attention that it really deserves, so I appreciate you bringing it up.

I will say that in my view, there is no country, none, that presents a broader, more comprehensive threat to our ideas, our innovation, our economic security than the Chinese Government and the Chinese Communist Party. In many ways, it represents I think the defining threat of our era.

When it comes specifically to the business community, while there is no law against joint ventures, the problem that we have is that the Chinese Government all too often has exploited those joint ventures to then use them as ways to get improper access to companies' secrets and information.

Mr. GOODEN. Do you find that they have stepped it up, though, to where they are in essence nationalizing U.S. companies quietly?

Mr. WRAY. In a variety of ways, I hadn't really thought of using that term, but I think you are on to a very important point.

I will give you an example that I think a lot of people in America still don't know about and would be shocked to hear, which is that really any company of any size in China is required, required by Chinese law, to have what they quaintly call a Committee. It is essentially a cell inside the company, whose sole function is to ensure that company's compliance with Chinese Communist Party orthodoxy.

If we tried to install something like that in American companies or if the British tried to do it in British companies, or any number of other places, people would go out of their minds, and rightly so.

Mr. GOODEN. Agreed. Well, thank you. I would like to work with you more on that. I would yield the balance of my time to the Chair. Thank you.

Chair JORDAN. That is exactly what you did. The judge said it last week. Every week you were meeting with Big Tech companies saying hey, look at this, this violates your policy. Take this speech

of Americans down. You were doing the same darn thing you just described the Chinese about.

Can we put up the email that Mr. Nadler entered into unanimous consent request. We put this up from the FBI to Bank of America. Because I want to know something. This is the full email. Go to the bullet point where it says, "Any historical purchase going back 6 months generally for weapons, weapons-related vendor purchase."

Do you see that, Director? You see that bullet point, the one that says "ANY" in all caps, that bullet point. This is the email. How did you know? How would you know if it is a firearm purchase? How is the FBI going to know this? Would you put your mic on, please.

Mr. WRAY. I am sorry. I am not going to start engaging on specific correspondence. I don't have the whole string here. As I have said before, my understanding is that our engagement with Bank of American was lawful, but that we also took steps, as we discussed in our earlier exchange—

Chair JORDAN. If it is lawful, why did you take steps not to use the material? You can't have it both ways.

Mr. WRAY. I disagree with that, actually.

Chair JORDAN. Really?

Mr. WRAY. There are plenty of things that we lawfully can do that we decide are better not to do. That is my understanding is what happened here.

Chair JORDAN. Wow, wow.

The Chair recognizes the gentlelady from Texas for five minutes.

Ms. ESCOBAR. Thank you, Mr. Chair.

Director Wray, thank you for your testimony and thank you for your public service.

Last week in my district and my hometown of El Paso, Texas, a domestic violent extremist was sentenced to 90 consecutive life terms for a horrific attack he carried out on my community on August 3, 2019. On that day, he confessed that he drove over 10 hours from his community in East Texas to mine to slaughter Mexicans and immigrants.

Before he walked into that Walmart, he published his screed online. He used some of the same ugly, xenophobic rhetoric that I hear my colleagues on the other side of the aisle use. Then he walked into that Walmart with an automatic-style weapon and began shooting indiscriminately.

He killed 23 people, injured dozens more. My community remains profoundly impacted by that attack. The victims and the survivors and the loved ones still live with profound pain and trauma.

What is the FBI doing, Director Wray, in response to racially motivated domestic terrorism?

Mr. WRAY. Well, first, let me say I feel your pain. I actually visited the Walmart crime scene shortly after the attack and spent time with our folks on the ground who were processing the crime scene in blistering heat in the parking lot there. Obviously, got briefed by the investigative team and met with our local partners.

Obviously, it was a horrific, tragic event. The individual stories about some of the individual victims stick with me to this day.

As to the broader phenomenon of racially motivated violent extremism, we have done a number of things. We elevated it to a national threat priority back in the Summer 2019, I believe it was, which means that it is squarely in scope of all our joint terrorism task forces and treated as a priority at the top level. That is our highest level of priority.

We also have engaged; we created a domestic terrorism hate crimes fusion cell. You might wonder what is the point of that? Well, what we found was that sometimes the same acts of violence could either be called a hate crime, or it could be called an act of domestic violent extremism.

In the way the FBI is structured, the first is treated by our Criminal Investigative Division. The second is focused on by our Counterterrorism Division.

By bringing the two subject matter experts together, we could make sure that we are not letting anything slip through the cracks. More importantly, we can be proactive in thinking ahead.

That same fusion cell, for example, was then very important in us identifying and preventing a potentially devastating attack against a synagogue outside of Colorado. It was really one of the first times in recent memory that a hate crimes prosecution was able to be preventative.

All too often, unfortunately, those cases are brought after there is a horrific attack. So, we were very proud of disrupting that plot.

Ms. ESCOBAR. Thank you so much, Director Wray. I am also very curious about what steps you have taken to improve coordination between the FBI and the Department of Homeland Security in terms of reporting the domestic terrorism data.

Mr. WRAY. Well, there were a number of places—this gets a little bit technical. The reports that Congress called for, I have had a number of engagements with Senator Peters on the Senate side about this, where data about how many domestic terrorism attacks there had been and what cases there were.

I think there were different ways in which in the two agencies what they were counting and so forth. So, to kind of get better at providing that information as required by Congress, we have worked more and more closely with DHS on ensuring a common set of metrics and so forth to make sure that the reports are getting in on time and that they are complete.

We still have some work to do to make them better, but I think we have made significant progress.

Ms. ESCOBAR. I appreciate it. That data is critically important, as you know. I am just about out of time. Thanks again for your service.

Mr. Chair, I yield back.

Chair JORDAN. Excuse me, the gentlelady yields back. The gentlelady from Florida is recognized.

Ms. LEE. Good afternoon, Director Wray. Director, how many sworn special agents are there currently in the United States?

Mr. WRAY. You mean outside the FBI?

Ms. LEE. Oh, no, in the FBI.

Mr. WRAY. Just in the FBI? I think we have about 14,000 or so FBI special agents.

Ms. LEE. They are spread across field offices and resident agencies in the U.S. and in some cases around the world, is that right?

Mr. WRAY. Yes.

Ms. LEE. All right. Now as a former Federal prosecutor and judge I have had the opportunity to work with a number of men and women of the FBI from my home State and one thing that I know and that we have heard in your testimony today is that you have very broad responsibilities. Is it correct to say that the FBI, among other things, investigates counterterrorism, counterintelligence, cybercrime, public corruption, civil rights offenses, transnational organized crime, violent crime, and domestic terrorism?

Mr. WRAY. Then other things as well, but yes.

Ms. LEE. Yes. In addition to that would you agree with the statement that the bureau provides important support to local law enforcement agencies around the country on those subjects and others?

Mr. WRAY. I would say indispensable support and something I hear about—I'm talking with chiefs and sheriffs probably every week in this job since I've started and if there's one refrain I hear from the consistently is keep it coming; we need it; can you give us even more help? Yhat's what I hear from them.

Ms. LEE. I would like to focus on the subject of domestic terrorism today. When we talk about domestic terrorism the bureau's work includes investigating and bringing to justice those who do profound harm to the homeland given the opportunity. The bureau has been involved in cases involving hate crimes, violent extremists, and even some of our country's most notorious criminals like Timothy McVeigh and Ted Kascinski. Is that right?

Mr. WRAY. Yes.

Ms. LEE. OK. Of course, there are many such individuals who have plans to do harm to our homeland that America never hears about because you successfully intercept and prevent before those incidents occurs?

Mr. WRAY. Yes. In fact, one of the things that I think people would be surprised to know because terrorism is not as much in the news as it was during the era when I was serving in the Bush administration in the 9/11 era—but we have, just since I've been Director, disrupted attacks against a July 4th parade in Ohio, any number of attacks against churches and other houses of worship, an attack, an attempted attack, a plot to attack a hospital during COVID, the pier in San Francisco in sort of a peak tourism moment, a crowded beach during a Memorial Holiday. These are not all domestic terrorism. Some of them are—and that's important for people to know. Some of these are jihadist-inspired terrorist attacks, too. That has not gone away even though a lot of the public discussion has been about domestic terrorism.

Ms. LEE. So, here is what I am hoping you can help us reconcile today: So, we know that there are a limited number of agents, a limited number of resources, and a vast responsibility to prevent a broad array of very serious offenses. What I would like to do with that in mind is turn your attention to the decision within the bureau to use investigative resources to investigate and surveil parents who attended school board meetings for the purpose of sharing their concerns about the nature of their children's education and

the efficacy of the policies that were being implemented by school boards around the country.

Is it correct that in 2021 the FBI created a threat tag specifically designed to identify parents attending school board meetings?

Mr. WRAY. Yes, I think it's important for people to understand what a threat tag is and is not. It is not what we base investigations on. It's not an investigative tool. It's an administrative function in our system and it doesn't change anything, anything about how we investigate, tools we use, any of our longstanding standards for predication.

Ms. LEE. In those circumstances—

Mr. WRAY. You mentioned the whole resource allocation question—

Ms. LEE. —it is correct is it not however that agents surveil, that agents did in fact surveil and investigate certain parents who were attending school board meetings?

Mr. WRAY. No, ma'am, that's actually not correct. We opened 25 assessments into reports that were tagged, but none of those involved incidents at school board meetings. To my knowledge the FBI has not opened investigations on any parent for exercising speech at school board meetings.

Ms. LEE. Would you be concerned that to do so would be an infringement or perhaps a chilling on the First Amendment rights of parents to participate freely and opening in those meetings? Do you believe that would be an appropriate function of the bureau?

Mr. WRAY. I believe that our mission is to protect the American people and uphold the Constitution. The uphold the Constitution part is very important to me and to our people. I will say to you the same thing I said to all 56 of our field offices as soon as I read that memo, which is the FBI is not and has never been in the business of policing or investigating speech by parents at school board meetings and we're not about to start now. We're going to keep doing what we've been doing. That includes when there's violence, threats of violence, we're going to work with our State and local partners as we always have on that and following our normal procedures and our normal investigative steps and our normal standards for predication.

Ms. LEE. Thank you, Director Wray.

Mr. Chair, I yield back.

Chair JORDAN. The gentlelady yields back.

The gentleman from Colorado is recognized.

Mr. NEGUSE. Thank you, Mr. Chair.

Director Wray, thank you for being here, thank you for your testimony, and thank you for your service to our country under some pretty difficult circumstances. We are certainly grateful. I am certainly grateful. The people of the State that I represent, Colorado, are grateful to the 38,000 members of the FBI team, as you have articulated, that are working every day to keep the American people safe and to keep the people of my State and my community safe. So, we are grateful for you being here.

This Committee obviously has a legitimate role in terms of conducting oversight. Generally, that oversight has extended to the policy areas, the areas of law enforcement that, of course, you are responsible for. Unfortunately, much of the conversation today—

and it is disappointing I think for those Americans who have been watching—has not been focused on those legitimate areas of inquiry, but instead conspiracy theories and the like. Obviously, you have been given an opportunity to respond to some of the attacks that have been made against the law enforcement agency that you direct and the dangerous calls, or at least in my view the dangerous calls that have been made by my colleagues on the other side of the aisle in terms of defunding Federal law enforcement, which is deeply dangerous. You have articulated the many reasons why.

I would like to focus in on two areas that are important to my constituency in Colorado and that I believe are relevant to the work that you do, and that is the fentanyl epidemic and gun violence prevention.

With respect to the latter, you may recall you testified in front of the Committee previously, I had an opportunity to ask you about an incident that occurred back in 2020 in my State in Colorado. In 2021, the GAO issued a report in response to this particular incident. Just by way of background a gun dealer in Colorado transferred a firearm to an 18-year-old resident of Florida without first verifying the purchaser's age, eligibility, and her State of residence. The guy buyer then threatened to commit a school shooting akin to the mass tragedy that occurred at Columbine High, causing the lock-down and closure of multiple schools in my district back in Colorado.

The report recommended, the GAO report, that the FBI strengthen its system for the sale of firearms to out-of-state purchasers. Specifically, it recommended that the FBI update the NICS system to verify the age requirements of an out-of-state firearm purchaser in both the purchaser's State of residence and the State of sale to ensure basic age eligibility. We have introduced legislation that I believe the Department of Justice is aware of to make that requirement statutory.

Wonder if you could expound a bit on whether the—I am sure you are aware of the report—whether the FBI has implemented the recommendation that the GAO has made? If not, the FBI's plans to do so.

Mr. WRAY. Well, I think the specific legislation that would require that is something, as you said, that I think the department is studying, and so I can't weigh in on a specific legislative proposal. When it comes to the specific issue of 18–20-year-olds, in particular, and gun purchases, that is of course the subject of the bipartisan Safer Communities Act that was passed.

There are a number of significant checks that now occur. We started implementing that last October; fully implemented it starting in January. That provides for enhanced checks for that—that critical population, the 18–20-year-old range. Juvenile criminal records, mental health records for that population, and contact in some ways—most importantly contact with local law enforcement in that person's community.

I've actually be out to NICS, met with and sat with the operators who process those checks. So, I've seen kind of firsthand how it works and the important work it represents. I think if you were to talk—I'm talking to chiefs and sheriffs all over this country every

week and you will hear most of them—if you talk to them for very long, you will hear about their concern and our concern about juveniles and violence—almost guarantee you with the first 10 minutes of any conversation. It's a real problem in this country.

Mr. NEGUSE. Well, I thank you for your answer and I think it underscores the importance of the NICS program and would look forward to perhaps following up with your team on this particular administrative issue of trying to just make sure that the data base is working efficiently.

Limited time left, but I just want to give you an opportunity—I know we have talked a bit about the fentanyl epidemic devastating communities across the country. Certainly, in Colorado it is one of the reasons why we created a Fentanyl Prevention Caucus here in the Congress. It is bipartisan. Representative Issa is one of our Co-Chairs.

Wonder if you just might be able to, for those Americans who are watching, kind of provide us with your sense of some of the trends, the most dangerous and disturbing trends that you think the American people and policymakers should be aware of?

Mr. WRAY. Well, there are a whole bunch of trends, but in the limited time—but because of the importance of this topic, I'll hit a couple.

(1) We were just discussing this recently internally, we are finding over the course of the last year that, maybe even a little less than a year, almost every gang takedown we have now, and we're doing them all over the country all the time—almost every single one now seems to involve as well a seizure of fentanyl. We've been doing gang takedowns since Congresswoman Lee was a prosecutor as well. So, that's not new. What is new is that over and over and over again it seems consistently we're finding fentanyl in these—again these violent crime takedowns.

(2) A phenomenon, which is deeply disturbing, and I know the DEA Administrator is very concerned about as well, is that we're seeing more and more adulteration or lacing of fentanyl into all sorts of different kinds of prescription drugs that lots of Americans take all the time.

If you think about the phenomenon of the youth of this country, which is itself a problem, of getting prescription drugs from their friends or their friends' parents or whatever it happens to be, they may not know that there's potentially a lethal dose of fentanyl in some prescription drug that they're taking. So, it just underscores the importance of only getting your prescriptions from an appropriate medical provider.

Chair JORDAN. The gentleman's time is expired.

The gentleman from Wisconsin is recognized.

Mr. TIFFANY. Is the Southern border secure?

Mr. WRAY. I think the Southern border represents a massive security threat.

Mr. TIFFANY. So, what we have heard from you today is that fentanyl has become a really big problem and that you are having to put more resources to it. Is that correct?

Mr. WRAY. Toward fentanyl, yes. Yes, we are.

Mr. TIFFANY. The related gangs. You just regaled us with some of the story.

Mr. WRAY. Right.

Mr. TIFFANY. So, this all happened over the last couple years as the border has become unsecure. Is the Southern border secure?

Mr. WRAY. Well again, we're not—I want to defer to the Homeland Security which has responsible for the physical security of the building. I will just tell you from the FBI's perspective that we are seeing all sorts of very serious, very serious criminal threats that come from across the border.

Mr. TIFFANY. Getting worse, correct? You are putting more assets toward it.

Mr. WRAY. We certainly do. We have, as I said—

Mr. TIFFANY. So, it is becoming more of a priority for you?

Mr. WRAY. It is becoming more and more of a priority for us, yes.

Mr. TIFFANY. So, in the Durham Report, and we heard from Mr. Durham just a couple, weeks ago, he said the FBI failed to uphold the important mission of strict fidelity to the law. That predates you. Do you agree with that statement that Mr. Durham made?

Mr. WRAY. Yes, I do.

Mr. TIFFANY. Was Russia collusion a hoax? So, in light of the Durham Report in that was Russia collusion a hoax?

Mr. WRAY. Well, what I would say is this: First, as to the Durham Report itself, as to the issue of Russia malign influence. As to the Durham Report itself—

Mr. TIFFANY. Be quick.

Mr. WRAY. —I will try—the conduct it describes is conduct that I consider unacceptable and unrepresentative of who I see the FBI is every day and must not ever be allowed to happen again.

Mr. TIFFANY. On the other side?

Mr. WRAY. Second, on the other one it is not seriously disputed that the Russians, among other foreign adversaries, have attempted to interfere in our elections. There have been any number of findings to that. In fact, President Trump himself rightly declared a national emergency about foreign interference in our elections in 2018.

Mr. TIFFANY. So, as a result of the actions of James Comey, the disgraced James Comey and the FBI, they have interfered with the elections in both 2016 and 2020. Will that interference happen again in 2024 by the FBI?

Mr. WRAY. The FBI is not going to be interfering in elections.

Mr. TIFFANY. They did in 2016.

Mr. WRAY. Well, I don't know that's what Mr. Durham found. What I would tell you again is that it was conduct that I consider unacceptable and unrepresentative.

Mr. TIFFANY. You can be in denial if you want to.

Mr. WRAY. I'm not in denial, sir.

Mr. TIFFANY. Mr. Director, you can be in denial on this. That is exactly what happened.

Last year, the FBI gave a defensive briefing to my home State Senator Johnson. You can see the slide up there now. Then that defensive briefing was leaked to *The Washington Post*. Who ordered that briefing?

Mr. WRAY. So, defensive briefings, when it comes to election matters, including in the last administration, under a procedure set up by the last administration, are an interagency process coordinated by the Office of Director of National Intelligence. The way that works is the interagency concludes that a defensive briefing is appropriate and the FBI is given information from whatever intelligence community agency supplies it and then we provide it. Defensive briefings, it's important to understand—

Mr. TIFFANY. Senator Johnson. That is his quote. He is up there with you and Hunter Biden. "I knew it was a setup." He asked you this question back in November of last year and he said "I knew it was a setup."

That goes back to the point about interfering in elections. Senator Johnson was one of the most vulnerable Republican incumbents, if not the most vulnerable Republican incumbent, that was a target of the Democrats in the 2022 election. Then you see this briefing happen and he knew what was happening, that there was someone or some people within the FBI and the intelligence arena that were going after him.

Did Joe Biden take payment from Barisma or any other foreign companies as Vice President, President, or Private Citizen Biden?

Mr. WRAY. As you may know there is an ongoing investigation being led by the U.S. Attorney in Delaware, Mr. Weiss, appointed by President Trump in the last administration, that our Baltimore Field Office is working with. I would refer you to him as to what if anything can be shared.

Mr. TIFFANY. So, the President is under investigation?

Mr. WRAY. I'm not going to confirm or speak to who is or isn't under investigation for what. I'm simply going to tell you—

Mr. TIFFANY. So, he is not under investigation?

Mr. WRAY. I didn't say that either. By longstanding department policy and practice I'm not going to be confirming or denying who is or isn't under investigation or for what.

Mr. TIFFANY. Thank you. I will close with this: Russia collusion started it, Mr. Chair, and the targeting and the suppression and the censorship has continued until this point. We need to thoroughly review what the FBI is doing. At a minimum I will be allowing FISA to sunset if we are not going to see significant reforms in the agency. I yield back.

Chair JORDAN. The gentleman yields back.

The gentlelady from North Carolina is recognized.

Ms. ROSS. Thank you, Mr. Chair.

Thank you, Director Wray, for your service and your patience. In 2018, 10 leaders of Temple Beth Or, a synagogue in my district, received threats mailed to their homes. These threats led to the cancellation of programming and continued a disturbing trend of rising antisemitism in North Carolina.

In the years since my State has confronted new threats from domestic terrorists at minority institutions. This past April a man was arrested on the campus of North Carolina A&T State University, the largest HBCU in the country with multiple firearms and hundreds of rounds of ammunition as well as a makeshift explosive, brass knuckles, crossbow, knives, and other weapons. Thankfully this man was arrested before he could cause any harm, but

the threat he posed to the campus mirrors threats we have seen to HBCUs around the country.

In North Carolina and across the United States we have also seen increased threats against reproductive care providers in the wake of the *Dobbs* decision last summer. North Carolina recently enacted a 12-week abortion ban that has severely restricted access to reproductive healthcare in my State and people often have to go through threatening crowds to be able to access the care that they need. While some in North Carolina have highlighted vandalism of crisis pregnancy centers since the overturn of *Roe*, they have failed to acknowledge or respond to the increase in violence at abortion providers.

Does the FBI currently provide antiterrorism training to civilians, to HBCUs, places of worship, religious centers, individuals providing abortion services, and LGBTQ groups? Does that training include a domestic terrorism component, so that they can help you and law enforcement?

Mr. WRAY. Well, we do a whole bunch of things to engage with the community, institutions that are targeted with violence that include a number of the kinds of institutions you mentioned. I know, in particular, we work very, very closely with the Jewish community, which has the unfortunate distinction of despite the percentage that they represent of the American population of being [audio malfunction] around the country and nationally.

We also spent a lot of time engaging with campus law enforcement including at HBCUs. We spent a lot of time on that especially last year with the bomb threats that were coming in. I was just recently with all the campus law enforcement leaders from around the country just the last couple weeks. We certainly try to provide awareness to different kinds of institutions about how to deal with potential mass casualty events and things like that. We also provide information about things to be on the lookout for in people's communities.

I should say though, when you mention on the abortion side reproductive facilities, of course, I would be remiss if I didn't also point out that there has been a pretty significant uptick in violence going the other way since the *Dobb* decision.

Ms. ROSS. Yes.

Mr. WRAY. In fact, most of the investigations that we've opened since the *Dobb* decision, probably about 70 percent of them have been violence against prolife facilities. We recently had a significant charge in the Madison, Wisconsin area of a guy who was trying to firebomb a prolife facility there.

So, we're out there with communities across the spectrum.

Ms. ROSS. OK. How would an investigation differ if it is domestic terrorism as opposed to just an ordinary criminal case?

Mr. WRAY. Well, our investigation focuses on the violence first and foremost.

Ms. ROSS. Yes.

Mr. WRAY. I think there is no domestic terrorism statute. There's no offense of domestic terrorism—

Ms. ROSS. Yes.

Mr. WRAY. —but we define domestic terrorism for purposes of opening an investigation as having three things: Violence or threat

of violence in furtherance of an idealogy; in other words, that's what's driving the violence in that particular instance, and in violation of Federal criminal law. If we have those three things, enough evidence to indicate that might be what's going on, then we would treat that as a domestic terrorism investigation.

Ms. ROSS. Thank you, Mr. Chair. I yield back.

Chair JORDAN. The gentlelady yields back.

We have got votes, director. We are going to do one more on our side, then we will take a break and come back for the remaining Members.

The gentlelady from Wyoming is recognized.

Ms. HAGEMAN. Yes, Director Wray, we have established that the FBI and other Federal agencies met weekly with executives from major social media companies including Facebook, Twitter, YouTube, Google, Microsoft, LinkedIn, Yahoo, and Verizon. Were you involved in any of those meetings, yes or no?

Mr. WRAY. I wasn't involved in the kind of meetings that you're talking about, or I didn't participate I guess in meetings like that.

Ms. HAGEMAN. OK. Are these meetings still occurring? If so, how frequently?

Mr. WRAY. Well, right now as you may know there is a preliminary injunction that's been entered—

Ms. HAGEMAN. Prior to the preliminary injunction were these weekly meetings taking place?

Mr. WRAY. I don't know if weekly meetings occurred again before the injunction, but certainly we've been very open about this, engaged with social media companies.

Ms. HAGEMAN. Does the FBI intend to continue to have such meetings leading up to the 2024 election to police election-related speech?

Mr. WRAY. Well, we're not going to be policing election-related speech.

Ms. HAGEMAN. That what you previously did?

Mr. WRAY. That's not—I do not agree with that description.

Ms. HAGEMAN. OK. Well, here is what I would say: This committee has learned that the FBI acted to quote, "discredit leaked information about Hunter Biden before and after it was published," that, quote, "Twitter's contact with the FBI was constant and pervasive as if it were a subsidiary," and that, quote,

> ... a surprisingly high number of requests by the FBI for Twitter to take action on election misinformation even involving joke tweets from low follower accounts.

Are you aware that this has been reported?

Mr. WRAY. I am aware of some of what the Committee has found in its report.

Ms. HAGEMAN. OK.

Mr. WRAY. I will add that I'm not sure I agree with the findings in the Committee's Report.

Ms. HAGEMAN. That is what we found. Director Wray, you and I both know that the Federal government is forbidden from doing indirectly what it cannot do directly. In other words, neither you nor the FBI have any legal authority to circumvent the First Amendment by using a surrogate to do your dirty work, yet that is exactly what you have been doing. The bureau under your watch

has been using proxies to violate the First Amendment. Were you the person who gave the orders to use these social media companies to violate the First—violate Americans' First Amendment rights?

Mr. WRAY. Again, I don't agree with your description of our engagement with social media companies.

Ms. HAGEMAN. So, who made the decision to use social media companies as a proxy to suppress the First Amendment rights of American citizens?

Mr. WRAY. Because I don't believe that's what we did I'm not sure there's anyone that would have made such a decision.

Ms. HAGEMAN. Do you really expect the American public that you were not involved in the decisions related to using social media companies to suppress the First Amendment rights of American citizens?

Mr. WRAY. I can't help what people believe or not. I can only speak to what the facts are.

Ms. HAGEMAN. Was anyone ever fired or otherwise reprimanded for pursuing mass censorship? In other words, has anybody been held accountable for taking the actions that were described in the decision by the District Court out of Louisiana?

Mr. WRAY. Well, the District Court's decision just came out on July 4th as I recall—

Ms. HAGEMAN. Has anybody been reprimanded or held accountable for what has—

Mr. WRAY. At the moment we have issued guidance to everyone in the organization who could be affected as to how to follow that.

Ms. HAGEMAN. Has anyone been reprimanded?

Mr. WRAY. I'm not going to speak to personnel matters because we have not made any such determination at this stage.

Ms. HAGEMAN. Mr. Wray, I have some letters from Lindsay Graham and Rand Paul that were sent to you on April 20th and June 20th requesting a meeting to discuss the Weapons of Mass Destruction Directorate's work investigating the origins of SARS–COVID–19. Your office has never responded to these letters. Do you intend to respond to Senators Lindsay Graham and Rand Paul to find out more information about the origin of COVID–19?

Mr. WRAY. Well, we try hard to respond to all correspondence we get from the Hill. We get a lot. I'll have to check—

Ms. HAGEMAN. So, I assume you will be responding to this?

Mr. WRAY. —but, my intention is that we would have an appropriate response. Sometimes our responses—by longstanding procedure our responses have to go through the department before they go out, so it could be that it's held up there. I don't know that's—

Ms. HAGEMAN. So,—

Mr. WRAY. —I don't know if that's the case in these particular ones, but—

Ms. HAGEMAN. —Senators Graham and Paul should be receiving a response from your office pretty soon?

Mr. WRAY. Some kind of response. As you may know we were the only agency in the intelligence community, until more recently when the Department of Energy did as well, to reach the assessment that in our folks' view we thought—

Ms. HAGEMAN. I understand, Mr. Wray.

Mr. WRAY. —it was more likely to be a lab leak.

Ms. HAGEMAN. OK. Mr. Wray, from the Twitter files, *Missouri* v. *Biden* disclosures, the Durham Investigation and Report, and exposure and collapse of the Russian collusion hoax, the American people fully understand that there is a two-tiered justice system that has been weaponized to persecute people based on their political beliefs and that you have personally been—that you have personally worked to weaponize the FBI against conservatives.

I asked Mr. Durham about this to which he answered,

> I don't think that things can go too much further with the view that law enforcement, particularly the FBI or Department of Justice, runs a two-tiered system of justice. The Nation can't stand under those circumstances.

Director Wray, what are you prepared to do to reform Federal law enforcement in a manner which earns back the trust of the American people?

Mr. WRAY. Well, first, I would disagree with your characterization of the FBI and certainly your description of my own approach. The idea that I'm biased against conservatives seems somewhat insane to me given my own personal background.

As to how we are approaching our work of protecting the American people and upholding the Constitution, it starts with me having emphasized to all our folks over and over and over again in everything we do that we need to do the right thing in the right way, and that means following the facts wherever they lead no matter who likes it.

It starts—then goes on from there to all kinds of enhanced procedures, safeguards, approvals, double checks, triple checks, record keeping requirement, accountability policies, and funding of new functions like an Office of Internal Audit that didn't exist before, the installation of an entirely new leadership team from my predecessor.

Where I can take action, where we can take action to hold people accountable by removing people from the chain of command—

Chair JORDAN. The gentlelady's time is expired. Director, we are going to take a 30-minute break for votes. We will be back—I am going to try to start right at 2:15.

Ms. HAGEMAN. Unanimous consent to introduce statements into the record.

Chair JORDAN. Without objection it will so be entered.

We will start with Ms. Bush and then Mr. Bishop on our side when return. We will stand in recess for approximately 30 minutes.

[Recess.]

Chair JORDAN. The Committee will come to order.

The gentlelady from Missouri is recognized.

Ms. BUSH. Thank you, Mr. Chair, and thank you for being here, Director Wray.

Before I get into the primary topic of my remarks, I want to ask you about a separate issue. On June 16th my esteemed colleague, Ranking Member Raskin of the Oversight Committee, sent you a letter asking the FBI to publicly reiterate certain nonclassified information that it provided in an oral briefing about Form FD–1023 subpoenaed by Oversight Chair Comer.

It has now been almost a month since Mr. Raskin sent his letter. When can he expect a response?

Mr. WRAY. I'll have to check with my staff because we have gotten so many letters from so many Members and that's—each one of them is important to me. As I sit here right now I don't know when the timing is but we'll get back to you on that.

Ms. BUSH. OK.

Mr. WRAY. More importantly, we'll get back to you on that one.

Ms. BUSH. OK. OK. All right. Thank you, and we will followup. OK. Especially because I did ask directly of your staff. So, we'll followup.

Now St. Louis and I are here today in continuing solidarity with the protesters, the advocates, and movements that are actually targeted by surveillance and other law enforcement abuses in this country.

Director Wray, I know that you are aware of the FBI's long and sordid history of targeting Black protesters and activists. At a hearing before this Committee in December 2017 you characterized the abuses related to Cointelpro as, quote,

> ... one of the darker moments in the FBI's history. It's something we're not proud of, but it is also something we have learned from.

Director Wray, isn't it true that an FBI agent improperly ran a batch query of unminimized FISA information using the identifiers of 133 individuals arrested in connection with the protests after the murder of George Floyd in 2020? Just a yes or no is fine.

Mr. WRAY. Well, I am aware of the incidence you're talking about. Whether that correctly describes it or not I'm not 100 percent sure. I know it's in the most recent FISC opinion.

What I will tell you is that this incident is noncompliance I considered unacceptable and most importantly, it predates all these fixes and corrective measures and reforms that we have put in place, which I think would have prevented it from happening now.

Ms. BUSH. Thank you. Now on to ZeroFox.

Isn't it true a firm hired on a $14 million contract by the FBI, which we have heard already today, to monitor social media threats previously labeled Black Lives Matter activists as threat actors requiring constant surveillance? Yes or no.

Mr. WRAY. I'm not sure that's a correct description of the way we do work with ZeroFox. I don't know that's a correct description of how we do it.

Ms. BUSH. So, did the FBI hire the firm?

Mr. WRAY. My understanding of ZeroFox is it has a tool which allows us to, in certain instances, engage in social media searches to prevent threats. The specifics of—

Ms. BUSH. So, the FBI—so they were hired?

Mr. WRAY. Well, I don't know, again, the terms of our arrangement, whether it's a retention or what. I've heard the term ZeroFox before and my general experience is it's usually used in connection with preventing violence out of a particular critical incident of some sort.

Ms. BUSH. So, to the tune of $14 million, though, there is reporting that threat actors was actually what they labeled Black Lives Matter activists, two of whom I know very well, and I served more than 400 days on the ground during the Ferguson uprising myself, more than 400 days, many of those days with those two people that were named and who are not violent.

Isn't it true that the FBI has been actively involved in the law enforcement response to people protesting the Atlanta Public Safety Training Center, a response that has included State charges of domestic terrorism against protesters? Yes or no.

Mr. WRAY. Well, our Atlanta division is working in support of our State and local partners when it comes to violence and threats of violence that occurred amid the unrest that you're referring to.

Ms. BUSH. So, the FBI is involved. These are not isolated incidents and, as I said, they're part of a long history of abuses by the FBI against Black and Brown communities and progressive movements.

These are the real oversight issues. They matter to my district where there is real and justified skepticism of whether the civil rights of Black and Brown people are adequately protected.

I know this from personal experience in the Ferguson uprising and from other protest movements that I have been a part of. That's why I asked you about the targeting of protesters the last time that you were before us because they also included me.

What my district is not concerned about is the Republican conspiracy theories and selective targeting of law enforcement agencies who tried to hold their twice-impeached twice-indicted cult leader Donald Trump accountable. The Insurrection Caucus wants to use this hearing to score immediate political points. They want to evade oversight. They don't want to conduct it.

We're talking about real issues, real reform that can actually save lives. So, once again, I urge my Republican colleagues who claim to care about government overreach and weaponization to do the exact same.

I yield back.

Chair JORDAN. The gentlelady yields back.

I would just remind the lady that what we'd actually likely to do is work with you to protect Americans' privacy whether they've been targeted on the right or on the left.

Mr. IVEY. Mr. Chair? Mr. Chair, point of order. Point of order. Point of order.

Chair JORDAN. The gentleman may State his point of order.

Mr. IVEY. It's not your time.

Chair JORDAN. I appreciate the point of order, and I was just getting ready to yield to the gentleman from North Carolina who—

Mr. IVEY. Thank you, Mr. Chair. I greatly appreciate that.

Chair JORDAN. I appreciate the reminder.

Mr. BISHOP. I want to followup, Director Wray, about the Foreign Influence Task Force. There have been exchanges with Mr. Johnson of Louisiana and Ms. Hageman over that, and I understand the difference. I want to respect the differences in characterization.

Earlier this weekend in denying a stay of its order the Federal Court essentially said this isn't complicated. Follow the law as articulated by the U.S. Supreme Court in the area of the First Amendment and that was it as far as it was concerned.

The Foreign Influence Task Force is not a predecessor's decision. You set that up, right?

Mr. WRAY. Yes.

Mr. BISHOP. You've known about the continuous interaction with social media companies. You've known about—I'm sure you know about testimony of Elvis—agent Elvis Chan, correct?

Mr. WRAY. I don't know everything he's testified to, but I'm aware that he was—

Mr. BISHOP. Did you read his testimony?

Mr. WRAY. I've read parts of it, yes.

Mr. BISHOP. That there were thousands of posts that were flagged by the social media companies. These meetings with social media continued across time on a periodic basis and this court has found—and I understand where the point of disagreement is, I guess, at this stage is and I believe it's fairly common sense—that if you've got constant, expectant suggestions from the FBI to social media companies with respect to social media posts at some point in times it becomes a government decision or it becomes coercive in nature. That's what the Courts preliminarily found. That apparently is the line you decided to walk in setting this up.

Today it's striking that you come in and you sort of casually acknowledge and among other things that we did pass through, I think you said, information from the Ukrainian SBU to social media as if it's normal for the FBI to serve effectively as the agent of a foreign power to help pull information out of circulation to which Americans otherwise would have access because the foreign intel service doesn't like it.

Now, those are my characterizations. I have tried to be a little bit more neutral in my language and you can differ with them. Here's what I'm wondering.

Why would you walk that fine a line with respect to Americans' fundamental constitutional rights at scale especially with knowledge of past abuses by the FBI like Cointelpro?

You said earlier that the FBI wasn't even concerned about disinformation, per se, but the foreign origins of the information. Assuming so, how does that comport with *Lamont* v. *Postmaster General*?

Mr. WRAY. Well, I'm not going to try to engage on Supreme Court jurisprudence, but what I can tell you is that the—

Mr. BISHOP. Well, that's the point, though, Director Wray, and let me just ask you, do you know about that case? Do you know that case?

Mr. WRAY. I've heard of the case.

Mr. BISHOP. All right. Right in the heart of the cold war at the behest of an American plaintiff—a communist, by the way—the Supreme Court said that Americans have a First Amendment right of access to information even if it is propaganda originating abroad and, in that case, the United States Postal Service could not interdict it.

Do you know that, in essence?

Mr. WRAY. Again, I'm not familiar with the holding of the case. I'd have to review it to be sure that—

Mr. BISHOP. That's seems to me the trouble. I keep wondering as I read all these revelations how that could be. Then let me go to this. That the FBI engaged with the social media companies, continuously warning them of hack and leak operations in 2020—not

2018, by the way, but before the 2020 election—lots of warnings about hack and leak. You're aware of that?

Mr. WRAY. I'm aware that we gave them lots of information about intelligence that we were receiving from some of our intelligence—

Mr. BISHOP. At the time you were giving them those warnings the FBI had the Hunter Biden laptop for more than nine months and—but, of course, Cointelpro itself was the mother of all hack and leak operations.

Leftist activists at the time broke into the FBI's office in Media, Pennsylvania, stole the files, gave them to the media and the newspapers published them. You're bound to be aware of *New York Times Company* v. *The United States*—The Pentagon Papers case?

Mr. WRAY. Yes.

Mr. BISHOP. That says that even if information had been stolen or inappropriately taken that you can't get a prior restraint in almost any circumstance to prevent their being distributed.

So, how is it that your Foreign Influence Task Force is out warning of hack and leak operations to innocent—not involved in the hack—that would be criminal—but news or social media organizations where information may be circulating?

Mr. WRAY. Well, first, we're not engaging in any prior restraint. Second—the second—

Mr. BISHOP. Wow.

Mr. WRAY. Let me—if I could finish, please.

Second, there is no serious dispute that foreign adversaries have and continue to attempt to interfere in our elections and that they use social media to do it.

President Trump himself in 2018 declared a National Emergency to that very effect and the Senate Intelligence Committee in a bipartisan—overwhelmingly bipartisan way, by the way, not only found the same thing but called for more information sharing between us and the social media companies.

Mr. BISHOP. I hate to say this, Director—I hear you, but it doesn't justify trampling the established First Amendment rights of Americans as the Supreme Court has declared them whether or not, frankly, I agree with them, or you agree with them. I just don't—that's what I don't get.

You come here and the comments are sort of blasé answers. Accountability is always down the road. It never arrives and I'm not trying—I guess I'm joining the gang up.

What I'm concerned about and I think Americans are concerned about is they just never see it. I don't know of an answer other than to take an appropriation from you that's very significant or to do something to take your intel powers away and put them in another agency.

I honestly want to know.

Mr. IVEY. Mr. Chair?

Mr. BISHOP. I think Americans want to know.

I yield.

Chair JORDAN. They sure do.

The gentleman from Maryland who keeps us on time is recognized.

Mr. IVEY. Until it's my turn. Then I'm going to run overtime.

Mr. BISHOP. Wait until he gets his five minutes. Yes.

Chair JORDAN. The gentleman's time is about ready to start.

Mr. IVEY. Thank you, Mr. Chair.

Director, I appreciate you coming in today. I saw a characterization of this hearing as a GOP-FBI grudge match. I must say that the only grudge that's been seen here is from the Republican side.

I think you've done an outstanding job with your testimony today. Even though you've been admitting that there are shortcomings by your office, that mistakes have been made, I appreciate the fact that you are willing to do that because it's not easy for agency heads to do that and also, more importantly, to point out the changes that you've made to try and address those concerns.

I want to say this, too. There are a couple points that have been made here about—you were just talking about the Foreign Influence Task Force and I know there's a lot of talk about this as being some kind of prior restraint or First Amendment violation.

I want to say that I'm on the side that thinks this is a very important tool for the FBI and the U.S. Government to have, especially with respect to potential intervention or interference especially by Russian State actors with respect to American elections.

There are some people who think, and I'm kind of starting to agree, that one of the reasons some of my colleagues are pushing so hard against this and other aspects of information protection within the United States is because they want to have Russian interference in the 2024 election.

Chair JORDAN. Oh, please.

Mr. IVEY. I certainly don't. So, I certainly thank you for continuing your efforts on that front.

There was an issue that was raised about whistleblowers earlier in the hearing and I wanted to bring this up. I know you can't speak to this, Mr. Director, but these are the two checks that were written to some of these witnesses—two of the witnesses that testified here—and they are for over $250,000.

Now, they came after they gave their testimony I think by a few days. From my perspective, this is something that the American public should know when they evaluate the testimony of these individuals. Hopefully, I don't know if the majority knew about this, but didn't disclose it at the time or what was going on with it.

In my book, this really brings the credibility of these witnesses' testimony into question, and I think we should keep this in mind when we evaluate the allegations that they've made.

I also want to say this, too. My Republican colleagues have come a long way from the law-and-order days of the Republican Party back when I was a kid. Now, we're a defund the FBI, I think one of them selling T-shirts to try and raise money using that slogan.

Another colleague is talking about abolish the ATF. Another one wants to say defund the Department of Justice. As you mentioned in your testimony earlier, the FBI is doing a lot of great work protecting the country from terrorism, foreign intelligence threats, international cartels. There are weapons of mass destruction that you mentioned in your testimony. I appreciate that.

Also, there has been a great deal of talk about the domestic terror threats. For me the planned attempt to kidnap the Governor

of Michigan and apparently kill her was showing to the extreme and I appreciate the fact that you were able to intervene on that.

I want to say this quickly, too. I'm running short on time. The misinformation and weaponization claims that have been made by my Republican colleagues I want to offer these two articles.

One is called—it's by Aaron Blake of the *Washington Post*, "All the ways Trump, not his foes, sought to weaponize the government," and then another one—this is Philip Bump. This is on the *Missouri* v. *Biden* case, which was quoted extensively at the beginning of the hearing, "A deeply ironic reinforcement of right-wing information."

The point of this article is that the *Missouri* v. *Biden* decision, which—and I know you can't comment on it because it's pending litigation, but I also think it's being challenged by the Department of Justice and rightly so because it's riddled with factual inaccuracies and legal inaccuracies as well.

One other article for the record—this is by Leah Litman and Laurence Tribe, "Restricting the government for speaking to tech will spread disinformation and harm democracy." I'd like all those admitted.

Then, last, with respect to the Hunter Biden issue there's a letter from Abbe Lowell, who represents Mr. Biden—this is to Representative Jason Smith, but I think also to Chair Jordan as well—that raises the push back on the allegations that points out that the investigation began during the Republican Trump Administration, was supervised by two Republican Attorney Generals, was carried over by a holdover Republican U.S. Attorney.

The last point I want to make—I promise I won't run over my time much—I happen to represent the district where we contain two of the sites where the FBI headquarters could be moved to.

The Chair made a reference to maybe not wanting to fund the move, but I must say I think I had an office near your building that got nets around it to keep parts of the building from falling down and hurting pedestrians. If the move is important and also would give you a chance to consolidate hopefully, you'll bring it to Prince Georges County, and we'll save $1 billion for the taxpayers.

With that, I yield back.

Chair JORDAN. The gentleman yields back.

The gentlelady from Indiana is recognized.

Ms. SPARTZ. Thank you, Mr. Chair.

Director Wray, the FBI's mission is to protect the American people and uphold the U.S. Constitution, correct?

Mr. WRAY. Yes.

Ms. SPARTZ. OK. So, we had a couple of years ago—it was in hearing and I actually looking in all the concerns and I've seen was really warrantless surveillance and abuses of Section 702 of FISA.

I compared the agency to KGB, and spending two years on this Committee reading a lot of reports, now doing a lot of hearings I'm really shocked that your agency is involved not just unlawful surveillance of American citizens, intimidation of American citizens, censorship of American citizens, potential coverups of convenient political figures, potential setups of inconvenient political figures, and a lot of my colleagues has a lot of questions.

I think when we look at that and, unfortunately, we haven't been doing our job authorizing spending which was not authorized by our Committee already for over a decade, we're going to have this serious conversation and including reauthorization of Section 702.

I want to talk about some other issues that you mentioned about that my colleagues were talking about and you mentioned that you focus on malign foreign actors.

So, in Durham Report, which describes 2020, he states, and this is a quote,

> Steele's sources could have been compromised by the Russians. FBI never gave appropriate consideration to the possibility that the Steele Report was Russian disinformation.

No vetting happened. You have some falsified FISA court application. You have some very shady confidential human sources that you can pay for them. Nothing was vetted. Some of your head of counterintelligence division was accused of taking money from a Russian oligarch just recently this year.

So, you said all those bad. Now, we go to 2022. Your agency is involved with SBU, security service of Ukraine to actually provide information to big tech to censor, just use, of American people. No vetting, it seems, is happening. This is information.

Actually, a lot of this information was pro-Russian against Ukraine and pro-Putin. Your agency just passed it along. It seems like nothing happened. It's interesting for me that when I raised some issue actually the beginning of July and what's happening in Ukraine, I don't have any confidential human sources, just using common sense and intelligence that something is wrong happening in Ukraine. It seems like there was a lot of infiltration. I was attacked—oh, my gosh, how can you question.

Well, strangely enough, after me raising this question in the middle of July President Zelenskyy fired his SBU top guy, opens over 600 investigations as potential infiltration by Russians and then fire a lot of other people for corruption. An anticorruption prosecutor was suddenly installed.

What is really interesting for me, is how could you have these processes, and are you doing actually any investigation to look? Because it seems to me, as I understand you still have our agencies working with SBU with coming from KGB time and FSB time has a lot of potential to have this infiltration. Are you doing any investigations on those issues?

Mr. WRAY. Doing investigations on—

Ms. SPARTZ. Yes, to look at that, why we're doing unvetted information we're taking from SBU which actually was infiltrated and given to censor Americans to our big tech companies. Are you looking into that as an agency?

Mr. WRAY. I'm not sure there's an investigation that is directly on point to what you're saying. Certainly, the SBU is an agency that we have worked with for a long time.

Ms. SPARTZ. So, we're not doing an investigation. So, did we change the processes now since we know your guys work with SBU, SBU was infiltrated by Russia and big tech was censoring American citizens. This unvetted information that actually was provided by Russians did you change any processes or it's still hap-

pening? You have some of the same processes that happened? Is this still happening now?

Mr. WRAY. Well, the engagement that we had with SBU was during—

Ms. SPARTZ. I'm talking right now.

Mr. WRAY. Yes.

Ms. SPARTZ. Because recently some of your agents had actually a joint meeting and they were bragging how their top corporation was SBU. Did you change processes?

Mr. WRAY. I'm not sure what processes you're talking about.

Ms. SPARTZ. To vet information.

Mr. WRAY. Yes.

Ms. SPARTZ. What's happening?

Mr. WRAY. Again, during the period at the beginning of the invasion—

Ms. SPARTZ. No. No. I'm talking right now. Do you change—do you vet information that you get from agencies like SBU? I mean, I don't know. If we're trying to—are we being stupid? I understand—are we being infiltrated by Russians or corrupt?

I don't understand why we're not vet information was such a real challenge in the agency. So, are you changing anything of that? I would like to have a briefing or something on this because if you're not looking at it, I have a huge problem with that.

Mr. WRAY. I'm happy to try to see if we can arrange to get you a better briefing on the subject.

Ms. SPARTZ. Because this is a serious national security issue. I yield back.

Chair JORDAN. The gentlelady yields back.

The gentleman from South Carolina.

Ms. JACKSON LEE. Thank you, Mr. Chair.

Oh, I'm sorry. The gentlelady from Texas is recognized.

Ms. JACKSON LEE. Thank you so very much, Mr. Chair, the Lone Ranger on this side.

Chair JORDAN. Thanks for sticking with us.

Ms. JACKSON LEE. We appreciate you for a moment and all my members.

Let me just quickly indicate that I have a document that is a tweet that is—I'm wanting to submit it into the record. Two of the Republican witnesses were gifted $255,000 checks—$255,000 in checks immediately after they testified before this Committee. It seems to be quid pro quo.

The fact of—the tweet that I'm submitting from Mr. Kyle Seraphin says the fact that Mr. Allen has not yet cashed the check is not that he did not receive the check. So, I submit in the record the tweet from Mr. Seraphin who indicated that two gentlemen, Garrett and Marcus, receiving a check of—

Chair JORDAN. Continuing your attack on whistleblowers, without objection those are—those are—

Ms. JACKSON LEE. Just for clarification, Mr. Chair.

Then finally, the Federal Bureau of Investigation and Department of Homeland Security's strategic intelligence assessment and data on domestic terrorism dated October 2022, Appendix A—the document itself, Appendix A, Appendix B, and the categories of domestic violence extremism.

Chair JORDAN. Without objection.

Ms. JACKSON LEE. Your kindness is appreciated. Thank you very much.

Chair JORDAN. Thank you. The gentleman from South Carolina is recognized.

Mr. FRY. Thank you, Mr. Chair.

A few weeks ago, Special Counsel Durham confirmed the FBI had bias against President Trump and took unprecedented steps to go after him during the 2016 Presidential Election.

The Durham Report showed:

(1) The FBI did not have an adequate basis to launch the investigation;
(2) it didn't verify or examine all the evidence; and,
(3) the FBI was politically charged against then candidate Trump.

This, of course, was before your time. Here we go again. In August 2022, the FBI raided the personal residence of President Trump. This unprecedented raid was a shocking escalation in what we talk about with the weaponization of the Federal government against political opponents.

Our country is almost 250 years old. We have had 46 Presidents. This is unprecedented and when we say it's unprecedented, we mean it. This has never been seen before in our country's history. Just like we saw in the Durham Report, the FBI did not follow traditional protocols and this investigation was chock full of abnormality.

So, I kind of want to go into those a little bit. Director Wray, as you know, the Committee recently conducted a transcribed interview with Steven D'Antuono, the former Assistant Director in charge of the FBI's Washington Field Office. He has over 20 years of FBI experience and he expressed some strong concerns with your department's handling of the case, the DOJ's handling of the case.

The first abnormality deals with the FBI office, that they conducted the raid themselves.

Director Wray, generally speaking, which FBI office oversees Palm Beach, Florida?

Mr. WRAY. The Miami office has an office in Palm Beach. To the question you're asking it is not unusual for a field office that is investigating the case to send the case team down to be involved in conducting the search.

Mr. FRY. President Trump's residence is in Palm Beach, Florida. Is that correct?

Mr. WRAY. Yes.

Mr. FRY. Director Wray, did the Miami field office conduct the investigation and search at Mar-a-Lago?

Mr. WRAY. The Washington Field Office conducted the search, although I think there was some assistance by people from Miami.

Mr. FRY. It was primarily run out of Washington and not the Miami field office?

Mr. WRAY. Which was the case team that had opened the investigation based on a referral—

Mr. FRY. Did the FBI headquarters—

Mr. WRAY. —based on a referral from the National Archives, which is in DC.

Mr. FRY. Did the FBI headquarters in Washington instruct the Washington Field Office to start that investigation and that raid at Mar-a-Lago?

Mr. WRAY. Well, the investigation was opened in the field by the Washington Field Office.

Mr. FRY. Right. So, it was not Miami. It was Washington.

Mr. WRAY. Which the Washington Field Office opened the investigation based on a referral from the National Archives, which is also in DC, so that made sense.

Mr. FRY. Who made the decision to have the Washington Field Office execute that search warrant rather than the Miami field office?

Mr. WRAY. I can't speak to the specific individual. As you know, this is an ongoing case and internal deliberations are ongoing on the case.

Mr. FRY. We're not asking about—I'm not asking about the facts of the case. I'm asking you about who made the call to go to Washington and use the Washington Field Office as opposed to Miami. Would that had been you?

Mr. WRAY. Well, no. The Washington Field Office opened the investigation because they're the office where the National Archives is, which is what referred the investigation and kicked off the whole investigation.

Mr. FRY. Director, on May 15, 2023, the FBI, your special counsel—or excuse me, not your special counsel, your general counsel—sent a letter to Special Counsel Durham in response to his report. In that letter the FBI wrote, quote,

> FBI executive management has instructed investigations to be run out of the field and not from headquarters.

So, despite the location of the search occurring in the territory of the FBI's field office the Washington Field Office instructed the raid. This is inconsistent with the FBI's statement from two months ago.

I want to move on to a second abnormality.

Mr. WRAY. Sir, I'm sorry. It's actually not—it's not—

Mr. FRY. I've got 1 minute left. I've got 1 minute left, Director. Now, is it normal for a U.S. Attorney to be assigned to an investigation—a high-profile investigation?

Mr. WRAY. Well, that's a decision that's made over at the Justice Department as to how they allocate responsibilities.

Mr. FRY. That's normal protocol. Is that correct?

Mr. WRAY. There are investigations, prosecutions in cases that are handled by main Justice. There are trial attorneys there. Again, I only speak to the FBI's decisionmaking, not to the Justice Department.

Mr. FRY. A U.S. Attorney was not initially assigned to this investigation, were they?

Mr. WRAY. I think that's correct. Again, I would refer you to the Justice Department for any questions about what—U.S. Attorneys versus main Justice.

Mr. FRY. The third abnormality that I find really troubling—probably the most troubling, quite frankly, is the FBI did not first seek consent to search the residence, did they?

Mr. WRAY. Well, there is a fairly detailed filing in court that goes through in fairly excruciating detail the process that was followed that led up to the execution of the search and it goes through in great detail the efforts that were made to secure documents and because this case is now pending and moving forward in Federal Court I want to respect that and not engage in more discussion beyond. I will refer you to the filing—

Mr. FRY. You can hear the frustration, Director Wray.

Mr. WRAY. —which lays out in great detail, the answer to your question.

Mr. FRY. Here's the frustration that I see, Director.

The Durham Report laid out very clearly that in cases just in general that you cross every T and dot every I, that this was not done here. You didn't run it out of the field office. You didn't have a U.S. Attorney assigned to the case.

Senior officials did not listen to people on the ground as the testimony of Mr. D'Antuono talked about. You didn't ask for a consent from their attorney. You didn't ask for a consent search despite the President having cooperated and handed over documents for a long period of time, and you refused to wait for President Trump's own attorney to get to Mar-a-Lago to do this with you.

So, what has changed since Durham? You've acknowledged this in 2023 that things should be run out of the field, that you've made internal process changes, but nothing has really changed since 2016 and that's my big concern.

With that, I yield back.

Mr. WRAY. I could not disagree more, but we'll just have to disagree on that one.

Chair JORDAN. Well, here's what he said. This is questions from the Democrat lawyer in the depositions to Mr.—in the deposition of Mr. D'Antuono—"Can you explain to the attendees here why the case was not assigned to, for example, the Miami field office?" and Mr. D'Antuono's answer was, "I have absolutely no idea."

Then they said the investigators handled it differently and he said—his answer was,

> It was handled differently than I would have expected to be than any other case is handled.

So, I think that was the Member's point and that's the concern that we have in spite of the letter we got from your general counsel.

The Chair now recognizes the gentleman from Texas for five minutes and then we'll go to Wisconsin.

Mr. HUNT. A recent poll found that 37 percent of Americans have a positive view of the FBI and that's from an NBC poll. I wouldn't exactly call that right media propaganda and I think I know why.

Here's what the American people know and believe about the FBI today, sir. If you are a Trump, you will be prosecuted. If you are a Biden you'll be protected, and the American people that I represent are sick and tired of this double standard.

It seems like every single hearing that we have in this room we talk about the two-tiered justice system of Biden's DOJ and the FBI and, as we were talking earlier, here we are again.

President Trump endured an unprecedented raid at his home in Mar-a-Lago. President Biden's home, however, was respectfully browsed.

President Trump is facing up to 400 years in Federal prison for allegedly being in possession of classified documents he obtained as the Commander in Chief of these United States of America and meanwhile President Biden is facing no charges for the classified documents he had held at his time as a Senator and a Vice President, not the President of these United States of America, and last I checked he had no legal authority to declassify those documents.

Assuming President Trump was in possession of some classified documents would those documents be more secure surrounded by Secret Service at Mar-a-Lago or in a box in a garage behind your Corvette? You don't have to answer that question.

A question for you, sir. What can you tell us about the status of the FBI's investigation of President Biden's classified documents found next to his Corvette in Delaware and those found at the Penn Biden Center? Do we have an update on that, sir?

Mr. WRAY. What I can tell you is that there is an ongoing Special Counsel investigation led by Mr. Robert Hur and we have FBI agents affiliated with it, working on it, working very actively and aggressively with him on that case.

I, obviously, disagree with your description of the two standards. In my view, at least under my watch we have one standard—

Mr. HUNT. OK.

Mr. WRAY. —and that is we're going to pursue the facts wherever they lead no matter who likes it, and I add that last part because especially in sensitive investigations almost by definition somebody's not going to like it.

Mr. HUNT. So, I understand that and that's actually why I led with the sentiment of the American people. I understand that sentiment.

Mr. WRAY. So, let me—

Mr. HUNT. I do want to finish this. So, I want everybody to talk about this dichotomy that we have seen. I get your point, sir, but that's just not what we see as the public as We the People.

We see one case being fast tracked and one case being slow walked. We see one person's home being raided; the other person's home being kindly searched. You have one government agency—the Secret Service—protecting the former President and his home and another government agency—the FBI—raiding the same home.

Now, to me, sir, that's tragically ironic and we expect more from a functional Constitutional republic and these things shouldn't be happening.

Now, it's my opinion that Joe Biden is the most unpopular President we have seen in a century and that's why he knows the only way to stop President Trump from beating him in November is by putting him in jail.

You talked about this, Mr. Fry. In the 247 years of this existence of this great Nation only one President has ever been indicted by the DOJ and his home raided by the FBI.

Now, some have said that President Trump's indictment means that no one is above the law. OK. All right. I would love to see that.

What about Hillary Clinton and what about Joe Biden and what about Hunter Biden, who was America's favorite son?

Let me tell you something. I got a four-year-old daughter and a two-year-old daughter at my house. Hunter Biden, to me, is like glitter. He is on everything, and you cannot get rid of him, and yet nothing is going to be done about this and we're sick of it.

James Comey decided not to prosecute Hillary Clinton despite overwhelming evidence that she committed crimes, and as I recall it was the position of the FBI to not prosecute because they didn't want to interfere with a Presidential Election.

What do you call this? The Iowa caucuses are in six months. Six months. I think the American public would expect to see this from Cuba, Venezuela, Russia, and China, but not here.

The people expect us to have blind justice. They expect equal justice under the law. It is not the job of the DOJ or the FBI to prosecute Joe Biden's top political opponent who was leading in every single primary poll and the Iowa caucuses are in six months.

Let the people decide. It's our job to uphold the Constitution. As a West Point grad, a military veteran, this is the Constitution I'm giving my life to protect, and I expect us all to uphold it likewise.

Thank you so much for being here.

Mr. WRAY. Mr. Chair, may I briefly respond?

Chair JORDAN. Sure.

Mr. WRAY. So, first, as to the investigations related to Ms. Clinton, as you noted that happened under my predecessor, and I'm not going to either speak for or defend that decision.

Mr. HUNT. I recognize that. I recognize that.

Mr. WRAY. Second, as to your descriptions of the investigations related to Hunter Biden, as you know there is an ongoing investigation being led by the Delaware U.S. Attorney appointed by President Trump and we are actively working on that investigation with him.

Mr. HUNT. Well, we look forward to seeing the result of this quickly and swiftly.

Mr. WRAY. Third and finally, to your point about the American people and their views, I worry less about *NBC* polls or polls by any other news outlet. I will tell you that the number of people in Texas applying to work for us since I've been in this job has gone up 93 percent and, in fact—

Mr. HUNT. I'm not going to quote Mr. Gaetz. I heard the responses earlier.

Mr. WRAY. In fact, we have—

Mr. HUNT. That's great.

Mr. WRAY. —more applicants from the State of Texas annually in the last several years than any other State in the country.

Mr. HUNT. That makes sense because Texas is the greatest State in the country.

Mr. WRAY. Then I think that speaks very well of the view of Texans about the FBI.

Chair JORDAN. Director, are any agents who served on the Crossfire Hurricane investigation or the Mueller investigation—are any of those agents on Mr. Hur or Mr. Smith's special counsel team?

Mr. WRAY. I don't believe so, but I can't from the top of my head go through the list of—there's a lot of agents involved in the two

investigations and so let me check into that and see if there's any way we can get back to you on that because I don't want to get out over my skis.

Chair JORDAN. Thank you. The gentleman from Wisconsin is recognized for five minutes.

Mr. FITZGERALD. Director Wray, thanks for being here today.

On June 21st, the Committee heard testimony from Special Counsel John Durham. Have you reviewed his findings, and did you dispute any of those?

Mr. WRAY. I have reviewed them. It is a big multi 100-page binder sitting to my right on my desk and I refer to it frequently.

I can't say that I'm aware of anything specific that I would dispute in it. I would certainly—as you may know, not only did we fully cooperate with him in the investigation, as he noted in his report, but I actually assigned a bunch of agents and FBI personnel to work on it with him to help him and I'm very proud of the fact that the reforms that we have put in place in response to the inspector general's investigation, also in the Crossfire Hurricane as well as some other changes that we made working closely with Attorney General Barr.

If those reforms had been in place back at the time that all this stuff that Special Counsel Durham found, I don't think any of this would have happened.

Mr. FITZGERALD. So, the confirmation bias which was brought up time and time again when Durham was here before the Committee you feel those have been addressed? I think Jason Jones says that he put together a letter and that includes a lot of that information. Do you feel it's adequate or—

Mr. WRAY. Well, I'm ambitious by nature for us as an organization so we're constantly looking for more things we can do. I'll give you an example on this issue of bias because I think it's so important.

One of the things that I did as FBI Director, and I did this a couple of years ago and this, frankly, was in reaction in many ways more to both the Hillary Clinton investigation as well as the Crossfire Hurricane investigation—was that I put in place training for the entire workforce that focused specifically not just on the importance of avoiding bias, but the importance of avoiding even the appearance of bias.

One of the things that I did to make sure that I was sending that message was that rather than like what normally happens in a bureaucracy where all the training gets saddled on all the folks on the front lines right out of the gate, I started with the top 200–300 or so people in the organization, brought them all to Quantico for an entire day's stand down.

We heard from the Federal judiciary, the Inspector General, the Hatch Act Office of Special Counsel, and the whole point of it was the importance of not just objectivity but making sure that we are faithful to the appearance of objectivity as well.

Then we had a smaller version of this that went out to the whole workforce. The idea was to send the message that everybody at the top has to take the medicine first.

Mr. FITZGERALD. So, there's two other things that were in there. Serious lack of analytical rigor was one of the other things that

Durham brought up numerous times, and then I'll just—there was a noticeable departure from how it approached—how the FBI approached matters involving possible attempted foreign election interference plans amid, as you just brought up, at the Clinton Campaign.

So, the question would be: Has the FBI protocols surrounding investigations—I want to know specifically in the Presidential Campaigns what's the policy now? We're on the verge of another nationwide election and I'm wondering is there anything specific in writing that you could inform the Committee of this afternoon?

Mr. WRAY. Well, we have put in place a whole slew of reforms that help to try to mitigate against the kind of concerns you're raising. Whether there's a specific one that I would think is kind of—I don't think there's any one that's a single silver bullet.

I know that Attorney General Barr and I put in place certain reforms that dealt with particularly sensitive investigations and approvals that would have to be required before anything like that could happen. I know that was very important to him and we worked together on that.

We have a whole slew of additional approvals, sign offs, triple check safeguards, et cetera, that go into a lot of these kinds of issues. When you raise the issue of analytical rigor, obviously, that's—I talk about rigor.

I bet my folks would tell you they hear the word rigor coming out of my mouth probably every single day and that is something that we're always aspiring to get better at.

Mr. FITZGERALD. So, if you had somebody within the FBI that you found out was involved in trying to manipulate or rig an election, especially at the national level, how would that be handled by the FBI? How would you handle it as the Director?

Mr. WRAY. Well, it obviously would depend on the specific facts as to exactly what it is the person was doing. Accepting your premise, that's the kind of thing that would have the person referred to our disciplinary process.

Mr. FITZGERALD. To be fired or terminated?

Mr. WRAY. The process would play itself out. We have a whole offense code that goes into what different rules we have and different punishments and there's a whole complicated system that goes into the disciplinary process. Our disciplinary process is, for the most part, I think, one of the better ones in Federal law enforcement. There is a process that we have to follow.

Mr. FITZGERALD. Has anybody that was involved in that type of action in the past been disciplined for that at the FBI?

Mr. WRAY. Well, let me answer that this way. Obviously, former employees—the important point here is that all the senior managers in any way involved in the Crossfire Hurricane investigation are all gone from the FBI for a variety of reasons in a variety of ways.

To the extent that there's anybody left you're talking about a small handful of currently line level employees, all of whom have been referred to this disciplinary process. That process, as you may have heard me say in response to an earlier exchange, as is typical working with Special Counsel Durham we had put that kind of on

a hold until he could finish his case because the criminal case had to come first, and that process is now fully underway.

Again, you're talking about a few relatively line level people where we erred on the side of inclusion so anybody who touched it we sent them to the process, and we'll see where that plays itself out.

The key point is that all the main players, if you will—the senior people—are all gone. I put in place an entirely new leadership team.

Mr. FITZGERALD. Very good. I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from Oregon is recognized.

Mr. BENTZ. Thank you, Mr. Chair, and thank you, Director, for your patience.

So, you're very, very good at your job as illustrated by the last four hours and I just want to say that you're way better at defending than you are at explaining what you're going to do about the problems that led to your dismal public profile.

I wish it was better, but I have the most recent poll here from—I think it's from Harris. Yes, it is—the Harvard CAPS Harris poll. Seventy percent of respondents said that they were either very or somewhat concerned about interference by the FBI and other intelligence agencies in elections. Seventy-one percent agreed that changes post-2016 had not done enough to prevent further interference and that wide ranging reform is still required.

Now, I also—pretty interesting article, the Inquirer I see damning the Durham Report and I'll just read from you this quote from Mr. Durham.

> The promulgation of additional rules and regulations to be learned in yet more training sessions would likely prove to be a fruitless exercise.

So, you must have done something more than promulgating additional rules and regulations because, to me, that doesn't do much at all when we're going to an issue that probably is cultural.

To that end, I just want to share with you some of the things I hear from my sheriffs across my 20 counties. So, I have 20 county sheriffs. In fact, one of my brothers used to be one for 15 years.

So, I called him—my brother—and I said, hey, what was your experience with the FBI? He said, they're very qualified but when they appear you know you have to be aware that part of their job is to enforce Section 1983, and he pointed that out just because there's a constant tension between FBI and local law enforcement. Would you agree?

By the way, when you go out and you talk to sheriffs nobody's going to say to the Director of the FBI, we don't like you. Why would they do such a crazy thing? They want your help.

By the way, I asked for your help down in southern Oregon against all the drug cartels and to your credit and your office out of Portland's credit you did your best to help. You don't have very many people there, but you did your best to help.

For you to come in here and say, I've never heard from a sheriff that we're doing a bad job, well, no, you haven't. Now tell me, am I wrong? Am I saying that sheriffs would just walk right up to you and say you're doing a bad job? How many have said that to you?

Mr. BENTZ. You have done your job today to defend your agency, and good for you. It is not what we are here today. I want to go to Durham's, page 228 of his report, and this is going to the heart of what your problem, part of your problem may be. He is making his observations; he is very careful to protect you. He says, in making observations, we are mindful of the benefit of hindsight. Then he says this:

> Some employees, FBI employees who were interviewed by our investigators' advice, they had significant reservations about aspects of Crossfire Hurricane and tried to convey their misgivings. Others had doubts about the investigation did not voice their concerns.

In some cases, nothing has been said because of a sense there had to be more compelling information in positions closest to the—and still other and current former employees who maintained they did their best to take reasonable investigative steps and acted within your procedure and guideline.

What I am getting at here is I don't think people within your organization are comfortable calling out negative things. I don't think they are, and I wouldn't be either. I would be worried because I look at what happens to whistleblowers and others. I would go, oh, man, this is not a safe place to be, I am going to keep my mouth shut. I think that is not a good thing for your agency.

You know where it starts? It starts with actually admitting that you have got a problem, and I don't think you are very good at that either. I am going to your testimony, page 13. You might want to look at it. I am sure you wrote it, so you probably don't have to. On page 13, the last paragraph, you write: "To be sure, nobody more deeply shares members' concerns regarding past FBI"—and here is the words—"compliance violations." Compliance. Is that all they did? Aren't there a whole bunch of better terms? I went to ChatGPT to find out, and I found these words that might have been better. I am really asking you is that all they did? Didn't they break a law? Didn't they do something more than failure to comply? I am asking you. If the culture is the issue, doesn't the leader have to at least call out bad acts a little more aggressively is my question.

Mr. WRAY. First, depending on what the violation is, that may or may not be the right description. Some of the things that have happened in the past are things that I have deplored in the strongest possible terms. Some of the things that have happened in the past I think are described as compliance violations. So, there is no one description that fits everything that has gone wrong at the FBI over the last five or 10 years.

My language, in general, tends to be fairly measured. I think that is a fair statement about me. Some people refer to me as low key, but no one should ever mistake my demeanor for what my spine is made out of. I have made very clear to our people over and over and over again that I expect them to do their work in the right way with rigor and objectivity.

As to FBI employees' willingness to speak freely and to complain, much like our exchange about sheriffs, I will tell you your description of our employees doesn't fit with my experience. When I get out to all 56 field offices, one of the things that I do, especially on this last round, my second round, was to meet with employees

without their executive management present, just me and them, including people who are retirement eligible. We have a term, an affectionate slang term for people who are retirement eligible. It is called KMA. You can guess what KMA stands for, and it reflects their ability, because their retirement eligible, to be able to speak freely. They complain to me about all kinds of things, and we have a very lively conversation.

So, I am quite confident that my employees feel comfortable talking to me about problems and things that we need to fix. My demeanor is part of what you are—

Mr. BENTZ. Forgive me for interrupting, but my time is over. I want to thank you for your candor, and I yield back.

Chair JORDAN. The gentleman yields back. The gentleman from New Jersey, Mr. Van Drew, is recognized.

Mr. VAN DREW. Thank you, Mr. Chair. Director Wray, thank you for being here. Believe it or not, I am basically just a simple country dentist, but I do know my dentistry. One thing I know about are abscesses. If you have an abscess, you can have a mild or moderate one and you treat it with antibiotics and warm salt rinses and, in a week to 10 days, it will be better.

If you have a severe one, I am going to take a scalpel to that abscess. You have got to cut it open, and you have got to let the pus, blood, and the gas drain out. If you don't, that abscess will travel. It will travel to the patient's brain possibly or their heart, and it definitely can kill them. That is the type of infection that I feel is within the FBI today. It has gotten so deep that we need to get in there with a metaphorical scalpel before it kills our Nation. We need real structural change, and this Committee is that metaphorical scalpel.

A clear sign of the rot is a memo where your agents, and I know you say you feel bad about this, too, but nevertheless, and I don't think you like to talk about it, but your agents in a field office attempted to spy on Catholic churches and their congregations and frame them as extremists. This is unbelievable. How do we get there? Who exactly are the Catholics you are going to go after here or they were going to go after? The charitable men of the Knights of Columbus that help their communities, that help charities, that help people in every way they can, or maybe we meant the folks that are fighting for the sanctity of life, or are you talking about those who hold true to their beliefs rooted in the traditional values and teachings of the Catholic faith?

As a Roman Catholic myself, and I believe you are, as well, I was deeply, deeply disturbed by this memo. It is shameful it was only rescinded after, basically, it got leaked to the public. That should scare each and every American from parents at school board meetings to grandmas clutching their rosary beads. The misguided priorities of our intelligence community put every American at risk, and it is wrong. It is un-American, and it undermines two of our most important tenets: Freedom of speech and freedom of religion. It is what our Nation is built on.

Director Wray, you work for the American people. They pay your salary. They pay all our salaries. They don't work for us; you work for them. You are supposed to protect them from the bad guys, and now many feel they need protection from the FBI.

I have a few questions here. Despite multiple requests, why hasn't the FBI produced an unredacted copy of this memo that really outlines this? It isn't public security, it isn't national security, and it isn't public safety. This is an internal thing that you did that was wrong, and we, as a Committee, this Committee, have a right to look at it. When are we going to get it? Why haven't we gotten it already? Unredacted.

Mr. WRAY. We redact information for a variety of reasons that cover various rules that apply to us—

Mr. VAN DREW. Sir, I want to know why this one—I don't know about the rules. I told you, man, I am not a lawyer, all right. You know what I want to know? I want to know why we don't know what happened here, that people in their churches had to worry, and it isn't something that is going to affect national security. So, whatever damn rule it is that you have, we should change that rule because when something like this happens and it isn't a matter of national security, then we should know. So, I would like to know when we are going to get it. I would like a date certain.

Mr. WRAY. What I can tell you is that we are almost done with our internal review and, as I said to the Chair, we are going to be providing a briefing to the Committee on what the internal review—

Mr. VAN DREW. When?

Mr. WRAY. It should be later this summer.

Mr. VAN DREW. Why do we need your internal review? Good you are doing an internal review. You should do a lot internally. Why don't we get the information when we ask for it, when we subpoena for it? We clearly are not creating any risk to our Nation or national security. You could give us that tomorrow. Why don't we get that part tomorrow, and then you can give us your briefing on the internal review?

Mr. WRAY. As I said, we are going to give you a briefing on the internal review, and then we can discuss additional information that may—

Mr. VAN DREW. Because you are going to try to shape it differently and make it out that it was kind of OK.

Mr. WRAY. No. On that, no. I will tell you that I am not going to defend or excuse that memo—

Mr. VAN DREW. I understand you said that. Simply yes or no. These are really easy questions. Has the FBI created or maintained any list of Roman Catholic churches, yes or no?

Mr. WRAY. Any list of Roman Catholic churches?

Mr. VAN DREW. Correct.

Mr. WRAY. Well, we're certainly not targeting any Roman Catholic churches.

Mr. VAN DREW. Well, they were, they were. The field office was since we found out.

Mr. WRAY. No—

Mr. VAN DREW. As a yes or no, do you have a list? If you don't have a list, it is easy to say no.

Mr. WRAY. We have 30,000 employees. We engage with churches of all kinds—

Mr. VAN DREW. So, you may have a list of churches that you are looking at for—

Mr. WRAY. No, no, no, no, no, no, not for possible investigation.

Mr. VAN DREW. How about Russian Orthodox churches?

Mr. WRAY. Same answer.

Mr. VAN DREW. Greek Orthodox churches? Tell me yes or no. Evangelical churches? Tell me yes or no.

Mr. WRAY. We do not maintain—

Mr. VAN DREW. Yes or no.

Mr. WRAY. Excuse me?

Mr. VAN DREW. Please answer yes or no.

Mr. WRAY. It is not a yes or no question.

Mr. VAN DREW. It is a yes or no. If you have got a list of churches that you are targeting and looking at, the answer is yes. If you don't, the answer is no.

Mr. WRAY. If your question is do we have a list of churches that we are targeting, then the answer is, no, we do not have—

Mr. VAN DREW. How about Jewish synagogues, yes or no? Same question.

Mr. WRAY. We do not maintain any kind of list of religious institutions that we are targeting because we are not targeting religious institutions.

Mr. VAN DREW. Let me tell you, it is a sorry State of affairs that these questions are questions I have to ask, and it is a damn shame to see what has become of our once universally respected FBI. We need structural change. Mr. Chair, I yield back.

Chair JORDAN. The gentleman yields back. Director, the five individuals who signed off on that memo, have any of them lost their security clearance during this internal investigation?

Mr. WRAY. I don't believe anybody has lost their security clearance, but, again, we have an internal review pending, and I will let that finish and come to its conclusion.

Chair JORDAN. How did you become aware of the Catholic memo that the gentleman just referenced?

Mr. WRAY. How did I become aware of it?

Mr. JOHNSON of Georgia. Point of order, Mr. Chair.

Chair JORDAN. The gentleman may say his point of order.

Mr. JOHNSON of Georgia. Whose time is the Chair consuming with his—

Chair JORDAN. I thought that the Committee—it is not a point of order. The Chair now recognizes the gentleman from Texas for five minutes.

Mr. NEHLS. Thank you, sir. I will say this, Mr. Wray, I am one of those sheriffs that will be very blunt with you today. I have had an opportunity to look at your testimony, lots of stuff, and hear about numerous task forces, crimes being committed against children, including even infants and toddlers; MS–13 gang members coming across the open Southern border; the poisoning and killing of the American people with fentanyl; the sex trafficking; and the human trafficking. It is quite clear, it is clear that you guys are dealing with some of the sickest bastards in our society.

I have an article here from *CNN* in January 2022 calling the January 6th investigation the biggest investigation in FBI history, and what shocks me about this, quite honestly, is that you don't mention January 6th, again, the biggest investigation, not one time

in your 14-page testimony. You don't mention it one time, and that makes me ask myself the question what the hell are you hiding?

Sir, you mentioned 38,000 agents and support personnel in your agency. How many FBI agents and support personnel have you assigned to the January 6th investigation?

Mr. WRAY. I don't know that I know the number. I know we have a lot of people working on it and—

Mr. NEHLS. OK. Lots. Fair enough. Lots. Knowing that you are dealing with some of the sickest people in our society with investigations related to child sex trafficking, have you reassigned any of these agents or personnel to investigate January 6th, yes or no?

Mr. WRAY. I don't believe we have reassigned people away from child exploitation—

Mr. NEHLS. OK. Now, let me just say this, Director—

Mr. WRAY. —to January 6th, to my knowledge.

Mr. NEHLS. —I find that answer disturbing because last month Steve Friend, he testified before the Weaponization Committee. Mr. Friend, was a domestic terrorism investigator for you, and he was told by one of his superiors that January 6th was, I quote, "a higher priority than pursuing child pornography cases." For those of you watching in America, understand today's FBI is more concerned about searching for and arresting Gram and Grandpa for entering the Capitol Building that day than pursuing the sick individuals in our society who prey on our children. Mr. Wray, your priorities are flawed.

Let's rehash what we know so far, all right. It is the largest investigation in FBI history, and you don't mention it in your testimony. Agents have been reassigned from child exploitation cases and so on.

So, now let's get into the money, Mr. Wray. How much taxpayer money has been spent on January 6th?

Mr. WRAY. I don't know that I have the figure off the top of my head but—

Mr. NEHLS. OK, fine. Mr. Wray, I have got an article here, December 22, 2022, two years after the events of January 6th, and it says the Justice Department has requested another $34 million from Congress. First, you shouldn't get another dime. The FBI shouldn't get another dime for this political witch hunt against the greatest President in my lifetime, Donald J. Trump.

I want to turn my attention now to this fellow, this character, Mr. Ray Epps. We have all heard of them. We have heard of Mr. Ray Epps. He was number 16 on your FBI most wanted list. He was encouraging people the night prior and the day of to go into the Capitol, and Mr. Ray Epps can be seen at the first breach of Capitol grounds at approximately 12:50 p.m. Play the clip, please.

[Video played.]

Mr. NEHLS. There he is, breaching the line, going in at the first breach into the Capitol grounds and restricted area. Mr. Wray, you have arrested hundreds of people related to January 6th, and there have been people arrested for breaching Capitol grounds. Couy Griffin is an example and Raechel Genco is an example. Then we go to Mr. Brandon Strikta. Brandon was arrested for disorderly and destructive conduct, which included yelling, I quote, "go, go,

go," as rioters tried to enter the Capitol. These three never went into the Capitol. They never assaulted anyone.

So, let's be honest with each other. There is very little difference between the actions of Ray Epps and Brandon Strikta that day, but, yet, Strikta was arrested and Epps wasn't. Epps also testified to the January 6th Committee he was back at his hotel when video evidence showed that he wasn't. He lied. He was on the Capitol grounds, just as Brandon Strikta was. Epps even texted his nephew at 2:12 p.m. and said, I quote, "I was in the front with a few others, it was on the video; I also orchestrated it."

Now, look into the camera, sir, when you answer my next question. Are you going to arrest Mr. Epps, yes or no?

Mr. WRAY. I am not going to engage here in a discussion about individual people who are or are not going to be prosecuted.

Mr. NEHLS. OK. Here we go. Can I get a commitment? You just watched the video. I am an old law dog. I understand a little bit about probable cause. He did very little, there was very little difference what he did and Mr. Strikta. You can see him. He is encouraging. I almost think he is inciting a riot. He is encouraging people the night prior to go into the Capitol, the day of, go into the Capitol, and he was at the first breach and he breached the restricted area. Everybody, a lot of people, getting arrested for not going into the Capitol, but they are in the restricted area; but, yet, Ray Epps, who many people feel fed, fed, fed, right, and there is a lot of cloud over this.

So, my point is this, you arrested a lot of folks for unlawful activity. You just saw the video. I will tell you, if you don't arrest Mr. Epps, there is a reason behind it. I believe you know what it is, and it appears to me you are protecting this guy.

I strongly recommend you get your house back in order. With that, I yield back.

Mr. WRAY. Mr. Chair, if I might briefly.

Chair JORDAN. The gentleman may respond, and then we have got a couple of point of orders. Go ahead, Mr. Wray.

Mr. WRAY. It has never been appropriate for an FBI Director in Congressional testimony to be weighing in on who is or isn't going to be arrested and who is or isn't going to get charged, which is a prosecutor's decision. If you are suggesting that the violence at the Capitol on January 6th was part of some operation orchestrated by FBI sources or FBI agents, the answer is, no, it was not. To suggest otherwise is a disservice to our hardworking, dedicated law enforcement professionals.

Mr. NEHLS. Can I respond to that now that—the point is he was number 16 on your list. He was 16 on your list, and you never arrested him. Hundreds of Americans were arrested. Shame on you.

Chair JORDAN. The time of the gentleman has expired. The Chair recognizes the gentleman from Florida for unanimous consent.

Mr. GAETZ. Mr. Chair, I seek unanimous consent for all Members have five legislative days to submit any additional materials, as well as any questions for the record for the Director, and I would hope that those questions for the record we would submit would receive more timely responses than some of our letters have. I would further seek unanimous consent that the WhatsApp message from

Hunter Biden I used earlier in the hearing be submitted for the record.

Chair JORDAN. Without objection.

[The information referred to follows:]

Chair JORDAN. The gentleman from Georgia is recognized.

Mr. JOHNSON of Georgia. Thank you, Mr. Chair. I have a unanimous consent request that an article from the *Daily Mail* dated today with the headline "January 6th Protestor Ray Epps reveals he is forced to live in an RV in hiding after death threats over FBI informant conspiracy. Epps confirmed he has never worked for them, as he slams right-wing theorists using him as a scapegoat" I would like to offer this into the record.

Chair JORDAN. Without objection.

[The information referred to follows:]

Chair JORDAN. The Chair recognizes the gentleman from Texas.

Mr. MORAN. Thank you, Mr. Chair. Director Wray, thank you for your time today. You said earlier in response to Representative Issa's questions that the job of the FBI is to: (1) Undertake criminal investigations and (2) protect the U.S. from national security threats. Would you agree with me that, in doing those activities, the FBI has to do a lot of that in what are effectively confidential conditions; is that correct?

Mr. WRAY. Yes.

Mr. MORAN. When you are undertaking those activities and those confidential conditions, you are going to require tools that have been appropriated by Congress in the past, tools that say to you we are going to trust you to use those tools correctly and, in return, the FBI then is expected to not abuse the trust of those tools that are provided to the FBI to undertake its activities. Is that a correct statement, as well?

Mr. WRAY. Yes, I would agree with that.

Mr. MORAN. So, trust is a very important thing, both the giving of trust when you give those tools and then making sure that you do not abuse that trust once those tools have been given to you.

Were you aware that, according to a recent poll by Harvard CAPS/Harris, 70 percent of respondents in the United States said that they were either very or somewhat concerned about interference by the FBI and other intelligence agencies in the elections. Were you aware of that?

Mr. WRAY. I am not aware of the particular survey, poll, study, or whatever it is.

Mr. MORAN. In that same poll, 71 percent of Americans, which is certainly a bipartisan group, agreed that internal FBI changes post-2016 had not done enough to prevent further interference in elections and that, quote, "wide-ranging reform was still required." Again, you are not aware of those numbers?

Mr. WRAY. No.

Mr. MORAN. Does any of that shock you?

Mr. WRAY. I don't spend a lot of time as the FBI Director worrying about pools. What I do look at is whether people want to work with us, whether people want to work for us. On both of those metrics, we are actually going up quite significantly. In fact, in your home State of Texas, we have got a 93-percent increase in the

number of Texans applying to work for the FBI since I have been in this job.

Mr. MORAN. Well—

Mr. WRAY. In fact, it is the highest, Texas has more people applying to work for the FBI than any other State in the Union.

Mr. MORAN. Even if you do not watch polls, certainly you appreciate the fact that you want the trust of the American people. Would you agree with that?

Mr. WRAY. Absolutely.

Mr. MORAN. All right. Does it bother you that so many Americans do not trust the FBI presently?

Mr. WRAY. Well, again, I don't spend a lot of time worrying about polls. I do care about what I hear from the American people otherwise.

Mr. MORAN. I am asking about the trust.

Mr. WRAY. It bothers me any time any American has lost trust in the FBI. Of course, that concerns me.

Mr. MORAN. Earlier, you were talking to Representative Hageman, and you said where we can take action where possible to remove them from the chain of command, and then you got, you ended your time, you got cutoff because we had to get to the votes. You were going to say something further on that. Do you have any plans to remove anybody from the chain of command or go through a process to determine who should be removed from the chain of command?

Mr. WRAY. Well, I have already removed any number of people at different stages of my tenure from the chain of command. I have also referred people to our disciplinary arm, which has resulted, in some cases, in termination.

Mr. MORAN. Do you have any plans to do any more of that?

Mr. WRAY. If somebody has violated a rule, absolutely.

Mr. MORAN. When we talk about a good faith basis for trust of Americans, both Republicans and Democrats, does it bother you that these legal queries have continued, even with efforts of the FBI to try to reduce them, that we now have somewhere between a couple hundred thousand and at least a million of illegal FISA queries?

Mr. WRAY. Well, there are two things going on there. First, I think your numbers of what are actually illegal are off. Second, more importantly to me, all the changes that we have put in place to address compliance failures that I consider unacceptable have pointed to the effectiveness of the reforms that we have put in place. So, I am talking about—

Mr. MORAN. What number of illegal FISA queries would you put on the table as those that you know of?

Mr. WRAY. Well, here is what I can tell you: The most recent FISA Court opinion found, I think it is a, like, 98-percent compliance rate. The most recent DOJ audit found a 99- or 98-percent compliance rate.

Mr. MORAN. Is that acceptable to you? Is that one percent or two percent—

Mr. WRAY. No, we strive for 100 percent. All of those things, all of those things, but it is the FISC, the FISA Court, whether it is ODNI, the Office of the Director of National Intelligence, whether

it is DOJ, whether it is our own Office of Internal Audit, which I created by the way, all four of those things have shown that the reforms that we have been putting in place have already had dramatic positive impact. Am I satisfied with that? No.

Mr. MORAN. Has anybody been fired or removed as a result of their inappropriate use of FISA?

Mr. WRAY. Well, the last time somebody has had truly abusive behavior with respect to FISA goes back a way, but those people have been gone from the organization.

Mr. MORAN. Are you making a distinction between truly abusive and just abusive? What is the distinction there?

Mr. WRAY. Well, the distinction I would draw is between intentional or reckless conduct versus somebody who makes a good faith mistake. To me, a good faith mistake is still a compliance violation and still somebody needs to be counseled, trained, coached, and taught to do it right, but that is different from somebody who intentionally or recklessly breaks the rules.

Mr. MORAN. Director Wray, I am going to go back where I started, and that is with trust. We trust you. When we give the FBI tools, we trust that those tools would not be abused. In the last six years, certainly we have seen a number of abuses of the tools given, and I think, as a result of that, you are going to see a curtailment of some of the tools that are provided to the FBI. That is not a choice that we are in a position that we want to make but we have to make as a result of the abuses of the trust of the American people. Thank you for your time today.

Chair JORDAN. The gentleman yields back. Director, I have just a couple of extra questions, but, in fairness to the minority, I will recognize Mr. Johnson. So, he will go for a few questions, I will have a few, and then we appreciate you being here for this length of time, and then we will be able to adjourn the hearing.

The gentleman from Georgia is recognized.

Mr. JOHNSON of Georgia. Thank you. Director Wray, you have acquitted yourself admirably today under severe and constant fire. So, your day is about to come to a close with your head still held high and your soul, I am sure, further empowered to continue doing the right thing on behalf of the American people through your service as Director of the FBI, and I thank you for that.

You were asked multiple times about the *Missouri* v. *Biden* injunction. This is a preliminary injunction issued on a holiday, July 4th, Independence Day. It makes various allegations that, thus far, have been totally unproven but relied on as true here by Members of this Committee. What is your response to the allegations that the FBI has been engaged in censoring social media platforms or anyone else?

Mr. WRAY. Well, while I respect the Court's decision, I think there are a number of factual findings that we don't agree with and, certainly, the FBI is not engaged, in my view, in censorship or content suppression.

Mr. JOHNSON of Georgia. My Republican colleagues also seem to think that the FBI is being weaponized against the American people. What is your response to that allegation? That will be my final question for today to you.

Mr. WRAY. The FBI that I see every day and, again, when I see the FBI, nobody gets to see it the way I do it. I have been all to 56 of our field offices at least twice. I have spoken with partners; law enforcement partners in all 50 States multiple times; with Federal judges all over the country; with business leaders; community leaders; prosecutors; victims, more importantly, and their families. The FBI that I see every day is working their tails off to protect the American people from a really staggering array of threats. They are an inspiring, incredibly dedicated group of people.

The FBI that I see is best captured by the Chicago agent who had his arm shot up by an AR–15 chasing a fugitive and retrained himself left-handed and then re-qualified for SWAT left-handed, by the Atlanta agent who unexpectedly came across a fugitive, a gang fugitive, chased the guy into a car, got caught in the car drove. The guy drove off with the Atlanta agent stuck in the door and the guy headed out onto the freeway. The poor agent broke his pelvis and Lord knows how many other things, and, yet he still managed to apprehend the subject. The FBI that I see is captured by the Portland agent who, out for a run, comes across a mentally ill woman down on the train tracks and climbs down in the train tracks to try to wrestle her out of the way of the oncoming train while she is trying to bite him and everything else, and gets her to safety; or the bomb tech who comes across a booby trap, blows up on him, and the next business day he is back at work. That is the FBI that I see. I can give you countless examples. That is the real FBI.

Mr. JOHNSON of Georgia. Well, I thank you again for your service, and I appreciate the fact that you have allowed somewhat loquaciousness to emerge during this hearing with that final response. Thank you.

Chair JORDAN. I think the gentleman yields back. Director, we appreciate those, the whole country does. In fact, I said this in an interview this morning, a TV interview this morning, two of those agents who served for years in the FBI and did great work now work for the Committee on the Republican staff. We appreciate the work they did then, the work they are doing now. They share the same concerns raised by Members of the Committee. That is why they came to work for us.

So, I just got a couple of other questions. Any of the FBI personnel who did improper queries of the 702 data base, have any of those individuals lost their clearance?

Mr. WRAY. Well, it depends on how far back you want to go in time. We have had individuals, if you go back to, say, like 2018 was the last I remember we had somebody who engaged in intentional conduct, and the person, for example, is gone. I think there were security clearances revoked for people back in that time period, but I don't know that we have had somebody who has engaged in intentional or reckless conduct more recently than that.

We have, as you may know, Mr. Chair, and this actually didn't come up today, but it is important for people to know, we recently put in place a whole new set of accountability policies specifically focused on 702. They go through cascading consequences, and so that is an important—

Chair JORDAN. It has been reported that donors of a Congressional Member of Congress were illegally searched. Has that individual lost their clearance?

Mr. WRAY. I am not sure I am familiar with the specific example.

Chair JORDAN. Well, it has been widely reported that the donor base for a Member of Congress has been searched, and I just wonder if the person responsible for that has had any consequences, like a loss of a security clearance.

Mr. WRAY. I don't know the answer—

Chair JORDAN. OK. Is the FBI assisting the Secret Service in the investigation as to how cocaine wound up at the White House?

Mr. WRAY. Yes. I want to be a little bit careful about what I can say here because the Secret Service is leading the investigation. As is standard in an investigation where white powder is found, the FBI's lab personnel did an evaluation to determine whether or not there was a biological—

Chair JORDAN. Is that the only assistance?

Mr. WRAY. That is the only assistance we have done so far. We have offered the full range of our assistance to the Secret Service if they want to use us for that purpose, but, beyond that, I will refer you to the Secret Service.

Chair JORDAN. That offer has been denied; is that what you're saying?

Mr. WRAY. No, I didn't say that. We have offered it to the Secret Service, but, beyond that, I would refer to them.

Chair JORDAN. In October 2020, when Facebook asked the FBI is the Biden laptop story Russian disinformation, the FBI's answer was no comment. Who gave that answer?

Mr. JOHNSON of Georgia. Before you answer, sir, if I might just interject the fact that we agreed that I would have two questions and you would have two questions.

Chair JORDAN. I think I said a couple of questions.

Mr. JOHNSON of Georgia. Yes, and you have asked a couple—

Chair JORDAN. In fact, I don't think, I know I said a couple of questions. I gave you five minutes. Do you want another question?

Mr. JOHNSON of Georgia. No, I want us to conclude this hearing and—

Chair JORDAN. We will be done in two minutes and 10 seconds.

Mr. JOHNSON of Georgia. Thank you.

Chair JORDAN. We appreciate that, and we obviously appreciate the Director being here. In October 2020, when Facebook asked the FBI is the Biden laptop story Russian disinformation, the FBI's response was no comment. Do you know who gave that response?

Mr. WRAY. I do not.

Chair JORDAN. The court knew and the Court said it was Laura Dehmlow. Do you know who Laura Dehmlow is?

Mr. WRAY. I do know who Laura Dehmlow is.

Chair JORDAN. What does she do?

Mr. WRAY. Laura Dehmlow is an agent in our counterintelligence division, and she currently works with the Foreign Influence Task Force.

Chair JORDAN. Doesn't she head the Foreign Influence Task Force?

Mr. WRAY. I think she leads it, yes.

Chair JORDAN. She leads the Foreign Influence Task Force. Did you tell her to give that comment?

Mr. WRAY. Did I what now?

Chair JORDAN. Did you instruct anyone, when Facebook asked, did you instruct them to give the no comment?

Mr. WRAY. I don't remember giving any instruction along those lines, although I should say I am not sure whether Laura Dehmlow was in that role at the timeframe that you described, but I—

Chair JORDAN. Again, the Court in Louisiana said she was and said when Facebook asked her specifically, she said no comment. This is the Foreign Influence Task Force leader, the Foreign Influence Task Force that you created as Director of the FBI, correct?

Mr. WRAY. I am sorry—

Chair JORDAN. All that is correct. You created the Foreign Influence Task—

Mr. WRAY. I did create the Foreign Influence Task Force.

Chair JORDAN. Yes, you put that together and she heads it up. OK. When did you become, how did you become aware of the Catholic memo, the one in Richmond that we have talked about a couple of times today?

Mr. WRAY. As I recall, in one of my regular morning meetings, I learned that there was this product and that was the same day that I ordered that it be removed.

Chair JORDAN. Was that before or after it was already in the press?

Mr. WRAY. That I can't tell you. My guess is it was probably around the same time, but I don't know.

Chair JORDAN. Did you learn about it—did the people who brought it up to you, did they learn about it from the press, or was it some internal communication?

Mr. WRAY. I can't speak to how they learned about it. I just know that I was told about it by them, and we had a conversation about it immediately, taking steps that we then did—

Chair JORDAN. We appreciate that. OK. Director, we appreciate your time today. I know it has been a long day. We already had the unanimous consent for Mr. Gaetz, so the Committee is adjourned.

[Whereupon, at 3:47 p.m., the Committee was adjourned.]

All materials submitted for the record by Members of the Committee on the Judiciary can be found at: *https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=116192.*

○

4805

THE CONSEQUENCES OF CRIMINAL ALIENS ON U.S. COMMUNITIES

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

THURSDAY, JULY 13, 2023

Serial No. 118–34

Printed for the use of the Committee on the Judiciary



Available via: *http://judiciary.house.gov*

U.S. GOVERNMENT PUBLISHING OFFICE

53–028 WASHINGTON : 2023

COMMITTEE ON THE JUDICIARY

JIM JORDAN, Ohio, *Chair*

DARRELL ISSA, California
KEN BUCK, Colorado
MATT GAETZ, Florida
MIKE JOHNSON, Louisiana
ANDY BIGGS, Arizona
TOM McCLINTOCK, California
TOM TIFFANY, Wisconsin
THOMAS MASSIE, Kentucky
CHIP ROY, Texas
DAN BISHOP, North Carolina
VICTORIA SPARTZ, Indiana
SCOTT FITZGERALD, Wisconsin
CLIFF BENTZ, Oregon
BEN CLINE, Virginia
LANCE GOODEN, Texas
JEFF VAN DREW, New Jersey
TROY NEHLS, Texas
BARRY MOORE, Alabama
KEVIN KILEY, California
HARRIET HAGEMAN, Wyoming
NATHANIEL MORAN, Texas
LAUREL LEE, Florida
WESLEY HUNT, Texas
RUSSELL FRY, South Carolina

JERROLD NADLER, New York, *Ranking Member*
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
STEVE COHEN, Tennessee
HENRY C. "HANK" JOHNSON, JR., Georgia
ADAM SCHIFF, California
ERIC SWALWELL, California
TED LIEU, California
PRAMILA JAYAPAL, Washington
J. LUIS CORREA, California
MARY GAY SCANLON, Pennsylvania
JOE NEGUSE, Colorado
LUCY McBATH, Georgia
MADELEINE DEAN, Pennsylvania
VERONICA ESCOBAR, Texas
DEBORAH ROSS, North Carolina
CORI BUSH, Missouri
GLENN IVEY, Maryland
BECCA BALINT, Vermont

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

TOM McCLINTOCK, California, *Chair*

KEN BUCK, Colorado
ANDY BIGGS, Arizona
TOM TIFFANY, Wisconsin
CHIP ROY, Texas
VICTORIA SPARTZ, Indiana
JEFF VAN DREW, New Jersey
TROY NEHLS, Texas
BARRY MOORE, Alabama
WESLEY HUNT, Texas

PRAMILA JAYAPAL, Washington, *Ranking Member*
ZOE LOFGREN, California
J. LUIS CORREA, California
VERONICA ESCOBAR, Texas
SHEILA JACKSON LEE, Texas
DEBORAH ROSS, North Carolina
ERIC SWALWELL, California
Vacancy

CHRISTOPHER HIXON, *Majority Staff Director*
AMY RUTKIN, *Minority Staff Director & Chief of Staff*

C O N T E N T S

THURSDAY, JULY 13, 2023

OPENING STATEMENTS

Page

The Honorable Tom McClintock, Chair of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of California 1
The Honorable Pramila Jayapal, Ranking Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Washington 3
The Honorable Jerrold Nadler, Ranking Member of the Committee on the Judiciary from the State of New York 5

WITNESSES

Bradley Schoenleben, Senior Deputy District Attorney, Orange County District Attorney's Office
Oral Testimony 7
Prepared Testimony 9
John Fabbricatore, Former Field Office Director, U.S. Immigration and Customs Enforcement
Oral Testimony 14
Prepared Testimony 16
Ramon Batista, Police Chief, Santa Monica, California
Oral Testimony 21
Prepared Testimony 23
Donald Rosenberg, President, Advocates for Victims of Illegal Alien Crime
Oral Testimony 27
Prepared Testimony 29

LETTERS, STATEMENTS, ETC. SUBMITTED FOR THE HEARING

All materials submitted for the record by the Subcommittee on Immigration Integrity, Security, and Enforcement are listed below 62

Materials submitted by the Honorable Pramila Jayapal, Ranking Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Washington, for the record
- A study entitled, "Can Sanctuary Policies Reduce Domestic Violence?" May 2020, Working Paper, The Center for Growth and Opportunity
- An article entitled, "Do Sanctuary Policies Increase Crime? Contrary Evidence from a County-Level Investigation in the United States," May 19, 2020, Social Science Research
- An article entitled, "Immigrant Sanctuary Policies and Crime-Reporting Behavior: A Multilevel Analysis of Reports of Crime Victimization to Law Enforcement, 1980 to 2004," 2021, American Sociological Association
- An article entitled, "The Local Effects of Federal Law Enforcement Policies: Evidence from Sanctuary Jurisdictions and Crime," 2022, Contemporary Economic Policy

IV

Page

Materials submitted by the Honorable J. Luis Correa, Ranking Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of California, for the record
- A letter to the Honorable Alejandro Mayorkas, Secretary, U.S. Department of Homeland Security, from the Honorables Young Kim, the Honorable J. Luis Correa, and the Honorable Mike Levin, June 15, 2023
- A letter to Juan Gabriel Valdés, Ambassador of Chile, Embassy of Chile, from the Honorables Mike Levin and J. Luis Correa, June 15, 2023
- A letter to the Honorable Alejandro Mayorkas, Secretary, U.S. Department of Homeland Security and Secretary of State Blinken, from the Honorable J. Luis Correa, June 6, 2023
- A letter to Todd Spitzer, District Attorney, Orage County, California, from the Juan Gabriel Valdés, Ambassador of Chile, Embassy of Chile, June 14, 2023
- A letter to the Honorable J. Luis Correa, from Assistant Secretary for Legislative Affairs, U.S. Department of Homeland Security, July 12, 2023
- A letter to the Honorable J. Luis Correa, from Juan Gabriel Valdés, Ambassador of Chile, Embassy of Chile, June 16, 2023

A report from the U.S. Immigration and Customs Enforcement (ICE) and the Enforcement and Removal Operations (ERO), July 6, 2023, submitted by the Honorable Victoria Spartz, a Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Indiana, for the record

Materials submitted by the Honorable Pramila Jayapal, Ranking Member of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of Washington, for the record
- A statement from the Asian Pacific Institute on Gender-Based Violence (API–GBV), July 13, 2023
- A statement from ASISTA Immigration Assistance, July 12, 2023
- A statement from Church World Service (CWS)
- A statement from Detention Watch Network (DWN)
- A statement from Esperanza United, July 12, 2023
- A statement from National Network to End Domestic Violence (NNEDV), July 13, 2023
- A statement from Tahirih Justice Center, July 12, 2023
- A letter to the Honorable Tom McClintock, Chair of the Subcommittee on Immigration Integrity, Security, and Enforcement from the State of California, from Sandra Henriquez, CEO, ValorUS, July 12, 2023

THE CONSEQUENCES OF CRIMINAL ALIENS ON U.S. COMMUNITIES

Thursday, July 13, 2023

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

COMMITTEE ON THE JUDICIARY

Washington, DC

The Committee met, pursuant to notice, at 3 p.m., in Room 2141, Rayburn House Office Building, Hon. Tom McClintock [Chair of the Subcommittee] presiding.

Members present: Representatives McClintock, Jordan, Buck, Biggs, Tiffany, Roy, Spartz, Van Drew, Nehls, Moore, Hunt, Jayapal, Nadler, Correa, Escobar, Jackson Lee, and Ross.

Mr. MCCLINTOCK. The House Judiciary Subcommittee on Immigration Integrity, Security, and Enforcement will come to order. Without objection, the Chair is authorized to declare a recess at any time.

The Subcommittee meets today to examine the consequences of criminal aliens on U.S. communities. We'll begin with the opening statements of the Chair and Ranking Member.

Yesterday, FBI Director Christopher Wray testified before the House Judiciary Committee that the open southern border poses a huge security risk for our Nation, his words, and that they attract a significant increase in crime, criminal cartel activity, and gang-related cartels because of this crisis. More than 5.5 million illegal aliens have been encountered at the Southwest border since Joe Biden became President. Over 2.1 million illegal aliens at the border have been released into the United States in that same period of time. More than one and a half million known got-aways have evaded law enforcement and entered the country since January 2021. Among the one and a half million known got-aways, there is no way to estimate the number of terrorists and criminals entering the country.

We do know this. By surrendering to Border Patrol, you're virtually assured now of being released into the country. The one and a half million who have evaded border patrol have done so for a reason. They're either conducting criminal activity or they're hiding criminal records.

Adding to this threat is the fact that the administration has essentially adopted the sanctuary policies that prevent many dangerous illegal aliens from being deported after they have been convicted and incarcerated for committing other crimes while in the United States. According to Mr. Mayorkas' enforcement priorities, quote, "whether a noncitizen poses a current threat to public safety is not to be determined according to bright lines or categories." So much for the rule of law.

The result of such prioritization is that few criminal aliens are arrested and removed. The numbers speak for themselves. In Fiscal Year 2020, the last year of the Trump Administration, ICE removed 186,000 aliens from the United States. Two years into the Biden Administration, deportations have plunged to only 72,000, and that's a decline of more 60 percent. The Trump Administration removed 104,000 convicted criminals from the country in Fiscal Year 2020, yet the Biden Administration only removed 38,000 in Fiscal Year 2022.

Now, that requires repeating. The number of convicted criminal aliens removed from our country has declined by nearly two-thirds under this administration. Similarly in 2020, the Biden Administration removed just 60 percent of the number of known or suspected gang members as the Trump Administration had done just two years prior.

Now, explain to me how this makes our communities safer. Does anyone seriously believe that making it harder to remove criminal illegal aliens from our communities makes our community safer? Does anyone really believe that letting millions of unvetted foreign nationals into our communities makes our communities safer?

Many of these aliens arrived deeply indebted to cartels whose affiliated gangs follow them into our communities to enforce those debts, often by pressing them into drug trafficking and human trafficking. The cartel massacre of an entire family just hit Tulare, California, a rural community not far from my district. The cartels are here because we have let them in.

As Director Wray testified yesterday; we have no idea how many terrorists have now entered the country as well. The crimes committed by criminal aliens aren't just statistics. Every crime devastates the victims of it, their families, their neighborhoods, and their communities as we will hear today.

The sexual assault of a three-year-old at a Chicago McDonald's, the sexual assault and murder of a 92-year-old woman in Queens, New York, the murder of a college student in Iowa, the sexual assault and murder of a 20-year-old girl in Maryland, the assault of a teenage girl in Alabama, the assault and robbery of two friends at a Maryland park, the attempted abduction of a four-year-old girl in Virginia, the murder of a 15-year-old boy in Maryland, and the list goes on and on in heartbreaking detail.

These Democratic policies might create sanctuaries for criminal illegal aliens, but they are creating a dystopian nightmare for law-abiding citizens and noncitizens alike who must live in them.

Now, we have a new phenomenon, crime tourism. In the past several years, criminal gangs, largely from Chile, have exploited the visa waiver program to shake once quiet communities across the United States with million-dollar heists, from Southern Cali-

fornia to Florida, and burglaries of family homes from New York to Virginia. These criminal aliens continue their crime sprees across the country. In sanctuary jurisdictions, they largely escape accountability.

Today, our witnesses will describe these real, live, everyday consequences of crimes that would not occur at all save for the fact that we are not enforcing our immigration laws. If we simply enforced those laws, there'd be fewer criminal aliens in the country and fewer crimes committed by them. It is that simple. I now recognize the Ranking Member for five minutes.

Ms. JAYAPAL. Thank you, Mr. Chair. I want to start by just taking a moment to express my deepest condolences to Mr. Rosenberg. You have experienced a profound loss, and I am so sorry for that. I appreciate your coming to share Drew's story with us today.

Mr. Chair, I'm glad to see that we're having an immigration hearing that's not solely focused on the border. Unfortunately, I worry that today's hearing will feature more of the same dangerous and harmful rhetoric that some of my colleagues use to demonize and scapegoat immigrants.

For the last six months, and really since President Biden took office, my colleagues have fearmongered about the border and asylum-seekers seeking refuge. This reached a fever pitch in May, when the administration was set to end Title 42 public health policy. We were told that ending this policy, that's supposed to be about public health and not about immigration, would result in high numbers of migrants coming across the border and that the administration was not prepared to deal with the influx.

There was no influx. Like it or not, President Biden's border plan appears to be working. Over the past two months, border numbers have fallen nearly 70 percent despite every projection to the contrary. Politico has called it the migrant crisis that still hasn't arrived.

So, unable to further stoke fears about the border, my colleagues then turn to discussing the potential impeachment of Secretary Mayorkas during a hearing last month. I was very pleased to see that, following the hearing, some of our Republican colleagues on the Committee, including the Chair of this Subcommittee, expressed appropriate reservations about impeaching the Secretary. I hope that my colleagues will realize that we can disagree about immigration policy without resorting to impeachment.

Unable to move farther down the path on impeachment in this Committee, this Committee handed off that investigation to the House Homeland Security Committee. Now, it appears that my Republican colleagues are pivoting to painting immigrants as criminals. As we discussed at our last hearing, Congress has never appropriated, and no administration has ever requested, sufficient resources to detain all noncitizens who fall under the, quote, "mandatory detention categories."

Even former President Trump never tried to detain all migrants. In fact, DHS' own data shows over 500,000 releases at the U.S.-Mexico border under the Trump Administration.

Likewise, no administration has ever requested or been provided the resources to remove all undocumented noncitizens. There are currently about 11 million undocumented individuals in the United

States, and, given the Department of Homeland Security's finite resources, prosecutorial discretion is an essential tool in managing the immigration system.

When President Biden took office, his administration moved to implement a targeted set of enforcement priorities. These priorities, while not perfect, attempt to focus finite resources on the removal of individuals deemed to be a threat to public safety, national security, or border security. Although this was initially blocked in the lower courts, in June, the Supreme Court held that States cannot challenge the Executive Branch's authority to establish enforcement priorities. The Court also ruled that courts do not have the authority to order law enforcement to carry out arrests and deportation.

The Biden Administration has stated that it plans to reimplement these enforcement priorities. Prosecutorial discretion in enforcement has long been an essential element of the Executive Branch's authority. I am glad that the Biden Administration, the Department of Homeland Security, can move forward with immigration enforcement priorities.

However, I do remain concerned about the administration's reliance on State and local law enforcement to carry out immigration enforcement. Local law enforcement needs to have the trust of all members of the Community, including immigrants, to do their jobs. That trust is eroded when local law enforcement is tasked with enforcing Federal immigration policy.

The Major Cities Chiefs Association has previously noted that if law enforcement officers are viewed by members of the immigrant community as colluding or working with immigration law enforcement officers, this would, quote,

> Result in increased crime against immigrants in the broader community, create a class of silent victims, and eliminate the potential for assistance from immigrants in solving crimes or preventing future terrorist acts.

The Major Cities Chiefs Association has also explained that cooperation with the immigrant community is a crucial part of solving crime and preventing further criminal activity within the entire community.

Congress recognized this dynamic with strong bipartisan support when we created the U visa program to protect immigrant victims and witnesses of crime to encourage those immigrants to come forward, report crimes, and cooperate with law enforcement to solve crimes. It's worth noting that when local law enforcement is deputized to enforce Federal immigration law, it makes it far more difficult for victims of domestic violence and sexual assault to seek protection and it empowers their abusers. So, I am sure we will hear a lot about immigrants in crime today.

Demonizing all immigrants and attempting to scare the public while using White nationalist rhetoric is straight out of Steven Miller and former President Trump's playbook. The reality is immigrants commit crimes at lower levels. This type of rhetoric only fuels a rising hate that we have seen against immigrant communities.

I do want to note that one of the witnesses is here to discuss Chilean nationals potentially abusing the visa waiver program. If any immigrant is abusing the immigration system, I think we all

agree this is something that DHS should be looking into. The visa waiver program is a privilege that we award to certain countries. It is not a right.

I look forward to hearing from all our witnesses and the perspectives that they bring on this issue. Thank you, Mr. Chair. I yield back.

Mr. MCCLINTOCK. Thank you. The Chair now recognizes the Ranking Member of the Judiciary Committee, Mr. Nadler, for an opening statement.

Mr. NADLER. Thank you, Mr. Chair. I would like to start by offering my condolences to Mr. Rosenberg. No parent should ever have to go through the pain of losing a child. I thank you for sharing Drew's story with the Committee today.

Mr. Chair, today's hearing is on a topic that requires delicacy and nuance, two things the current House majority has struggled with in the past. No one on this dais wants dangerous criminals out on the streets regardless of their immigration status, but we have to be careful not to paint all immigrants with a broad brush. Implying that all undocumented immigrants are criminals who wish to harm our country only lends credence to conspiracy theories that have already taken far too many lives.

Next month, we will commemorate the anniversary of the El Paso shooting. On August 3, 2019, a domestic terrorist walked into a Walmart in El Paso, Texas, and murdered 23 people and injured 22 others. He posted a hateful and racist manifesto online prior to the attack espousing White nationalist theories, like the "great replacement" theory, and claiming that there was a Hispanic invasion. He told investigators that he was targeting Mexicans. Last week, the shooter was sentenced to 90 consecutive life sentences by a Federal judge. No time in prison will help those grieving families get their loved ones back, nor will it help heal the physical, mental, and emotional wounds of the survivors. It won't stop with the next attack.

It is for this reason that we must tread carefully. This is an important topic, and I look forward to a spirited debate with my colleagues on the other side of the aisle. We cannot add fuel to a fire that has already left so much devastation in its wake.

We all want to protect our country. We all want to keep people safe. We have different ways of achieving those goals. The administration takes on national security very seriously. That is why they put in place enforcement guidelines that, while not perfect, attempt to prioritize the removal of dangerous individuals.

The previous administration chose to paint everyone with a broad brush. The Trump Administration created a set of priorities that were so expansive, it included all undocumented and otherwise removable immigrants in the country. A jaywalker and a murderer were given the same degree of prioritization for removal.

ICE started targeting people wherever they could find them, near schools, hospitals, and even at houses of worship. Undocumented immigrants who have been complying with ICE for decades would arrive at the regular check-ins and be placed into immigration detention without warning. People became afraid of law enforcement and afraid of continuing to work with ICE for fear that they too would be detained and removed.

When everyone is a target, no one feels safe. Targeting undocumented immigrants who posed no threat to the country had consequences. During President Trump's time in office, the number of individuals in immigration detention who had been convicted of serious felonies fell by 20 percent.

During that same time, the numbers of detained immigrants grew. Soon immigrants with no criminal conviction at all became the majority of detainees in ICE custody. When President Biden took office, he directed DHS to prioritize targeting individuals who pose a threat to national security, public safety, and border security.

President Trump chose to target everyone. As a result, his administration detained fewer people who committed serious crimes. President Biden's goal was to use our finite resources to prioritize detaining and removing those that pose the biggest threats to us.

Unfortunately, Republican State Attorneys General who disagreed with this goal sued to block the implementation of these priorities. In 2022, the U.S. District Court for the Southern District of Texas enjoined the policy, forcing the administration to revert to the previous administration's priorities, or lack thereof. Last month, in an eight to one decision, the Supreme Court overturned the injunction ruling that it was the Executive Branch's prerogative to set enforcement priorities that the administration could once again move forward with them.

Now that the administration is once again allowed to set its own priorities, we will be able to see which approach will be more effective. I thank the witnesses for coming today. I look forward to hearing their testimony, and I yield back the balance of my time.

Mr. MCCLINTOCK. Thank you. Without objection, all other opening statements will be included in the record. Let me now introduce today's witnesses.

Our first witness is Bradley Schoenleben. Mr. Schoenleben is a Senior Deputy District Attorney with the Orange County, California District Attorney's Office. In 2017, the California District Attorney Investigators Association recognized him as California Prosecutor of the Year. More recently, Mr. Schoenleben has helped to prosecute cases related to theft and burglary by organized criminal alien gangs. He has a law degree from Chapman University's Dale E. Fowler School of Law.

Our next witness will be Mr. John Fabbricatore. Mr. Fabbricatore is an Advisory Board Member with the National Immigration Center for Enforcement. He started with the Immigration and Naturalization Service in 1998 and retired from the U.S. Immigration Customs Enforcement in 2022. He served in many different positions including Deputy Field Office Director for U.S. Immigration and Customs Enforcement in the Denver, Colorado area of responsibility before being promoted to Field Office Director in 2020. He also received the Secretary of the Department of Homeland Security silver medal for meritorious service award.

Our third witness is Chief Ramon Batista. Mr. Batista is Chief of Police for the city of Santa Monica, California, a position he's held since October 2021. He began his law enforcement career with the Tucson, Arizona Police Department in 1986. In 2017, Mr. Batista was appointed Police Chief in Mesa, Arizona. Mr. Batista

has a bachelor's degree and master's degree from Grand Canyon University.

Finally, we will hear from Mr. Donald Rosenberg. Mr. Rosenberg is the founder of Advocates for Victims of Illegal Alien Crime after an illegal alien driving without a license killed his son, Drew, in 2010. Mr. Rosenberg founded the organization to raise awareness of crimes committed by aliens who are in the United States illegally. Mr. Rosenberg is a former Entertainment and Publishing Executive who lives in Southern California.

We welcome our witnesses and thank them for appearing today. We'll begin by swearing you in. Would you please rise and raise your right hand. Do you swear or affirm under penalty of perjury the testimony you're about to give is true and correct to the best of your knowledge, information, and belief so help you God?

Let the record reflect the witnesses have answered in the affirmative. Thank you. You may be seated. Please know that your written testimony will be entered in the record in its entirety. Accordingly, we'd ask that you summarize your testimony in five minutes. We'll begin with Mr. Schoenleben.

STATEMENT OF BRADLEY SCHOENLEBEN

Mr. SCHOENLEBEN. Thank you, Chair McClintock, Ranking Member Jayapal, Ranking Member Nadler, and distinguished Members of this Committee. I'm both humbled and honored to be in front of all of you today. Members, there is a loophole in the Department of Homeland Security's ESTA visa waiver program that has allowed hundreds of thousands of Chilean nationals, including violent criminals, into the United States without the required criminal background checks.

In just 2022, over 350,000 Chilean nationals entered the United States utilizing the ESTA visa waiver program. Failure to provide the criminal background checks has created a direct pipeline between the United States and Chile for transnational organized crime rings to shuttle convicted criminals into the United States for the sole purpose of committing residential and commercial burglaries, follow-home robberies, and thefts. Americans across the country are being unknowingly surveilled and stalked in their own homes, the very place they should feel the safest.

In fact, in Ventura County, California, a staggering 76 percent of Chilean nationals arrested since 2019 entered the United States through the ESTA program. In a June 15, 2023, letter to Orange County District Attorney Todd Spitzer, Juan Gabriel Valdez, Ambassador of Chile to the United States, essentially admitted that this country was failing to provide the necessary criminal history for visa waiver applicants. Criminal history prohibits an applicant from being granted an ESTA visa waiver.

Organized crime rings have seized this opportunity to train, recruit, and deploy highly organized and sophisticated teams of burglars across the United States to break into American's homes and businesses. Make no mistake, these criminals deploy sophisticated surveillance teams, high-tech tools such as Wi–Fi jammers, cell phone jammers, electronic trackers, and fake IDs to perfect their art of committing crime and eluding capture.

Organized crime rings have—excuse me. Law enforcement agencies across the Nation have raised alarms about the Chilean nationals' abuse of ESTA, including Nassau County, New York; Flagler County, Florida; Shelby County, Alabama; Williamson County, Tennessee; and Los Angeles, Riverside, San Bernardino, and Ventura County in California. In fact, right now, the FBI is currently working with over 750 different law enforcement agencies across the country on this very issue.

Orange County, California is simply a microcosm of the issue being experienced as a result of transnational organized criminals entering the United States through the ESTA visa waiver program. A target-rich environment, combined with California's soft-on-crime policies, and Federal failures to verify criminal histories for Chilean visa waiver applicants have created the perfect storm for crime. Without criminal histories, courts are incapable of determining the true risk posed by these offenders, resulting in release decisions and sentences, ignorant of the dangers actually posed.

California sanctuary State status only compounds the threat. We know that transnational criminals, including Colombia nationals, are intentionally being arrested at the border to gain entry into the United States knowing they will be released quickly. On release, they commit crimes such as residential burglary and so on. They utilize military-style equipment, such as ghillie suits, to hid in the brush behind Americans' homes, trackers to track victims to and from work to utilize and maximize their window of opportunity.

With easy access to the United States and no punishment, the reward far outweighs the risk. An Orange County victim of these crimes recently talked about the messages that her children gave her after being victimized by that crime. She told the court that her children told her the following: I'm afraid to play basketball in the backyard. I'm not going to go upstairs by myself because someone may be up there. I'm afraid of the dark. I'm so frightened that every light in the house has to be on all night long.

Her triplets are 14 years old, and they are afraid of the dark because this family now knows the terror that happens when lights go out.

In failing to hold Chile accountable for refusing to provide the required criminal background checks, the Department of Homeland Security has failed in its duty to protect the safety and security of our Nation and our citizens. The Secretary of Homeland Security has statutory authority to immediately terminate or suspend a country's designation in the ESTA visa waiver program without notice if there's a credible threat originating from that country which poses an imminent danger to the United States or its citizens.

Members, on behalf of Orange County District Attorney Todd Spitzer and law enforcement across the country, I respectfully ask participation for Chile in the ESTA visa program be suspended until Chile meets with the program requirements. Thank you.

[The prepared statement of Mr. Schoenleben follows:]

TESTIMONY OF

Bradley D. Schoenleben
Senior Deputy District Attorney
Orange County District Attorney's Office
Orange County, California

BEFORE

Committee on the Judiciary

Subcommittee on Immigration Integrity, Security, and Enforcement

ON

"The Consequences of Criminal Aliens on U.S. Communities"

July 13, 2023

Washington, DC

Chairman McClintock, Ranking Member Jayapal, and distinguished Members of the Committee, my name is Bradley Schoenleben, and I am a Senior Deputy District Attorney with the Orange County District Attorney's Office in Orange County, California.

There is a loophole in the Department of Homeland Security's ESTA – Electronic System for Travel Authorization – Visa Waiver Program (VWP) that has allowed hundreds of thousands of Chilean nationals, including violent criminals, into the United States without the required criminal background checks. In just 2022, 350,000 Chilean nationals entered the United States utilizing the ESTA VWP.

Failure to provide criminal background checks has created a direct pipeline between the United States and Chile for transnational organized crime rings to shuttle convicted criminals into the United States for the sole purpose of committing residential and commercial burglaries, follow-home robberies, and thefts. Americans across the country are being unknowingly surveilled and stalked in their own homes – in the very place they should be the safest.

In Ventura County, California, a staggering 76% of Chilean nationals arrested since 2019 entered the United States through the ESTA program.

In a June 15, 2023 letter to Orange County, California District Attorney Todd Spitzer, Juan Gabriel Valdés, Ambassador of Chile to the United States, admitted his country was failing to provide the necessary criminal history for visa waiver applicants. Criminal history prohibits an applicant from being granted an ESTA Visa Waiver.

Organized crime rings have seized this opportunity to recruit, train, and deploy highly sophisticated teams of burglars across the United States to break into American homes and businesses to steal cash and other items.

Law enforcement agencies across the nation have raised alarms about Chilean nationals' abuse of ESTA, including Nassau County, New York; Flager County, Florida; Shelby County, Alabama; Williamson County, Tennessee; and Los Angeles, Riverside, San Bernardino and Ventura Counties in California. The FBI is working with 750 different law enforcement agencies across all 50 states to address this issue.

Orange County – population 3.3 million people – is a microcosm of the issues being experienced as a result of transnational organized criminals entering the United States through the ESTA VWP.

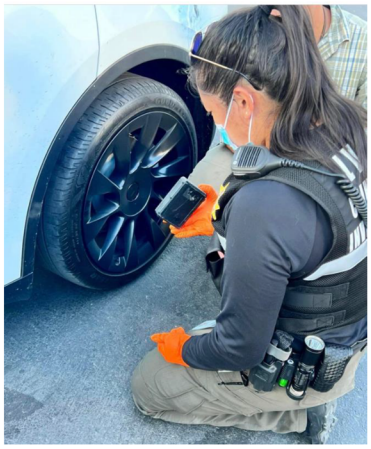
A target rich environment combined with California's soft-on-crime policies and federal failures to verify criminal histories for Chilean Visa Waiver applicants have created the perfect storm.

For six months straight, Irvine, California – repeatedly named the safest City in America – flooded its streets with detectives working overtime to combat residential burglaries. Even with those additional resources, residential burglaries were still being committed – and suspects were still getting away.

This is by design; crews deploy multiple surveillance teams, Wi-Fi jammers, cell jammers, electronic trackers, and fake IDs to perfect their art of committing crime and elude capture.



Tesla security camera captures Colombian suspect installing GPS tracker on vehicle belonging to jeweler who was later stabbed in the parking garage of the Tropicana Hotel in Las Vegas, Nevada in May 2023.



GPS tracker retrieved from vehicle belonging to jeweler stabbed in the parking garage of the Tropicana Hotel in Las Vegas, Nevada in May 2023.

Without criminal histories, courts are incapable of determining the true risk posed by these offenders, resulting in release decisions and sentences ignorant of the danger actually posed. The District Attorney of Nassau County, New York, recently complained members of Chilean organized crime laugh at her in courthouse hallways because they know they aren't staying behind bars.

In Orange County, we have a 100% absconscion rate for these crimes; if they bail out, they never return to be held accountable for their actions. This is consistent through the country.

California's sanctuary state status only compounds the threat. We know transnational criminals, including Colombian nationals, are intentionally being arrested at the California border to gain entry into the United States, knowing they will be released quickly. Upon release, they commit residential burglaries and other thefts, including employing military equipment including ghillie suits to blend into the brush for hours to surveil Americans from greenbelts behind their homes – and trackers to track business owners to and from work to maximize their window of opportunity.



Ghillie suit recovered following a July 2022 arrest of Colombian burglary suspects in Irvine, Calif.

With easy access to the United States and no punishment, the reward far outweighs the risk.



Security footage of residential burglaries being committed by Chilean organized crime in Ventura County, Calif.

An Orange County victim of these crimes– the mother of triplets – told the Court how it affected her family: *"Our greatest area of impact has been the emotional stress that this violation of our privacy and security has caused. This burglary has left us all on edge. Scared, disturbed, traumatized disgusted and violated. My children have made these comments to illustrate how emotionally damaged they are, "I'm afraid to play basketball in the back yard;" "I'm not going upstairs by myself because someone may be up there;" "I am so frightened that every light in the house has to be on all night long."*

Her triplets are 14 years old – and they are afraid of the dark because they know the terror that happens when the lights turn off and it looks like no one is home.

In failing to hold Chile accountable for refusing to provide the required criminal background checks, the Department of Homeland Security has failed in its duty to protect the safety and security of our nation and our citizens.

The Secretary of Homeland Security has statutory authority to immediately terminate or suspend a country's designation in the ESTA Visa Waiver Program without notice if there is a credible threat originating from that country which poses an imminent danger to the United States or its citizens.

On behalf of Orange County District Attorney Todd Spitzer and law enforcement across the Country, I respectfully ask that Chile's participation be immediately suspended until it complies with program requirements. Thank you.

Mr. MCCLINTOCK. Thank you very much. Next is Mr. Fabbricatore.

STATEMENT OF JOHN FABBRICATORE

Mr. FABBRICATORE. Chair McClintock, Ranking Member Jayapal, and distinguished Members of the Subcommittee, thank you for the opportunity to present testimony on the current State of immigration enforcement. After decades service at ICE, I feel compelled to testify today about the erosion of immigration enforcement and lack of respect for the rule of law.

Every American should be concerned about what the Biden Administration is doing. Their current policies are putting our communities at risk and negatively affecting public safety and national security. Right out the gate, Secretary Mayorkas began to gut interior immigration enforcement with extremely narrow enforcement priorities for ICE.

He justified it on the false premise that ICE couldn't effectively enforce the law due to a lack of resources. ICE statistics paint a grim picture of the effects of these priorities. If you compare ICE arrests from 2018–2020, civil arrests are down 69 percent.

Convicted criminal arrests are down 65 percent. Everything from homicide to assaults to weapons offenses are down as high as 61 percent. There are fewer criminals being arrested, plain and simple.

I would further note that there are hundreds of thousands of criminal aliens at large in the United States. The Biden Administration has stated that there are over 400,000 convicted criminals on the non-detain docket. Why aren't they a priority?

Furthermore, recidivist rates have shown from prior Fiscal Year reports that most criminal aliens have additional criminal convictions. In 2020, the 93,000 criminal aliens arrested by ERO with criminal histories accounted for 374,000 criminal charges and convictions, about four per alien. Even with the paltry number of arrests made in 2022, the 46,000 aliens arrested with criminal histories accounted for nearly 200,000 convictions and charges.

If the Biden Administration conducted interior enforcement against criminal illegal aliens in the same manner as was always done in the prior Republican and Democrat Administrations I served in, there would have been another 90,000 aliens arrested who would've accounted for approximately another 300,000 convictions and charges. As an ICE field office director, I witnessed the deterioration of relationships with local law enforcement agencies because of sanctuary policies. Nationwide, we see a growing separation between ICE and local law enforcement.

The belief that partnership between ICE and other law enforcement entities breads distrust in immigrant communities is false. Prior to the rise of sanctuary policies, detainers were a useful tool. A detainer is placed on an alien who's been arrested by State or local law enforcement.

Instead of releasing the alien back to the streets, the detainer requires law enforcement agencies to hold the alien so ICE may make an administrative arrest. Law enforcement used to honor detainers more widely until policies were implemented prohibiting

the practice. In 2016, I was part of an operation designed to target alien heroin traffickers.

When the mayor and city council members found out that ICE was working with Denver police on this operation, Denver police commanders were told to stop the operation and remove ICE from the building. Denver police shut down the operation after only two weeks when operationally 54 illegal aliens were arrested for heroin-related crimes. Regardless of the results, Denver refused to work with ICE, claiming that it disrupted their ability to work with the immigrant community.

This argument is invalid as it allows citizens to die from heroin overdoses rather than having local law enforcement and ICE work together to save lives. In 2020, and illegal alien who previously had DACA was arrested for murder for giving fentanyl and cocaine to a 16-year-old girl at a party. While the girl lay dying of an overdose, the alien was too buys raping a 14-year-old who was under the influence of drugs to call an ambulance.

On arrest, ICE filed a detainer. Local law enforcement was prohibited from honoring it and a drug dealer and sexual predator with admitted gang ties was allowed to walk out of the jail as locals choose to ignore ICE's request. ICE can only remain an effective enforcer of immigration laws through collaboration with local law enforcement.

Such cooperation is proven to prevent illegal aliens convicted of criminal activity from victimizing our communities. Instead, sanctuary policies are utilized by the gangs and other criminal aliens who rely on this sanctuary to commit crimes in every U.S. community. In the fight against opioids, fentanyl increased gang activity, this cooperation is critical.

In 2015, I included Denver Sheriff's Department gang intelligence deputies on a national task force operating against transnational gangs. Due to great teamwork, we identified numerous cases and arrested over a dozen gang members with criminal backgrounds. The State sanctuary policy ended that collaboration between ICE and the Denver Sheriff's Department.

Refusing to cooperate with ICE, sanctuary cities are sending a message that they don't value the lives of citizens or the safety of our communities. Robust immigration enforcement strategies must be developed to protect our country from the risk of criminal illegal aliens. The first step must be returning to the rule of law and through the enforcement of immigration laws mandated by the INA.

Criminal aliens should be detained and expeditiously removed from the country. ICE should be directed to address the millions of final removal orders that have been issued by immigration judges yet ignored for years. Congress must help ICE by invalidating departmental policies that handcuff the agency and prioritize slim and ambiguous categories of cases. Thank you, and I look forward to your questions.

[The prepared statement of Mr. Fabbricatore follows:]

The Consequences of Criminal Aliens on U.S. Communities

Testimony Before
House Judiciary Subcommittee on Immigration Integrity, Security, and Enforcement

U.S. House of Representatives

July 13, 2023

John Fabbricatore, Former ICE Field Office Director

Chairman McClintock, Ranking Member Jayapal, and distinguished members of this subcommittee, thank you for the opportunity to present testimony on the state of immigration enforcement in this country.

I am a retired law enforcement officer with over 23 years of experience at both the legacy Immigration and Naturalization Service (INS) and in senior roles at U.S. Immigration and Customs Enforcement (ICE).

A few years into my career, I was impacted by a case in which an illegal alien with multiple prior convictions crashed into an ice cream shop, killing two adults and a three-year-old child. Every field office, including mine, has countless examples of similar tragedies at the hands of illegal aliens and poor policymaking – that is why I'm here.

Every American – including myself – is concerned about the state of enforcement of our immigration laws by ICE. Current Biden Administration policies are putting our communities at risk and negatively affecting public safety and national security.

In Secretary Mayorkas' *Guidelines for the Enforcement of Civil Immigration Law*, he established all new immigration enforcement priorities for the Department of Homeland Security (DHS). After the issuance of this dangerous policy, and in innumerable public statements in media, testimony before Congress, court filings, etc. the Secretary and his Department indicated the reason for this policy was that ICE had limited resources and as such, had to prioritize cases based on the threat an individual posed, particularly as it came to criminals and the public safety risk they presented. He justified this policy on the false premise that ICE couldn't effectively enforce the immigration laws against criminal aliens and immigration violators alike, as it had done for decades beforehand, even during the Obama administration, which he should've known full well since he was the Deputy Secretary at the time. But regardless, let's compare FY 2021 and 2022 numbers to FY 2018 and FY 2019 (FY 2020 is excluded due to the unique COVID environment).

	FY22	FY21	FY19	FY18	Decline between FY22 and FY18
Overall Civil ICE Arrests	49,396[1]	74,082	143,099	158,581	(-69%)
Convicted Criminals	36,322	36,300[2]	92,108	105,140	(-65%)
Homicide Related	1,501	1,506	1,923	2,028	(-26%)
Weapons Offenses	5,554	Not Reported	10,278	11,766	(-53%)
Sexual Offenses/Sex Assault	8,164	3,415[3]	11,711	12,238	(-33%)
Assaults	21,531	19,549	45,804	50,753	(-58%)
Robbery	2,348	2,717	4,736	5,562	(-50%)
Kidnapping	1,114	1,063	1,833	2,085	(-47%)
Family Offense	2,360	Not Reported	5,435	5,991	(-61%)
Gang Members	Not Reported	Not reported	5,497	5,872	Unknown

Based on these statistics, is there any conclusion that can be drawn by a logical, reasonable person, other than that the real goal of these priorities is to limit immigration enforcement in the interior of the United States, regardless of the risk to public safety and national security that the illegal alien poses? In fact, the entire premise put forth by Secretary Mayorkas is false. The statistics show the exact opposite result that he swore his policies were going to produce. These aren't my words – these are his own statistics! There are fewer arrests and fewer serious criminals being arrested. Plain and simple. And we're into the third year of these policies – if he was really concerned about getting criminals off the street and out of the country, and he's seen two-plus years of the opposite result, wouldn't he change them?

It is also worth noting that there are hundreds of thousands – if not millions – of criminal aliens at large in the United States. President Biden's own FY 2024 Budget Justification clearly stated that there were over 400,000 convicted criminals on the non-detained docket. Why are these criminal aliens not detained and removed? At the same time, funded detention beds remain empty, with average daily populations at record lows (19,461 in FY 2021 and 22,360 in FY 2022). So not only did the agency have the resources to arrest more criminals, but they also had the resources to detain them. Yet they failed to do so and continue to ask for less funding for detention, and no meaningful increase in ERO officers, as evidenced by their FY 2024 Budget Request, which only asks for funding for 25,000 beds – 9,000 fewer than the current total, many of which remain unused.

Furthermore, recidivist rates have shown from prior ICE fiscal year reports that most criminal aliens have additional criminal convictions. In FY 2019, ERO arrested 123,128 people with criminal histories, with these individuals accounting for 489,063 convictions and charges, about 4 crimes per alien. In 2020, the 93,000 criminal aliens who were arrested by ERO with criminal

histories accounted for 374,000 criminal charges and convictions, again, about 4 per alien. And even with the paltry number of arrests made by ERO in 2022 as a result of Mayorkas' disastrous policies, in which only 46,000 aliens with criminal histories were arrested, there were nearly 200,000 convictions and charges between them, and again, the average is about 4 per alien. Just think about that – if the Biden Administration conducted interior enforcement against criminal illegal aliens in the same manner as was always done in prior administrations in which I served – Republican and Democrat alike – there would have been another 90,000 aliens arrested who would've accounted for approximately another 300,000 convictions and charges.

It should go without saying that there are real victims on the end of the crimes – innocent people, many from the same immigrant communities, who are suffering at the hands of criminal aliens who the Biden Administration refuses to enforce the law against. And these are violent, dangerous people, and the victims, if not killed or severely physically injured, have suffered mental anguish from which they may never recover. And many of them are children. How in good conscience can Secretary Mayorkas, who runs the Cabinet agency with the largest number of law enforcement officers in the federal government, create a policy that leads to this kind of victimization and destabilization of our communities?

Speaking of communities, during my time in Colorado as an ICE Field Office Director, I personally witnessed the deterioration of former outstanding relationships with numerous local law enforcement agencies because of the sanctuary policies and the effects of these policies. Nationwide, we are seeing a growing separation between ICE and local law enforcement. The belief that any partnership between ICE and other law enforcement entities breeds distrust in immigrant communities is false. It is imperative that ICE remain an effective enforcer of immigration law by working in collaboration with local law enforcement rather than by itself to ensure public safety and national security. This is nowhere more critical than in the fight against opioids and fentanyl.

Let me give you an example. I worked on a case in which a young male illegally entered the United States and later applied for benefits under the Deferred Action for Childhood Arrivals (DACA) amnesty program in 2014 and was granted status. However, his DACA status was revoked when he failed to apply for renewal in 2016. In 2020, he was dealing drugs, including fentanyl. He gave fentanyl and cocaine to a 16-year-old girl at a party, causing her to overdose and die. He did not call an ambulance as she lay dying and instead went into a back bedroom and raped a 14 yr. old girl who was inebriated from the drugs, he had given her earlier. ICE had filed a detainer on this illegal alien, who had admitted to gang ties in the past after he was arrested on the current drug charges. Still, that detainer was not honored due to the state's sanctuary law.

Throughout much of my federal career, we used a litany of tools to arrest and remove illegal aliens. Prior to the rise of sanctuary policies, detainers were one of the most useful. A detainer is placed on an alien who has been arrested by state or local law enforcement. Instead of releasing the alien back on to the streets, the detainer requires the law enforcement agency to hold the alien so that ICE may make an administrative arrest. States and localities used to more widely honor detainers until new policies were implemented prohibiting the practice. It is still federal law, but local law enforcement simply ignores the request if a sanctuary policy is in place. Detainers are an effective tool to ensure that illegal aliens – often criminals – are securely transferred from

state or local to federal custody. It obviates the need for federal agents to make risky street arrests and begins a more timely and expeditious immigration enforcement strategy. Sanctuary policies like the one in my home state are often aimed at refusals to comply with detainers, and we have seen a severe uptick in states and localities not honoring them. The illegal alien is released back onto the street, which endangers both public and officer safety.

I personally witnessed a case in 2020 in which a detainer was ignored on a criminal alien with assault and burglary charges. This person then violently assaulted and seriously injured a female jogger on the High Line Canal in Aurora, Colorado, on the same day he was released by the local jurisdiction that refused to honor the detainer.

In 2016, I was part of a Heroin Operation called Operation Denver Heroin Crosscheck (ODHC); this three-month operation was designed to target alien heroin trafficking. This operation aimed to apply an organized, systematic approach to locating and arresting ICE fugitive aliens, previously removed aliens, removable criminal aliens, and otherwise dangerous aliens at large who were involved in transnational gangs and heroin trafficking organizations in Denver. The three-month operation began on May 31, 2016, and was supposed to conclude on Sept. 2, 2016. When the Mayor and city council members found out that ICE was working with Denver Police on this operation, Denver Police commanders were told to stop the operation and remove ICE from the building. Denver Police shut down the operation on Jul. 8 after only two weeks. During this period, 54 illegal aliens were arrested for heroin-related crimes. Denver refused to work with ICE claiming that it disrupted their ability to work with the "immigrant" community. This argument is invalid for me as it allows citizens to die from heroin overdoses rather than having local law enforcement and ICE work together to save lives.

Such cooperation can help prevent illegal aliens convicted of criminal activity from victimizing our communities after unlawfully entering the U.S. Instead, sanctuary policies are utilized by the gangs and other criminal aliens who rely on this sanctuary to commit crimes in every U.S. community, including legal immigrant communities. Gang activity by illegal aliens remains a threat, and ICE has tried to manage the problem. In 2015 I included Denver Sheriff's Department Gang Intelligence Deputies on our criminal fugitive task force as part of Project Wildfire, a national operation targeting transnational gangs. Because of the great teamwork, we were able to identify numerous cases and arrest over a dozen gang members with criminal backgrounds throughout Colorado. The state sanctuary policy ended that collaboration between ICE and the Denver Sheriff's Department.

It is also critically important that ICE remains a visible presence to deter future violators of immigration laws. A robust enforcement strategy must be implemented to protect our country, our citizens, and all persons within our borders from the potential risks of criminal illegal aliens. Local jurisdictions must understand how partnering with ICE can benefit their communities. By working together with federal authorities, local police can gain access to federal resources and intelligence that would otherwise be unavailable. This can help them better protect their citizens from dangerous criminals, drug traffickers, and terrorists. Additionally, local jurisdictions can gain access to specialized training and technology that is only available through ICE. These resources can make a big difference in helping local police departments keep their communities safe.

By refusing to cooperate with ICE, sanctuary cities are sending a message that they don't value the lives of citizens over illegal aliens. If we want to keep our communities safe, we must work together. Increased collaboration between law enforcement and ICE would allow us to target dangerous criminal aliens and drug traffickers who are causing harm in our communities. We must ensure that local jurisdictions work with ICE to arrest and remove criminals, drug dealers, and those threatening public safety. This is the only way to ensure our cities remain safe from drugs and crime.

One thing is clear – a new, robust immigration enforcement strategy must be developed to protect our country, citizens, and all persons within our borders from the potential risks of criminal illegal aliens. The first step must be returning to the rule of law and enforcing all immigration laws. ICE must be allowed to act as mandated by the Immigration and Nationality Act (INA). Criminal aliens should be detained and expeditiously removed from the country. ICE should be directed to address the millions of final removal orders that have been issued by Immigration Judges yet ignored for years. Congress must help ICE by invalidating departmental policies that handcuff the agency and prioritize only the worst cases, which allow many other crimes to continue to be committed.

Public safety and national security are far too important and should be the utmost concern of this committee. The continuation of lax enforcement and non-enforcement policies, the increase in sanctuary jurisdictions, and a refusal to truly end a historic border crisis is allowing illegal aliens and drugs to flood into American communities. This has created the perfect breeding ground for criminal aliens and, specifically, gang members, who do not discriminate when looking for their next victim. It is time to act.

Mr. MCCLINTOCK. Thank you for your testimony. Our next witness is Mr. Batista.

STATEMENT OF RAMON BATISTA

Mr. BATISTA. Before I begin, Mr. Rosenberg, we just met. I just want to express my sincere thoughts and my heart goes out to you for the loss of your son deeply. Chair McClintock, Ranking Member Jayapal, and other distinguished Members of the Subcommittee, thank you for the opportunity to testify.

My name is Ramon Batista, and I'm the Chief of Police for the city of Santa Monica, California. I was born in Los Angeles and raised in Tucson, Arizona where I spent the bulk of my policing career in the city about 60 miles from the U.S.-Mexico border. My approach to law enforcement is evidence-based and community oriented with the goal of improving public safety for all.

As a member of the law enforcement immigration task force, I also benefit from the collected knowledge of a nonpartisan network of thought leaders who are attentive to unique challenges and opportunities that arise while serving immigrant communities. First, I want to affirm the generally positive effect of immigration on the United States. Most of the immigrants I have encountered firsthand are hard workers who are eager to build a better life here, provide for their families, and pursue the American dream.

They fill critical labor shortages in key industries that Americans rely on. As our friends, fellow parishioners, neighbors, and loved ones, they often influence our lives for the better. That said, I also understand that immigrants are people, and all people are capable of doing bad things.

However, I disagree with the premise that immigrants are more prone to criminality than native born Americans. My experience and the existing evidence overwhelmingly suggest that immigrants including undocumented immigrants pose no greater threat to public safety than anyone else. In fact, their presence may help reduce crime in certain areas.

As a law enforcement officer, my job is to stop perpetrators of crime no matter their immigration status. Ultimately, I work in policing because of all the law abiding residents whom I feel lucky to call part of my community. Undocumented immigrants who live and work with dignity in Santa Monica are a part of my community.

I take seriously my duty to keep them safe just as I do for any U.S. citizen. During my career that has spanned 37 years and two border states, one of the most critical lessons I have learned is the importance of trust. Trust is the life blood of community-oriented policing, and it is especially essential among marginalized groups who might otherwise be afraid to come forward.

There is a myriad of reasons why immigrants in particular may hesitate to cooperate with police. Perhaps the greatest fear they face is that of going to law enforcement for help. They could inadvertently expose themselves or their loved ones to immigration consequences.

When law enforcement is able to overcome these concerns through trust-building, it can save lives. Before I moved to Santa Monica, I served as a police chief in Arizona where I knew I needed

to prioritize connecting with the local immigrant community, so they felt safe and comfortable. That concerted effort paid off when a father came to us worried.

His teenage son who was experiencing mental illness had started making alarming comments and had bought an assault weapon, raising fears that he might soon resort to violence. The father was undocumented and felt nervous to come forward. His love for his son and his community prevailed.

The outreach we had done throughout the city fostered a mutual understanding that we would not only treat him fairly, but also take care of his child. This, to me, is the purpose of the State and local law enforcement, to neutralize real threats to public safety in our communities and to empower civilians under our jurisdiction in their pursuit of justice. Meanwhile, the enforcement of immigration laws has always primarily been a Federal responsibility.

Local police departments like mine should use our limited resources to catch people who are actively doing harm instead of helping to remove residents with no criminal background beyond minor immigration violations. On that note, it is not secret that our Federal immigration system is broken and that immigrants who hope to come to the U.S. for safety and opportunity often find few, if any, lines to legally do so. Immigrants who commit crimes of violence or otherwise impair public safety should face consequences.

For the vast majority who are law abiding and want to contribute positively to our communities, we should expand opportunities to live and work legally in the U.S. Many of these individuals are people of faith who care deeply about their families and embody core American values. When we embrace them, they're not only willing but they're eager to stand for the guiding principles of our Nation.

They stand firm in their belief of democracy, liberty, and freedom. For this reason, I am honored and humbled to sit here today so that I can testify to the urgency for Republicans and Democrats to work together and fix our immigration laws. As much pride as I take in the hard-won victories like the one in Arizona, I wrestle with the knowledge that other tragedies across the country could be prevented where people not afraid to come forward with vital information.

Immigration reform that would provide security for law abiding U.S. residents would not only help them and their families, but it would also help me and other law enforcement professionals do our jobs. I welcome this dialog and hope to be a resource for your Subcommittee as you work toward fixing our immigration system. Thank you.

[The prepared statement of Mr. Batista follows:]

4831

23

Testimony of

Ramon Batista
Chief of Police
Santa Monica (California) Police Department

Hearing on
"The Consequences of Criminal Aliens on U.S. Communities"

Before the
Committee on the Judiciary
Subcommittee on Immigration Integrity, Security, and Enforcement

U.S. House of Representatives
Washington, D.C.

July 13, 2023

Chair McClintock, Ranking Member Jayapal, and other distinguished members of the Subcommittee on Immigration Integrity, Security, and Enforcement, thank you for the opportunity to testify.

My name is Ramon Batista, and I am the Chief of Police for the city of Santa Monica, California. I was born in Los Angeles and raised in Tucson, Arizona, where I joined the local police force at 22 years old and spent the bulk of my career in a city about 60 miles from the United States-Mexico border. My approach to law enforcement is evidence-based and community-oriented, with the goal of improving public safety for all. As a member of the Law Enforcement Immigration Task Force (LEITF), I also benefit from the collective knowledge of a nonpartisan network of thought leaders who are attentive to the unique challenges and opportunities that arise while serving immigrant communities across the nation.

After a career that has spanned about 37 years and two border states, I first want to affirm the generally positive effect of immigration on our towns and cities. Whether authorized or undocumented, most of the immigrants I have encountered firsthand are hard workers who are eager to build a better life in the U.S., provide for their families, and pursue the American dream. They park cars, work in agriculture, wait tables, and fill critical labor shortages in key industries that Americans rely on. As friends, fellow parishioners, neighbors, and loved ones, immigrants often influence our lives for the better.

That said, as a veteran law enforcement leader, I also understand that immigrants are people, and all people are capable of doing bad things regardless of their shape, size, ethnicity, citizenship status, or any other identifying feature. However, I disagree with the premise that immigrants are more prone to criminality than native-born Americans. My experience and the existing evidence overwhelmingly suggest that immigrants — including undocumented immigrants — pose no greater threat to public safety than anyone else, and in fact, their presence may help to reduce crime in certain areas.[1]

As a law enforcement officer, my job is to stop perpetrators of crime no matter their immigration status. But ultimately, I do not work in policing because of a small subset of bad actors. I work in policing because of all the law-abiding residents whom I feel lucky to call part of my community. Undocumented immigrants who live and work with dignity in Santa Monica are a part of my community, and I take seriously my duty to keep them safe, just as I do for U.S. citizens and lawful residents.

During the nearly four decades that I have worked in law enforcement, one of the most critical lessons I have learned is the importance of trust to effectively perform my responsibilities. Trust is the lifeblood of community-oriented, 21st-century policing, and it is especially essential among marginalized groups who might otherwise be afraid to come forward to law enforcement with information. There are myriad reasons why immigrants in particular may hesitate to cooperate with police. For one, many people who come to the U.S. have fled countries with corrupt authority figures, where they may have faced persecution at the hands of law enforcement. Language barriers can also play a role, reinforcing the need for multilingual officers. But perhaps the greatest fear faced by witnesses and victims from immigrant communities is the concern that going to the police for help could inadvertently expose them and/or their loved ones to immigration consequences such as deportation.

When law enforcement is able to overcome these concerns through culturally sensitive community outreach and trust-building, it can save lives. Before I moved to Santa Monica, I served as a police chief in Arizona, where I knew I needed to prioritize connecting with the local immigrant community so they felt safe and comfortable under my leadership. That concerted effort paid off when a father came to my department, worried. His teenage son who was experiencing mental illness had started making alarming comments and had bought an assault weapon, raising fears that he might soon resort to violence. The father was undocumented and felt nervous to come forward. But his love for his son and his community prevailed, and the trust we had imbued throughout the city fostered a mutual understanding that we would not only treat him fairly but also take care of his child.

---

[1] "Fact Sheet: Immigrants and Crime," Law Enforcement Immigration Task Force, June 26, 2018, https://leitf.org/2018/06/fact-sheet-immigrants-crime/, 4.

Our outreach and care had laid the groundwork for this father to be able to do the right thing, and I believe that together, we likely prevented a mass-casualty event. The incident remains one of my greatest wins and proudest achievements from my time in Arizona, serving as a testament to what thoughtful, evidence-based community policing can do.

This, to me, is the purpose of state and local law enforcement: to neutralize real threats to public safety in our communities, and to empower all civilians under our jurisdiction in their pursuit of justice. When law enforcement agencies are able to build trust within our communities, including immigrant communities, we are more likely to get cooperation from victims and witnesses of all backgrounds, improving public safety for everyone.

Enforcement of immigration laws has always primarily been a federal responsibility. Meanwhile, local police departments like mine should use our limited resources to catch people who are actively doing harm, instead of apprehending and helping to remove residents with no criminal background beyond minor immigration violations. It is no secret that our federal immigration system is broken and has been for years now. Immigrants who want to follow the law and come to the U.S. in search of safety and opportunity often find few if any lines to legally do so.[2] Some arrive fleeing persecution, only to join an asylum backlog of over 1.5 million people.[3] Others are simply trying to reunite with family or make a decent living. Whatever their rationales, people migrating today face a far more restrictive immigration landscape than did our ancestors who made us Americans, and for many of those who are already in the U.S. without authorization, there is no viable way to get right by the law.

Immigrants who commit crimes of violence or otherwise imperil public safety should face consequences. But for the vast majority who are law-abiding and want to contribute positively to our communities, we should expand opportunities to live and work legally in the U.S., both for people who are trying to immigrate and for those already here.

In my view, the U.S.'s broken immigration system represents a missed opportunity, given that many of the immigrants who are caught in legal limbo otherwise embody core American values. They are often people of faith, who care deeply about their families and communities. And, when we embrace them, they are not only willing but eager to

[2] "Why Don't Immigrants Apply for Citizenship?" American Immigration Council, October 9, 2021, https://www.americanimmigrationcouncil.org/research/why-don%E2%80%99t-they-just-get-line.
[3] "A Sober Assessment of the Growing U.S. Asylum Backlog," Transactional Records Access Clearinghouse, December 22, 2022, https://trac.syr.edu/whatsnew/email.221222.html.

stand up for the guiding principles of our nation, including democracy, liberty, and freedom.

For this reason, I am particularly honored and humbled to sit here today, so that I can testify to the urgency for Republicans and Democrats on this subcommittee to work together and fix our immigration laws. We need serious solutions that pair border security with a pathway to lawful status for members of our communities who contribute to our social fabric and economy every day. Congress has the power to deliver those changes, by recognizing the generally positive influence of immigrants, prioritizing public safety, and bringing our immigration laws into the 21st century.

As a police chief, I have a vested interest in this conversation. As much pride as I take in hard-won victories like the one in Arizona, I also wrestle with the knowledge that other tragedies across the country could be prevented were people not afraid to come forward with vital information. Immigration reform that would provide security and certainty to long-time, law-abiding U.S. residents would not only help them and their families — it would also help me and other law enforcement professionals do our jobs, improving public safety.

I welcome this dialogue and hope to be a resource for your subcommittee as you work toward fixing our immigration system.

Mr. MCCLINTOCK. Thank you for your testimony. Finally, we'll hear from Mr. Rosenberg.

STATEMENT OF DONALD ROSENBERG

Mr. ROSENBERG. Chair McClintock, Ranking Member Jayapal, Ranking Member Nadler, and Committee Members, thank you for the opportunity to testify before the House Judiciary Subcommittee on Immigration Integrity, Security, and Enforcement. If only we had immigration integrity, security, and enforcement, I wouldn't be here today. My son and tens of thousands of others would be alive.

I am the President of Advocates for Victims of Illegal Alien Crime. Let me be clear. We are not against immigration, asylum, or refugee programs. We are against criminality.

My son, Drew, on his way home from law school was killed by a criminal illegal alien over 12 years ago. The illegal alien who ran him over drove back and forth over his body three times attempting to flee. On the third time, he stopped when a man stood in front of his car.

His rear tire was resting on my son's abdomen. Five men had to lift the car off his lifeless body. Surely that is a consequence of illegal immigration.

The AVIAC board members have all lost a loved one to illegal alien crime. Maureen Maloney's 23-year-old son was killed by a drunk driver in 2011. The illegal alien ran a stop sign, collided with Matthew, and dragged his body a quarter of a mile.

The killer was released from prison two months ago. Brian McCann's brother, Denny, was a hit and run victim in 2011. The killer was caught, but Cook County, Illinois board crafted a sanctuary policy that allowed the killer to post bond. He was released and fled to Mexico. After 12 years, he was finally extradited and will stand trial.

Maureen Laquerre's brother, Richard, was killed in 2009 when a woman who overstayed her visa ran a red light and t-boned his car. She was charged with vehicular homicide but never went to trial. Almost a year after Richard's death, she was allowed to return to Portugal without spending a day in jail.

All these deaths were preventable. There are no annual statistics on criminal alien crime. There is a report compiled by the GAO using data from the State Criminal Alien Assistance Program, SCAAP, that studied the crimes committed by criminal aliens in Federal and State prisons between 2011 and 2016.

Those inmates were responsible for over 33,000 murders, homicides, and manslaughters. How many other preventable deaths by criminal aliens before 2011 and after 2016? Ten thousand, 20 thousand or more, we don't know.

Even those numbers are small. They're small portion of all the crimes committed by illegal aliens as the report mentions three different times. These are minimum numbers as not all jurisdictions participate in SCAAP.

The numbers are also understated because there are minimum requirements to be counted. During 2011–2016, those same inmates were responsible for over two million other crimes. What will these numbers look like going forward?

So far, over two million more asylum seekers have been released into the country in just the first two years of the Biden Administration. These two million have received little to no vetting, only checking if they had been in the country and then prior deported. Less than 15 percent will be granted asylum.

The rest will be ordered deported. Less than five percent will ever leave. What is now probably two million got-aways that have not been vetted at all are roaming the country freely and more likely to have criminal intent.

None of them will be deported until they have committed some heinous crime, if even then. Furthermore, sanctuary policy thwarts ICE from deporting convicted criminal aliens. This past May, San Mateo County in California passed an ordinance that no county employees can cooperate with the Federal government, even if the crimes committed were child molestation, rape, or murder.

These people are not a threat to public safety? I have watched these hearings for a decade as victims pour their heart out obviously to no avail. Some of you will tell me you are sorry for my loss.

How many of you will be sincere? We don't need sympathy. Nothing you do will bring back our loved ones. I've had enough sympathy to last me for the rest of my life.

What we need is some sanity. DHS' first priority must be removing all criminal aliens, not some but all. The same time, the border must be secured. Only those people we fully vet should be allowed in.

For the past 12 years, I have worked daily to reduce and eliminate the consequences of criminal aliens on U.S. communities. I wish I felt our government was doing the same thing. I hope I don't get a call one day that your loved one is the latest victim. Thank you. I look forward to answering your questions and I'm available to meet with you at any time.

[The prepared statement of Mr. Rosenberg follows:]

HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE ON IMMIGRATION INTEGRITY, SECURITY, AND ENFORCEMENT

THE CONSEQUENCES OF CRIMINAL ALIENS ON U.S. COMMUNITIES

JULY 13, 2023

WRITTEN TESTIMONY OF DONALD ROSENBERG
PRESIDENT, ADVOCATES FOR VICTIMS OF ILLEGAL ALIEN CRIME
FATHER, DREW ROSENBERG JANUARY 9, 1985 – NOVEMBER 16, 2010

Chairman McClintock and Ranking Member Jayapal:

Thank you for the opportunity to testify before the House Judiciary's Subcommittee on Immigration Integrity, Security, and Enforcement.

If only we had any immigration integrity, security, and enforcement, I wouldn't be here today, and my son and tens of thousands of others would be alive.

"No one is Above the law." How often have we heard that said, particularly over the past six years?

As president of Advocates for Victims of Illegal Alien Crime, we agree wholeheartedly. In fact, if the 12-15 million illegal aliens weren't above the law, our organization would have no reason to exist.

I know you get to ask me questions but let me ask you, why are illegal aliens not held to that standard? Or, for that matter, Homeland Security Secretary Alejandro Mayorkas or even President Biden?

Today's hearing is titled "The Consequences of Criminal Aliens on US Communities." Remember that every alien who enters the country illegally or makes a claim for asylum and refuses to leave when that claim is denied or makes an asylum claim but never even files the asylum papers is a criminal alien.

My son, Drew, was killed by a criminal illegal alien twelve years ago on his way home from law school. The illegal alien who ran him over drove back and forth over his body three times, attempting to flee. On the third time, he stopped when a man stood in front of his car. His rear tire was resting on my son's abdomen, and five men had to lift the car off his lifeless body. Surely that is a consequence of illegal immigration.

The Government Accountability Office has produced three reports on criminal alien crime. The last report was released in 2018, covering 2010-2015. Unfortunately, there are no annual statistics available.

- Those incarcerated between 2010-2015 were responsible for over 33,000 murders, homicides, or manslaughters. How many were killed prior, and how many have been killed since?

- By 2015, twenty-one (21) percent of the federal immigration population were criminal aliens. (This data includes legal immigrants)
- In FY 2015, there were 169,300 illegal aliens in state prisons and local jails. (These numbers are based on those requesting SCAAP reimbursement. Not all states and localities request funds. Additionally, there are conviction and length of stay requirements to be reimbursed. The report mentioned three times that these are minimum numbers. And, of course, these numbers don't reflect that according to FBI statistics, less than 25% of crimes are ever solved, many criminals are given probation, and in the case of illegal aliens, many flee the country before they are arrested or after they are arrested and released.)
- The cost to the five states with the largest incarcerated population was $1.6 billion. California represented over $1 billion of that amount, with Los Angeles County's share at $87 million.

More currently, let's look at a few charges and convictions for ERO arrests in 2018.

These numbers include all pending criminal charges and convictions by category for those aliens administratively arrested in FY2018 and list those categories with at least 1,000 combined charges and convictions in this population. These figures represent the criminal history entered in the ICE record system for individuals administratively arrested. Each administrative arrest may represent multiple criminal charges and convictions, as many of the aliens arrested by ERO are recidivist criminals. Listed is a small sample of the categories. The total number of crimes is over 535,000.

- Driving while intoxicated – 80,730.
- Dangerous Drugs – 76,585
- Assault – 50,753
- Kidnapping – 2,085
- Homicides – 2028

DHS Secretary Mayorkas claims he is creating a safe and humane process for asylum seekers. How about safe and humane communities for American citizens and legal permanent residents? He keeps referencing the mission but obviously has no clue as to what the mission is. He says he doesn't have the resources to

deport more illegal aliens. Could that be because he is spending most of his funds to process more of them into the United States?

Since Joe Biden became president, we have released over 2 million illegal aliens into the country with little or no vetting of who they are, where they came from, what they did before they got here, and what their intentions are now that they are here.

On top of that, at least 1.5 million got-aways are freely roaming the country, and we know nothing about them except they do everything possible to avoid detection.

Is the country safer now than it was two and a half years ago?

What are the consequences of this utter madness?

How did it happen that people who have been victims of illegal alien crime, be it burglary, rape, or the loss of a loved one, and speak out are now considered racist, bigots, white supremacists, and anti-immigrant (even though none of these people qualify as immigrants) and privileged. While those committing these crimes, including entering the country illegally, are now the victims?

Almost all the deaths caused by illegal aliens were preventable. In the past 12 years, I have reviewed hundreds, maybe over a thousand, cases that resulted in a fatality. I can't remember one where the killer didn't have prior convictions or, at the very least contact with law enforcement. Why were these people still here?

The 2018 GAO study analyzed California illegal alien criminals and found that the average recidivism rate was six convictions. What would you expect with sanctuary policy and now sanctuary law hiding these people from ICE? Sanctuary only benefits those illegal aliens who have committed additional crimes since entering the United States. What is the consequence to communities when criminals are released back onto the street?

California's sanctuary law has a few exceptions for some heinous crimes, yet that wasn't good enough for San Mateo County. In May, the County Council passed an ordinance that prohibits county departments from using any resources or personnel to assist or cooperate with requests from the United States Immigration

and Customs Enforcement or any other immigration authorities even in the case of child molestation, rape, and murder.

A familiar refrain is that illegal aliens commit less crimes than the native-born. Although thoroughly debunked by the Center for Immigration Studies, it's irrelevant. They shouldn't be committing any crimes. Do the millions of crimes they commit have positive consequences on our communities?

A question raised is why does the public know so little about illegal immigration?

One must only look at how most of the media covers illegal immigration.

Two weeks ago, Gerson Fuentes, 28, was sentenced to a life sentence for raping and impregnating an Ohio 9-year-old who traveled to Indiana for an abortion. The story's headline, written by the associated press and reported by ABC News, read "Man" gets life sentence. No mention that the "Man" was an illegal alien. While most papers didn't even cover the story of those that did, like the NY Times, Washington Post, and USA Today, neglected to mention that Fuentes was an illegal alien, that he was the boyfriend of the girl's mother and living in the same apartment. The three largest papers in California, the state with the most illegal aliens, didn't cover the story. Of course, had our immigration laws been enforced, this tragic event would have never happened.

When Mollie Tibbetts's killer was arrested, despite constant front-page coverage of her disappearance, most papers relegated the story to deep inside the newspaper. Most failed to mention that the killer was illegal, and the story quickly disappeared. When the killer was convicted, most stories' headlines were "Man" convicted in Tibbetts's murder. Again, his immigration status was missing or buried deep into the story.

But most crimes committed by illegal aliens are never covered at all.

A Harvard-Harris Survey conducted in December 2022 asked respondents, "How many border crossings by illegal immigrants do you think are occurring each year?" Over 75 percent of the respondents were off by over 100 percent. Thirty-seven percent responded less than 250,000; of that, sixteen percent said less than 100,000.

Also, in December, the Los Angeles Times and YouGov surveyed a national sample of adult American citizens on asylum. Of those identifying as Democrats, nearly half said: "most or all asylum seekers had valid claims." According to government statistics, the actual number is less than fifteen percent.

Where are these people getting their information on illegal immigration? It sure isn't Fox.

Polling people on issues they have either been misinformed or flat-out lied to is not a valid way to form public policy.

Now we hear that these people aren't illegal aliens but asylum seekers fleeing certain death. However, they have already committed a crime by entering between ports of entry. According to a report covering thirteen years of data from the Executive Office of Immigration Review, over 47% never even pursue an asylum claim once released into the country. More than 85% will be denied asylum and receive a deportation order, yet less than five percent ever leave the country. Anyone requesting asylum must be detained or made to remain in Mexico until their hearing is adjudicated. These numbers prove they can't be trusted to be released.

Not all illegal aliens enter the country with the intent to harm anyone. Many come here to make their lives better. But some do commit crimes like the man who killed my son; many have already committed crimes before they came here and have no intention to stop.

AVIAC is not against immigration. We are not against refugees; we are not against asylum seekers. We are against illegal immigration.

Even when they don't commit a crime, there are negative consequences to our communities.

Illegal entry is not a victimless crime. According to a study released by F.A.I.R, Illegal aliens cost taxpayers over $150 billion dollars a year while paying less than 10% of that in taxes. What was my son's life worth or the hundreds of thousands of other rape and murder victims' lives worth? That number is not part of the $150 billion calculation.

The California Department of Education says there are approximately 1.4 million K-12 students (pre-covid) with at least one illegal alien parent. The state now provides over $20,000 per year per student. Just to educate these students costs California Taxpayers over $28 billion. California Governor Gavin Newsom boasts that illegal aliens pay $2.5 billion yearly in taxes.

As outlined above, the consequences to U.S. Communities are catastrophic. It is not just the victims of crimes or the pure cost in dollars. Many of our cities have housing crises, both in available housing and the high rental costs, and are suffering from massive homelessness, all exacerbated by the millions of illegal aliens, most concentrated in urban areas.

The school systems are failing all the children, particularly immigrant and Black children. Some of this is due to overcrowding, but much is the unavailable resources needed to teach so many children that can't speak English, are unprepared for the grade level they are assigned, and frequently don't have parents who can help them because they can't speak English either and often are poorly educated themselves.

Hospital emergency rooms in these communities are overcrowded, understaffed, and often in financial distress serving patients that contribute little or nothing to the costs of the services provided.

Advocates for illegal aliens claim that "immigration reform" is needed, but what they propose is not much different than what was tried in the Immigration Reform and Control Act of 1986. Can anyone think of a piece of legislation that failed more miserably? Why would we even think of doing anything similar?

What communities are better today because of illegal immigration?

Granting amnesty to 12-15 million illegal aliens is the worst solution. Those working the jobs that supposedly Americans won't do and being paid below minimum wage, and working under terrible conditions won't want to do them either once they have a green card. Companies currently hiring illegal aliens because they can exploit them both by paying miserly wages and offering little to no benefits will not be able to increase their labor costs, often by over 100 percent. They will fire these employees and bring in the next batch of illegal aliens. And so, the cycle repeats.

Immigration law was established to protect American workers and protect American citizens. Those necessities still exist today, even more so.

If we need more immigrants, so be it, but we must begin to deport those who have broken our laws. Rewarding bad behavior only begets more bad behavior.

Thank you. I look forward to answering your questions and am available to meet with you at any time.

Mr. MCCLINTOCK. I want to thank all of you for your testimony, and we'll now proceed under the five-minute rule of questions. We'll begin with Mr. Biggs of Arizona.

Mr. BIGGS. Thank you. Thanks, Mr. Chair. Thank you all for being here today. Mr. Schoenleben, it seems to me that the core American values is the rule of law. Would you agree with that?

Mr. SCHOENLEBEN. Yes.

Mr. BIGGS. How about you, Mr. Fabbricatore?

Mr. FABBRICATORE. Yes, absolutely, sir.

Mr. BIGGS. Mr. Batista, the rule of law, core, right?

Mr. BATISTA. Yes, yes.

Mr. BIGGS. Mr. Rosenberg, you'd agree with that as well?

Mr. ROSENBERG. As we hear, no one is above the law.

Mr. BIGGS. Mr. Fabbricatore, am I saying that right, Fabbricatore?

Mr. FABBRICATORE. Fabbricatore, yes, sir.

Mr. BIGGS. Fabbricatore. Here's my question for you and that is how many people who enter between the ports of entry without legal documents have violated U.S. law?

Mr. FABBRICATORE. They violate the law the minute that they enter the country by crossing around the ports of entry.

Mr. BIGGS. Everyone?

Mr. FABBRICATORE. Yes.

Mr. BIGGS. Everyone?

Mr. FABBRICATORE. Every single one.

Mr. BIGGS. Every one of those two million got-aways that Mr. Rosenberg told us about, is that consistent with the rule of law?

Mr. FABBRICATORE. No, sir. It is not.

Mr. BIGGS. So, here's another question. Mr. Rosenberg touched on it, and you touched on it a little bit. So, it's really critical here. People who are in this country illegally, who commit an additional crime against a citizen or someone who is here legally. If they were not in this country illegally, would they have been able to commit that crime?

Mr. FABBRICATORE. No, they would not have been.

Mr. BIGGS. So, a crime prevention strategy would be to enforce the law and secure the border, would it not?

Mr. FABBRICATORE. Yes, sir, it would be.

Mr. BIGGS. Do you know whether Secretary Mayorkas has told members of ICE and limited their authority on executing removal orders on the more than 1.4 million people who already have a removal order in this country?

Mr. FABBRICATORE. Yes, through his priorities, he has limited that.

Mr. BIGGS. Tell me how so.

Mr. FABBRICATORE. Well, the priorities State that we're not go to after just final orders that don't have recent criminal backgrounds or criminal backgrounds at all. So, you're just allowing that to keep growing and growing.

Mr. BIGGS. So, we passed H.R. 2 out of this body. It languishes in the Senate. Doesn't fix every problem with border security, but it makes a start.

We have a Secretary of Homeland Security that has told ICE to stand down. We have a Secretary of Homeland Security who's en-

gaged in a catch and release program. Do you know what he has said is his priorities?

Any one of these. Do you know what he said one of his priorities is? He has said it's to make illegal immigration more humane, to expedite those who enter our country illegally. Does that sound like the rule of law to you, Mr. Rosenberg?

Mr. ROSENBERG. Not at all.

Mr. BIGGS. How about you, Mr. Batista? Does that sound like the rule of law?

Mr. BATISTA. Not in following the letter of the law, no.

Mr. BIGGS. Mr. Schoenleben?

Mr. SCHOENLEBEN. No, sir.

Mr. BIGGS. Mr. Fabbricatore?

Mr. FABBRICATORE. Absolutely not, sir.

Mr. BIGGS. So, we're left when the Chief Law Enforcement Officer, the head of the DHS in this country says, stand down, don't enforce the law, I trouble accepting the notion that those who come into this country illegally, enter this country illegally regardless of motivation understand and accept our adherence to the rule of law. I'll tell you what. If you have people who don't understand the rule of law and its importance, you cannot have freedom because it facilitates what every one of you know.

The really bad guys will be able to go free. They'll be undeterred, and they will go after and cause havoc and mayhem. I'm not saying everybody who comes in this country illegally is going to commit an additional crime.

They are born under crime entering this country illegally. I want to mention really quick, Mary Anne Mendoza whose son Brandon Mendoza, police officer, killed by—and I know Mr. Batista knows the Phoenix area. On Valley Freeway illegally entered the country drunk, driving for literally miles and miles, runs into Mr. Mendoza.

Brandon—or excuse me, Mr. Ronnebeck, Steve Ronnebeck's son Grant who was killed by an illegal alien who put a gun to his head because he didn't provide him change fast enough at the convenience store. No, they don't share our core values.

Mr. MCCLINTOCK. The gentleman yields back. Ms. Jayapal?

Ms. JAYAPAL. Thank you, Mr. Chair. I want to start by getting some of the facts out there. There is no data to suggest that localities with community trust policies have more criminal activities than others. In fact, hundreds of local law enforcement agencies throughout the United States have adopted community trust policies.

Across the country, these local police departments, the ones that my Republican colleagues are so quick to claim that they support report that trust policies actually reduce crime. Recent comprehensive studies have supported those claims statistically showing that community trust jurisdictions are demonstrably safer than their counterparts. Mr. Chair, I ask unanimous consent to submit a sampling of those different studies for the record.

Mr. MCCLINTOCK. Without objection.

Ms. JAYAPAL. We know that victims and witnesses are much more likely to report crime and cooperate with investigations and prosecutions when they believe that there is little or no risk of deportation if they reach out. Moreover, we know that abusers will

use an individual's immigrant status to intimidate them into staying silent. Local law enforcement relies heavily on these victims and witnesses to prevent and punish criminal activity.

So, Chief Batista, let me turn to you. I don't want my colleagues to take my word for it. Can you help us understand why jurisdictions with community trust policies in place experience less crime and why their residents feel safer?

Mr. BATISTA. Yes, ma'am. Chair McClintock, Ranking Member Jayapal, what I've seen in my history is that time and again in our communities when we embrace immigrants and make them feel and be a part of our normal life that they behave in those same manners in that they cooperate with law enforcement and that they no longer are victims that live in the shadows. One of the greatest concerns I have in that situation is that a victim that does not come forward just makes a perfect victim. I don't think anyone in this room and certainly no one in law enforcement ever supports that occurring to anyone in our country.

Ms. JAYAPAL. One of the studies that I submitted into the record found that jurisdictions that adopted sanctuary policies experienced a 52–62 percent reduction in the domestic homicide rate for Hispanic women. Chief Batista, does that statistic track with your experience as a law enforcement officer in jurisdictions that have those kinds of policies?

Mr. BATISTA. Yes, it does.

Ms. JAYAPAL. Domestic violence accounts for approximately 15 percent of all violent crimes. It often goes unreported. How do community trust policies help domestic violence victims feel more comfortable coming forward?

Mr. BATISTA. In the same way, ma'am, in that when we respond on a call for assistance from a victim of domestic violence, we want them to know that their status in the United States is not our primary concern. Our concern at that point is their safety and their welfare. That has been our guiding principle since I was in Arizona and certainly in California. I have seen that it works.

Ms. JAYAPAL. I really appreciate that. Chief Batista, you've worked in law enforcement for nearly four decades, both in Arizona, most recently in California. Have you seen a difference in how welcoming those States are toward immigrants?

Mr. BATISTA. Yes.

Ms. JAYAPAL. Can you compare your engagement with communities of color in Santa Monica and in Mesa?

Mr. BATISTA. I'll tell you that as a whole in Arizona, it was much more challenging in that the State's immigration laws made it difficult for local law enforcement to build a relationship in those circumstances. I'd attended many meetings with immigrant communities. It felt as though in those meetings folks were just trying to get by, trying to survive.

The difference that I've experienced in Santa Monica and in Los Angeles is that their immigrant communities are forthright and willing to come out and engage and be a part of the social fabric of neighborhoods. Their kids and the encouragement that they receive is not just to be able to get through high school, but to be thinking about what college, what university they're going to go to and what profession are they going to pursue. It just feels as

though folks are more welcoming and understanding and wanting to achieve the American dream just like everyone else.

Ms. JAYAPAL. Just like everyone else. Can you discuss how passing immigration reform which brings undocumented individuals out of the shadows and regularizes their immigration status would actually improve the job you're trying to do around local policing and national security?

Mr. BATISTA. Community policing is—foundational precept is trust I mentioned earlier. So, having them come out of the shadows, like I said, normalizes their behaviors in our neighborhoods and our cities. It makes it so that this communication, that ability to understand what's going on at the neighborhood level is improved. I can't say enough about how it will improve our ability to mitigate threats at even the national level.

Ms. JAYAPAL. Thank you, Chief Batista, for getting those facts out there. I think it's clear our words matter. It's important that we discuss these issues carefully. I yield back, Mr. Chair.

Mr. MCCLINTOCK. Mr. Tiffany?

Mr. TIFFANY. Thank you, Mr. Chair. Yes, words do matter. Mr. Orwell would be highly interested in the discussion that's being had here. Community trust equals a sanctuary city.

They've renamed sanctuary cities now right here in the Judiciary Committee of the House of Representatives. Saying that there's less crime in a community that is a sanctuary city which a sanctuary city almost certainly has a Soros prosecutor. You're going to tell us that there is not as much crime?

Those prosecutors in the big cities are not prosecuting crime in many instances. We saw it firsthand up in New York City. Mr. Rosenberg, is crime up in California over the last couple decades?

Mr. ROSENBERG. Yes, tremendously up.

Mr. TIFFANY. Mr. Batista?

Mr. BATISTA. Chair McClintock, Mr. Tiffany, I didn't catch the question.

Mr. TIFFANY. Is crime up in California over the last couple decades?

Mr. BATISTA. I can't tell you off the top of my head. I can tell you that in our jurisdiction locally, we're about seven percent higher than we were last year.

Mr. TIFFANY. Mr. F?

Mr. FABBRICATORE. Yes, sir. It's up in Colorado.

Mr. TIFFANY. Mr. Schoenleben?

Mr. SCHOENLEBEN. It's up in Orange County, California for sure.

Mr. TIFFANY. Significantly?

Mr. SCHOENLEBEN. Yes. In fact—yes, sir. I can actually tell you just as a quick example for residential burglaries, in 2022, our office filed 542 residential burglaries for the entire year. This year to date, we're already at 414. We're projected 828 for 2023. So, yes.

Mr. TIFFANY. In California, is crime down in the sanctuary cities?

Mr. SCHOENLEBEN. I'm sorry?

Mr. TIFFANY. Is crime down in the sanctuary cities in California?

Mr. SCHOENLEBEN. Not to my knowledge. No, sir.

Mr. TIFFANY. Mr. F, is the Biden Administration following the law? Is the Biden Administration following Federal law?

Mr. FABBRICATORE. They're not following the Immigration Nationality Act, no.

Mr. TIFFANY. Have you read or become familiar with the secure the border bill that we just passed?

Mr. FABBRICATORE. I've read some of it, sir.

Mr. TIFFANY. Is it an improvement on what we have now?

Mr. FABBRICATORE. It would be an improvement. It would be actually enforcing the law.

Mr. TIFFANY. Would you recommend to all Congressional Representatives before you today to vote for that secure the border bill?

Mr. FABBRICATORE. Yes, sir.

Mr. TIFFANY. We hear about fentanyl bills that are kind of chipping away at the edges, Mr. F. I keep saying (1) we can do to reduce fentanyl and by far and (2) is way down the line, is to secure the border. Is that accurate?

Mr. FABBRICATORE. Yes. It's very accurate. Securing the border would actually help keep the fentanyl out. That's the cartels that are moving the fentanyl.

Mr. TIFFANY. In fact, it's rather interesting. When we made the trip down to just a couple years ago that my colleague, Mr. Biggs, took us down to the county, Cochise County. The sheriff said things were getting under control down there as the wall was being built.

They were able to put crime control measures in place. They were telling a very positive story. We just had them before us a couple months ago and he said things are out of control and that fentanyl, there's a reason why it's gone up by 80 percent or whatever the number is. That's coming into America. It's primarily because the border is open. Do you believe that to be true?

Mr. FABBRICATORE. I do believe it to be true. As the border gets open and more people are just rushing in, the border patrol is being kept from actually being on the line, on the border. So, it's harder for them to stop any fentanyl that may be coming in.

Mr. TIFFANY. Mr. Schoenleben, when I was down in Panama about two years ago, I heard that many Haitians that were coming through had actually resettled in places like Brazil and Chile. Have you seen any Haitians that came via the ESTA visa program that you referred to in Chile?

Mr. SCHOENLEBEN. So, we don't breakdown the actual national birthplace of each defendant. What we've been looking at is trying to figure out who our criminals are and where they are coming from and how they're getting in. When we've done that, we found that wherever their birthplace, whether it be from Argentina, Puerto Rico, and so on, they'd been utilizing the Chilean ESTA program to get into the country and then commit crime.

Mr. TIFFANY. Have you or anyone in your office asked Secretary Mayorkas to change this program to protect Americans?

Mr. SCHOENLEBEN. We have not spoken directly with Secretary Mayorkas. We've worked with Department of Homeland Security. We've worked with the FBI.

In every briefing that we've done, we've been a part of no less than half a dozen briefings between those two agencies. The Homeland Security has been aware of this issue for at least four years, same with the FBI. So, then we've started reaching out. We were told it would take an act of Congress to fix this. So here we are.

Mr. TIFFANY. So, they haven't done anything?

Mr. SCHOENLEBEN. Not to my knowledge. I do know that there's been a meeting. There's a meeting planned. The concern from our office is there's routine questions—or routine promises that things will happen. Our concern is we'd like them to actually happen.

Mr. MCCLINTOCK. The gentleman's time has expired. Mr. Nadler?

Mr. NADLER. Thank you, Mr. Chair. Chief Batista, as I mentioned in my opening statement, next month is the anniversary of the El Paso shooting. In that tragic incident, a domestic terrorist murdered 23 people. He posted a racist manifesto espousing White nationalist theories and claiming that there was a Hispanic invasion, even telling investigators later that he was targeting Mexicans. Can you discuss the impact that this type of rhetoric has on minority communities?

Mr. BATISTA. Chair McClintock, Ranking Member Nadler, yes, it has a devastating effect on migrant and minority communities in that it forces them to go underground and communicate and cooperate. Much less it forces them into the shadows. It doesn't help the work of public safety if segments—large segments of our community are cast away in that manner.

Mr. NADLER. How does it impact you as a Hispanic man yourself?

Mr. BATISTA. As a Police Chief of nearly 40 years, and certainly when I am wearing the uniform or this, there is a level of respect that I see, I feel. Certainly, when I take all this off I experience the same challenges that other ethnic minorities in this country experience. It informs me, it informs my leadership, and my views on how things have to improve.

Mr. NADLER. Thank you. The Major Cities Chiefs Association, a professional organization of police executives representing the largest cities in the United States and Canada, has previously stated that if law enforcement officers are viewed by members of the immigrant community as colluding with or working with immigration law enforcement officers, this would,

> Result in increased crime against immigrants in the broader community, create a class of silent victims, and eliminate the potential for assistance from immigrants in solving crimes or preventing future terroristic acts.

Do you agree with this statement?

Mr. BATISTA. Yes, sir.

Mr. NADLER. Do you think if minority communities and specifically immigrant communities feel unsafe that it makes everyone in that jurisdiction less safe?

Mr. BATISTA. Yes, sir.

Mr. NADLER. If so, can you explain why?

Mr. BATISTA. The level of cooperation that we need to be successful encompasses the same things that we expect and the way that we do and the way that we are successful in communities across the country. If we have ethnic minority communities, immigrant communities, where we can't penetrate, where we can't get information, that affects our national security through and through.

It is not just people coming from across the border. It is in any immigrant community in this country where we need to understand and better understand what it is that is occurring. Without

that information, we are at a deficit and it makes our country less safe.

Mr. NADLER. Thank you. In your opening statement, you told a compelling story about how an undocumented individual was willing to come forward and express concerns about his own son to law enforcement because of the outreach you did and the trust you built. Is that kind of story indicative of the positive results we have seen from implementing community trust policies?

Mr. BATISTA. Chair Nadler—Ranking Member Nadler, that is but one of the many examples and wins that I remember from my time in Arizona. I spent the bulk of my time as an officer in the Tucson Police Department, and there we worked very hard to work on the relationship with our immigrant communities.

That story that I told stays with me simply because of the significance of how difficult it must have been for that man to come forward. Yes, at the end those stories ring true for me.

Mr. NADLER. Thank you. I yield back.

Mr. MCCLINTOCK. The gentleman yields back.

Mr. Roy.

Mr. ROY. I thank the Chair. I thank all the witnesses for being here.

Mr. Rosenberg, you explained the tragic loss of your son. If I remember correctly, there were obstacles to the removal of the criminal alien who unfortunately killed your son, and was not the current secretary at that point—Secretary Mayorkas at that point in the Obama Administration—and can you characterize his help or lack of help in ensuring that both prosecution and/or deportation of the individual in question?

Mr. ROSENBERG. Well, I didn't know of his involvement at the time. After the trial and Roberto Galo was sentenced to six months in jail, I met with my Congressman, Henry Waxman at the time, and said I want to make sure this guy is detained and deported.

He had somebody write a letter to USCIS, of which Mayorkas was the head of at the time, and he got back a letter that said that Galo would not be detained or deported because—and this is an exact quote, "he has only committed one crime of moral turpitude."

As I learned later on, and as we see today, that is Mayorkas' policy. Killing somebody doesn't necessarily reach the level to be deported.

Mr. ROY. So, the current Secretary of Homeland Security felt that it was not something that merited deportation, because he had "only had one crime of moral turpitude."

Mr. ROSENBERG. Yes.

Mr. ROY. One crime.

Mr. ROSENBERG. Yes.

Mr. ROY. Does that "one crime" mean a lot to your family, sir?

Mr. ROSENBERG. Means everything to my family.

Mr. ROY. Do you think such a statement and a position is befitting of someone who swears an oath to uphold the laws of the United States, whether it was in a position in USCIS under President Obama or now as secretary of a department charged with securing the homeland of the United States?

Mr. ROSENBERG. Well, our group and I was against his even being appointed. I did get to meet him in 2014. At the time, I still

didn't know that he was part of what happened in my son's case, and he lied to me constantly.

I mean, the one thing you learn when you are in publishing is ask somebody questions that you know the answer to. If they lie, you will know they are lying.

Mr. ROY. So, I am interested in that perspective, because the Secretary of Homeland Security lied to me in this very room when he said under oath that, "We have operational control of the border." He then went on to testify in the U.S. Senate that, well, we can't have operational control of the border under that definition in the Secure Fence Act. At the same time, Raul Ortiz testified that, in fact, we do not have operational control of the border.

Do you think it is a problem for the Secretary of Homeland Security to come into this room, into the House of Representatives Judiciary Committee, and lie about maintaining operational control of the border?

Mr. ROSENBERG. Not only do I think it is a problem, but I certainly think that he should no longer be in office.

Mr. ROY. I think countless Americans share that view, and I appreciate it, and I appreciate your testimony.

Mr. Fabbricatore, we first got to know each other when I was in Denver, Colorado, around the time that the ICE facility was being, unfortunately, ransacked and a flag being turned upside—the American flag being turned upside down. I appreciate your service in ICE.

Do these numbers sound correct to you, that between Fiscal Year 2018 and Fiscal Year 2022 that for ICE there has been a 69 percent decline in overall civil ICE arrests, 65 percent decline in convicted criminals, 26 percent homicide-related, 53 percent reduction in weapons offenses, 33 percent reduction in sexual offenses, sexual assault, 58 percent reduction in assault, 50 percent robbery, 40 percent kidnapping, and 61 percent family offense? Is ICE able to do its job under the Biden Administration's—

Mr. FABBRICATORE. No, they are not able to do their job, and the statistics bear that out.

Mr. ROY. Can you explain to the United States—people of the United States why?

Mr. FABBRICATORE. It is the priorities that this administration has put forth. It is limiting what ICE officers can do. It is limiting the Border Patrol agents. Right now, we have so many people entering that they are just showing up at the ICE offices, and ICE officers are just basically processing. They are not out on the street making arrests. So, these arrest numbers are going to be down. Under these priorities, it is only going to get worse.

Mr. ROY. The consequence is dead Americans, the consequence is dead migrants, the consequence is tons of fentanyl pouring into the United States, and it is a direct consequence of the policies chosen to be enacted by the President of the United States and his Secretary of Homeland Security. Do you agree, sir?

Mr. FABBRICATORE. I agree, sir.

Mr. ROY. Thank you. I yield back.

Mr. MCCLINTOCK. The gentleman yields back.

Mr. Correa.

Mr. CORREA. Thank you, Mr. Chair. First, I want to welcome the witnesses. Mr. Rosenberg, please accept my condolences for your loss. I am also a father, and no father should ever have to attend their child's funeral. Every day I pray that my children come home safely. Every day, please. I pray for you and your family.

When it comes to crime, victims of crimes, criminals, in my opinion, with or without documents, there is no room for you in our society. Period.

I wanted to, if I can, turn to the issue of trust that we have kind of touched on or not. Mr. Schoenleben, you are from Orange County. Mr. Spitzer, your boss, Sheriff Barnes, his predecessor, we often worked in our communities to earn the trust of our communities. We have a high percentage of workers who are undocumented that are actually employed in the Disney area, the hotel industry.

Trust is very important when it comes to crime fighting. I will give you an example. A few years ago, I came home from work, helicopters, police cars everywhere. Drive up to my driveway, my wife says, what is going on in the neighborhood? So, I said, Honey, let me make some phone calls.

Local police chief tells me a rapist has been caught in the act. I tell my wife, it is OK, I think they are about to catch him. She freaked out, locked the doors, locked the window, there is a rapist in our community. She was right.

Later, we found out what had happened. A young man got caught raping a woman in the local laundry room of the apartments right across the street from my house. Found out later on that he had raped no less than 20 undocumented women, minimum of 20, because we don't know how many others never reported the crime. This guy is gone forever.

If these women had not stepped up and reported the crime, he would have never been arrested. If he had not been caught in the act, he would have kept going. This is why trust in our communities is so important when it comes to reporting crimes. All of us are part of the same community.

I want to talk—I am glad you are here to talk about the Chilean issue. As you know, your boss called me late last year to address this very specific issue. I have been working with your office, the Chilean Embassy, with the Department of Homeland Security, as well as the State Department, to figure out what is going on with this visa program. By the way, I believe Chile is the only country in Latin America that has this program in place. No other country.

Now, if I can, Mr. Chair, without objection, I would like to submit for the record some of the correspondence, some of the letters we have been writing back and forth, and I believe some as well to Mr. Spitzer. One dated June 15th, from Congress Members Kim, Levin, and Correa to Mr. Mayorkas on this specific issue. June 15th from Levin and Correa on Child again to the Ambassador of Chile. One dated June 6th from Correa to DHS and the State Department on this issue. From the Ambassador of Chile to Mr. Todd Spitzer dated June 14th. The embassy of Chile to yours truly dated June 16th.

So, these I think—

Mr. MCCLINTOCK. Without objection.

Mr. CORREA. If you could please submit those. These are some of the issues that we have been dealing with, and I thank you for being here. I thank Mr. Spitzer for bringing this up, because the first step in solving a case is to know that the crime is actually happening.

The issues here—and I only have 44 seconds—is, as you have kind of alluded, are the data bases, the criminal data bases that are not quite connected over there, and we are in the middle of working with that.

The bottom line, all the gobbledygook put aside, is this thing either gets fixed or that visa program is revoked, as it should be, because any criminal, whether it is in Orange County, in Mr. Spitzer's backyard, or in my backyard, is a crime that is unacceptable. By the way, it is not just Chileans. There is a number of European gangs that are also involved in these kinds of programs that we need to shut down immediately.

So, I want to say thank you for being here. Thank you for your testimony. We want to make sure we continue to work with your office and others to make sure our communities, our citizens are safe.

Thank you very much, Mr. Chair. I yield.

Mr. MCCLINTOCK. The gentleman yields back.

Mr. Van Drew.

Mr. VAN DREW. Thank you, Mr. Chair.

Mr. Rosenberg, I am not going to offer you condolences, because you need a lot more than that. You have heard thousands and thousands of people are saying how sad and how sorry they are. The only time you are going to feel good in your heart is when we have the right laws, and we have a safe country.

So, I will say this to you. I promise—and there is many people on this Committee—that we will work our hardest and do our best to achieve that goal.

Mr. ROSENBERG. Thank you. That is all I can ask for.

Mr. VAN DREW. Mr. Batista, I have prepared remarks, and hopefully I will get to some of them. I don't know. You really fascinate me, for real. You have been in law enforcement most of your adult life, correct?

Mr. BATISTA. Chair McClintock, Mr. Van Drew, yes, sir.

Mr. VAN DREW. OK. You expressed today basically that communities are safer and better with undocumented, with illegal residents coming in, and that literally it can be very good for the community, correct?

Mr. BATISTA. Yes, sir. When undocumented folks come out of the shadows and they are normalized as normal neighborhoods across the country, we are safer.

Mr. VAN DREW. So, the communities are better for that.

Mr. BATISTA. Our communities are better for that, yes.

Mr. VAN DREW. OK. So, there are actually almost many—a significant number of the countries in our world have many people who are suffering under dictatorships, under poverty, under all kinds of issues around the world.

If it is so good for us—and I am—it is a sincere question—why don't we just open the country up completely? Why don't we open up the Northern border more? Why don't we bring people from the

Eastern Bloc? Why don't we bring—illegally, we don't even call it illegal anymore.

Why don't we just say—and if you think this is good, tell me. Why don't we just say our country is open to anybody who shows up and wants to come in, not legally, but there is no more legal process, because, by the way, people who immigrate legally, the right way, I feel so bad for them because the system doesn't work well enough. Good people who have worked hard and they are waiting year after year to get into the United States of America and do it the right way, and they refuse to do it the wrong way.

Mr. Batista, are they kind of foolish to do that, to wait those years and go through the process?

Mr. BATISTA. Mr. Van Drew, my role and my life's work has been about protecting those folks that can't protect themselves. I take great pride in the work that our profession does—

Mr. VAN DREW. Respectfully, Mr. Batista, I would like you to answer my question.

Mr. BATISTA. So, I would say that the role of determining—

Mr. VAN DREW. I am asking you as a person, as a human being, sitting next to Mr. Rosenberg, is it good, should we—or is it a waste of time when all these people who wait for years, good, hard-working people that want the dream of the shining city on the hill—America—is it good, or are they wasting their time, and should they just come in illegally?

Mr. BATISTA. Mr. Van Drew, I think that the work of—

Mr. VAN DREW. Please answer my question specifically.

Mr. BATISTA. The work of determining how that is going to work is really on the shoulders of Republicans and Democrats. My role is to—

Mr. VAN DREW. So, you are not going to answer my question. I am asking you as a person. You vote. You care. I am asking you what you think. How do you feel for those people that wait for all those years and could have done it a whole different way, but believe in the rule of law? It is kind of hard on them, don't you think? Those folks don't like what is happening in our country right now. Talk to good people who came here legally, and they waited, and they worked, and then they pledged their allegiance to the flag and to the United States of America.

So, I would ask you if it was a good thing—and this is a question. I want to know. If you answer no, it wouldn't be a good thing, I want to know why not. If this has been a good thing, why don't we open—Asian people are good people; are they not? Black people are good people, from Africa. People from the Eastern Bloc countries, many of them suffer a great deal. People from Russia that could get over from—all over the world there are people that want to come to America. So, why don't we just open it up? Because it makes us better according to you.

Mr. BATISTA. Mr. Van Drew, it has been my life's work to—

Mr. VAN DREW. Please answer that question.

Mr. BATISTA. —adhere to the rule of law, and so I would say that the determination of improving our country's immigration laws really rests with Republicans and Democrats.

Mr. VAN DREW. I know where it rests. I understand the process. I am asking you what you feel as a human being, as a law enforce-

ment officer who has been involved for most of your adult life. You told us this is a good thing, people should come out, and it improves communities. I want to have an answer from you as a human being, is that good for America? Has this helped America?

Mr. BATISTA. Again, I will say that I believe in the rule of law, and our job is immigration laws.

Mr. VAN DREW. You are saying nothing, Mr. Batista. I am sorry. I respect you in law enforcement, but I don't respect what you are saying.

I yield back.

Mr. MCCLINTOCK. Ms. Escobar.

Ms. ESCOBAR. Thank you, Mr. Chair. To our witnesses, thank you all for being here.

Mr. Rosenberg, I want to add my own condolences to you. I am a mother of two, and I can't imagine anything happening to either of my children. So, I stand with my colleagues who have provided their condolences to you.

I do want to say for people watching this hearing, this is my fifth year in Congress, and I have seen a really alarming trend that has become increasingly more alarming every year that I have been in Congress. That trend is the desire and effort to paint immigrants as criminals.

The reason for that is to essentially dehumanize immigrants, and that allows for a furthering of xenophobic rhetoric and xenophobic policies and anti-immigrant policies as well. There is a serious consequence to engaging that way. There is a serious consequence to painting immigrants as dangerous or threatening and making the country feel fearful of them. That is there is a promotion of hate of immigrants.

I represent El Paso, Texas. Last week a killer who drove 10 hours from East Texas to El Paso—El Paso, which is a border community that has a quarter of our population that is immigrant-born and is also one of the safest communities in the United States of American, an individual, a domestic terrorist, a White nationalist, drove over 10 hours to my community and he confessed that he did that to slaughter Mexicans and immigrants because of the invasion.

That is a word that is frequently used by my colleagues on the other side of the aisle and by politicians all across this country who want to promote that xenophobia.

He came to my community, walked into a busy Walmart where there were families shopping for school supplies, where there were kids raising money for their sports teams, where there were senior citizens waiting to buy their prescription medication, and he walked in with an assault-style weapon, and he slaughtered 23 people. He left dozens injured, and years later we are about to—next month will be another terrible anniversary. My community still lives with deep trauma and profound pain.

He was not an undocumented immigrant. He was a U.S. citizen. U.S. citizens are carrying out massacres across the country with automatic-style weapons. I don't see the same urgency to have that conversation from my colleagues on the other side of the aisle.

I will say, representing the border, and living on the border, and being a third-generation border resident, having raised both my

children—both of whom are fourth-generation border residents—on the border, there is nobody who wants a well-managed, safe border more than those of us who live there.

But the only way to do it is if Republicans work with Democrats in a bipartisan manner to update laws that haven't been updated in almost 40 years.

Mr. Batista, one of my colleagues decided to try to badger you into trying to get you to acknowledge I don't know what, and, unfortunately, this is the same deflection I see over and over again from colleagues who love to point the finger at other people about immigration laws, but colleagues who refuse to look in the mirror to say, "It is my job and my obligation to update outdated immigration laws."

So, I will tell all of you here, it is our job to address the situation. A key way to address this and to create safer communities is by opening up legal pathways. Unfortunately, we are not going to see that from our colleagues, by and large, on the other side of the aisle, and instead we are going to see the same thing, which is a shrinking of legal pathways, a refusal to modernize outdated laws, and that is precisely what creates a deeply broken system.

With that, Mr. Chair, I yield back.

Mr. MCCLINTOCK. Ms. Spartz.

Ms. SPARTZ. Thank you, Mr. Chair. I actually disagree with the concept that unless laws change we are not going to be enforcing them. The law is the law, and we have to have the rule of law. We have laws on the books. They might need to change. If they change, they change. Refusing to enforce the laws that exist on the books, I think it is dereliction of duty, and I truly believe it puts a significant national security risk.

I have been at the border many times since I became Congresswoman, and I am shocked, and I think it is not just national security risk, it is actually huge security risk for a lot of desperate people that come here and become pretty much puppets and control and slaves to cartels that make enormous amount of money.

So, this is very concerning. As illegal immigrant to this country, I understand how hard it is—and many other people—to try to immigrate here. We have the law, and we have the rule of law. If we have to look at the laws—but no excuse not enforcing the law because a lot of lives are going to be destroyed because of that.

Mr. Fabbricatore—and I apologize if I say your name wrong—would you be surprised to know that 10 months into Fiscal Year 2023, ICE Denver has only removed 429 aliens with final orders of removal pursuant to INA Section 240, and has only removed 256 aliens whose final orders were reinstated? Do these low interior removal numbers surprise you?

Mr. FABBRICATORE. Yes, ma'am. Those are low.

Ms. SPARTZ. Do they surprise you? Was it something different when you actually were in office?

Mr. FABBRICATORE. No, it doesn't surprise me because of the enforcement priorities right now. So, I am not surprised that those numbers would be low.

Ms. SPARTZ. So, do you believe—because when I observed when I was at the border, I was very surprised to see how selective enforcement is, and laws. When you go in processing centers, it was

during COVID pandemic, there are people on top of each other, and no one enforcing it.

Then you go to ICE facility, there has to be isolations, and everyone has to be there at a distance, which actually decreased capacity. A lot of border patrol just have to pretty much let people go, sometimes with the NTA, sometimes were with that, then in shelters where they need to move along kids and stop even do proper checking who they send them kids because they are were found there. So, very strange to me because it seems like that is the places where we should have really start looking at what is going on and put danger on these people.

Do you believe this law actually puts real people, real lives in danger, including people at the border?

Mr. FABBRICATORE. Absolutely it puts lives at danger.

Ms. SPARTZ. I think you know what Mr. Rosenberg—you see what that has to do in the community. I have quickly to ask, Mr. Batista, do you believe in the rule of law?

Mr. BATISTA. Chair McClintock, Ms. Spartz, do I believe in the rule of law?

Ms. SPARTZ. Yes.

Mr. BATISTA. Yes.

Ms. SPARTZ. So, you believe we have the rule of law at our Southern border? Does it function ineffectively? The rule of law and the legal system is actually functioning in our border, do you believe is a fact, what is happening in our border?

Mr. BATISTA. Ms. Spartz, I support the strengthening of our—

Ms. SPARTZ. No. I am just asking, do you—on your assessment—you are professional, you are a district attorney, you are—what do you believe? Do we have—you actually the functioning—the rule of law at the border?

Mr. BATISTA. Ms. Spartz, could you repeat the question specifically?

Ms. SPARTZ. So, at now current situation at the border, at our current situation at the border, do you think we have the rule of law at our Southern border?

Mr. BATISTA. What we need to make sure is that the border is secure, ma'am.

Ms. SPARTZ. I am just saying, do we have it or not, in your assessment as a professional?

Mr. BATISTA. That is the part that I leave to Federal immigration authorities, ma'am.

Ms. SPARTZ. So, you cannot assess the situation on the border.

Mr. BATISTA. No, ma'am.

Ms. SPARTZ. OK. What about you, Mr.—I am not sure if I say your name right—Mr. Schoenleben.

Mr. SCHOENLEBEN. Yes, ma'am.

Ms. SPARTZ. Do you believe we have the rule of law function at the border?

Mr. SCHOENLEBEN. Ma'am, I wouldn't begin to testify about what is going on at the border. What I can tell you is, and what I am here to say for our office, is there are current loopholes through the ESTA Visa Program as well as with the border, through sanctuary—or, excuse me, through individuals claiming status at the

border. So, those flaws at the border, and through the ESTA Program, are creating criminals.

One of those issues with ESTA Program can be fixed tonight, and there will be less victims tomorrow, if that—

Ms. SPARTZ. So, you believe there are problems at the border. You live in the State of California. No matter which district you represent this is your State. You should know what is happening at your border.

Mr. SCHOENLEBEN. If your question is, do I think there are problems at the border, yes.

Ms. SPARTZ. Yes. Well, what about Mr. Batista? Do you believe you don't have problems at the border? Are you not familiar what is happening at your border? This is—California has a border.

Mr. BATISTA. Ma'am, again, my responsibility is with the city of Santa Monica, and I—

Ms. SPARTZ. So, you don't go to the border at all. You don't even know what is happening at the border.

Mr. BATISTA. Our partners with Federal immigration and protection of the border, I certainly support that. Yes, ma'am.

Ms. SPARTZ. OK. Well, it is unfortunate, because I think we need to find common ground, but I think we need to enforce the law because a lot of lives are going to be destroyed.

I yield back.

Mr. MCCLINTOCK. Ms. Jackson Lee.

Ms. SPARTZ. Mr. Chair, I ask unanimous consent to insert into the record Fiscal Year 2023 removal numbers from ICE enforcement and removal operations.

Mr. MCCLINTOCK. Without objection.

Ms. JAYAPAL. Mr. Chair, I also have an unanimous consent request to enter into the record statements from the following organizations that have concerns about the conflation of crime and immigration. Asian Pacific Institute on Gender-Based Violence, ASISTA Immigration Assistance, Church World Service, Detention Watch Network, Esperanza United, National Network to End Domestic Violence, Tahirih Justice Center, and ValorUS.

Mr. MCCLINTOCK. Without objection.

Mr. MCCLINTOCK. Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you very much, Mr. Chair.

Whether I agree with all of you or none of you, let me express my appreciation for your presence here today.

With a little level of seniority, I have been through this for 28 years on this Committee, and actually worked on any number of comprehensive immigration reform initiatives that just couldn't find common ground.

We are now at a point where common ground couldn't be found with a microscope. We were far closer to common ground on this issue in 2008, 2010, with Senator McCain and the Gang of eight. I wish America had taken up that opportunity, because if we look at our history, this is a land of immigrants and a land of laws. All of us came here. Mine was dastardly. Others struggled and died coming. Others migrated, immigrated, fleeing famine and persecution, and so we all have come here strangers other than our friends who are Native Americans.

It gives me pause when people want to demonize immigrants, migrants, and they want the same opportunities all of us do.

Unlike my friend, Mr. Rosenberg, I am going to offer sympathy. I am sorry that the laws did not, I believe, fittingly respond to your pain and to your loss. We need to realize that any form of crime is addressed to appropriately for the level of crime that it is.

I do want to say that witnesses who offer themselves before us do not need to be battered, do not need to be challenged for the distinctiveness of their views. They need to be probed.

So, let me, first, quickly say that statistics have shown that the end of Title 42, or the thought was by Republicans that it results in a flood of migrants. The border numbers have fallen over 70 percent of migrants in the past few months. It also finds that trust cities, that both property and violent crime decreased more in those counties than in nontrust counties after 2014.

In fact, they found that on average there are 35.5 fewer crimes per 10,000 people in these "trust counties." Reinforcing this, the effect is even more pronounced in large urban areas which have been condemned by my Republican friends. I happen to live in a city that is enormously diverse, and that is Houston, Texas, and we are proudly so.

Houston has—more than 26 percent of our Houston metro area GDP is contributed to by immigrants, five billion to Social Security, and 1.4 billion to Medicare. Immigrants make up over 30 percent of the employed labor force. They fill labor shortages in the Houston market.

Yes, if you have done the crime, I want ICE to be able to do its job. I see nothing that has prevented them from doing so. The poverty levels are not as high in trust counties.

So, let me ask, Sheriff Batista, if I have not gotten your title right, forgive me, because I appreciate you coming here. Is the title right, Sheriff? Chief. Excuse me. Let me ask you if I might, we have sheriffs and chiefs in Texas. I know you do as well.

Let me ask you this. First, we have accusatory commentary of Soros DAs. Let's not put an individual that is not here, a contributing American, and jeopardize his life, for always throwing his name out in the most ugliest of ways. I am offended by that. Mr. Soros does not deserve that. He is an American and a patriot, and he also comes from a minority community, one might say, and you create a dangerous situation. That is unfortunate.

Chief, how should the Federal government help support these jurisdictions while also ensuring the immigration law is enforced? When I say "these jurisdictions," I am suggesting jurisdictions who may be more prone for immigrants, in some instances migrants, how can we work with you better? Chief?

Mr. BATISTA. Chair McClintock, Ms. Jackson Lee, thank you for the question. I would say that the division of labor, the fact that Federal government is charged with the responsibilities of Federal immigration should continue to be that way. We can work alongside Federal immigration in situations where we are dealing with violent felons, certainly, for the safety of our Nation and our community.

The work of ensuring public safety in our neighborhoods and our cities day to day, that is our responsibility, and we can't be drawn

into the daily issues of low-level immigration cases, where we are more responsible to the primary public safety needs of our communities.

The work of Federal immigration and immigration enforcement lies with them, and it should stay with them.

Ms. JACKSON LEE. If you build trust in your community with citizen/noncitizen, migrant/nonmigrant, immigrant/nonimmigrant, can you help solve crimes? Can your community be safer if people are willing to come and tell you where the criminal is?

Mr. BATISTA. Without a doubt, ma'am.

Ms. JACKSON LEE. That is how crime goes down.

Mr. BATISTA. Absolutely.

Ms. JACKSON LEE. I yield back.

Mr. MCCLINTOCK. Thank you.

Mr. Nehls.

Mr. NEHLS. Thank you, Chair. Thank you all for being here.

Mr. Rosenberg, you have heard just about every Member here express their condolences for the loss of your son back in 2010. I feel your pain here. I just want you to know that tomorrow—this week—I will be reintroducing the Justice for Angel Families Act, and that legislation would amend the Crime Victims Fund to expand funds to angel families who are victims of homicide by an illegal immigrant.

I think Ms. Jackson Lee just expressed her sorrow to you, so I am hoping that I can get some bipartisan support on that to help victims, individuals that have been murdered, as a result of activities from illegal aliens. So, hopefully we can get some bipartisan support on that.

Mr. ROSENBERG. Thank you.

Mr. NEHLS. Mr. Fabbricatore, thank you for being here. The shocking decline in enforcement activity, my friend at our Southern border must be sickening to a guy like you an ICE enforcement removal officer like yourself. I can't imagine how you feel, having dedicated your entire career to enforcement of U.S. immigration laws, and then seeing what is happening today.

I want to talk about some of the arrest numbers that we see behind me on this chart. They were pulled from ICE's own data. Before we get into that, I just want to let you know we talked to—you talked about detainers, ICE detainers. I was a sheriff for eight years. I was in it for almost 30. As a sheriff, I complied with every single ICE detainer that ever came through my office.

Now, we had a few that didn't, and Texas created a law that stated that if a sheriff does not comply with the detainer from ICE that they could potentially be removed from office, and I support that. So, hopefully sheriffs have straightened themselves out a little bit, and they comply with every single ICE detainer.

Can you explain why the number in arrests have dropped so drastically over the last couple of years?

Mr. FABBRICATORE. Well, I think there are definitely a lot of different reasons. One, the priorities for sure, but also, because of what is happening at the border moves into the interior, so every single State is now a border State. ICE officers are now having to process those cases from the border at their ICE offices. So, instead

of being on the street and making these arrests, they are forced to stay in the office and just process cases.

Mr. NEHLS. Got it. Got it. My time as sheriff, I ran for Congress because I was just disgusted what took place at the Southern border. I am going to highlight a few of the cases that I had. I had six undocumented immigrants burglarize 70 homes; six of them they were undocumented. They were in Fort Bend County. They were in Brazoria County. We arrested six of them. All of them had entered the U.S. illegally. They were from Honduras and Mexico.

What is interesting is that when they burglarized a home, you know who they targeted? They targeted Indian, Asian, and Middle Eastern communities. Think about that now. They targeted the minority migrant communities. They stole hides and jewelry. They stole money.

January 26, 2017, we arrested 17 individuals. They were from Colombia. One hundred 20 break-ins, again, stole jewelry, purses, working with HPD—Sheila, we were working with HPD—worked very, very hard. One of the individuals, this bad hombre, he was actually deported in 2014 and had ties to terrorism. He had terrorist ties to the FARC, which is a terrorist group coming out of Colombia.

A lot of these guys have been deported more than one time, yet they continue to find their way back here to commit more crime. Three of them had been previously deported, and this guy I have highlighted him before. This gentleman killed a senior lady in my county, and he is from Honduras, and he—just a second.

So, he has been deported six previous times. So, we talked earlier, that we are going to talk about what is happening inside the country, right? When you are in the country and you commit a crime and you are deported, how do you get back here so quickly? This guy came back December 2001 and 2012–2015. They are back within several months, this guy, and he killed. So, we have serious, serious issues.

Mr. Batista, I just want to kind of talk—I know Representative Nadler brought up to you about this White supremacist or nationalist or something, the domestic terrorist, that killed individuals, shot and killed. It is horrible, horrible, what happened, and he asked you, how has that affected the Mexican community? What was your answer? Did you say they are kind of going underground, do you believe? They are scared as a result.

Mr. BATISTA. Chair McClintock, Mr. Nehls, that is correct.

Mr. NEHLS. OK. How do you think the communities—the Asians and the Pakistanis and the Middle Eastern communities feel when their homes are being burglarized, they steal all their family heirlooms, right, they are here trying to live and try to come here legally, and then they are victims of crime by these illegal alien criminals. How do you think they feel? What should they feel? You are a sheriff or a lawman.

Mr. BATISTA. Mr. Nehls, I think we should all be outraged by any criminal activity.

Mr. NEHLS. Mr. Batista, they are madder than hell. They are madder than hell. It requires guys like me and others to put these individuals—and it is the Federal government's responsibility to keep them out of our country.

Mr. MCCLINTOCK. The gentleman's—
Mr. NEHLS. With that, I yield back.
Mr. MCCLINTOCK. Thank you.
Ms. Ross.
Ms. ROSS. Thank you very much, Mr. Chair.

Mr. Rosenberg, I, too, want to express my sympathy for you and for your loss, and my heart goes out to you. We should all endeavor to crack down on people who commit serious violent crime, no matter who they are or where they come from. So, I am very sorry for your loss.

This hearing—and I am toward the end, so I have gotten to listen to the whole thing—is yet another attempt to scare the public about immigration and immigrants. We have seen with my colleague's chart, and heard today, that crime rates among immigrants, both legal and undocumented, are lower than those among native-born Americans. That doesn't excuse the crime. It is just a fact.

Today I want to do something a little upbeat. I want to highlight an all-American city in my district in North Carolina. It is called Morrisville, an all-American city that was awarded in 2021 and recognized Morrisville for its inclusive civic engagement to build equity and create stronger connections among residents, businesses, nonprofits, and government leaders.

Morrisville was one of only 10 cities selected for this award in 2021, and it is also home to a thriving immigrant community. More than 35 percent of Morrisville's residents are immigrants, four times greater than the immigrant population rate of North Carolina.

Despite what Republicans would have you believe about towns and cities with large immigrant populations, Morrisville doesn't experience high crime rates. In fact, both violent crime and property crime rates fall below the State as well as the national averages in Morrisville.

Additionally, Morrisville's poverty rate is ⅓ of the rate in North Carolina. Not only is Morrisville a safe place to live, but its residents are also highly educated. The high school graduation rate is 10 percent higher than North Carolina State average, and the town population with a bachelor's degree or higher is more than double the State average.

Morrisville is moving North Carolina forward and is home to some of the brightest minds in the Nation, and it has become a tech hub for the Research Triangle.

There is a sad thing about Morrisville and all of these immigrants there. Because of our broken immigration system, many of the people who brought their children here have children who are aging out of the visa process, and their children will be what my colleagues on the other side of the aisle call illegal aliens, kids who came here documented, but because of our broken immigration system, and the long lines for getting a visa, at age 21 they have to self-deport.

It is about time that we stop vilifying all immigrants, claiming that they are not making our country better. I am here to tell you that I am so proud to represent Morrisville and the immigrants in my community. We need to focus on violent crime wherever it

comes from, and we need to celebrate industry and family however it is celebrated.

Now, I do have a question for Chief Batista. You have served in law enforcement for 37 years across two border states. Would you agree that the vast majority of undocumented immigrants that you have encountered are otherwise law-abiding individuals who want nothing more than the American dream?

Mr. BATISTA. Chair McClintock, Ms. Ross, that is correct.

Ms. ROSS. Do you think that it makes sense to try to deport every one of these undocumented immigrants, or would it make more sense to focus enforcement efforts on serious criminals, whether those folks are undocumented or documented?

Mr. BATISTA. Yes, ma'am. I would agree.

Ms. ROSS. Finally, could you just very briefly—we only have a couple minutes—discuss how reforming our immigration system by creating additional legal pathways will make our communities safer?

Mr. BATISTA. My experience, nearly 40 years, and certainly the data has shown that, yes, improving and legally documenting our immigrant communities will make our country safer.

Ms. ROSS. Thank you. I yield back.

Mr. MCCLINTOCK. Thank you.

Mr. Batista, Chief Batista, I assume that the policies that you have advocated here today are the policies that you have practiced as Chief of the Santa Monica Police Department since you took that position in October 2021?

Mr. BATISTA. Chair McClintock, yes, sir. That is correct.

Mr. MCCLINTOCK. Well, forgive me, but according to a CBS report from April 2022, Santa Monica was one of the most unsafe cities in California. In fact, according to the city's first quarter 2023 crime statistics, crime is getting worse overall.

Part 1 offenses, the most serious offenses, have increased 14 percent in the first quarter of 2023 when compared with the same timeframe in 2022 when Santa Monica was already rated one of the most unsafe cities in California, 224th I believe. So, the policies you have advocated don't seem to be working.

Mr. BATISTA. Those statistics are correct as you have enumerated them, Chair McClintock.

Mr. MCCLINTOCK. Thank you. Mr. Fabbricatore, we have heard the discredited Cato study hold out once again using the Texas DPS numbers. It is discredited because they didn't include certain visa holders, DPS beneficiaries, doctor recipients among the others, which means that they got a cut of the population of illegal aliens who were arrested rather dramatically.

What we have heard today from the Democrats is the same tactic they use repeatedly in these discussions. They love to confuse legal immigrants, who are the very epitome of law-abiding individuals, they have obeyed all our laws, they have waited patiently in line, they have done everything our country has asked of them, and they love to equate them, these model people, with illegal immigrants whose very first act entering this country through the Southern border is to break our laws.

Would you elaborate on that?

Mr. FABBRICATORE. Yes, sir. As a Field Office Director, my favorite thing to do would be to go to naturalization ceremoneys and see people raise their right hand and swear allegiance to this country and become citizens. We are a country of immigrants, and we should do it legally like many people have.

When we allow people to just continuously come in and break our immigration laws, it is constantly getting worse. We can no longer get a hold on it. The border is not operationally safe. The interior of the United States, more and more crime is starting to be committed, and we need to do something about it. We need to figure out what that is going to be.

Congress can change the laws, if they choose to. We really need to get a hold on this because it is getting out of hand.

Mr. MCCLINTOCK. Mr. Rosenberg, did you want to add anything?

Mr. ROSENBERG. Well, I actually had made some notes, and the one thing that I was going to add is conflating immigrants with illegal immigrants—with illegal aliens—

Mr. MCCLINTOCK. The Democrats do this all the time. It is so unfair and insulting to every legal immigrant in this country. I find it infuriating and insulting.

Mr. ROSENBERG. Well, it is. I just wanted to—I know Ms. Escobar left the room, but she made a comment about painting immigrants with crime. What I think—the correct statement is that—"you" being the Democratic party—you can't paint immigrant as crime by painting illegal aliens as immigrants. So, let's stop. I haven't heard anybody here today talk about immigrants in a negative way.

Mr. MCCLINTOCK. Mr. Fabbricatore—

Mr. ROSENBERG. You guys keep saying it.

Mr. MCCLINTOCK. I wanted to emphasize something to be sure that I understood you correctly. You said that if the deportations had simply continued as under the previous administration, there would have been 90,000 more criminal illegal aliens removed from this country?

Mr. FABBRICATORE. Yes. If we looked at previous numbers, if it would have just been—we would have been going in the same direction—

Mr. MCCLINTOCK. Ninety-thousand criminals.

Mr. FABBRICATORE. Ninety-thousand criminals, yes.

Mr. MCCLINTOCK. You also said 300,000 crimes?

Mr. FABBRICATORE. Yes. Because the recidivist rate—what we are seeing with statistics is there is a recidivism rate with criminal illegal aliens, and that is about four per alien.

Mr. MCCLINTOCK. Are you saying that there are 300,000 more American families who have suffered acts of crime as a result of this administration's policies?

Mr. FABBRICATORE. Yes, sir.

Mr. MCCLINTOCK. Mr. Schoenleben, could you explain California's sanctuary laws and policies and how they affect overall crime in your jurisdiction?

Mr. SCHOENLEBEN. Yes. Mr. Chair, what we have seen in our State already is we have individuals of the criminal element coming to our State to commit our crimes. What I want to be very clear for our office, we are not talking about immigrants as a whole.

We are talking about the criminal element that is exploiting our border and our policies such as the ESTA Program. It is those individuals that our office is here representing on behalf of victims today. It is because those individuals are exploiting those loopholes and committing mass amounts of crimes.

As a quick example, per the FBI, the Chilean nationals that are committing the vast majority of crime in Southern California, 85 percent of those individuals have criminal histories back in Chile. Those are individuals that never should have been granted an ESTA visa in the first place. They are individuals that never should have been here. Nor should the Colombian nationals who claim—falsely claim asylum to only get into this country to commit crime. It is the criminal organizations and the transnational criminal crews that we are talking about today, not immigrants as a whole, and they are flocking to California.

Mr. MCCLINTOCK. All right. Thanks very much.

I believe that concludes the panel. Mr. Moore.

Mr. MOORE. Thank you, Mr. McClintock. Thanks to all the witnesses for being here today. We had Sheriff Dannels before this Committee a few weeks ago, gentlemen, and he testified that the border had never been more secure than it was in 2018. He had never seen it more broken than it is currently.

Mr. Fabbricatore, why would people South of the border throw their IDs down before getting to the border?

Mr. FABBRICATORE. They don't want people to know who they are. That is the exact reason they try to lose their ID.

Mr. MOORE. So, you are saying, they throw their ID down. Nobody knows who they are. They come in the country. In Prattville a few months ago, I had a 14-year-old girl, it is alleged that an illegal drug her into a rest room and raped her in a restaurant there in Prattville, Alabama in my district, a 29-year-old, identified as an unaccompanied minor. He didn't have any ID and it was found out later he was from Honduras, and he actually had a criminal record, so you think they throw their IDs down, so we just don't know who they are?

Mr. FABBRICATORE. Exactly.

Mr. MOORE. Got you. Mr. Schoenleben, that is a Southern way of pronouncing your name. You mentioned earlier in your testimony that Chilean nationals are actually turning themselves in. Are they turning themselves in to the CBP? Is that what is going on?

Mr. SCHOENLEBEN. No, Your Honor—

Mr. MOORE. That is close enough.

Mr. SCHOENLEBEN. No, sir. Colombians are turning themselves in and claiming asylum at the border. Once they get into the border, they wait a few days in detention and then they are released with a promise to appear in court which they never do. So, criminal organizations are targeting that method of entry on purpose. Once they are into the country, then they can commit crime at will and they are doing so in a fairly sophisticated manner.

Mr. MOORE. So, that explains the increase in break-ins we are seeing. Is that Colombians you think who are doing that or is it—

Mr. SCHOENLEBEN. It is, in general, it is everyone. Crime is going through the roof on all scales, both domestic and international, but

that is part of our problem. We keep talking about the different groups that are committing crime. There is no question that domestic criminals are committing crime here. That is part of the problem. When we start importing criminals who are already criminals in their country and then you add that to law enforcement which is already at a breaking point, that is a problem.

A great example, Irvine, California, which is considered one of the safest cities in the country, recently for 6 months straight had to deploy detectives in overtime capacity to try to combat this very problem. While they had streets flooded with detectives, they were still hit by transnational organized crews committing crimes such as residential burglaries. So, these law enforcement agencies are already stretched thin and then you add that element of exploitation. It is a breaking point.

Mr. MOORE. We had a hearing in Yuma, Arizona, and the law enforcement agents there testified or told us, actually, during testimony, that they had 109 different countries come through that one small town. The interesting thing I think was that the border agents have almost become concierge guys. They are not doing the job anymore of what we want, law enforcement going out actually patrolling the border. They have become concierge and they are in-processing people. Here is an interesting thing, under this administration, they actually can apply for asylum. So, they get a cell phone. Then they get taxpayer subsidies up to about $900 a month. The thing is they take our phones, but they don't take our calls when it is time to show up to court. So, doing away with the remaining Mexico policies, they are throwing their IDs down, they are pouring across the Southern border.

Mr. Batista, I want to mention this to you. Mr. Wray, the Director of FBI testified in here yesterday, that he was having a very difficult time controlling crime, especially concerning fentanyl because it is pouring across. Do you think the open border, Mr. Batista is causing—making your job more difficult? Is that why we are seeing statistics go up in your neighborhoods with the increased crime?

Mr. BATISTA. Chair McClintock, Mr. Moore, I believe that we need to have strong border security without a doubt, and I do believe that the influx of fentanyl that is coming from different parts of the world and definitely afflicting our community.

Mr. MOORE. Interesting testimony we also heard, you may have heard this, but what is happening, the cartel is actually allowing these people to become drug dealers. So, they are coming in just South of the border, you are four or five grand if you are coming from Mexico to come into our country. You are going to pay about seven or eight thousand if you are coming from the triangle Nations. Last I heard, Russians were paying $19,000 and Syrians were paying $20,000 to the cartel.

Here is the deal. If you don't have the money, gentlemen, you can backpack heroin and cocaine or fentanyl across that U.S. Southern border, so you are not an indentured servant or a slave to the cartel, you are actually now a drug dealer. So, the border policies with the Biden Administration are creating two things in this country. Either drug mills or indentured slaves to the cartel. So, they are making those installment payments back.

So, Mr. Rosenberg, how many years have you been coming here hoping to get some resolve for the loss of your son and that is why I didn't offer condolences because you said you have gotten more condolences than you can count and you need actually some kind of commitment. How long have you been fighting this battle?

Mr. ROSENBERG. Well, I started in early 2011, mostly working in California, and ironically, mostly working on people driving without licenses, not an immigration issue. The guy who killed my son probably fit the description of someone who came here to better their life. Other than driving the wrong way on a one-way street, driving without a license, we couldn't find any crimes he had committed in 12 years.

Mr. MOORE. Just that once.

Mr. ROSENBERG. The problem is, he wasn't a threat to public safety until he killed my son, that if he hadn't been here, it wouldn't have happened. I come pretty much once or twice a year.

Mr. MOORE. I am running out of time. So, with that, Mr. Chair, I will yield back.

Mr. MCCLINTOCK. Mr. Hunt.

Mr. HUNT. Thank you all for being here today. Sir, my condolences to your son. I am very sorry for your loss.

Mr. ROSENBERG. Thank you.

Mr. HUNT. We are talking about the consequences of criminal aliens in United States' communities. Take a walk around any large city in America and you will see the devastating effects of these open-border policies that we have seen ravage our communities over the course of the past few years. Crime, gang activity, drugs, just to name a few, but there is a far more sinister of criminal activity that is not as visible as drug trafficking, gang activity, or just the general degradation of our cities. It is far worse, actually or worse to me. It is human trafficking.

I love my city of Houston. Houston is known as the energy capital of the world. It is known as a lot of great things, great food as well, but unfortunately, we are also known as the human trafficking capital of the world as well. That has to change.

I could tell you I am very proud to cosponsor a bill introduced by my colleague, Sheila Jackson Lee. It is called the Stop Human Trafficking in School Zones Act. This bipartisan effort is necessary because that is how bad the problem is. This bill will increase the prison time up to five years for certain human trafficking offenses and sex offenses involving minors that occur within a thousand feet of schools, within a hundred feet of certain other places where children gather, like youth centers and swimming pools.

As a father of three children under the age of five, these people belong in a special place in hell if you ask me. Five years, not enough, is a start.

One thing that I do know is that if President Biden and the Democrat Governors and mayors were serious about human trafficking, they would stop their destructive sanctuary city policies. You gentlemen have addressed this pretty clearly to me.

Mr. Fabbricatore, thank you for being here, sir. I met you earlier in the hallway. I have a question for you, sir. In your 23 years of experience working at INS and ICE, what can you tell me about the seriousness of child trafficking and what you personally experi-

enced as a result of the issue that we have seen with our open border policies?

Mr. FABBRICATORE. Well, No. 1, I mean they stopped the DNA testing at the border, so we were testing adults to see if they had a DNA match with children. That policy has stopped, and I cannot figure out for the life of me why you would not want to figure out if a child that is being brought into the United States actually belongs to the adult that they are traveling with. Now, we have stopped that, so now we are allowing these people to bring these children into the interior and we have no idea who they belong to. We have no idea if there is a familial connection. This is wrong. It needs to stop.

We have children being brought in and we have children missing right now. We don't even know where they are because they have been brought in and they have either absconded, they have gone off. They are being used to traffick drugs. Myself, in my career, I have arrested juveniles dealing heroin on jogging paths. So, these juveniles are being used by the cartels to deal drugs and they are being brought into this country and the fact that we have stopped the DNA program, this administration stopped it, it is unfathomable to me.

Mr. HUNT. Do you agree that child sex trafficking as a result of this crisis at our Southern border has increased?

Mr. FABBRICATORE. Yes, sir. I do.

Mr. HUNT. Without equivocation?

Mr. FABBRICATORE. Yes, I agree.

Mr. HUNT. Biden's policies, they have resulted in countless numbers of minors being abused and bussed across our border and sold into sex slavery. Under the guise of protecting illegal aliens, the Biden Administration is, in fact, protecting human traffickers and harming God's children, our children.

Now, many of my colleagues on the left may say that we are unfairly targeting illegal aliens and that American citizens commit crimes, too. I have also heard racism being blamed and xenophobia being blamed, and I can tell you as a Black man for a very long time, I am not racist nor xenophobic, I just want us to enforce our laws and I expect them to be abided by so that we can save our children.

I have also heard some of my colleagues on the left say that the global sex trafficking of children is a QAnon conspiracy. According to *The New York Times*, 85,000 migrant children that have our country have been lost. They have vanished and where do you think they went? Exactly where they went and what is happening is grotesque. It is wrong. If we can't protect our children, if we can't protect the world's children, then we absolutely have no future.

I cannot thank you enough for being here. I cannot thank you enough for your hard work and your sacrifice.

Sir, we will do better because we have to. Thank you for all your efforts and I am sorry for the loss of your son. God bless you and thank you.

I yield back the rest of my time.

Mr. FABBRICATORE. Thank you.

Mr. MCCLINTOCK. Does that now conclude our questions? I believe it does. Very well. Well timed, too. I see two bells on the board. Thank you all for being here today. Without objection, all Members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record. With that, again, our sincere thanks to all of you for making the trip here today. With that, the hearing is adjourned.

[Whereupon, at 5:04 p.m., the Subcommittee was adjourned.]

All materials submitted for the record by Members of the Subcommittee on Immigration Integrity, Security, and Enforcement can be found at the following links: *https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=116200.*

○

4871

OPENING THE FLOOD GATES: BIDEN'S BROKEN BORDER BARRIER

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON BORDER SECURITY AND ENFORCEMENT

AND THE

SUBCOMMITTEE ON OVERSIGHT, INVESTIGATIONS, AND ACCOUNTABILITY

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

JULY 18, 2023

Serial No. 118–24

Printed for the use of the Committee on Homeland Security



Available via the World Wide Web: http://www.govinfo.gov/

U.S. GOVERNMENT PUBLISHING OFFICE

54–404 PDF WASHINGTON : 2024

COMMITTEE ON HOMELAND SECURITY

MARK E. GREEN, MD, Tennessee, *Chairman*

MICHAEL T. MCCAUL, Texas
CLAY HIGGINS, Louisiana
MICHAEL GUEST, Mississippi
DAN BISHOP, North Carolina
CARLOS A. GIMENEZ, Florida
AUGUST PFLUGER, Texas
ANDREW R. GARBARINO, New York
MARJORIE TAYLOR GREENE, Georgia
TONY GONZALES, Texas
NICK LALOTA, New York
MIKE EZELL, Mississippi
ANTHONY D'ESPOSITO, New York
LAUREL M. LEE, Florida
MORGAN LUTTRELL, Texas
DALE W. STRONG, Alabama
JOSH BRECHEEN, Oklahoma
ELIJAH CRANE, Arizona

BENNIE G. THOMPSON, Mississippi, *Ranking Member*
SHEILA JACKSON LEE, Texas
DONALD M. PAYNE, JR., New Jersey
ERIC SWALWELL, California
J. LUIS CORREA, California
TROY A. CARTER, Louisiana
SHRI THANEDAR, Michigan
SETH MAGAZINER, Rhode Island
GLENN IVEY, Maryland
DANIEL S. GOLDMAN, New York
ROBERT GARCIA, California
DELIA C. RAMIREZ, Illinois
ROBERT MENENDEZ, New Jersey
YVETTE D. CLARKE, New York
DINA TITUS, Nevada

STEPHEN SIAO, *Staff Director*
HOPE GOINS, *Minority Staff Director*
NATALIE NIXON, *Chief Clerk*

SUBCOMMITTEE ON BORDER SECURITY AND ENFORCEMENT

CLAY HIGGINS, Louisiana, *Chairman*

MICHAEL GUEST, Mississippi
MARJORIE TAYLOR GREENE, Georgia
TONY GONZALES, Texas
MORGAN LUTTRELL, Texas
JOSH BRECHEEN, Oklahoma
MARK E. GREEN, MD, Tennessee *(ex officio)*

J. LUIS CORREA, California, *Ranking Member*
SHRI THANEDAR, Michigan
ROBERT GARCIA, California
DELIA C. RAMIREZ, Illinois
BENNIE G. THOMPSON, Mississippi *(ex officio)*

NATASHA EBY, *Subcommittee Staff Director*
BRIEANA MARTICORENA, *Minority Subcommittee Staff Director*

SUBCOMMITTEE ON OVERSIGHT, INVESTIGATIONS, AND ACCOUNTABILITY

DAN BISHOP, North Carolina, *Chairman*

MARJORIE TAYLOR GREENE, Georgia
MIKE EZELL, Mississippi
DALE W. STRONG, Alabama
ELIJAH CRANE, Arizona
MARK E. GREEN, MD, Tennessee *(ex officio)*

GLENN IVEY, Maryland, *Ranking Member*
SHRI THANEDAR, Michigan
DELIA C. RAMIREZ, Illinois
YVETTE D. CLARKE, New York
BENNIE G. THOMPSON, Mississippi *(ex officio)*

SANG YI, *Subcommittee Staff Director*
LISA CANINI, *Minority Subcommittee Staff Director*

CONTENTS

Page

STATEMENTS

The Honorable Clay Higgins, a Representative in Congress From the State of Louisiana, and Chairman, Subcommittee on Border Security and Enforcement:
Oral Statement 1
Prepared Statement 3
The Honorable J. Luis Correa, a Representative in Congress From the State of California, and Ranking Member, Subcommittee on Border Security and Enforcement:
Oral Statement 4
Prepared Statement 6
The Honorable Dan Bishop, a Representative in Congress From the State of North Carolina, and Chairman, Subcommittee on Oversight, Investigations, and Accountability 7
The Honorable Glenn Ivey, a Representative in Congress From the State of Maryland, and Ranking Member, Subcommittee on Oversight, Investigations, and Accountability 9
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security:
Prepared Statement 14

WITNESSES

PANEL I

Ms. Ntina K. Cooper, Acting Deputy Executive Assistant Commissioner for Enterprise Services, United States Customs and Border Protection:
Oral Statement 15
Prepared Statement 17
Colonel Jason K. Jefferis, Head of Contracting Activities, United States Army Corps of Engineers:
Oral Statement 20
Prepared Statement 22
Ms. Rebecca Gambler, Director, Homeland Security and Justice, United States Government of Accountability Office:
Oral Statement 23
Prepared Statement 25

PANEL II

Mr. Ronald D. Vitiello, Private Citizen, Former Chief of the United States Border Patrol:
Oral Statement 54
Prepared Statement 55
Mr. James De Sotle, Interim Chief Executive Officer, Lonestar Pipeline:
Oral Statement 56
Prepared Statement 58
Mr. Russell A. Johnson, Private Citizen, Former Agent, United States Border Patrol:
Oral Statement 59
Prepared Statement 61

Page

Dr. Alexander Tenorio, Resident Physician, Neurological Surgery, UC San Diego:
Oral Statement 67
Prepared Statement 68

FOR THE RECORD

The Honorable Glenn Ivey, a Representative in Congress From the State of Maryland, and Ranking Member, Subcommittee on Oversight, Investigations, and Accountability:
Article, July 12, 2023, *The Washington Post* 10
Article, July 14, 2023, *The Washington Post* 13
The Honorable J. Luis Correa, a Representative in Congress From the State of California, and Ranking Member, Subcommittee on Border Security and Enforcement:
CBP June 2023 Monthly Update 72

OPENING THE FLOOD GATES: BIDEN'S BROKEN BORDER BARRIER

Tuesday, July 18, 2023

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON BORDER SECURITY AND ENFORCEMENT, AND THE
SUBCOMMITTEE ON OVERSIGHT, INVESTIGATIONS, AND ACCOUNTABILITY,
Washington, DC.

The subcommittees met, pursuant to notice, at 2:02 p.m., in room 310, Cannon House Office Building, Hon. Clay Higgins [Chairman of the Subcommittee on Border Security and Enforcement] presiding.

Present from the Subcommittee on Border Security and Enforcement: Representatives Higgins, Guest, Greene, Luttrell, Breechen, Correa, Thanedar, Garcia, and Ramirez.

Present from the Subcommittee on Oversight, Investigations, and Accountability: Representatives Bishop, Greene, Ezell, Strong, Crane, Ivey, Thanedar, and Clarke.

Also present: Representatives Green, Pfluger, Thompson, and Jackson Lee.

Chairman HIGGINS. The Subcommittee on Border Security and Enforcement and the Subcommittee on Oversight, Investigations, and Accountability will come to order.

Without objection, the Chair is authorized to declare the committee in recess at any point.

Without objection, the gentleman from Texas, Mr. Pfluger, is permitted to sit on the dais and questions of both panels and witnesses will be allowed.

The purpose of this hearing is to investigate the Biden administration decision to cancel border barrier contracts and the negative impacts on local contractors and communities. Cancelling border contracts has led to a substantial waste of resources, taxpayer funds, and time. Today, our subcommittee will investigate this decision and its effects on the American communities and businesses that have been impacted.

I now recognize myself for an opening statement.

Well, welcome to the Subcommittee on Border Security and Enforcement and Subcommittee on Oversight. The two subcommittees that are joined to address this important matter and we will have two panels before us today. This joint hearing is to examine the effectiveness of the border barrier system and the effects of the Biden administration's cancellation of border wall contracts on the safety

and security of the American people. I would like to thank our witnesses for being here today, some of which traveled extensively to join us to discuss this important topic.

Simply put, physical barriers work to deter and delay any form of criminal intent. In areas along the Southwest Border where there is some kind of physical barrier, illegal border crossings have decreased by up to 87 percent. From fiscal year 2017 to fiscal year 2020, during the construction of the border barrier system we will be discussing today, the Department of Homeland security never reported more than 1 million yearly encounters of illegal aliens at the Southwest Border. The border barrier system also allows Customs and Border Protection agents to respond and to detect threats or breaches using surveillance technology in places along the barrier instead of relying on manned patrol and other limited surveillance efforts. This is why earlier this year I introduced the Finish the Wall Act, requiring the Biden administration to resume construction of the border barrier system.

In the 2½ years since President Biden was inaugurated, there have been more than 5 million illegal border crossings and over 1.5 million gotaways, criminal runner gotaways. If this trend continues, the Biden administration is expected to reach nearly 2.5 million alien encounters at the Southern Border by the end of September for this year alone. The truth of the matter is that my colleagues and friends across the aisle find it difficult to deny that walls work. In fact, there is a long history of bipartisan Congressional support in securing the border using physical barriers, such as fencing, innovative technologies, all-weather access roads, and lighting. Many of my colleagues across the aisle, including some members currently on this committee, voted in favor of the Secure Defense Act of 2006. This has long been a bipartisan understanding that physical barriers work and they are integral to effective security of any perimeter. So certainly our Southern Border is no exception to that simple fact.

Until recent years, it has been clearly understood and accepted beyond the political divisions that we face, that physical barriers work. Unfortunately, when President Biden paused and eventually canceled all border wall construction projects in 2021, he demonstrated to the American people that he would prefer to engage in partisan politics over prioritizing our Nation's sovereignty and our national security and deterring those who break our laws by conducting illegal activity at our Southern Border. Fencing and border wall construction has ceased to be a bipartisan security tool and the American people are suffering for the sake of this political posturing.

In addition to the human cost of these cancellations, it is apparent this administration did not stop and think about the consequences and the impacts that cancellation of border barrier projects would have on American small businesses who had a contract for and had completed work on the border wall system. One of our witnesses here today, Jim De Sotle, his company was hired in 2019 by the Federal Government to conduct work on the border barrier system. To this day, Jim's company, LoneStar Pipes, has yet to receive any payment or reimbursement for the work that they did. Another witness with us today, Mr. Russell Johnson, is

a former Border Patrol agent, returned to ranching along the New Mexico border. As border wall construction expanded, he and his family saw illegal traffic pushed to other sections of the border without a wall, showing that the border wall system is a force multiplier so that the United States Border Patrol can focus agents in areas where a wall might not be logical or possible. Border Patrol agents and the recently-retired chief of Border Patrol, Raul Ortiz, have repeatedly stressed the importance of the border wall for the Border Patrol to do its job.

The border wall system should not and did not, prior to the recent years, was not used as a partisan issue. But over the past few years every detail of border security has become a political playground, including paying our contractors for work that has already been done. These are American citizens, American companies that engaged in good faith in contractual agreements with the U.S. Government and performed their work and have not been paid. It is shameful.

Completing the border wall system is critical to our Nation's safety, security, and sovereignty. We, the people, demand a resolution to this crisis. Order must be restored, and this is the first step.

[The statement of Chairman Higgins follows:]

STATEMENT OF CHAIRMAN CLAY HIGGINS

Good afternoon and welcome to the Subcommittee on Border Security and Enforcement and Subcommittee on Oversight, Investigations, and Accountability joint hearing to examine the effectiveness of the border barrier system and the effects of the Biden administration's cancellation of border wall contracts on the safety and security of the American people. I would like to thank our witnesses, especially those who traveled from New Mexico and New Jersey, for being here today.

The simple fact is that physical barriers work to deter and delay any form of criminal intent. That is why earlier this year, I introduced the "Finish the Wall Act" which required the Biden administration to resume construction of the border barrier system.

When I first introduced this bill in the 115th Congress during the Trump administration, the border was more secure than ever. From fiscal year 2017 to fiscal year 2020, during construction of the border barrier system, the Department of Homeland Security never reported more than one million encounters of illegal aliens at the Southwest Border.

Since Biden was inaugurated in January 2021, we have lost all operational control of our Southern Border. In just 2½ years, we've had more than 5 million illegal border crossers, and over 1.5 million gotaways—and if current trends continue, the Biden administration is expected to reach nearly 2.5 million alien encounters at the Southern Border by the end of fiscal year 2023.

Who could forget that there is a long history of bipartisan Congressional support in securing the border using physical barriers, such as fencing, innovative technologies, access roads, and lighting.

In fact, this committee introduced and led the bipartisan "Secure Fence Act of 2006" (Pub. L. 109–367) which authorized the Department of Homeland Security to achieve and maintain operational control over the border and authorized construction of 700 additional miles of fencing along the United States and Mexico border. Sixty-four Democrats voted for the measure in the House, and 26 Democrats voted for the passage of the bill in the Senate. In 2013, House Democrats also supported a measure that would have authorized $8 billion to repair and reinforce certain sections of the border barrier.

The truth of the matter is that my colleagues and friends across the aisle cannot deny that walls work. In areas along the Southwest Border where there is some kind of physical barrier, illegal border crossings have decreased by XX percent. The border barrier system allows Customs and Border Protection agents to not only gain effective control of the border, but agents are able to respond to and detect threats or breaches using surveillance technology.

Unfortunately, when President Biden paused and eventually canceled all border wall construction projects in 2021, he showed the America people he would rather

engage in partisan politics over prioritizing our Nation's national security and stopping those who break our laws by conducting in illegal activity at our Southern Border.

It is apparently, he did not stop and think about the consequences of his Presidential proclamation and the impacts the cancellation of border barrier projects will have on American small businesses who had a contract and completed work on the border wall system.

One of our witnesses here today, Jim De Sotle, his company was hired in 2019 by the Federal Government to conduct work on the border barrier system. To this day, Jim's company, LoneStar Pipelines, has yet to receive a single reimbursement for any of the work they did.

Another witness with us today, Mr. Russell Johnson, was a former Border Patrol agent turned rancher.

The most serious consequence of Biden's Executive Order is the gaps that were left when the administration abruptly canceled border barrier projects. On Mr. Johnson's ranch for example, there is a gap—this gap has been exploited by illegal border crossers and transnational criminal organizations.

This is why completing the wall is critical to our Nation's safety.

America demands and deserves border effective border security and House Republicans will hold the Biden administration accountable for failing to defend our Nation's sovereignty at the Southern Border.

Chairman HIGGINS. I now recognize the Ranking Member, my colleague, Mr. Correa, the gentleman from California, for his opening statement.

Mr. CORREA. Chairman Higgins and Chairman Bishop, I want to thank you both for holding this most important hearing.

I am glad that we all agree here today that we need to secure our borders. I don't however believe that building a wall is the best way to achieve that. The wall is a Clinton-era, Bill Clinton-era project from 30 years ago. The challenges today look very different than they did 30 years ago. I think the question before us is, what we have to be asking ourselves is, does a border wall fit into the challenges that we are seeing today? Our world has changed since Bill Clinton and since post-COVID–19. Many here in this room actually voted to end a COVID–19 public health emergency, thereby ending Title 42. These same individuals predicted the demise, a chaos at the border, which is yet to materialize. Because the reality is, after Title 42 went out, Title 8 has been imposed, and Title 8 has with it severe criminal sanctions against immigrants who cross between ports of entry. This administration has in place a policy that does deter people from crossing between ports of entry. Let me be clear, I don't agree with that policy. But it is hard to argue with the facts and the numbers. The numbers are challenges at the border have dropped. Those numbers have dropped since the ending of Title 42. It didn't take building a wall to make that happen.

Bottom line, the world today is experiencing a migratory crisis, a refugee crisis like we have never seen in the history of this world. I have to reiterate, the challenges that we face today require worldwide solutions, not regional solutions. Let's be clear as well, the wall is not preventing migrants from coming to the United States, but rather the wall is directing migrants to cross in more remote and dangerous areas of the border. It is no surprise then that the Border Patrol has seen more deaths and assisted in more rescues as a result of this policy. We have also seen more injuries, traumatizing families and costing our hospitals millions of dollars. As we will hear today from our witnesses, a local hospital in the San Diego sector has witnessed an unprecedented increase in traumatic brain injuries and spinal injuries from border wall falls since 2019.

To address border security, we need to address the push factors that are driving people to move north. No one wants to pick up and leave their homes and families. I ask you, if thousands of families are willing to trek through the dangerous Darién Gap to get to the United States, like the little girl in this photo behind me, you really think that a wall is going to stop a family from going north? Of course it won't. That is why we need partnerships with Mexico and countries in Latin America and Central America.

This following chart shows the magnitude of the refugee challenge we are facing just in this region alone. Countries south of the border are stepping up to help us. Colombia, for example, has taken in 2.5 million refugees. Others, like Guatemala, are allowing new migrant processing centers to be established in Guatemala. Mexico is also hosting thousands of refugees in Mexico.

The wall never helped with cooperation in the region. Refugees are not just our problem or their problem, refugees are our collective challenge and opportunity. Today we are seeing the full integration of the North American markets. Let me repeat, today we are seeing the full integration of the North American markets. Some of my colleagues will argue that the wall is an important deterrent for smugglers and criminals unlawfully entering the United States. But you can't fix a problem using a 30-year-old solution.

We heard last week during the hearings that transnational criminal organizations are exploiting legitimate private-sector trade to move fentanyl precursors and fentanyl presses and fentanyl across China, Mexico, and the United States. Now we are seeing precursors coming into the United States through our seaports. A border wall does not address this kind of a challenge. Cartels today are smuggling the overwhelming majority of drugs through our ports of entry, using very creative ways to smuggle. Just last month, CBP officers seized 900,000—900,000 fentanyl pills concealed in a porcelain sink at the Otay Mesa port of entry—at the port of entry. I really don't see how a border wall will help us tackle the drugs coming through our ports of entry. In addition, we heard last week on how cartels are now using drones, some drones that cost $200, with a payload of $1 million value of fentanyl to cross the border. How is a border wall gonna stop a drone?

The fact that my colleagues continue to focus on the wall again and again and again puts this committee and this Congress out of touch with what we really need to secure our country. Instead of spending taxpayer dollars, or like previous administration did, shifting money from drug-countering missions, let's invest in ports of entry, additional CBP personnel, and the root causes of why refugees continue to move north.

Again, today we are seeing tremendous integration of trade between Canada, the United States, and Mexico. The trade across our borders is unbelievable. We have to invest in the technology to make sure that we stop drugs from coming into this country and make sure we continue to preserve the free flow of goods and services that help American consumers on a daily basis. Between ports of entry we can deploy innovative technologies like sensors, autonomous towers to detect and identify threats. Some of these technologies are actually being manufactured in my district today.

Let me conclude by saying that the Biden-Harris administration has engaged in these solutions. I am sad to say that my colleagues across the aisle voted against funding these initiatives to combat modern threats against proven solutions that are working today. Just ask the folks at the border. I hope that going forward, this committee can work together with others to combat not only the threats of today, but also the threats of tomorrow, and that we move beyond the solutions that were put in place 30 years ago.

Thank you, Mr. Chairman, and I yield back.

[The statement of Ranking Member Correa follows:]

STATEMENT OF RANKING MEMBER J. LUIS CORREA

JULY 18, 2023

I am glad that we all agree on the need to effectively secure our border. I don't, however, believe that a border wall is the best way to achieve that. The wall is a Clinton-era project from 30 years ago. But the challenges of today look very different than they did 30 years ago. I think the question we should all be asking ourselves is how the border wall fits into the challenges we are seeing today. Our world has changed since the Clinton era, particularly with the COVID–19 pandemic.

Many in this room voted to end the COVID–19 public health emergency, thereby ending Title 42. They also predicted border chaos, which has yet to materialize. Now many seem disappointed that numbers have dropped. That our border is under control. Because the reality is that Title 8 imposes criminal consequences on migrants who cross between ports of entry. This administration has in place a policy to deter people from crossing between ports of entry.

To be clear I don't agree with that policy. But it's hard to argue with the fact that numbers have dropped since the end of Title 42. It didn't take building a wall to make that happen. The world is experiencing an unprecedented migratory crisis like no other since World War II. As I have reiterated in the past, the challenge we face is a world-wide issue that requires worldwide solutions.

Let's be clear—the wall is not preventing migrants from coming to the United States, but rather directing migrants to cross in more remote and dangerous areas of the border. It's no surprise then that Border Patrol has seen more deaths and assisted in more rescues as a result. We've also seen more injuries, traumatizing families, and costing our hospitals millions of dollars.

As we will hear today, a local hospital in the San Diego Sector witnessed an unprecedented increase in traumatic brain injuries and spinal injuries from border wall falls in 2019. This is neither humane nor effective.

To address border security, we need to address the push factors driving people to migrate. No one wants to pick up and leave their homes and families. If thousands of families are willing to trek through the dangerous Darién Gap to get to the United States, like the little girl in this photo, do we really think that a wall is going to stop them?

It won't. That's why we need partnerships with Mexico and countries in Latin America and Central America.

This chart shows the magnitude of the refugee challenge we are facing just in this region. That countries are stepping up. Colombia, for example, is accepting millions of Venezuelans. Others, like Guatemala, are allowing new migrant processing centers to be established in their countries. The wall never helped with cooperation in the region. Refugees are not just our problem or their problem.

Refugees are our collective challenge and opportunity. Today, we are seeing the full integration of the North American markets.

Some of my colleagues will argue that the wall is an important deterrent for smugglers and criminals unlawfully entering the country. But can we solve a 21st-Century problem with a Bill Clinton solution? As we heard during last week's hearing, transnational criminal organizations are exploiting legitimate private-sector trade to move fentanyl precursors and pill presses between China, Mexico, and the United States. And, we're now seeing precursors move through our seaports. A border wall doesn't address this trade.

Cartels are smuggling the overwhelming majority of drugs through our ports of entry, using creative methods of concealment. For example, just last month, CBP officers seized 900,000 fentanyl pills concealed in porcelain sinks at the Otay Mesa port of entry. I don't see how a border wall helps us tackle the drugs coming through our ports of entry. In addition, we heard last week how cartels are using

drones that cost $200 to send million-dollar payloads of drugs high over any border barrier. The fact that my colleagues continue to focus on the border wall again and again makes our committee look out-of-touch with reality.

Instead of spending taxpayer dollars—or in the previous administration's case—shifting money from countering drug missions—let's invest in our ports of entry, in our CBP personnel, and, importantly, in addressing the root causes to migration with our international partners.

In a time of exponential growth in cross-border trade, let's dedicate resources to inspection technology to interdict dangerous drugs like fentanyl. Let's keep the bad stuff out, and let the good things in. Between the ports of entry, we can deploy innovative technologies like sensors and autonomous towers to detect and identify threats. Some of these technologies are even being made in my district.

The Biden-Harris administration has engaged in these solutions. I'm sad to say that my colleagues across the aisle voted against funding these initiatives to combat modern threats against proven solutions that are working. I hope that going forward, this committee can work together to combat not only the threats of today, but also those of tomorrow.

Chairman HIGGINS. Thank you, Ranking Member Correa.

I now recognize the Chairman for the Subcommittee on Oversight Investigations and Accountability, the gentleman from North Carolina, Mr. Bishop, for his opening statement.

Mr. BISHOP. Thank you, Mr. Chairman, and I am glad to extend my welcome also to those who are attending today's hearing.

I have to take a point of departure from the opening statement of the Ranking Member just articulated. Barriers are not some old technology. They aren't from some long-ago thing from the Clinton administration. The Secure Fence Act was 2005, 2006. The progress that was made was interrupted by the Obama administration first and then, of course, all know that in 2019, President Trump declared a national emergency in recognition of the security and humanitarian crises at our Southern Border, but on the very first day in office, President Biden terminated President Trump's proclamation and halted construction of the border wall. While this purely political decision appeases a radical-left open-borders advocacy, it does nothing to enhance the security of Americans.

The numbers do not lie. Since the 2018 election and the year following, border encounter numbers reached 20-year highs, broke records for encounters of aliens from countries other than Mexico, and more than doubled in every sector along the U.S.-Mexico border. Today, our crisis is at a boiling point. We just heard that the numbers have fallen. A boiling point with over 200,000 encounters in the month of May alone. Who is out of touch? Yet President Biden refuses to budge on restarting construction of a border barrier, wasting taxpayer dollars, encouraging illegal traffic at gaps at our border, and endangering the safety and security of Americans.

A physical border barrier slows down those seeking to illegally cross the border and enhances Border Patrol agents' ability to apprehend those individuals. It is simply common sense and any Border Patrol agent you find will tell you that. President Biden's failure to complete the border barrier system unquestionably hinders Border Patrol's efforts to control the border.

As then-Chief Patrol Agent for the Del Rio sector, now chief of Border Patrol, Jason Owens, testified to this committee in a transcribed interview, a "physical barrier extends the amount of time that I and my team have to respond to and interdict, and it increases the certainty of arrest." Another sector chief logically explained in his transcribed interview that the presence of a border

wall leads individuals to cross at areas without a barrier, which allows Border Patrol to focus resources in response. Since President Biden halted border wall construction, Border Patrol recorded more than 1.5 million gotaways who crossed illegally into the United States without being apprehended. Not being apprehended because they weren't diverted to the places where they could be apprehended or deterred or slowed. We don't know who the gotaways are. We don't know what they are doing and what they are bringing across the border. To speak of fentanyl, they catch it at the port of entry in the sink, but we don't even have any idea. It is the same small quantities that can poison hundreds of thousands or millions of Americans and we don't even know. We don't know their intentions. But we do know that cartels traffic fentanyl across the Southern Border and Americans are dying of fentanyl overdoses at historic levels.

These are among the reasons Congress acted to enhance physical infrastructure along the Southern Border. For example, Section 3 of the 2006 Secure Fence Act requires, "At least two layers of reinforced fencing, installation of additional physical barriers, roads, lighting, cameras, and sensors." Since 2006, Congress appropriated funding explicitly to construct the barrier system on the Southern Border. In fact, just 1 month before President Biden halted border wall construction, Congress included almost $1.4 billion for the border barrier system in the Consolidated Appropriations Act for Fiscal Year 2021. It makes a mockery of the duty faithfully to execute the law.

Notwithstanding legal requirements and Congressional appropriations to build a barrier system, President Biden's Department of Homeland Security is instead spending tax dollars on environmental remediation projects. President Biden's irresponsible decision left stacks of unused construction materials exposed to the elements to rust away at project sites along the border. Reckless cost to the Federal Government, reckless waste of resources. Private citizens on the border found themselves left with the inconvenience, hazard, and expense of these materials remaining abandoned on their properties for now over 2 years. No resolution, just abandoned. That is the policy of the administration. We bought materials, we signed the contracts, but now we are getting nothing for it, just unprecedented levels of illegal immigration.

The suspension and termination of contracts also placed contractors in an untenable position. Contractors made business plans and took on expenses to fulfill their contracts. They were then forced to wait on hold for months without any clear decision while the Biden administration decided whether to honor contractual obligations. When that became something that even the Biden administration couldn't contend that they were doing any longer, they terminated contracts and contractors now, 2 years later, are saddled with the need to attempt to at least recover some of their costs. This is some madness.

With the on-going border crisis of historic proportions, we need to equip our Border Patrol agents with all tools possible to secure our border. Congress has spoken and passed laws, but the Biden administration has wasted hundreds of millions of American taxpayer dollars in canceling contracts that would finish the job. In-

stead of getting what Americans paid for, we are left with wall panels to bake in the desert and a wide open border. President Biden's unconscionable decision compromises national security.

Thanks to all for joining this hearing. I look forward to the testimony from our witnesses.

I yield back.

Chairman HIGGINS. Thank you, Chairman Bishop.

I now recognize the Ranking Member for the Subcommittee on Oversight, Investigations, and Accountability, gentleman from Maryland, Mr. Ivey, for his opening statement.

Mr. IVEY. Thank you, Mr. Chairman.

In 2015, former President Trump vowed to build a wall. He said, and I quote: "We're going to build a wall and it's going to be impenetrable. It will be a real wall." That same year, he also said, and by the way, Mexico will pay for it. It is going to be a great wall because I do, I know how to build. Absolutely none of that turned out to be true.

The border wall never even got close to being impenetrable, even the parts that had been built. I think it has been pointed out lately, because the Republican Presidential campaign has kicked off, that during President Trump's 4 years in office, only about 50 miles of the wall got built. The rest of what was done was repairing the wall that, yes, the Obama administration had put up. I also need to point out too that during that time period, the Government spent $2.6 million to repair border wall breaches from years 2019 to 2021. The maintenance records show wide-spread damage demonstrating the wall's limitation as an impediment to illegal crossing. It didn't even stand up to winds. Sometimes it was knocked over by flooding and the like. The CBP discovered 40 tunnels from 2017 through 2021, with the greatest number being discovered in 2020. So not only were the cartels going over the wall, as Mr. Correa pointed out, and they are doing that in increasing amounts with the drones that they are now using, and they were driving around the walls. We went down to look, the walls don't do anything to block off traffic going up and down the streets, and they are certainly going under the walls as well. Don't forget the cheap ladders used to climb over the wall. We had photographs that I have seen about this. Even though they raised the height of the walls, people were still able to go over the walls or sometimes just buy, you know, Home Depot kind of saws and cut through it.

So to build his wall, since Mexico didn't pay for it, between 2017 and 2020, Congress appropriated $4.5 billion for the construction of the new and replacement barriers along the Southwest Border. Then former President Trump pulled $10.5 billion, diverted it, $6.3 billion from the Department of Defense for its counter-drug programs, $3.6 billion from military construction projects, including schools and day care centers for military families, and $600 million from the Department of Treasury's forfeiture of funds. As I mentioned, that led to the building 52 miles over the years. That amount of money, the result at the end of the Trump administration was 52 miles of new wall.

When President Biden got into office, the remaining funds he sent back to where they were supposed to have gone to start with. But it is clear, and the GAO reported in 2021, that Mr. Trump's

desire led to a great deal of waste. One of the issues—and we will be able to talk about the contracting issue later on, but rather than doing competitive contract bids, because they had declared an emergency, were moving quickly, they did sole-source and direct-let contracts, which led to, in some instances, contracts that weren't competitively bid and didn't necessarily get the best results for dollars and cents for the American people. Because the way the Federal contracting system is structured, you want to have competition whenever you can so that you can get the best price. But the way President Trump ran these programs, it bypassed those and other issues too, like environmental protections, in order to "address the emergency" that he needed to do to build the wall.

I think along the lines—and I will shorten it up because Mr. Correa said a lot of the things that I wanted to hit on too. I think it is pretty clear at this point that building the wall, and I believe H.R. 2, which is passed by my Republican colleagues, I believe it came out of this committee with no Democratic support, calls for the construction of 900 more miles of wall. Now, at the rate that President Trump was going, I guess it will take like 45 years to do that. The cost would be astronomical. I think it is clear at this point that because the cartel is already, just from a technological standpoint, bypassed the type of protections that a wall could have provided maybe 20 or 30 years ago, putting that kind of money into those programs, as opposed to the things that meet head-on what they are doing in the cartels to get fentanyl into the United States, since 92 percent of it comes through the ports of entry, not where the walls are or even in between the ports of entry. I think we need to focus on that.

I did want to make one last point, though, to Mr. Jefferis of the Army Corps of Engineers. In reading the testimony, I did have concerns about what had happened with LoneStar Pipeline contractors. So I do want to have a chance to ask you about that. I think he raised—he sent a letter, he didn't send testimony, but that is fine. The point is the same. I do want to make sure that to the extent innocent contractors got caught up in the changes of the politics that come out of Washington, DC, they don't suffer for it.

So with that, Mr. Chairman—oh, and I did have two articles I wanted to offer to the record. We will come back to this in a minute. "Southern Border Eerily Quiet After Policy Shift on Asylum Seekers", this is out of the *Washington Post* on July 12, and also from the *Post*, an opinion piece on "Biden's Border Policy Critics, Both Left and Right Were Wrong."

Chairman HIGGINS. Without objection.

[The information follows:]

SOUTHERN BORDER 'EERILY QUIET' AFTER POLICY SHIFT ON ASYLUM SEEKERS

By Nick Miroff and Toluse Olorunnippa, The Washington Post

July 12, 2023 at 6 o'clock a.m. EDT

EL PASO—On the border bridge from Mexico, about 200 asylum seekers lined up on a recent morning with their phones open to a Customs and Border Protection mobile app, ready for appointments at a reception hall on the U.S. side.

Thirty miles north, the Biden administration provided a different reception for those attempting to enter the United States illegally, bringing them to a massive tent complex in the desert for migrants facing deportation. The new 360,000-square-foot facility's shelves were stocked with diapers, snacks and baby formula, signs of

the administration's efforts to meet the changing demands of U.S. immigration enforcement.

The two locations illustrate the extent to which Biden administration officials have begun transforming the way asylum seekers and migrants are processed along the southern border since May 11, when the White House lifted the pandemic policy known as Title 42. The policy had allowed quick expulsions of migrants who entered the United States illegally but no penalty for those who tried to get in again and again.

Now the administration is allowing tens of thousands of migrants to enter the United States legally each month through the mobile app CBP One, while those who don't follow the rules face ramped-up deportations and tougher penalties.

The preliminary result is a nearly 70 percent drop in illegal entries since early May, according to the latest U.S. Customs and Border Protection data. After 2 years of record crossings and crisis-level strains, the Biden administration appears to have better control over the southern border than at any point since early 2021.

The president's critics continue to depict his border policies as too permissive—geared more toward accommodating mass migration than deterrence. But the decline in illegal crossings undermines a key line of attack for President Biden's Republican critics and bolsters Democrats' argument that the pandemic expulsion policy was partly to blame for record numbers of border arrests.

Administration officials acknowledge it is too soon to tell whether their new approach can achieve lasting effects. Republican State officials are suing in Federal court to block Biden's policies expanding legal entries through CBP One. At the same time, immigrant advocacy groups have filed challenges in Federal court to Biden's new border restrictions on asylum seekers who cross illegally.

The recent drop in illegal crossings does not mean fewer than half as many migrants are coming to the United States. President Biden is allowing roughly 43,000 migrants and asylum seekers per month to enter through CBP One appointments and accepting an additional 30,000 through a process called parole. The new legal channels appear to be absorbing many of the border crossers who for years have entered unlawfully to surrender in large groups, overwhelming U.S. border agents.

U.S. agents made about 100,000 arrests along the Mexico border in June, the first full month that Biden's new measures were in effect, down from 204,561 in May, according to the latest CBP data. It was the largest 1-month decline since Biden took office.

Imelda Maynard, the legal director of Diocesan Migrant & Refugee Services in El Paso, which aids migrants, described the past several weeks in the city as "eerily quiet." The number of migrants released by CBP onto the streets of El Paso dropped to zero in recent days, according to the city.

"We've been so used to putting out fire after fire, we're like: Where are all the people?" Maynard said.

'We're so close'

On the outskirts of El Paso, where for much of the past 2 years migrants have attempted to enter illegally each day through the steep canyons of Mount Cristo Rey, a CBP helicopter and a team of agents gave chase one recent morning to a single border-crosser. He turned back south.

With CBP using more contractors at its facilities to help perform tasks such as data entry, medical screening and child care, Biden officials say more U.S. agents can return to patrol duties. That appears to be making it harder for border-crossers to sneak through.

The factors that have fueled migration to the United States remain largely unchanged, but for the first time since Biden took office, the President's team is testing a new border-management strategy, one it considers a more humane and effective alternative to the Trump administration's approach. At the heart of the strategy is a belief that reducing the chaos and illegality of migration is more feasible than trying to stop it.

Legislative proposals to overhaul the U.S. asylum process continue to face steep odds in a polarized U.S. Congress, which hasn't passed significant immigration legislation in nearly two decades.

Blas Nuñez-Neto, the top border policy official at the Department of Homeland Security, said the Administration's measures remain vulnerable to adverse court rulings because they rely on executive actions rather than congressional fixes, which remain stalled.

The fact that the new Biden system is working as intended is encouraging, Nuñez-Neto said in an interview. "But it's still too early to draw any definitive conclusions about what we're going to see in the coming weeks and months."

For migrants in Mexican border cities trying to secure a CBP One appointment, the wait can be harrowing.

Jose Ricardo Pimentel, a 33-year-old Venezuelan, stood on the bridge on a recent morning. Lowering his voice to a whisper, he acknowledged that he'd slipped into the line without an appointment that day because he was so desperate to leave Mexico.

"I was kidnapped along the highway to Ciudad Juárez and held for 22 days," he said. "I'm scared."

Pimentel reached the front of the line to plead his case, but U.S. officers saw his name wasn't on their list. They turned him back.

Pimentel fell in behind other families who lacked appointments but were clinging to faint hopes the CBP officers would allow them to enter anyway.

Leidimar Muñoz; her husband, Alexander Gonzalez; and their 7-year-old daughter, Yefreannys, waited there, too, but they gave up after 5 hours in the 100-degree heat.

"My daughter couldn't stand it any longer," said Muñoz, also from Venezuela. "She was hungry and asking to use the bathroom."

The family walked back down the bridge into Ciudad Juárez, then laid out a blanket under the bridge's shade, sharing a plate of chicken and fried rice from a foam container. Yefreannys took out Play-Doh and Barbie dolls from a dusty backpack with a cat face.

Muñoz had registered the family for a CBP One appointment 8 days earlier. The average wait for an appointment was 4 to 6 weeks, but she didn't want to move into a shelter farther away from the border bridge. They were spending nights under the bridge, sleeping outdoors on the patio of a Mexican migrant services center.

Downtown El Paso seemed within grasp, its skyline visible past the border wall and the spools of concertina wire.

"We're so close," Muñoz said.

Before May 11, the family could have joined the tens of thousands of other Venezuelans crossing illegally and surrendering to border agents with an expectation they'd be quickly released into the United States. Now doing so would risk deportation back to Mexico and ineligibility for asylum. Muñoz had to wait, glued to the mobile app.

Criticism from all sides

The drop in illegal crossings has given Biden a reprieve on one of his most vulnerable issues ahead of next year's Presidential election. White House officials expressed a sense of validation at seeing the border numbers fall after the expiration of the pandemic restrictions—noting how Republican politicians had been warning of impending chaos after May 11.

But even as Biden's aides expressed relief, the president himself has largely refrained from calling out his detractors over the issue. The challenges with border enforcement have vexed his administration since its earliest days, with fast-changing migration patterns, court orders that kept Title 42 in place and criticism from both liberals and conservatives.

The issue is bound to remain a sticking point during the 2024 campaign. Former president Donald Trump—who initiated the Title 42 policy and predicted that its end would lead to record migration—has accused Biden of deliberately undermining border security by lifting the restrictions.

Recent polling indicates that immigration is one of Biden's biggest political liabilities, with 6 in 10 adults saying they disapprove of his handling of the border, according to a recent AP–NO RC poll. In the aftermath of Title 42's lifting, several Republican candidates have announced Presidential bids—and almost all of them have used their campaign launches to attack Biden on immigration.

In some cases, the disapproval is coming from Biden's side of the aisle—with Democrats criticizing him as being too harsh toward migrants.

Crystal Sandoval, director of strategic initiatives for Las Americas, an advocacy group working on both sides of the border, said Biden's restrictions have effectively "ended" access to asylum. Though the administration is allowing tens of thousands to enter with CBP One appointments to live in the United States while their protection claims are pending in U.S. courts, asylum seekers who might be fleeing immediate danger face new hurdles if they cross the border illegally.

"Is it really due process?" said Sandoval, whose organization has been helping migrants in Ciudad Juárez fix errors to their CBP One registrations.

"I expected more," she said. "We can and should do better."

A floating city

The deceased man lay facedown in a sandy berm about five miles north of the border wall and 100 yards from a highway.

A CBP helicopter first spotted him, sending agents on horseback. They estimated he'd been there about a week. Pieces of sponge were glued to his boot soles, a tactic used to mask footprints. The sun had left his limbs the color of charcoal.

He was one of two deceased migrants recovered in the Santa Teresa, N.M., area, just outside El Paso, on a recent morning.

Crossings have historically dipped during the peak summer months when temperatures along the border soar past 100 degrees. But as migrants trying to evade capture face tougher odds to sneak through, they often resort to more remote areas with greater risk. They may be U.S. deportees, or have criminal records, making them ineligible for CBP One.

Border agents in CBP's El Paso sector are still averaging 400 to 500 arrests per day, bringing detainees to the sprawling new detention facility comprising brightly lit, climate-controlled tents that resemble puffy clouds. The size of six football fields, it is the largest and perhaps least harsh CBP facility ever built, with capacity for more than 2,500.

The Border Patrol supervisor running the facility likened it to a cruise ship—a small self-contained city floating on the desert. With hot showers, onsite laundry and scores of private booths where migrants can videoconference with attorneys, asylum officers and immigration judges, the facility's operating costs exceed more than $1 million per day.

Border Patrol officials said the facility allows them to manage detainees using far fewer agents. They can reserve the more austere, jail-like detention cells at Border Patrol stations for migrants considered security risks. Family groups, unaccompanied minors and others deemed lower risk can be held at the tent complex, where contractors perform administrative and custodial tasks that have long grated on agents.

Rep. Tony Gonzales (R–Tex.), a border-district lawmaker who criticized the new facility's price tag after a recent tour, said 100,000 illegal crossings a month still add up to more than a million annually, near historic highs. Asylum seekers who are released into the United States while their claims are pending rarely end up deported, even though the majority of their cases are rejected in U.S. immigration court, he said.

"If this is what the administration thinks is a win, they're on the complete wrong path," Gonzales said.

He said he is concerned that the arrival of tens of thousands of migrants through CBP One has effectively "streamlined and normalized illegal immigration."

"So they won't be deported, but they'll be living in the shadows all their lives," Gonzales said. "It's wrong to funnel them down a dead end."

Under CBP policy, 72 hours is the maximum amount of time migrants should remain in the agency's custody before they are released or transferred to another agency such as Immigration and Customs Enforcement for longer-term detention. The 3-day window is generally too short to resolve asylum seekers' claims of persecution in their home countries.

The Biden administration appears to be using the new tent complex to hold detainees longer, allowing more time for the government to apply the new asylum restrictions and deport those who disregard the CBP One route.

Border Patrol officials providing a tour of the facility did not allow interviews with detainees. But one man lining up for a shower said he'd been there 18 days.

Olorunnipa reported from Washington.

OPINION: ON BIDEN'S BORDER POLICY, CRITICS BOTH LEFT AND RIGHT ARE WRONG

By the Editorial Board, The Washington Post

July 14, 2023 at 7:30 a.m. EDT

Uncontrolled migration across the U.S.-Mexico border is not in anyone's interest except, perhaps, for the smugglers who profit by charging people to make the difficult and dangerous trek. After much hesitation, during which unauthorized attempted border crossings reached an all-time high of 2.76 million in fiscal 2022, the Biden Administration acted to stem the flow and redirect it into lawful, more manageable channels. Initial data from the Department of Homeland Security shows progress: Daily Border Patrol encounters with migrants fell from 10,000-plus just before May 11, when the policy went into effect, to 3,400 in early June. Set forth

in regulations finalized May 10, the plan seems to be preventing the border chaos many had feared would follow expiration of emergency powers under Title 42, a public health law that had allowed Federal authorities to expel migrants summarily during the pandemic.

There's a catch, though: President Biden's policy has to be consistent with Federal law. And critics from both ends of the political spectrum have gone to Federal court arguing that it's not. On July 19, a judge in Oakland, Calif., is set to hear a coalition of immigrants' rights advocates, headed by the American Civil Liberties Union, who claim, in effect, that the Biden plan unlawfully truncates the right to asylum. Meanwhile, red States, headed by Texas, accuse the administration of the opposite: letting in hundreds of thousands of migrants without sufficient legal authority.

The courts should let the administration's approach, which includes a 2-year time limit, run its course. Some of the legal arguments against it are serious. Yet, so is the Biden administration's case: that the President is trying to address a major problem through a pragmatic exercise of his existing authority.

Essentially, the new policy offers migrants incentives and disincentives—carrots and sticks—the net effect of which is to discourage irregular border-crossing. The disincentive, framed as a "rebuttable presumption" against entry, is swift expulsion and a 5-year bar on reentry for those who cross between ports of entry without first seeking asylum in a third country en route. The incentive is that these tough conditions do not apply to migrants who first make appointments using a cellphone app to apply for asylum at ports of entry and wait in Mexico for their turn. The rule contemplates advance processing for asylum in a third country as well. Separately, it offers 30,000 people per month from Venezuela, Nicaragua, Cuba, and Haiti—main sources of the 2022 border surge—direct access to the United States via 2-year humanitarian parole, provided they have a U.S. sponsor.

Mr. IVEY. Thank you, Mr. Chairman.

With that, I yield back.

Chairman HIGGINS. The gentleman yields.

Other Members of the committee are reminded that opening statements may be submitted for the record.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JULY 18, 2023

We are here today to focus on a policy that has little to do with border security, and that's Donald Trump's border wall. Trump's wall has not only been ineffective in providing security at the border, but it's also had a devastating financial and humanitarian cost. Financially, this wall has been a disaster for the American people.

Former President Trump promised Mexico would pay for this wall. Mexico has not paid one penny toward the wall. Instead, former President Trump and Republicans have left American taxpayers to foot the bill.

Let's remember, the strategy to build the border wall had so little support that the Trump administration had to divert billions of dollars away from the Department of Defense to build a small part of the ineffective border wall. This ill-conceived plan resulted in the previous administration building only 52 miles of new border wall when the regional plan called for 1,000 new miles.

These 52 miles of new wall cost taxpayers billions of dollars. In fact, some segments cost the American taxpayers up to $46 million per mile. The billions of dollars spent on this wall have not made the border more secure or stopped migrants from coming to our border.

Numerous reports suggest individuals are using $100 power tools to breach the wall. CBP reports the border wall was breached over 4,000 times in just fiscal year 2022. As a result, CBP spent $2.6 million from fiscal years 2019 to 2021 to repair damages to parts of the wall that were breached by individuals. Again, at the expense of American taxpayers.

Costly repairs also occurred due to weather damage. High winds and flooding have caused parts of the wall to fall or separate, creating huge openings in the barrier. It's clear the border wall has serious flaws and limitations as a deterrent. The financial cost to build and maintain Trump's wall is exorbitant, but nowhere near as damaging as the humanitarian cost it has created.

A record number of people world-wide are being forcibly displaced. People are fleeing war-torn countries, persecution, and human rights abuses. Individuals fleeing these terrible situations come to America in their most desperate hour. When we

only have restrictive border policies, and no realistic pathway to legal immigration, migrants cross illegally out of desperation.

These are families willing to brave the Darién Gap and the treacherous journey to the border to seek help and opportunity. It should be no surprise that they are also willing to climb a 30-foot wall and risk injury or death to get to America. Tragically, we are seeing more injuries and deaths. There have been at least 28 deaths as a result of falls from border walls and fences from 2019 to 2022. The wall indirectly causes injuries and deaths by pushing individuals even further out into remote areas and treacherous conditions to cross. Clearly, the 30-foot border wall is inhumane, in addition to being ineffective.

In addition, it's ironic that the Republicans titled this hearing "Opening the Flood Gates: Biden's Broken Border Barrier" when a storm in Arizona blew the flood gates in Trump's wall off their hinges. And when flooding in Nogales, Mexico has been tied to the border wall. If we want to be serious about securing our border, let's look at things that actually work like providing better technology and more personnel.

I urge my Republican colleagues to join Democrats in finding effective and humane measures to secure our border.

Chairman HIGGINS. I am pleased to welcome our first panel of witnesses.

Let the record reflect that the witnesses have answered in the affirmative. Thank you. Please be seated.

[Witnesses sworn.]

Chairman HIGGINS. I would like to now formally introduce our witnesses.

Ms. Ntina Cooper serves as the acting deputy executive assistant commissioner for enterprise services at the United States Customs and Border Protection, Colonel Jason Jefferis graduated from West Point Military Academy in 1996 and currently serves as the head of contracting activities for the United States Army Corps of Engineers. Ms. Rebecca Gambler is the director of the U.S. Government of Accountability Office's Homeland Security and Justice Team, where she leads projects concerning border security, immigration, and election issues.

I thank the witnesses for being here today. The witnesses' full statements will appear in the record.

I now recognize Ms. Cooper for 5 minutes to summarize her opening statement.

STATEMENT OF NTINA K. COOPER, ACTING DEPUTY EXECUTIVE ASSISTANT COMMISSIONER FOR ENTERPRISE SERVICES, UNITED STATES CUSTOMS AND BORDER PROTECTION

Ms. COOPER. Thank you. Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and distinguished Members of the subcommittee, thank you for the opportunity to testify today about CBP's use of physical barriers as part of the U.S. Border Patrol's critical role in securing the Southwest Border between the ports of entry.

As these committees know, the Southwest Border environment in which CBP works is complex and requires continual adaptation to respond to dynamic threats and changing operational environments. CBP's multifaceted approach to border security not only prioritizes investments in personnel, modern technology, and infrastructure, but also non-materiel capabilities including domestic and foreign partnerships, as well as intelligence and information sharing. Additionally, the immense diversity of terrain, threats, and operational conditions across each Border Patrol sector along the Southwest Border requires that CBP acquire and deploy the right

combination of resources, including physical barriers and related attributes, tailored to address specific operational requirements, and enhance our detection and interdiction of unlawful cross-border activities.

Today I would first highlight how CBP uses border barriers along the Southwest Border, then describe our requirements and acquisition process for deciding where and what type of barrier and attributes to use, and finally, share the status of current barrier and system attribute-related projects.

First, CBP uses barriers to impede unlawful entries into the United States and to provide agents additional time to effectively and safely respond to incidents that require a law enforcement resolution. Barriers are most effective when used as part of a border barrier system that incorporates other critical attributes, including surveillance and detection technology to provide domain awareness, and roads and lighting to provide Border Patrol agents with improved access, mobility, and visibility. The Border Patrol evaluates each unique operating environment and utilizes a rigorous requirements management process, including the capability gap analysis process that we refer to as CGAP. This larger process engages Border Patrol field personnel at all levels, soliciting input that is used to identify capability gaps, generate operational requirements, and ultimately inform the identification of effective and efficient solutions, such as technology or the deployment of physical barrier system to meet those requirements.

USBP uses its requirements development process, including a complementary decision support tool, to prioritize investments in border barrier solutions. The tool takes into account quantitative and qualitative operational factors, everything from vanishing times, total known flow, narcotic seizure information, and agent assaults, to the ability to contain and deny entries, and many other factors. The scoring created by this tool supports the prioritization and decision making process. Through an established governance structure, USBP layers the latest intelligence on changing operational conditions over the raw scoring of the tool to finalize a prioritized list. Once the prioritized list is established, CBP applies land acquisition, engineering feasibility, environmental factors, and cost considerations in developing its border barrier system acquisition approach. The comprehensive approach is critical for ensuring CBP makes informed decisions relating to acquiring the most effective system solutions tailored to specific locations along the Southwest Border.

Consistent with the guiding principles in the Department of Homeland Security Border Wall Plan, which provides for the use of prior year border barrier funding, CBP is currently moving forward with several border barrier projects across the Southwest Border, including actions to construct border barriers and system attributes in the Rio Grande Valley sector, and complete fence replacement in the Yuma and El Centro sectors. These projects are designed to ensure that the previously-installed border infrastructure functions as it was intended, address enforcement vulnerabilities, and improve operational conditions for Border Patrol agents, make the project areas safe for agents, migrants, and

adjacent communities, and prevent further environmental degradation in areas impacted by border barrier construction.

As with all major acquisition programs, CBP's border barrier system requirements development process is continuous, meaning we conduct assessments of new acquisitions and perform periodic assessments of deployed materiel and non-materiel solutions to evaluate how well a deployed solution meets and continues to meet technical parameters and identified requirements. While Border Barrier is a valuable tool, it is one of many investments in personnel, technology, and partnerships that all work together to create the right combination of resources in the right locations to help Border Patrol agents gain operational advantage while supporting the daily enforcement of immigration laws and counteracting illegal activity along the Southwest Border.

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

[The prepared statement of Ms. Cooper follows:]

PREPARED STATEMENT OF NTINA K. COOPER

JULY 18, 2023

INTRODUCTION

Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and Members of the subcommittee, thank you for the opportunity to discuss U.S. Customs and Border Protection's (CBP) use of physical barriers as part of the U.S. Border Patrol's (USBP) critical role in securing our borders between the ports of entry along the Southwest Border.

The border environment in which CBP works is dynamic and requires continual adaptation to respond to emerging threats and changing conditions. CBP's multifaceted border security approach along the Southwest Border not only prioritizes investments in personnel, modern technology, and infrastructure, but also non-material capabilities such as domestic and foreign partnerships, and efficient intelligence and information sharing, critical to addressing the complex border environment and enhancing our detection and interdiction of unlawful cross-border activities. These investments increase CBP's ability to detect illegal activity along the border, increase our operational capabilities, and improve the safety of frontline law enforcement personnel.

Each USBP sector along the Southwest Border is different, with different terrain, natural barriers, egress routes from the immediate border area, and varying threats and operational conditions. While some sectors may be better served by more personnel, others might benefit from increased technology, such as Autonomous Surveillance Towers, that could monitor remote areas more easily, or counter-unmanned aerial system (C–UAS) technologies to detect and mitigate the illicit use of drones. When placed in strategic areas, physical barriers work in conjunction with detection technology and other attributes to support USBP's ability to protect the border against unlawful entries into the United States, often providing agents additional time to carry out law enforcement resolutions. USBP evaluates each unique operating environment and consults with field commanders on what is necessary in their particular area of responsibility to allow for the best mix of resources in any given sector.

BORDER BARRIER SYSTEM

As part of an integrated "border barrier system," physical barriers, whether in the form of a steel bollard, levee fencing, or other designs, are typically complemented by attributes such as a tailored array of surveillance and detection technology, and all-weather roads and lighting. These system components work together to increase USBP's domain awareness, access and mobility, and ability to impede and/or deny unlawful entries.

Border Barrier Requirements and Acquisition Process

USBP leverages a robust requirements management process, including the Capability Gap Analysis Process (CGAP), to identify areas of the border where gaps in

capability create vulnerabilities or risks to border security or border security operations. The process engages USBP field personnel at all levels, soliciting input that is used to generate operational requirements and, ultimately, inform the development of effective, efficient, material, and/or nonmaterial border security solutions. USBP continues to mature its requirements management capability, which began with CGAP in 2014, to identify capability gaps, generate requirements to address those gaps and ultimately identify solutions, such as technology and/or the deployment of border barrier system, to meet those requirements.

Assessments of new attributes as well as periodic assessments of deployed material and nonmaterial solutions help CBP better evaluate how well a deployed solution meets technical parameters and addresses identified requirements. This process is critical for ensuring CBP makes informed decisions related to acquiring the most effective and best value technology and barrier solutions and attributes tailored to specific locations along the Southwest Border.

CBP has also implemented a complementary Decision Support Tool 2 (DST2) to prioritize investments in border barrier system solutions to address identified vulnerabilities across the Southwest Border. The tool applies several weighted categories that address operational needs and takes into account the current infrastructure laydown as well as metrics of known flows of unlawful cross-border activity. The tool is comprehensive considering both quantitative and qualitative operational factors, everything from vanishing times,[1] total known flow, narcotics seizure information, agent assaults, to ability to contain and deny entries and many other factors. The scoring created by this tool supports the prioritization and decision making process through an established governance structure that layers the appropriate strategy and latest intelligence on changing operational conditions over the raw scoring of the tool. Once the prioritized list is established, CBP considers land acquisition, engineering feasibility, environmental factors, and cost/affordability in developing its acquisition approach.

Using the identified and prioritized border barrier system requirements, CBP executes a deliberative acquisition program in accordance with DHS's acquisition management directives and processes.[2] The process also breaks down the acquisition program into stages allowing for approval (or disapproval, as appropriate) of procurement recommendations and close oversight of the execution of contracts and the deployment of infrastructure and technology by the Acquisition Decision Authority.

BORDER WALL PLAN

On January 20, 2021, President Biden issued Presidential Proclamation 10142, Termination of Emergency with Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction. Since that time, DHS issued its Border Wall Plan Pursuant to Presidential Proclamation 10142 (the Plan)[3] and has authorized CBP to resume several barrier projects necessary to address life, safety, environmental or other remediation measures in accordance with the Plan.

DHS approved an amendment[4] to the Plan on July 11, 2022, that allows for additional uses of fiscal year 2018–2021 appropriations to prioritize environmental remediation and mitigation, as well as to install system attributes such as lighting, cameras, and detection technology in places where barrier was constructed but the planned system attributes were left incomplete at the time of the pause. Procurement actions and construction projects are under way across 7 of USBP's Southwest Border sectors to support this work. As of July 1, 2023, CBP has closed 68 gates and gaps in the border barrier, and we are working to close an additional 61 gates and gaps along with life, safety, environmental, and other remediation activities at incomplete border barrier construction sites.

Furthermore, CBP has been able to use some of the previously-procured construction materials for current projects. For example, CBP has been able to utilize previously procured steel bollards for projects such as the Yuma Hill Gap Closure Project. CBP is also using other materials such as rip-rap (rock/aggregate), gate hardware and operators, and some concrete culvert pipes for make-safe projects at

[1] The amount of time an individual who has unlawfully crossed the border generally has before they have access to shelter and/or transport. Depending on the operational environment, this could vary from minutes to hours.

[2] DHS Directive 102–01, *https://www.dhs.gov/sites/default/files/2022-03/22_0321_cio_acquisition-management-directive.pdf.*

[3] *https://www.dhs.gov/publication/department-homeland-security-border-wall-plan-pursuant-presidential-proclamation-10142.*

[4] *https://www.dhs.gov/publication/amendment-dhs-border-wall-plan-pursuant-presidential-proclamation-10142.*

incomplete former Department of Defense project sites. In accordance with the Plan, CBP will continue to evaluate if remaining materials from former projects will be disposed of or used for any possible future projects.

Consistent with the guiding principles in the Plan, on June 30, 2023, DHS announced that it had authorized CBP to move forward with the planning and execution of up to approximately 20 miles of border barrier system in the USBP Rio Grande Valley (RGV) Sector, as mandated by the DHS fiscal year 2019 border barrier appropriation.[5]

As required by DHS's fiscal year 2019 appropriation, CBP will be using 18-foot steel bollard fence panels placed in removable concrete jersey barriers, as the steel bollard design remains the most operationally effective design and has been tested and evaluated over the last several years. This project will also include the installation of system attributes, such as detection technology, lighting, and access roads. The proposed project, which does not involve the use of U.S. Fish and Wildlife refuge tracts, is located within Starr County, Texas, which is USBP's highest-priority location within the RGV Sector.

In addition, DHS authorized CBP to move forward with the Yuma Andrade and El Centro Calexico Fence Replacement Projects. Both projects will replace dilapidated segments of legacy fencing that presently create potential safety and security concerns for USBP agents, migrants, and the surrounding community. The decision to proceed with these replacement projects, similar to previously-approved projects, prioritizes the completion of activities and projects needed to address life, safety, and operational risks—including the safety and security of individuals, Border Patrol agents, migrants, and nearby communities.

Environmental and Community Impact

As set forth in the Plan, CBP has prioritized efforts to address safety hazards and remediate and mitigate environmental damage from incomplete construction at border barrier project sites. Activities include, but are not limited to, remediating temporary use areas such as staging areas, haul roads, and project areas impacted by construction, completing erosion control measures, repairing drainage gates to prevent flooding, and addressing other environmental requirements, such as installing small wildlife passages. The remediation work is intended to ensure that the previously-installed border infrastructure functions as it was intended, improve operational conditions for USBP, make the project areas safe, and prevent further environmental degradation in areas impacted by prior border barrier construction.

CBP and the Department of the Interior (DOI) have developed a plan and are implementing mitigation projects to address impacts to cultural and natural resources associated with past barrier construction projects. Mitigation projects may include actions to address impacts to Tribal cultural resources, restoring or replacing habitat, offsetting damaged cultural sites and studies to assess impacts of barrier construction on threatened or engaged species. These activities are intended to identify and address long-term impacts from the barrier on cultural and natural resources.

As part of environmental planning efforts for new construction projects, CBP consults with Federal, State, local, and other relevant stakeholders to identify potential resources that may be present within a planned project area to avoid these resources or develop measures to offset or mitigate potential impacts, to the greatest extent possible, while still meeting operational requirements. CBP is committed to limiting the impacts of border barrier construction on sensitive lands and wildlife along the Southwest Border including in national wildlife refuges, national forests, national monuments, wilderness areas, and on imperiled species.

CBP works diligently to integrate responsible environmental practices, including incorporating sustainable practices, into all aspects of its decision making and operations.[6] Working closely with the U.S. Fish and Wildlife Service, the Bureau of Land Management, the U.S. Forest Service, and the National Park Service, CBP implements best management practices that are designed to minimize or avoid impacts to sensitive biological, cultural, and natural resources during construction, to the greatest extent possible, while still meeting operational requirements. Where avoid-

---

[5] *https://www.cbp.gov/newsroom/local-media-release/cbp-moves-forward-rgv-barrier-and-yuma-andrade-and-el-centro-calexico.*

[6] CBP's environmental planning includes the preparation of an Environmental Assessment or Environmental Impact Statement, in compliance with the National Environmental Policy Act (NEPA). For some projects, the DHS Secretary may determine it is necessary to exercise authority in Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to waive certain environmental laws, including NEPA, to expedite construction of border infrastructure. In this case, CBP seeks to accomplish responsible environmental planning within a managed time frame to meet operational needs and prepares and implements an Environmental Stewardship Plan.

ance is not possible, CBP consistently demonstrates our strong commitment to environmental stewardship by evaluating and identifying possible mitigation measures for implementation to offset impacts.

Throughout the planning, design, and construction process, CBP completes project, budget, real estate, and environmental planning to maximize transparency and accountability and to ensure the most effective and efficient solutions are deployed to meet requirements. CBP is committed to ensuring that all stakeholder communities, including Federal partners, State, local, and Tribal officials, and impacted communities, are kept informed and engaged throughout this process.

CBP continues to review border barrier projects presenting life, safety, environmental, or other remediation needs and will continue to conduct environmental planning activities for planned projects. Any future construction will be conducted in accordance with enacted appropriations and in line with the intent to utilize a range of tools including smart border technology to enhance security along the border as warranted by requirements in specific areas.

CONCLUSION

Infrastructure is just one piece of the border security enterprise. While infrastructure acts as a tool that allows our agents time to respond to activity, it is not the only operational resource. Investments in personnel, technology, and partnerships all work together to help CBP gain situational awareness, mitigate the flow of irregular migration, and protect our borders between the ports of entry along the Southwest Border.

All of these improvements and investments have helped CBP provide a greater response to border incursions, while supporting the daily enforcement of immigration laws and counteracting other illegal activity along the Southwest Border.

Thank you for the opportunity to testify today. I look forward to your questions.

Chairman HIGGINS. Thank you, Ms. Cooper.

I now recognize Colonel Jefferis for 5 minutes to summarize his opening statement.

STATEMENT OF COLONEL JASON K. JEFFERIS, HEAD OF CONTRACTING ACTIVITIES, UNITED STATES ARMY CORPS OF ENGINEERS

Colonel JEFFERIS. Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and distinguished Members of the subcommittees, thank you for this opportunity. My name is Colonel Jason Jefferis.

I'm here today in my capacity as the head of contracting for the U.S. Army Corps of Engineers. As an organization entrusted with the responsibility of managing a large, complex portfolio of infrastructure projects to include those with border security, we truly appreciate the significance of an efficient and transparent contracting process and ensuring the successful execution of our Nation's priorities. We take this responsibility seriously.

The Corps has a long-standing relationship with Customs and Border Protection. From 2003 to 2018, the Corps partnered with CBP under various authorities, to include the Secure Fence Act of 2006. During this time, we completed approximately 650 miles of border barrier consisting of approximately 350 miles of pedestrian and another 300 miles of vehicular. Since that time, three distinct authorities have guided USACE's involvement in border wall construction. Support to Homeland Security under the Economy Act and then later support to DoD under 10 U.S. Code Sections 284 and 2808. Regardless of the authorities and the appropriations used, the Corps has acted as the design and construction agent for all three programs, including the requisite acquisition support. In performance of these duties, USACE prioritized competition to the extent practical, while ensuring the contracting process is con-

ducted fairly and transparently. In recent years, there has been significant interest in these contracts, including from the U.S. Government Accountability Office, who found that the Corps conducted these acquisitions consistent with applicable laws and regulations.

On January 25, 2017, the President of the United States issued Executive Order 13767 titled "Border Security and Immigration Enforcement Improvements", requiring Secretary of Homeland Security to take all the appropriate steps to immediately plan, design, and construct a physical wall along the Southern Border. USACE received this mission to support these efforts under the Economy Act. On 15 February 2019, the President declared a national emergency on the Southern Border, making certain emergency authorities available to the Department of Defense, including 10 U.S. Code 2808 and Section 284. On February 25, Homeland Security requested DoD assistance in securing the Southern Border. On March 25, USACE received formal designation as the construction agent for these programs with the direction for the construction to begin at the end of that fiscal year. In response, we immediately proceeded with the development and award of contracts under the 284 program while simultaneously continuing the execution of contracts under the DHS annual appropriations.

On September 3 of that year, the Secretary of Defense provided specific guidance on the undertaking of emergency military construction projects pursuant to 10 U.S. Code 2808. USACE awarded contracts in response to this guidance beginning in November 2019.

On January 20, 2021, the President terminated the National Emergency Declaration with respect to the Southern Border and directed the secretaries of both departments to pause construction and obligation of funds and to create respective implementation plans.

On January 23, the deputy secretary of Defense directed the immediate pause of all construction and on April 30 the Secretary of the Army directed the Corps to cancel all construction undertaken with DoD authority. The Corps terminated those contracts the next day pursuant to Federal Acquisition Regulation Clause for termination for convenience to the government. This termination process has numerous steps, including a receipt of termination settlement proposal from each prime contractor, followed by an audit of these proposals by the Defense Contract Audit agency. Only then can the contracting officer begin negotiating final contract settlement amounts. This is a lengthy process and is still on-going and projected to continue into 2024 for some contracts.

DHS directed the Corps to begin the process for partially canceling some of the border wall program on September 17 of 2021 with the continuation of certain life safety activities for certain levy and non-levy projects. The Corps began the partial termination convenience process for the affected contracts in October 2021.

Again, I want to thank you for the opportunity to be here today and thank you for your continued support for the soldiers and civilians of the Army Corps of Engineers.

I look forward to your questions.

[The prepared statement of Colonel Jefferis follows:]

PREPARED STATEMENT OF COLONEL JASON K. JEFFERIS

JULY 18, 2023

Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and distinguished Members of the subcommittees, thank you for the opportunity to address you today on behalf of the U.S. Army Corps of Engineers (USACE).

The Contracting Activity for USACE is entrusted with executing contracts to manage complex infrastructure projects. We understand the significance of an efficient and transparent contracting process to ensure the successful execution of our Nation's priorities, and take this responsibility seriously.

USACE has a proud history of delivering critical infrastructure projects with the highest standards of quality, cost-effectiveness, and integrity. We recognize that the border wall project has garnered substantial attention, both in terms of its nationally-prominent mission and the associated challenges it presented.

USACE plays a critical role in the planning, design, and construction of various infrastructure projects across the United States, including those related to border security. In the context of the border wall, USACE has a long-standing relationship with the Department of Homeland Security (DHS), Customs and Border Protection (CBP). From 2003 until 2018, USACE partnered with CBP to complete approximately 653 miles of border barrier, which included approximately 353 miles of pedestrian barrier and 300 miles of vehicular barrier. Our efforts associated with this work included real estate planning, environmental mitigation, and design and construction. These efforts were under various authorities including the Secure Fence Act of 2006. In 2017, USACE assisted CBP by providing engineering subject-matter expertise to assist with the solicitation of prototype border barriers and the evaluation of prototype construction methods proposed by CBP contractors. In relation to border wall construction, three distinct authorities guided USACE's involvement; support under the Economy Act to CBP utilizing CBP appropriations, and later, USACE's support to the Department of Defense (DoD) under 10 U.S.C. § 284 and § 2808. Regardless of the authorities and appropriations used, USACE acted solely as the design and construction agent for CPB and DoD/Army, meaning USACE provided design and construction services, to include contract award and oversight and acceptance of the contracted work. In performing duties under these authorities, USACE ensured that the contracting process was conducted fairly, transparently, and in accordance with applicable laws and regulations.

Transparency and accountability are fundamental principles within the Federal Acquisition system and guide USACE's contracting practices. Throughout the procurement process, we prioritized open competition to the maximum extent practicable given program requirements.

Over the past several years, there has been significant interest in our border barrier procurements, including from the U.S. Government Accountability Office (GAO). The GAO found that USACE conducted its acquisitions consistent with applicable laws and regulations.

On January 25, 2017, the President of the United States issued Executive Order 13767, titled, "Border Security and Immigration Enforcement Improvements," requiring the Secretary of DHS to take all appropriate steps to immediately plan, design, and construct a physical wall along the Southern Border. USACE received the mission to support DHS's Border Infrastructure Program under the Economy Act. The program anticipated approximately $20 billion of border infrastructure construction to be executed over a 10-year period, using both Design-Build and Design-Bid-Build delivery methods to execute various requirements such as fence, wall, patrol roads, access roads, lights, gates for access to border monuments, maintenance, and for Border Patrol operational use, drainage improvements, levee walls, and other miscellaneous improvements, repairs, and alterations. USACE used a mix of existing contracting tools to execute immediate and near-term actions, while completing the acquisition planning process to create two to four separate Design Build Multiple Award Task Order Contracts targeted for award in 2019.

On February 15, 2019, the President of the United States declared a national emergency on the Southern Border making available certain emergency authorities to include 10 U.S.C. § 284 and § 2808.

On February 25, 2019, pursuant to 10 U.S.C. § 284, DHS, through CBP, requested that DoD assist DHS in its efforts to secure the Southern Border.

On March 25, 2019, the Acting Secretary of Defense designated USACE as the Construction Agent for these programs and directed that construction begin by the end of the fiscal year. In response, USACE immediately proceeded with the development, solicitation, evaluation, and award of contracts for construction under the

§ 284 program, while simultaneously continuing execution of contracts under DHS annual appropriations. On September 3, 2019, the Secretary of Defense provided guidance for undertaking Military Construction Projects pursuant to 10 U.S.C. § 2808. USACE awarded contracts in response to this guidance beginning in November 2019.

On January 20, 2021, the President of the United States terminated the national emergency declaration with respect to the Southern Border of the United States and directed the Secretaries of DHS and DoD to create an implementation plan for redirecting funding and repurposing contracts.

On January 23, 2021, the deputy secretary of defense directed implementation of the pause of construction pursuant to the Presidential proclamation. USACE subsequently issued suspension of work letters to pause all construction until USACE received applicable implementation plans.

On April 30, 2021, the Secretary of the Army directed USACE to take immediate action to cancel all construction undertaken pursuant to 10 U.S.C. § 284 and § 2808. USACE then terminated those contracts pursuant to Federal Acquisition Regulation Clause 52.249–2, Termination for Convenience of the Government, by May 1, 2021. The termination for convenience process has numerous steps including, making work sites safe, disposing of excess materials, receiving a termination settlement proposal from affected contractors, auditing proposals by the Defense Contract Audit Agency, and negotiating final contract settlement amounts. This process is on-going and is projected to continue through 2024.

On September 17, 2021, DHS directed USACE to begin the process for partially canceling the DHS border wall program while completing certain life safety activities for levee and non-levee projects as directed in the DHS Secretary's exception memo dated April 30, 2021, and the subsequent Decision Memo signed July 24, 2021. In October 2021, USACE began the Termination for Convenience process for the affected contracts under the DHS program. USACE follows all applicable laws, regulations, policies throughout the contract termination process.

Thank you for the opportunity to present this testimony about USACE's contracting support to border wall construction operations before your combined subcommittees, and for your continued support for the soldiers and civilians of USACE.

Chairman HIGGINS. Thank you, Colonel Jefferis.

I now recognize Ms. Gambler for 5 minutes to summarize her opening statement.

STATEMENT OF REBECCA GAMBLER, DIRECTOR, HOMELAND SECURITY AND JUSTICE, UNITED STATES GOVERNMENT OF ACCOUNTABILITY OFFICE

Ms. GAMBLER. Good afternoon Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, Members of the subcommittees. I appreciate the opportunity to testify at today's hearing to discuss GAO's work on Federal agencies' efforts to contract for and deploy barriers along the Southwest Border.

In recent years, Federal agencies have obligated billions of dollars to construct border barriers. Within the Department of Homeland Security, U.S. Customs and Border Protection, or CBP, is responsible for the overall management of border barriers. Within the Department of Defense, the U.S. Army Corps of Engineers has served as the design and construction agent for border barriers.

GAO has issued numerous reports over the years addressing the deployment of barriers to the Southwest Border. Today I'm going to summarize GAO's most recent reports on the contracting and procurement process for border barrier construction. I'm going to focus my remarks on the key areas.

First, the Army Corps' contract obligations and awards in fiscal years 2018 through 2020; second, the factors that drove the Army Corps' acquisition approach; and third, the status of barrier completion as of January 2021 and subsequent DHS planning efforts.

First, the Army Corps obligated more than $10 billion in both DHS and DoD funding for construction contracts from fiscal years 2018 through 2020. The Army Corps obligated funds for specific construction projects under 13 contract awards.

Second, expediency drove the Army Corps' approach to border construction contracts. In particular, the Army Corps' approach was shaped by senior DoD leadership direction, the time frame for obligating funds before they expired, and the prior administration's goal to complete at least 450 miles of border barriers by the end of 2020. Under this approach, the Army Corps, for example, used non-competitive awards to a greater extent than initially planned. In some instances, it authorized or expanded work without full and open competition and authorized contractors to begin work before defining key requirements. In addition, contracts awarded with DoD funds were used for border barrier construction projects on Federal lands. This allowed the Army Corps to proceed without acquiring real estate from private landowners, a process that can take years.

Based on our reporting, we recommended that the Army Corps conduct an assessment of the approaches it used to build the border barriers and as appropriate reassess its acquisition strategy going forward. Such an assessment would provide, among other things, an opportunity for the Army Corps to determine how best to reduce the use of contracting approaches that limit competition. The Army Corps agreed with this recommendation and implemented it by conducting an after-action review of the contracting process.

Finally, with regard to the status of barrier construction, from fiscal years 2018 through 2020, the Army Corps contracted for more than 600 miles of border barriers. Approximately 32 percent of the miles to be built under these contracts were new barriers in areas where no barriers had previously existed, while about 68 percent of the miles were to replace existing barriers. As of January 2021, when the new administration issued a proclamation pausing on-going construction for the border contracts, the Army Corps had approximately 450 miles of barriers. However, about 85 percent of the miles constructed represented the installation of barrier panels rather than the completion of the full barrier system, which includes technology, lighting, and roads for maintenance and patrolling. This was because the Army Corps had structured many of its DoD-funded awards to prioritize the construction of barrier panels rather than the full barrier system.

Following the January 2021 pause, DHS suspended performance on border barrier contracts and construction activities, with the exception of activities related to ensuring project sites were safe and secure. DHS also developed a plan for the use of border barrier funds as called for in the Presidential proclamation. Under this plan, DHS noted its intent to use funds to continue addressing safety hazards, identify actions to address environmental damage from past barrier construction, and install system attributes.

Thank you again for the opportunity to testify at today's hearing. This concludes my prepared statement and I would be happy to answer any questions members may have.

[The prepared statement of Ms. Gambler follows:]

PREPARED STATEMENT OF REBECCA GAMBLER

JULY 18, 2023

GAO HIGHLIGHTS

Highlights of GAO–23–106893, a testimony before the Subcommittees on Border Security and Enforcement, and Oversight, Investigations and Accountability, Committee on Homeland Security, House of Representatives

Why GAO Did This Study

A January 2017 Executive Order directed the Secretary of Homeland Security to immediately plan, design, and construct a wall or other physical barriers along the Southwest Border. From fiscal years 2017 through 2021 DHS received funding to construct border barriers. A 2019 Presidential Declaration of National Emergency directed DOD to support barrier construction and USACE awarded billions of dollars in construction contracts. In January 2021, a Presidential Proclamation paused border barrier construction to the extent permitted by law.

This testimony discusses: (1) USACE's contract obligations and awards in fiscal years 2018 through 2020 to support barrier construction on the Southwest Border, (2) the factors that drove USACE's acquisition approach, and (3) the status of barrier completion as of January 2021 and subsequent DHS planning efforts.

This statement is based on 7 reports GAO issued between 2017 and 2023. For that work, GAO analyzed DHS and USACE documents and data and interviewed agency officials. GAO also conducted selected updates.

What GAO Recommends

GAO made 5 recommendations in prior reports related to the deployment and contracting process for border barrier construction. DHS and DOD concurred and fully addressed 4. For the recommendation related to analyzing costs associated with future barrier segments, DHS noted that it conducts cost estimates as part of the acquisitions process.

SOUTHWEST BORDER.—AWARD AND MANAGEMENT OF BARRIER CONSTRUCTION CONTRACTS

What GAO Found

GAO's past work has highlighted the increased investment associated with construction and deployment of barriers on the Southwest Border. For example, in June 2021 GAO reported that the U.S. Army Corps of Engineers (USACE)—the construction agent—obligated $10.7 billion to support the border barrier efforts from fiscal years 2018 through 2020, almost all of which was obligated on construction contracts. More than 70 percent of the funds obligated on construction contracts during this time were Department of Defense (DOD) funds made available following the President's 2019 National Emergency Declaration. During this time period, USACE awarded 39 construction contracts, primarily DOD-funded, to build more than 600 miles of border barriers. Approximately 32 percent of the miles to be built under these contracts were new barriers in areas where no barriers had previously existed, while about 68 percent of the miles were to replace existing barriers.

In June 2021, GAO also reported that USACE's acquisition approach, among other things, was driven by the need to obligate DOD funding before it expired. In response to the 2019 National Emergency Declaration and with the influx of DOD funds, USACE changed its planned acquisition approach to expedite construction. For example, USACE used noncompetitive awards to a greater extent than originally planned. In addition, USACE structured many of its DOD awards to prioritize the construction of barrier panels, rather than the full barrier system (which included panels and supporting attributes, such as technology).

Border Barrier Construction in South Texas



Source: GAO photo taken in February 2020. | GAO-23-106893

As of January 2021, when the new administration directed the Department of Homeland Security (DHS) and DOD to pause on-going construction for the border contracts to the extent permitted by law, USACE reported that it had completed approximately 450 miles of barriers. Most of these miles represented the installation of panels, rather than the completion of the full barrier system. Less than 69 of these miles—or about 15 percent—were for completed barrier system as of January 2021. Since that time, DHS issued and updated a plan for use of border barrier funds. DHS intends to use its funding to continue addressing safety hazards, identify actions to address environmental damage from past barrier construction, and install system attributes for DHS- and DOD-funded projects, such as lighting and technology.

Chairmen Higgins and Bishop, Ranking Members Correa and Ivey, and Members of the subcommittees, thank you for the opportunity to discuss our work covering Federal agencies' efforts to deploy border barriers along the nearly 2,000-mile Southwest Border. Within the Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) is responsible for securing the border from illicit activity while facilitating legitimate travel and trade. As part of its border security mission, as of fiscal year 2015, CBP had built more than 650 miles of barriers along the Southwest Border of the United States.[1] In addition, within the Department of Defense (DOD), the U.S. Army Corps of Engineers (USACE) has a long-standing role in supporting DHS along the Southwest Border, including providing project and contract management support. USACE's role was expanded in 2019 when it was tasked to help expedite the construction of border barriers using billions of dollars in DOD funding made available following a 2019 Presidential National Emergency Declaration.

My statement today focuses on the contracting and procurement process for border barrier construction. Specifically, it discusses: (1) USACE's contract obligations and awards in fiscal years 2018 through 2020 to support barrier construction on the Southwest Border, (2) the factors that drove USACE's acquisition approach, and (3) the status of barrier completion as of January 2021 and subsequent DHS planning efforts.

This statement is primarily based on 7 reports we issued between February 2017 and April 2023 on the increased investment in barriers and the acquisition approach for construction and deployment of barriers on the Southwest Border. For these products, we analyzed DHS and USACE documents and data, conducted site visits to locations along the Southwest Border, and interviewed agency officials. We also conducted selected updates to those reports regarding DHS and USACE efforts to address our previous recommendations.[2]

---

[1] For the purposes of this testimony, we generally use the term "barrier" to refer to a physical structure, such as a pedestrian fence, vehicle barrier, or wall, or any combination of these structures intended to impede the movement of people or vehicles.

[2] We made a total of 5 recommendations to DHS and USACE related to the deployment and contracting process for border barrier construction. The agencies concurred with the recommendations and fully addressed 4. For the remaining recommendation for CBP to analyze the costs associated with future barrier segments and include cost as a factor in its prioritization strategy, CBP noted that it conducts detailed cost estimates as part of the acquisitions process. For more information on this recommendation and its status, see *https://www.gao.gov/products/gao-18-614.*

More detailed information on the objectives, scope, and methodology for our work can be found in the issued reports listed in Related GAO Products at the conclusion of this statement. We conducted the work upon which this statement is based in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

BACKGROUND

In January 2017, an Executive Order directed the Secretary of Homeland Security to immediately plan, design, and construct a contiguous wall or other impassable physical barrier at the Southwest Border.[3] In response, CBP initiated the Border Wall System Program to replace and construct new barriers along the Southwest Border.[4] CBP uses the term "wall system," or barrier system, to describe the combination of physical barriers, technology, and other infrastructure used at the Southwest Border. Physical barriers and other elements of the system vary, in part, based on the terrain. For example, pedestrian barrier fencing may consist of steel bollard panels, ranging from 18 to 30 feet, constructed at ground-level. CBP uses supporting attributes such as technology (e.g., surveillance cameras), lighting, and roads for maintenance and patrolling to establish varying enforcement zones as part of the barrier system. Figure 1 shows an example of bollard panels and barrier construction in south Texas, constructed atop levee walls, and a 150-foot wide border enforcement zone on the river side of the barrier.

Figure 1: Border Barrier Featuring Steel Bollards in Starr County, Texas (Left), and Border Barrier and Enforcement Zone under Construction in South Texas (Right)



Source: GAO photos taken in February 2020. | GAO-23-106893

From fiscal years 2017 through 2021, DHS's CBP received a total of $5.9 billion in appropriations to construct border barriers.[5] Beginning in 2019, the Department of Defense (DOD) also provided funding for barrier construction. In particular, in February 2019, the President issued a Declaration of National Emergency regarding the border security and humanitarian crisis at the Southern Border, and provided

[3] Border Security and Immigration Enforcement Improvements, Exec. Order No. 13767, § 4, 82 Fed. Reg. 8793, 8794 (Jan. 30, 2017) (issued Jan. 25). Executive Order 13767 defines "wall" as a "contiguous, physical wall or other similarly secure, contiguous, and impassable physical barrier." See id. § 3, 82 Fed. Reg. at 8794. In February 2021, this Executive Order was revoked by the President. See Creating a Comprehensive Regional Framework To Address the Causes of Migration, To Manage Migration Throughout North and Central America, and To Provide Safe and Orderly Processing of Asylum Seekers at the United States Border, Exec. Order No. 14010, 86 Fed. Reg. 8267 (Feb. 5, 2021) (issued Feb. 2).

[4] We have regularly reported on DHS's Border Wall System Program as part of our annual assessment of DHS acquisition programs. For the most recent report, see GAO, *DHS Annual Assessment: Major Acquisition Programs Are Generally Meeting Goals, but Cybersecurity Policy Needs Clarification,* GAO–23–106701 (Washington, DC: Apr. 20, 2023).

[5] As we noted in November 2020, the funds provided through each year's DHS appropriations acts came with various provisos, including certain restrictions. For example, funds could not be used for the construction of barriers in the Santa Ana National Wildlife Refuge in Texas. See GAO, *Southwest Border: Information on Federal Agencies' Process for Acquiring Private Land for Barriers,* GAO–21–114 (Washington, DC: Nov. 17, 2020). In fiscal year 2021, DHS received $1.375 billion in appropriations for construction of barrier system along the Southwest Border. In April 2023, we reported that DHS had not identified the scope of work for those funds. See GAO–23–106701. DHS's CBP received no new funding for border barrier construction in fiscal years 2022 or 2023.

additional authority to DOD to support the Federal Government's response to the emergency.[6] Following the 2019 Declaration, the administration identified additional funding sources for border barrier construction, including under the following DOD statutes:

- *Drug Interdiction and Counterdrug Activities (counterdrug) funds.*—Under 10 U.S.C. § 284, DOD is authorized to support the counterdrug activities of other Federal agencies, if requested. DHS requested DOD's counterdrug assistance in the form of construction of fences and roads and installation of lighting to block drug smuggling corridors.[7] DHS selected the barrier projects to support with counterdrug funds. The funding was available to DOD for obligation for 1 year, after which the funding expired and could no longer be used for new obligations.[8]
- *Military construction funds.*—Under 10 U.S.C. § 2808, the Secretary of Defense is authorized to undertake military construction projects in certain circumstances, including a National Emergency Declaration.[9] DOD selected the barrier projects that it undertook with military construction funds from a DHS-provided list.[10]

For most contracts, USACE served as the design and construction agent supporting border barrier activities.[11] Between fiscal years 2017 and 2020, USACE awarded contracts to construct the border barrier system using several types of contracting vehicles and approaches. These included stand-alone contracts, which USACE can use when the exact quantities and timing of delivery are known at the time of award.[12] USACE also used multiple-award, indefinite-delivery, indefinite-quantity contracts, which it may award to one or more contractors when the exact quantities and timing of products and services are not known at the time of award.

In January 2021, after a change in administrations, a Presidential proclamation terminated the emergency at the Southwest Border and paused border barrier construction to the extent permitted by law.[13] The proclamation also directed the Secretaries of Defense and Homeland Security, consulting with the director of the Office of Management and Budget and other agencies, to develop a plan within 60 days for redirecting border barrier funding, as appropriate and consistent with applicable law. After developing this plan, DHS and DOD were to take appropriate steps to resume, modify, or terminate projects and to implement the plan, as discussed later in this statement.[14]

---

[6] Declaring a National Emergency Concerning the Southern Border of the United States, Pres. Proclamation No. 9844, 84 Fed. Reg. 4949 (Feb. 20, 2019) (issued Feb. 15). The National Emergency Declaration required the use of the armed forces and invoked various statutes to address the border security and humanitarian situation at the border.

[7] See 10 U.S.C. § 284(b)(7). While the President's National Emergency Declaration on February 15, 2019, did not expressly invoke section 284, following a February 25 request from DHS to DOD for assistance under section 284, the Acting Secretary of Defense authorized the U.S. Army Corps of Engineers to begin planning and executing support to DHS pursuant to section 284. DOD's authority under section 284 is not dependent on a National Emergency Declaration.

[8] In September 2019, GAO concluded that DOD's transfer of funds into its Drug Interdiction and Counterdrug Activities, Defense, account for border fence construction was consistent with DOD's statutorily-enacted transfer authority, and that use of these amounts for the purpose of border fence construction was permissible under various statutory provisions. GAO B–330862, Sept. 5, 2019.

[9] 10 U.S.C. § 2808.

[10] See GAO, *Southwest Border: Schedule Considerations Drove Army Corps of Engineers' Approaches to Awarding Construction Contracts through 2020,* GAO–21–372 (Washington, DC: Jun. 17, 2021).

[11] USACE has a long-standing role in supporting DHS along the Southwest Border, including providing project and contract management support.

[12] Stand-alone contracts, also called "definitive contracts," are contracts other than an indefinite delivery vehicle that must be reported to the Government-wide database used to report data on Government procurements. Federal Acquisition Regulation 4.601.

[13] Termination of Emergency With Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction, Pres. Proclamation No. 10142, 86 Fed. Reg. 7225 (Jan. 27, 2021) (issued Jan. 20). The Presidential proclamation paused all border barrier construction pending development of a plan by the Secretaries of Defense and Homeland Security that, among other things, was to address the potential redirection of border barrier funds while ensuring funds Congress explicitly appropriated for barrier construction were expended.

[14] We separately reviewed the pause in border barrier construction and obligations of funds as a result of the January 20, 2021 proclamation and determined that it did not violate the Congressional Budget and Impoundment Control Act of 1974. GAO B–333110, June 15, 2021.

USACE OBLIGATED MORE THAN $10 BILLION TO SUPPORT BORDER BARRIER CONSTRUCTION FROM FISCAL YEARS 2018 THROUGH 2020

Following the President's February 2019 National Emergency Declaration, the White House announced that military construction and counterdrug activities funds would be used for border construction. In June 2021, we found that USACE obligated $10.7 billion to support the border barrier efforts from fiscal years 2018 through 2020, almost all of which—$10.6 billion—was obligated on construction contracts.[15] More than 70 percent of the funds obligated on construction contracts during this time—$7.5 billion of the $10.6 billion—were DOD counterdrug and military construction funds. In total, USACE awarded 119 construction contracts and orders during this time frame, and obligated funds for specific construction projects under 39 of these awards.[16] Figure 2 shows the number of USACE contracts and obligated amounts in fiscal years 2018 through 2020 for barrier construction broken down by DOD military construction, DOD counterdrug, and DHS (CBP barrier construction) funding.

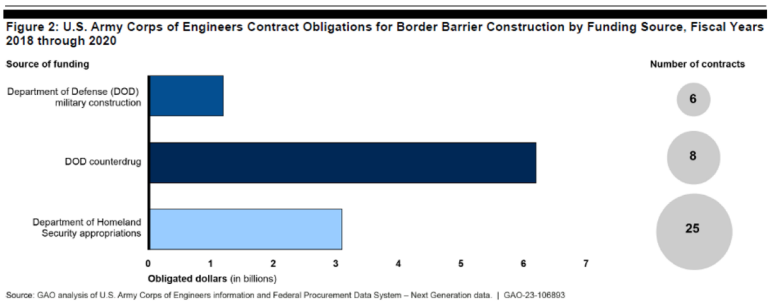


Figure 2: U.S. Army Corps of Engineers Contract Obligations for Border Barrier Construction by Funding Source, Fiscal Years 2018 through 2020

Source: GAO analysis of U.S. Army Corps of Engineers information and Federal Procurement Data System – Next Generation data. | GAO-23-106893

EXPEDIENCY DROVE USACE'S APPROACH TO BORDER CONSTRUCTION CONTRACTS AFTER THE 2019 NATIONAL EMERGENCY DECLARATION

In June 2021, we found that USACE's ultimate acquisition approach was driven by senior DOD leadership direction, the time frame for obligating funds before they expired, and the prior administration's goal to complete at least 450 miles of border barriers by the end of 2020.[17] In response to the 2019 National Emergency Declaration and with the influx of DOD funds, we found that USACE changed its planned acquisition approach to expedite construction. In particular, USACE had initially planned for a three-phase acquisition approach for border barrier construction to support CBP's 5-year border security investment plan. In the first phase, USACE planned to use existing or planned indefinite-delivery, indefinite-quantity contracts to award certain projects. In the second phase, USACE intended on using a prequalified source list to make additional awards, and in the third phase, planned on establishing new indefinite-delivery, indefinite-quantity contracts.[18]

Following the declaration, USACE changed this acquisition approach to move more expeditiously. For example, USACE used noncompetitive awards to a greater extent than originally planned. Federal law and acquisition regulations generally require that contracts be awarded on the basis of full and open competition. However,

[15] USACE obligated the remaining $102 million to provide services related to border barrier efforts—primarily architecture and engineering services. See GAO–21–372. For that report we selected fiscal year 2018 to start our data collection so as to capture changes in contract data associated with the 2019 emergency declaration, and ended our data collection at fiscal year 2020 as it was the most recent year for which we could obtain a full year of data at the time of our review.

[16] The other 80 were a combination of base indefinite-delivery, indefinite-quantity contracts and orders. The orders reported in the Government-wide database used to report data on Government procurements were for $2,500 or less and were not for specific construction projects, so we did not focus on these in our June 2021 report. For purposes of our report, we focused on the 39 construction contracts and orders awarded for specific border barrier construction projects, unless otherwise noted. All 39 were firm-fixed price awards, meaning a contractor has full responsibility for the costs of performance and the resulting profit or loss.

[17] GAO–21–372.

[18] For use of a prequalified source list, defense and USACE acquisition regulations allow potential vendors, with proven competence, to prequalify for work on specific construction contracts when necessary to ensure timely and efficient performance.

contracts may be awarded without full and open competition under certain circumstances, such as an unusual and compelling urgency where a delay in contract award would seriously injure the Government.[19] USACE also used various contracting authorities to start construction quickly. In particular, we found that USACE authorized or expanded work without full and open competition and authorized contractors to begin work before defining key requirements. Using these flexibilities, USACE awarded four counterdrug-funded contracts valued at more than $4 billion without full and open competition.

USACE also used another flexibility—DHS's February 2020 waiver of procurement competition requirements—to help expedite construction efforts.[20] Specifically, USACE obligated an additional $1.6 billion for new projects, totaling about 60 more miles of construction using fiscal year 2020 counterdrug funds. Generally, modifying an existing contract could be considered out of scope and, if so, the new requirement would need to be competed. However, the USACE determination to use the waiver stated that the new projects were located relatively close to where the contractors were already working, and were in line with the Secretary of Defense's directive to begin construction on these projects as quickly as possible.

We also found that USACE structured many of its DOD-funded awards to prioritize the construction of barrier panels, rather than the full barrier system. All 13 DOD-funded contracts were required to complete some or all of the barrier panel construction by the end of 2020.[21] For example, in some cases, these contracts were awarded or modified to extend deadlines so that contractors could prioritize barrier panel construction, resulting in longer time frames to produce a complete barrier system.

We also found that the projects' location on Federal lands facilitated USACE's approach for DOD construction, allowing construction to begin quickly. Contracts awarded using DOD counterdrug and military construction funds were used for border barrier construction projects on Federal lands. This allowed USACE to proceed without acquiring real estate from private landowners—a process that CBP said could take years, as we reported in November 2020.[22] However, because CBP and DOD focused on building on Federal lands to facilitate beginning construction quickly during the national emergency, DOD border barrier construction projects did not consistently align with the projects CBP had originally prioritized for construction.

In our June 2021 report, we recommended that USACE conduct an assessment of the approaches used to build the border barriers and, as appropriate, reassess its acquisition strategy going forward.[23] We noted that such an assessment would provide, among other things, an opportunity for USACE to determine how best to reduce the use of contracting approaches that limit competition. Without doing so, USACE would miss opportunities to strengthen its future acquisition approaches in furtherance of its long-standing support for CBP on the Southwest Border.

USACE concurred with our recommendation and stated that it would conduct after-action reviews to identify lessons learned from its approaches to respond to the national emergency. USACE noted it would also consider additional tools it could create to respond to similar, less-predictable emergencies in the future. In December 2021, USACE officials conducted an after-action review of the contracting response. As part of this review, USACE considered actions required to improve contracting methods for future national emergency declarations, such as having comprehensive contracting tools in place prior to emergencies. In doing so, USACE should be better-positioned to support future national emergencies.

---

[19] Office of Federal Procurement Policy guidance has stated that competition is the cornerstone of the Government's acquisition system and can obtain the best return on the Government's investment. Office of Federal Procurement Policy, Memorandum for Chief Acquisition Officers and Senior Procurement Executives: Enhancing Competition in Federal Acquisition (Washington, DC: May 31, 2007).

[20] In February 2020, the Acting Secretary of Homeland Security issued a waiver determination pursuant to a 2005 law that allows the Secretary to waive legal requirements to ensure the expeditious construction of barriers and roads along the Southwest Border. See 85 Fed. Reg. 9794, 9796 (Feb. 20, 2020). The REAL ID Act of 2005 amended the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 by expanding the authority of the Secretary of Homeland Security to waive all legal requirements, as determined to be necessary, in the Secretary's sole discretion, to ensure expeditious construction of barriers and roads along the border. Pub. L. No. 104–208, div. C, tit. I, subtit. A, §102(c), 110 Stat. 3009, 3009–555, as amended by Pub. L. No. 109–13, div. B, tit. I, §102, 119 Stat. 231, 306 (classified, as amended, at 8 U.S.C. §1103 note).

[21] USACE terminated one of the DOD-funded contracts at the Government's convenience shortly after award. Officials said it was terminated due to an administrative error and that they later awarded a new contract for the same work.

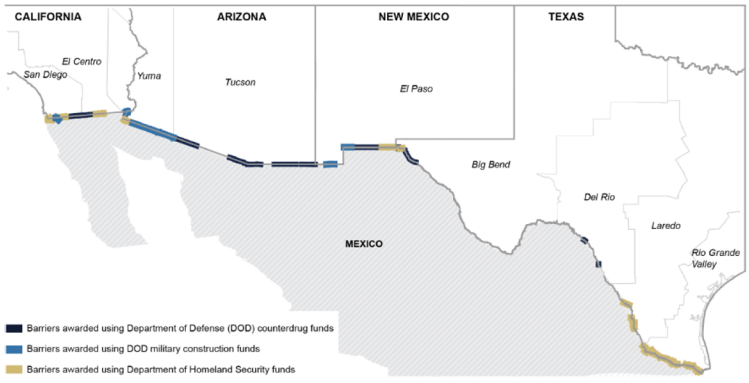
[22] GAO–21–114.

[23] GAO–21–372.

USACE COMPLETED BARRIER PANELS AND DHS DEVELOPED PLANS FOR THE USE OF FUNDS

In June 2021, we found that USACE met the goal of completing approximately 450 miles of border barriers, and, in March 2022 and April 2023, we reported that DHS developed plans for the use of border barrier funds.[24] From October 1, 2017, through September 30, 2020, USACE contracted for more than 600 miles of primary and secondary border barriers—primarily through DOD-funded contracts (see fig. 3).[25] Approximately 32 percent of the miles to be built under these contracts were new barriers in areas where no barriers had previously existed, while about 68 percent of the miles were to replace existing barriers.

Figure 3: Map of U.S. Army Corps of Engineers Border Barrier Awards, by Funding Source, Fiscal Years 2018 through 2020



Source: GAO analysis of U.S. Army Corps of Engineers information. | GAO-23-106893

Note: Italicized labels identify border segments designated by U.S. Customs and Border Protection.

As of January 2021, when the new administration issued a proclamation pausing on-going construction for the border contracts, to the extent permitted by law, USACE reported that it had built approximately 450 miles of barriers. Most of the 450 miles constructed represented the installation of barrier panels, rather than the completion of the full barrier system. In addition, slightly less than 69 of these miles—or about 15 percent—were for completed barrier systems, as shown in table 1.

Table 1: Completion Status for Selected U.S. Army Corps of Engineers Construction Contracts, as of January 2021

Funding source	Contracts awarded[a]	Miles under contract	Barrier panels complete	Barrier system complete (contract complete)	Funds obligated	Funds disbursed
Department of Defense (DOD) counterdrug	7	295 miles	258 miles	0 miles	$6.3 billion	$4.0 billion
DOD military construction	6	96 miles	87 miles	0 miles	$1.2 billion	$0.9 billion
Department of Homeland Security	18	240 miles	112 miles	69 miles	$3.0 billion	$1.8 billion
Total	**31**	**631 miles**	**458 miles**	**69 miles**	**$10.5 billion**	**$6.6 billion**

Source: GAO analysis of U.S. Army Corps of Engineers (USACE) documentation and data from the Federal Procurement Data System – Next Generation. | GAO-23-106893

Note: Numbers may not sum due to rounding.

[a]This includes 31 of the 39 contracts we reviewed. Six of the remaining contracts were exclusively for roads or gates, and therefore do not count toward the total miles of border barrier constructed. The two remaining contracts were terminated shortly after award.

[24] See GAO, *DHS Annual Assessment: Most Acquisition Programs Are Meeting Goals Even with Some Management Issues and COVID–19 Delays*, GAO–22–104684 (Washington, DC: Mar. 8, 2022); and GAO–23–106701. Department of Homeland Security, *Border Wall Plan Pursuant to Presidential Proclamation 10142* (June 9, 2021); and *Amendment to DHS Border Wall Plan Pursuant to Presidential Proclamation 10142* (July 11, 2022).

[25] The primary barrier is the first barrier encountered when moving into the United States from the border and the secondary barrier is located behind the primary barrier on the U.S. side of the border.

As noted above, the January 2021 Presidential Proclamation required development of a plan for redirecting border barrier funding, as appropriate and consistent with applicable law. In June 2021, DHS announced its plan for the use of border barrier funds in response to the Presidential proclamation.[26] As we reported in March 2022, this plan outlined how DHS intended to use funds the previous administration was planning to use for border barrier construction.[27] DHS suspended performance on border barrier contracts and construction activities, with the exception of activities related to ensuring project sites are safe and secure.

The January 2021 Presidential Proclamation also states that the Secretaries of Defense and Homeland Security may make an exception to the border barrier construction pause for urgent measures needed to avert immediate physical dangers, or where an exception is required by Congressional appropriation. In June 2021, DHS reinitiated activity on two projects under the exception for urgent measures, as we reported in March 2022.[28] One project was to construct or remediate approximately 13 miles of compromised levee in south Texas, and the other was to address erosion control in the San Diego segment.

In July 2022, DHS issued an amendment to its June 2021 plan, stating its intention to prioritize expenditure of appropriations received for the barrier system, as we reported in April 2023.[29] Specifically, DHS intends to use fiscal year 2018 and 2019 appropriations to continue addressing safety hazards, identify actions to address environmental damage from past barrier construction, and install system attributes. According to the amended plan, DHS plans to use fiscal year 2020 and 2021 appropriations to close out the projects funded by DOD by, for example, completing construction of roads; installing system attributes; and addressing environmental damage caused by past barrier construction. We have on-going work reviewing the effects of border barrier construction on natural and cultural resources, and we plan to report on the results of that work later this year.

Chairmen Higgins and Bishop, Ranking Members Correa and Ivey, and Members of the subcommittees, this concludes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

Chairman HIGGINS. Thank you Ms. Gambler.

Members will be recognized by order of seniority for their 5 minutes of questioning. An additional round of questioning may be called after all Members have been recognized.

I now recognize myself for 5 minutes of questioning.

The Ranking Member, my friend, Representative Correa, who is my friend, and he and I have spoken for, I would say, cumulatively, scores of hours about our endeavor to——

Mr. CORREA. Conservatively, yes.

Chairman HIGGINS [continuing]. Work together over the course of the last 7 years to seek resolutions for the challenges of our country within the parameters of this committee's jurisdiction. We are each frustrated regarding some of the political barriers that have been well-established that we have to cross in order to confront the true issues. So I am going to effort today, as somehow during the course of my 62 years of life the Lord has illuminated this path for me and here I sit. So I am going to ask Members on both sides of the aisle to let's truly listen to the expertise of the witnesses today, Majority and Minority witnesses. None of us should claim to know greater than the witnesses that we call before our committees when they are specifically chosen for their history and their area of expertise.

Physical barriers have worked to deter criminal action since the dawn of man. They continue to work. It is not reflective of intellec-

[26] Department of Homeland Security, *Border Wall Plan Pursuant to Presidential Proclamation 10142* (June 9, 2021).

[27] GAO–22–104684.

[28] GAO–22–104684.

[29] See GAO–23–106701 and Department of Homeland Security, *Amendment to DHS Border Wall Plan Pursuant to Presidential Proclamation 10142* (July 11, 2022).

tual soundness to just deny the fact that physical barriers work to restrict criminal activities. The systems we had designed in 21st Century technology, some of which we cannot even discuss, but the technologies that were built into the physical barrier systems that were planned during the Trump administration would most certainly have allowed us to view up to 5 miles into the Mexican territory, our Southern Border. It is a great deterrence for intended criminal crossings.

I ask Ms. Cooper, CBP has been on record affirming the effectiveness of barriers. You have made that clear. Yet the policy decision was made to cancel construction of the barriers on the President's first day in office. Does CBP believe this is an effective policy decision?

Ms. COOPER. With respect to the policy decision, I will have to defer to my DHS colleagues. However, I am more than able to speak to the efficacy of border barrier system in the places where it makes sense for our operation.

Chairman HIGGINS. Yes ma'am. So none of us are suggesting that we put a 30-foot wall on top of a 200-foot cliff. Are we? God already put a 200-foot wall there. So where barriers are effective. But regarding the policy, this committee had endeavored very hard to ask the Biden administration to provide a witness from the Department of Homeland Security Office of Strategy, Policy, and Plans. I want all of us to grasp where we are here. It is really so indefensible that the Biden administration has put this policy in place from Day 1 to stop construction of a border barrier system that had proven to be incredibly effective with embedded technologies that would enhance that effectiveness. This is their response. This is an actual email redacted to protect the innocent, as we used to say, thanks for the phone call on Friday to discuss the scope of the proposed hearing and for your engagement throughout the development of this hearing. After careful consideration, DHS is unable to provide a headquarters witness for this hearing. It would not provide a witness to speak to the policy that was established by the administration. CBP is unable to respond to policy questions because it is not their area.

We have further questions for the witnesses, and I intend to go into a second round if my colleagues will participate.

My time has expired for this round and I recognize my colleague Mr. Correa for questioning.

Mr. CORREA. Thank you Mr. Chairman. I want to thank you also for framing this debate as it should be framed, which is our common interests and protection of our country, protection of our citizens. Although we may disagree in a lot of ways of doing it, the bottom line is we have the same objectives.

My issue, sir, if I may call you, my good friend, Mr. Higgins, is not with national security, it is with the way to approach it. I have lived most of my life near the border, native Californian. I have seen things change, re-change. When I mentioned a border wall security concept that is 30 years old, I didn't mean that we had stop working on it 30 years ago, but rather questioning its effectiveness moving forward.

Post-COVID, China is no longer our top trading partner, Mexico is now our trading partner at the top. Canada tells me that the

flow of goods and services into this country is unbelievable. That is just based on yesterday's statistics from a month or 2 ago or 3 months ago. God knows what those statistics are going to be today.

We are going to continue to trade with our partners. If we think about our border, border to stop refugees, border to stop illegal drugs, we are forgetting about the other borders in this continent. Mexico's Southern Border, Guatemala's border, the Darién Gap in Panama, where Panama's beginning to engage with us, is engaging with us, in addressing that refugee flow in that very dangerous area. I mentioned Colombia, many other countries that are working with us. I would argue that border security is not our Southern Border. As General Kelly, the former Secretary of Homeland Security would say, our border security does not start and end at our border. That is just the refugee challenge. Again, record number of refugees in the world as well as this hemisphere.

Shifting to fentanyl issue, I have gone to the border numerous times since I discovered that I would be the Ranking Member on this committee to educate myself on the facts. Go back and kick the tires to make sure that the policies that we are engaged in are going after the right elements. Talk to those border agents. I have gone to those ports of entry. Only 2 percent, 2 to 4 percent of the vehicles, passenger vehicles, are inspected, looked at, when they go north. Something like 15 percent of the huge semis coming across the border are actually inspected as well. If you really want to put a dent on the illegal drug trade on fentanyl, go where that gusher is. It is our ports of entry. We can talk about gotaways all you want to talk about. When you look at the record seizures by our good men and women at the border, it is at the ports of entry.

We all have priorities. We all have a limited number of dollars to spend. We can prioritize.

Ms. Cooper, you have said a lot of things in your testimony—I have about a minute left here—but given the nature of the ever-evolving environment, how important is it that the United States engage—and I would call them now our allies south of the border because their interest is like ours, commerce. Anything that slows down commerce, they don't want to see happen. So how would you say the new environment of integration of these markets, how does that factor into how we address refugees, illegal drug business?

Thank you.

Ms. COOPER. Ranking Member Correa, I believe you're flagging an important point with respect to the larger security strategy that CBP is engaged in.

With respect to our relationships with many of our foreign partners, continued engagement with many of the countries you named, and certainly with others, are a critical part of our larger strategy. As you said, and we've said within CBP for many years, border security is not simply at the border, it begins far outside of that. Our continued collaboration at multiple levels of leadership with offices across many foreign partners is a critical layer of our strategy.

Chairman HIGGINS. The gentleman yields.

I now recognize my colleague, Chairman Bishop, for his questioning.

Mr. BISHOP. Thank you, Mr. Chairman.

Colonel Jefferis, I have an understanding that the administration since January 2021, since late I guess in 2022 or maybe even this year, agreed to permit some progress on some border wall construction to fill in gaps or something of the kind. Do you administer that process? Am I correct first of all and do you administer that process?

Colonel JEFFERIS. Sir, thank you for the question.

Regarding whether the administration has opened up additional construction for the fill in the gaps, as you say, I would have to go back to the program office, but the Corps of Engineers does provide oversight as the design construction agent for those contracts or those projects they've been designated whether it's been through DoD or DHS. When they're designated, they do provide that oversight, yes, sir.

Mr. BISHOP. All right. Are you able to quantify what portion of construction activity that represents in relationship to the contracts that had been let and were pending at the time the Biden administration took office and stopped them?

Colonel JEFFERIS. Again, Chairman, based on the number of miles that you're referring to, not having that specific knowledge, I cannot answer specifically what percentage you're referring to. We can take that back for the record.

Mr. BISHOP. Well, that regardless, you can answer specifically. It is my understanding that it was just a relatively—just a very small percentage. Isn't that correct?

Colonel JEFFERIS. That is my understanding, but I don't have enough qualification.

Mr. BISHOP. Yes. Are you able to say what border materials are in possession of any of the contracting Government agencies under these contracts that have been suspended then canceled?

Colonel JEFFERIS. Yes, Chairman, we've got—you know, started off with $262 million worth of materials left over from these various contracts. We've currently gotten it down through the disposition process to where we've got the border bollard panels still on the ground out there in some locations. We do have some of the other materials, whether it be electrical equipment for the fiber optic cabling or lighting, that is in the disposition process, but that's not on the ground with the contractors in my understanding at this——

Mr. BISHOP. How are you disposing of it?

Colonel JEFFERIS. At this point, Chairman, there's two different processes, one for the DoD, one for the DHS, both of which are similar, but it goes through a defined process through which it is inventoried at the contract level and the Government validates that inventory and then reviews it to determine whether it can be reusable or must be thrown to scrap. Then through that process, if it's DoD, the Defense Logistics Agency will manage that process from start to finish all the way through and it'll go through multiple entities of can DLA use it, can another DoD entity use it before it'll go to Federal or State agencies, and then finally out for sale. If none of that works, then it goes to scrap.

On the DHS side, GSA will facilitate that and it will go first to another agency if there's a requirement and then we work that

with GSA by notifying them. Then if not, then GSA will help facilitate the process of advertising and then final disposition.

Mr. BISHOP. What value of American-taxpayer-paid-for supplies has been disposed of as scrap?

Colonel JEFFERIS. I am sorry, Chairman. I don't have that exact number on me right now.

Mr. BISHOP. Does any of the witnesses know the answer to that, whether precisely or roughly?

Ms. COOPER. I do not, sir.

Mr. BISHOP. So none of the witnesses here can tell us how much of the American taxpayers' precious dollars spent on first quality goods have been disposed of as scrap, is that correct?

How many unused border wall panels are in the possession of DoD?

Colonel JEFFERIS. Currently in possession of DoD, we have 20,822 at various storage locations.

Mr. BISHOP. What is the cost to DoD to store and secure unused border materials per day?

Colonel JEFFERIS. So that's a very interesting question in the fact that we don't get in—we don't incur the cost by day. Those contracted storage rates are valued inside their termination proposals because the contractors are required for that. So that——

Mr. BISHOP. Are you able to provide any stat here about cost of storage?

Colonel JEFFERIS. Yes, sir. At this point in time, we've run a running point-in-time estimate. It constantly changes based on what we've turned in. We currently believe that based on the amount of disposition or the disposition that's been conducted and the amount of materials still on the ground, we're looking at about $160,000 a month for the storage of the material on the DoD process at this time.

Mr. BISHOP. How much did DoD spend on storing unused border materials in fiscal years 2021 and 2022?

Colonel JEFFERIS. Sir, again, that would be wrapped inside the fixed-price contracts and I can't provide that cost.

Mr. BISHOP. All right.

Ms. Gambler, I don't know if you can speak to this. I understand that that GAO at one point said this was a mere programmatic delay, didn't violate the Impoundment Control Act, but that was in 2021. What about 30 months later? Is that still the contention of GAO, that this doesn't violate the Impoundment Control Act for the Biden administration unilaterally to disregard Congress' appropriation?

Ms. GAMBLER. Yes, thank you for the question, Chairman.

As you noted, that was GAO's legal decision at the time in the summer of 2021. We have not done an additional review of the facts and circumstances at this point. If that's something that the committee is interested in, we'd be happy to talk with you about that going forward, Chairman.

Mr. BISHOP. It might be interesting, but I don't really care. I know what the violation of law looks like.

I yield back, Mr. Chairman. My time has expired.

Chairman HIGGINS. The gentleman yields.

I now recognize Ranking Member Ivey for his line of questioning.

Mr. IVEY. Thank you, Mr. Chairman, and I appreciate your comments a moment ago about how we approach this hearing. I certainly agree that we want to be careful about stepping on the opinions of our witnesses here. We want to make sure we take it all in.

I did want to raise some data, though, today. I mean, I think one of the points that has been made in two of the articles that I mentioned earlier and wanted to make a part of the record is the drop-off in these encounters since the Title 42 regime was taken out of play. I understand we have got differences of views about how impactful a wall might be, but I think it is clear that the wall isn't there now, but we are seeing tremendous drop-offs and encounters almost immediately, based on some policy changes and some strategic changes. So I don't necessarily want to say that a wall could never be a barrier to people coming, I am just saying that 900 miles of wall at—I think the estimate was $24 million per mile last I saw, and that is a total of $22 billion, I think the money could be better spent.

I think we can show by some of the—in fact, from hearings in this room, some of which that you led, that there are other ways that we could go about reducing some of the challenges we face there. In fact, I think it was your hearing last, where there was testimony about China, and that one of the major reasons we had such a big spike in fentanyl was because the foreign policy relationship between the United States and China with respect to suppressing the precursors coming from China had fallen off. Therefore people were sending the precursors out of China into Mexico at an accelerated rate. That one of the ways we could address that problem is to see if we could reestablish the relationship with China in addressing those concerns. I think that would be a great step forward.

I also wanted to say, too, Ms. Gambler, I appreciated the testimony from GAO about, well, frankly, the waste to some extent in the way the contracting was done. It was rushed, we will say expedited, but that doesn't keep in place the protections of competitive bidding and the like that ought to make sense here.

I will say this too—I want to get to the LoneStar issue—but before I move off of that, I do want to say this. I mean, I think I appreciate the comments about wanting to have open hearts and minds as we approach this issue and see if we can just do it based on the evidence and the facts that come before us. I will say this, before I even got to Congress to become a Member of this committee, we had Members of this committee talking about—well, frankly, calling for the impeachment of Secretary Mayorkas. That kind-of puts things in a different context, I think, than if we were just sitting here and talking about the best ways to try and address this issue. We got the 55-page document in support of that effort, which we hadn't seen in advance on the Minority side and so we didn't really have a chance to respond to it. But I appreciate your comments and as we move forward hopefully we can do it in a spirit of bipartisanship that you expressed here today.

Colonel, I want to ask you quickly about LoneStar. I took a quick look. I am not a Government contracting expert, but if I understood the gentleman's letter correctly, who is the interim CEO, LoneStar

is a subcontractor for a prime. The Government decided to terminate the prime contract for convenience. Then LoneStar began its efforts to get compensation back and filed the documents to do so. But before that was completed and they could have been compensated, there was a decision made, according to his testimony, to in some way reinstate the prime contractor. So that left LoneStar in a position where they couldn't get compensation for termination of the contract because the contract had been reinstated. So even though they weren't actually doing any work and getting paid, they weren't able to get compensated either. That doesn't sound right to me. What am I missing here?

Colonel JEFFERIS. Thank you, Congressman Ivey, for the question.

Without having the insight into the specifics of that one subcontractor—I didn't have the chance to deep dive into that. I can speak to subcontracting relationships in general.

The Government's contract is with the prime. The prime is who we interface with and they're responsible for all their subs. In this particular case, what I was able to determine is that LoneStar is on the DHS side, so some of those contracts are partially terminated for the border wall construction while other efforts were ongoing. Again, not being able to speak to what they could do specifically, but the process is laid out in Part 49, 112 when it comes to partial payments and those types of things. When the prime contractor is ready for an interim termination settlement, they can submit their interim proposal, we will review it, analyze it, and then provide payment accordingly if it is in league with what's going on. In this particular case, because I don't have or the Government does not have privity of contract into the relationship between the prime and LoneStar, the Government does not pay subcontractors directly. We highly encourage our primes, we hold them accountable for not doing what they're supposed to, but we still can't force them to use the money that we pay for them. It's their business arrangement back down to the subcontractor.

Mr. IVEY. Could I do just a—I know I am over, but just a quick follow-up on that? It has been 30 years since I have done Government contracting, but I thought there was a flow-through, flow-down provision so that if a prime got paid, the Federal Government could require them to pay the sub. So, you know, I don't want to cross any ethics lines here, this isn't a company that has asked for my assistance, they are not in my district, and I am certainly not trying to leverage an adjudication of this in a hearing room where I don't know all the details, but it does seem to me that companies in this scenario, we ought to be able to find a way to try and make them, if not whole, at least find some degree of compensation, because they have gone, apparently, a couple of years without being able to do the work that they could get paid for, even though they legitimately relied, reasonably relied, on the fact that the prime had gotten the contract and they had been given a subcontract to perform certain work.

So if you could follow up, perhaps, with the committee on the status of that to the extent you can, we would appreciate it.

Colonel JEFFERIS. Absolutely. Yes, sir.

Mr. IVEY. Thank you, Mr. Chairman.

Chairman HIGGINS. The gentleman yields.

We have all witnessed 2 minutes and 8 seconds of bipartisan cooperation.

I recognize my colleague, the gentleman from Mississippi, Mr. Ezell——

Mr. EZELL. Thank you, Mr. Chairman.

Chairman HIGGINS [continuing]. For 5 minutes of questioning.

Mr. EZELL. Thank you.

The evidence is clear that a wall at our Southern Border will deter illegal immigration and stop the flow of drugs into this country. It is frustrating to see that the Biden administration end policies that would protect American citizens. On top of this, the cancellation of border wall construction has cost the taxpayer millions of dollars and has harmed many small businesses.

Ms. Gambler, it is well-known that the termination of the border wall system has wasted millions of taxpayers' dollars. Specifically, the halted contracts caused construction materials to go unused, costing the taxpayers $6 million a day. Has GAO estimated the Federal Government's stated cost of storing these unused materials?

Ms. GAMBLER. We have not, but I would just note, as we've been discussing, Federal agencies are required to compensate or to pay contractors for goods and services rendered and any costs associated with terminating contracts. So while we haven't estimated some of the costs associated with storing goods or termination of contracts, Government agencies are required to pay those costs to contractors.

Mr. EZELL. Thank you.

We have talked about some options that the Federal Government has to dispose of these unused construction materials. Are there any avenues for CBP or the Army Corps of Engineers to transfer materials to State or local governments?

Ms. GAMBLER. That is something that GAO has not looked at, and I would defer to my co-witnesses on the panel to give more insight to that question, sir.

Mr. EZELL. Sir.

Colonel JEFFERIS. Yes, sir. Thank you for that question.

The disposition process I had defined a little bit earlier is unique to the system that we're talking about, whether it's DHS or DoD, but yes, throughout the process, if it goes into the DoD—ultimately after DLA, DoD, and other Federal agencies, the State or another municipality would be one of the potential receipt of that—those panels, if it made it that far. Yes, sir.

Mr. EZELL. Thank you.

Do you believe it is more expensive for the Federal Government to cancel existing border wall contracts or is it more expensive to resume the construction?

Ms. GAMBLER. Again, that is not an area that GAO has looked at. Again, I would defer to the witnesses on the panel with me in case they have more detailed information on costs.

Mr. EZELL. Anybody.

Colonel JEFFERIS. Sir, that's a question that gets into the eaches of depending on which contract and which area we're talking about,

so it's a tough one to answer. I can't give you a definitive yes or no.

Mr. EZELL. OK.

Ms. Cooper, what is the cost to the Government of canceling the contracts and re-competing them to undertake their current activities, including adding attributes and addressing environmental damage?

Ms. COOPER. Thank you for that question.

With respect to the cancellation of the contracts, I have to defer to my colleague at the Army Corps. As we've discussed with respect to the companies that were bid for that work, making sure that the negotiation for termination is conducted appropriately so that they can be compensated is a process that the Corps manages on behalf of U.S. Customs and Border Protection.

Mr. EZELL. Colonel, anything?

Colonel JEFFERIS. Sir, can I ask you to repeat the question real quick?

Mr. EZELL. Anything you could add to that? The cost to the Government—what is the cost of the Government canceling contracts and re-competing them to undertake their current activities, including adding attributes and addressing environmental damage?

Colonel JEFFERIS. Again, Congressman, that's a tough one to answer because we have to have individual contracts that we're referring to before we can get into the estimation, but I can't really give you a specific on that one.

Mr. EZELL. Thank you, Mr. Chairman. I yield back.

Chairman HIGGINS. The gentleman yields.

I recognize Mr. Thanedar for 5 minutes for questioning.

Mr. THANEDAR. Thank you, Chairman Higgins. I appreciate it.

Well, here is another quote from President Trump in 2016. The President said we will use the best technology, above- and below-ground sensors, towers, aerial surveillance, and manpower to dislocate tunnels and keep out criminal cartels. One of the first trips I took after joining this committee was to go to the Southern Border and look at the wall with my own eyes. Looks like the reality is, despite replacing 250 miles and building 50 new miles of wall in 2020, nearly one new tunnel per month was discovered by CBP that year. In fact, Trump administration had the highest number of tunnels. I believe there were 40 tunnels, including one touted as the longest ever discovered.

As clear as day, the wall falls short when it comes to tackling illegal crossings.

Ms. Cooper, can you provide more details on the discovery of tunnels during the Trump administration years?

Ms. COOPER. Congressman, with respect to the tunnel program, unfortunately, I am not an expert and would be happy to take that question back.

What I can tell you is that the application of border security technology, the application of barrier system in those locations where it makes sense, allows our agents—it frankly, delivers capability to our agents that then allows them to be responsive to new threats as our transnational criminal organizations continue to adapt. That's applicable in the context of cross-border tunnels, and

that's certainly applicable in other contexts we see in our enforcement environment.

Mr. THANEDAR. Thank you, Ms. Cooper.

Also, how would you respond to the argument that using taxpayer funds to construct the wall is a more effective approach than implementing comprehensive border security measures, including enhanced intelligence interdiction efforts to combat illegal activities, such as drug smuggling and human trafficking through the tunnels?

Ms. COOPER. As I'm certain you've heard from my colleagues in Green, including former Chief Ortiz and others, there is no single solution for the border security challenges that we face. The implementation of infrastructure and the associated attributes provides capability, the continued partnership with foreign governments to do what we can to reduce the global migration that we are seeing, the information sharing again with those governments and certainly internal to our own Government, all play a role in continuing to deliver capability for our agents and our officers at the ports of entry.

Mr. THANEDAR. All right. Thank you, Ms. Cooper.

Chairman, I yield back.

Chairman HIGGINS. The gentleman yields.

I recognize the gentlewoman from Georgia, Ms. Greene, for questioning.

Ms. GREENE. Thank you, Mr. Chairman.

In looking at the wall situation, the headline speaks for itself. DHS announces steps to protect border communities from wall construction. Yes, I will read that again. DHS announces steps to protect border communities from wall construction. I don't know who wrote this, but they probably should have been fired for writing that headline. That is pretty bad.

Let's talk about walls. Walls are very important for most countries. There are many countries with walls. I have one article here that comes from earlier this month that says—talking about 65 countries have erected fences on their borders, also talking about walls, talking about security fears, wide-spread refusal to help refugees, have fueled a new spate of wall building around the world. They include Israel's apartheid wall, India's 2,500-mile fence around Bangladesh, and Morocco's huge sand berm. So many countries around the world agree that walls are important in protecting the people within the country, protecting their national security interests.

I would also like to really praise President Trump's administration that the contractors completed most of the DoD-funded border barrier bollards by the end of December 2020 as scheduled. I am impressed with that because I own a construction company and I love to see a project completed on time. They truly did a remarkable job and it is unfortunate it is unfinished.

In my district alone, we have fentanyl deaths and that is what really upsets me. We have had many fentanyl deaths, but the El Paso sector, with the border—El Paso sector has experienced a significant reduction in drug and smuggling activities in areas where the border wall system was built. Most notably, in two separate zones, apprehensions decreased by 60 percent and 81 percent from

the beginning of fiscal year 2020 to the end of it. So, walls work and they protect people. We have 300 Americans dying a day, so I think having a wall to protect people from deadly fentanyl is the greatest thing we can do.

Ms. Cooper, CBP has been on record affirming that the border barrier has been effective and allowed CBP to readjust their agents to more pressing areas. If CBP said that the border barrier system is effective, why did DHS cancel the border wall contracts on the first day of this administration?

Ms. COOPER. I certainly can't speak to the policy decisions. However, I can certainly speak to those locations in which border barrier has been deployed historically and the success with which our agents have seen a growth in capability. As you mentioned, the El Paso sector, currently there's a GAP project, a gaps and gates project, that was approved by Secretary Mayorkas that has completed 68 of those gaps and gates. An additional 61 are on-going, some of which are in the El Paso sector. In addition, with the fiscal year 2020 and fiscal year 2021 appropriations that Congress provided, CBP will be able to go back and add the system attributes to the barrier that was previously constructed by DoD in locations again, such as El Paso, that will provide for protection——

Ms. GREENE. OK.

Ms. Cooper, can you tell me—I have got the Biden administration plans here—does any of this include—these were many of the categories of things that they—they used the money that was supposed to go for the wall. They turned it into things like habitat fragmentation and wildlife impacts, restoration of disturbed areas, invasive species control and monitoring, erosion concerns, low-water crossing, lighting and light pollution, border burial removal or completion—not sure what that means—impact to cultural resources. This is a list of projects that the Biden administration decided to take wall money that was set aside and contract money, and they canceled the contracts to build the wall and they canceled building the wall and they took this money and moved it to things like erosion control and invasive species control. So with the new wall building or project that you are talking about, are they still going to be addressing invasive species to protect our States and protect our border towns and communities? Or are they actually interested in building a legitimate wall that will stop the invasion into the United States?

Ms. COOPER. As part of barrier construction, for as long as I've been working on barrier programs, which is about 15 years, we have had a long-running relationship with the Department of Interior to ensure that environmental resources are considered as a part of that barrier construction. Those types of projects that you just referenced are not new to this type of work and in fact, have been on-going with every border project that I've been involved in.

Ms. GREENE. Well, protecting the land from invasive species, will that save the 300 Americans that are dying from fentanyl at all? I don't think so.

I yield back, Mr. Chairman.

Chairman HIGGINS. The gentlewoman yields.

The gentleman from California, Mr. Garcia, is recognized for questioning.

Mr. GARCIA. Thank you, Mr. Chairman.

I know we are talking a lot about walls today and I definitely have some comments and questions about the border wall, but I just want to just kind-of just restate a few facts for the record.

First, just as a reminder, and for this subcommittee and for a greater committee, when all the kind-of cheering went about, folks trying to really, I think, encourage chaos during the end of Title 42, I just want to really note that there was no chaos happening. The administration has actually done a fairly good job of this transition. I also want to confirm that Border Patrol chiefs have confirmed for Congress that the present situation is actually manageable. We have heard this time and time again. They have said in many of their own words, there is no crisis at the border. DHS has never been given any kind of stand-down order as well, as has been stated by some in the Majority. We have a shared mission of a secure and orderly border.

Third thing I want to say is that Democrats have been saying for years legal pathways have been critical to providing order at the border, especially after Title 42. I just also want to note that Donald Trump's border wall has always been, in I think my opinion and many others, an anti-American monument and not a real solution to actually any of our issues at the border.

Now, we know as has been stated by our Ranking Member and others, walls can be climbed, they can be jumped, they don't meaningfully disrupt the flow of fentanyl in this country. Know that fentanyl is coming in from legal ports of entry. While walls can't solve our problems, they actually do create serious concerns in many cases. I want to bring up one in particular.

I want to raise a case that has been deeply troubling back in California, certainly to me and many of my colleagues. Recently, the *San Diego Union Tribune* reported a nearly week-long incident in which approximately 150 asylum seekers were trapped between the layers of border wall near the San Ysidro port of entry adjacent to San Diego. Now, according to eyewitness reports from the *Union Tribune,* reporter on the ground, that migrants tried to leave, but Border Patrol herded them back into spaces between the fences, and migrants at the time believed that they were in custody. Now, CBP detention standards require people in custody must be supplied with basic hygiene items, food at regular intervals, and that water must always be available. But migrants did not receive any of these things. In fact, it was just one plastic water cooler for around 150 people between these two fences. Now, this does not appear to be an isolated incident. My office and other offices have received reports that migrants are frequently stranded between border walls for extended periods of time. Many of them, of course, are suffering from hunger and dehydration. An article in the *New York Times* confirmed that this situation has actually played out in other sectors of the border as well.

To the committee and to our Chairman, to our witnesses, now I wrote the Border Patrol to ask what policies guided Border Patrol response in situations when migrants may be trapped in portions of the wall. We received a reply just last week. Border Patrol told me and my colleagues, and I quote, "The individuals in question had not made contact with U.S. Border Patrol and were not con-

strained from further movement." This is actually from the letter. But now I want show you actually a photograph and you can see for yourself, absolutely there is contact being made and the *San Diego Union Tribune,* the editorial board themselves, said that Border Patrol claims that the incident was a collective hallucination and that this was absolutely not the case.

So I hope that there is some better communication from Border Patrol to Members of this committee on exactly what happened and what is continuing to happen along this incident. CBP's response, it is not even touching on the questions we raised about the conditions, guidance, and protocols that exist in this situation and others.

Now, Ms. Cooper, as a leader within CBP and certainly someone that is involved, I know that you necessarily don't oversee this exact sector, but I would like to ask you to please take these concerns back to your leadership and CBP leadership. We have been given no adequate response so far. Is that something that you would be willing to do?

Ms. COOPER. Thank you for the opportunity to respond, Congressman.

I can assure you that our U.S. Border Patrol agents take the safety and security of those who come into our custody with great seriousness and I'm happy to take that question back.

Mr. GARCIA. Thank you.

Because right now Border Patrol leadership is telling us that they are not interacting with these migrants but there are reporters on the ground that are reporting that this is actually happening. So it is actually a grave concern.

I just want to just close, you know, this is an incredible country. I am proud to have migrated here myself as a young child. This is a country that does not leave women and children in the desert without food and water. We have to do better as a country. Certainly as we discuss things like walls, we should also understand what the impacts are to people that are trying to seek asylum that is actually legal in our country.

So with that, Mr. Chairman, I yield back.

Chairman HIGGINS. The gentleman yields.

The Chair recognizes my colleague from Alabama, Mr. Strong, for questioning.

Mr. STRONG. Thank you, Chairman Higgins.

Colonel Jefferis, Texas acquired 1,700 used border wall panels from the Federal Government in 2021 to build the border wall. However, the Federal Government continues to store a significant amount of border wall material that will not be used as a result of President Biden's decision to halt the border wall. Have any State governments contacted the Corps to express interest in acquiring the unused border wall material?

Colonel JEFFERIS. Representative, thank you for the question.

I cannot answer whether any other States have reached out to us specifically. As I mentioned earlier, the disposition process is managed by the Defense Logistics Agency. So once we receive disposition instructions, DLA would be the ones that would manage that coordination on the DoD-specific contracts.

Mr. STRONG. Thank you.

I know earlier you mentioned that you are paying about $160,000 per month to store some 20,822 panels. With this in mind, I know that I have received information from the DoD that says that $130,000 a day, or $47 million annually, is being spent to store material and wall panels. Have you heard of these numbers? Your numbers are absolutely different than DoD's. How much is it costing to store 20,822 panels along with the material to do that?

Colonel JEFFERIS. Congressman, thank you for the opportunity to address the question of storage costs or estimates in that case.

As I mentioned earlier, the costs of storing those are still currently with the contractor. So we had an estimate at a point in time when we terminated these contracts and the full amount of the material for the DoD side, $262 million worth of equipment and material. That was what the first estimate was, was a point in time when we had all of that. As one would suspect through the disposition process, the inventory and the number of locations goes down. So it's much closer and continues to drop. That's where the $160,000 a month comes from. That's current estimate.

Mr. STRONG. Thank you.

There is a big discrepancy in $130,000 a day and $160,000 a month. But no matter what it is, is this responsible? You think this is responsible to pay this kind of money to store this border fence? Is that responsible when the taxpayers of America have a $32 trillion dollar debt?

Colonel JEFFERIS. Again sir, thank you for the question.

At this point without disposition instructions, it is responsible for us to pay for the storage of those. At this point those are estimated costs, so we won't know the finalized costs until later.

Mr. STRONG. Thank you.

Has the Army Corps of Engineers decided a strategic plan to use the remaining construction material? If so, can the Army Corps of Engineers commit to sharing that plan with the Members on this committee?

Colonel JEFFERIS. Again sir, as the design and construction agent, the Corps of Engineers has not come up with the plan to re-utilize that equipment. We have a requirement owner that supports that. At this point in time, I'm not aware of any decision yet to re-utilize that material.

Mr. STRONG. Thank you.

What is the cost to the Government of canceling the contracts and re-competing them under their current activities?

Colonel JEFFERIS. That is one of those questions that it's very challenging to answer because we're talking about a unique process and each contract would be different depending on what the requirement is. So I cannot provide a specific answer.

Mr. STRONG. Thank you.

I know that it was also mentioned about, I think, in some of our testimony that we are looking at about 17-to-1 drones. I know that the other side of the aisle mentioned the cartel and the 17-to-1 drones.

I can tell you this, my hometown of Huntsville, Alabama could neutralize this in a matter of days. In a matter of days, they could neutralize these drones that are flying in U.S. air space. I commit

to both sides of this aisle, let's get to work. We are willing to do it. They are dropping fentanyl across the U.S. border and they are destroying a generation of Americans.

Mr. CORREA. Will you yield?

Mr. STRONG. I yield to Mr. Correa.

Mr. CORREA. Thank you, sir.

I think you might have heard my statement that we actually have a firm in my district that is actually working to implement that technology. Should they win a contract with Homeland Security, they will be implementing that technology.

Mr. STRONG. I can tell you I witnessed it first-hand with SAIC and multiple companies in Huntsville, Alabama. I will promise you this right here, it is a cost-effective way to neutralize it. We can jam them, we can drop them, whichever way it is, but it is unacceptable to have drones coming into U.S. air space to destroy the children of our country. I will tell you this right here, I will work with anybody, I will work with the President, I will work with Democrats, I will work with Republicans, because it is time to address it. They are fixed to destroy a generation of our children.

Mr. CORREA. Mr. Strong, I welcome you to my districts and take a tour of this contract that is doing a great job and concur with you to stop these drones wherever possible.

Thank you.

Mr. STRONG. Thank you.

I yield back.

Chairman HIGGINS. The gentleman yields.

The gentlewoman from New York, Ms. Clarke, is recognized for 5 minutes for questioning.

Ms. CLARKE. I thank you, Mr. Chairman. I thank both Chairman Bishop and Higgins and Ranking Members Ivey and Correa for convening this today's hearing.

I would like to thank our panel of expert witnesses for joining us on this very important subject matter.

Speaking up on Mr. Strong, it is very clear that we have reached a technological age where we can address a number of the issues on our border. I am just thinking that the—I understand the concerns and the way folks are wedded to this idea of a wall, but it seems a bit antiquated at this stage, given where we are with respect to technology and our ability to manage affairs with a lot more expertise, a lot more technology on our border. Besides, I thought Mexico was supposed to pay for it. But that is beside the point.

As you may know, I represent a district that has long served as a safe haven for migrants. As the daughter of immigrants myself, I am deeply vested in protecting our immigrants and seeking accountability for those without a voice.

It is crystal clear that after over 30 years that we have to assert an urgent need for comprehensive immigration reform. Our immigration system has proven to be woefully inadequate and the consequences are dire. Let me be clear, no individual seeking safety, freedom, and the pursuit of a better life should be compelled to endanger their own lives or the lives of their loved ones.

Customs and Border Protection personnel regularly engage with Americans who live and work around the Southwest Border to

monitor migration trends and how they affect local communities. While my colleagues on the other side of the aisle often try to paint the picture of dangerous lawlessness in these communities, it is just simply not the case. Most frequently, community leaders work closely with CBP and Immigration and Customs Enforcement to welcome migrants while keeping communities safe, clean, and prosperous. Many landowners along the border are against the construction of a new border wall.

So I want to ask, Ms. Cooper, can you describe some of the feedback that you have heard from border communities about why they are not excited about supporting the construction of new border barriers?

Ms. COOPER. Thank you for the opportunity to speak a little bit about the work that we do to collaborate with communities across the board.

As laid out in the plan that DHS issued in June 2021, we have been engaged in robust community engagement with respect to the border barrier projects that were planned. That community engagement begins with consultation letters that go to—in fact, in the last 2 years, more than 2,000 consultation letters have been sent out. We've engaged in more than 1,700 meetings with community members. We hear a variety of feedback. We hear support, we hear concern. One of the things that we are able to do through that consultation process is understand what affects each community and to the degree that we can, make adjustments to be able to address those things, whether that is with respect to previously-constructed barrier system, adjust alignments, in some cases with respect to environmental concerns, create gaps. We've done everything from lizard gaps that allow for migratory species and a variety of other things to be able to address community concerns.

Ms. CLARKE. Very well. I think that is a very good approach, and if we dial down the rhetoric a bit, perhaps we can get to a solution that we can all agree to.

With that, Mr. Chairman, I yield back the balance of my time.

Chairman HIGGINS. The gentlewoman yields.

The gentleman from Oklahoma, Mr. Brecheen, is recognized.

Mr. BREECHEN. Thank you, Mr. Chairman.

I appreciate you all taking the time to be with us today.

For years, United States citizens have been clamoring to find a solution for the border. It is not just about the fentanyl, which is the leading cause of death, we know from 18- to 45-year-olds. It is absolutely heavily correlated to what is being allowed at that Southern Border, but it is also weapons and human trafficking. There is a movie, a little-known movie being out right now that you may have heard about called the *Sound of Freedom*. I think the American people know what a tragedy we have.

President Trump's administration, they responded. They built physical barriers. It has been cited that there were many people, some on this committee, on the other side of the aisle that voted for the 2006 Secure Fence Act. President Biden voted for the Secure Fence Act. But yet, as President, he took office and said, not another foot, shut down the $15 billion that was to be allocated as mandated by Congress, appropriated under the rule of law, and he, with the stroke of his pen, said, not another foot.

In the context of 2021, I am in the construction business, I have a little small business, I found myself in Washington, DC, and I found myself outside of a physical barrier in the fall of 2021. That physical barrier had been put in place by Speaker Pelosi. Quite a contrast that months before the President had said physical barriers, they don't work, Nancy Pelosi employed them.

So, Ms. Cooper, here is what I would ask you is, if physical barriers, as my Democrat colleague a minute ago said, are 30-year-old outdated systems, why did Nancy Pelosi employ them at the same time we are canceling contracts on the Southern Border around the Capitol building?

Ms. COOPER. Respectfully, Congressman, I can't speak to the decision to employ barriers in that context.

Mr. BREECHEN. Do you see a conflict, I mean, in terms of ideology to say on one side we don't think physical barriers work, 65 countries, to my colleague's point a minute ago, ⅓ of all countries, the United States have physical barriers on their borders. There is this floating thought pattern out there that physical barriers don't work, they are outdated. Do you see the hypocrisy when they are used to surround the Capitol building by Speaker Pelosi at the same time we are canceling contracts to stop the flow of drugs coming into our country?

Ms. COOPER. Again, with respect, Congressman, I can't speak to that.

Mr. BREECHEN. Let me pivot.

Two hundred sixty-two million dollars, Mr. Jefferis, you cited, was the amount of total expense of the material out of the $15 billion that was laying dormant after President Biden said not another foot, $262 million, 20,000 panels. Someone that comes from the heavy equipment world, there is kind-of a few things you can do with big pieces of metal. I find it astounding that we don't know if there are some States that wanted those materials when the disposition process is to include either Fed or State entities first, prior to scrap. It is astounding to me that between GAO and the Corps of Engineers that we don't know, especially with the Texas LoneStar Program. They are spending $4 billion a year in Texas, they are putting rent-a-fence up. They are actually putting up physical barriers called rent-a-fence. Why are we not diving in with the State of Texas that has the largest mileage that is lacking physical barriers and asking these strong questions? Hey, we have got material, 20,000 panels. Instead of us looking at scrap, would you be interested in erecting physical barriers? Because they will all tell you that they work. Is that not something that we need to become more insightful about?

Colonel JEFFERIS. Congressman, thank you for your question and your concern about the barrier material.

Your numbers are correct. We have 20,000 panels in the storage facility process right now, but we have not received disposition instructions. As the head of contracting, as part of the design and construction agent, we're not part of that decision making. I can't speak to who's having those conversations or where but I can just speak to the amount of material we currently still have.

Mr. BREECHEN. Well, I just—look, I want to end with this. I have got 23 seconds.

Senator Langford from my home State, United States Senator Langford, he has information come out, $6 million a day was wasted because of this situation of contracts and place that we are having to lease to put material. That number then——

Mr. CORREA. The gentlemen yield for a second?

Mr. BREECHEN. Well, can I finish the thought?

Then there was $3 million a day, then it became $130,000 every day, and now it is $160,000 a month. It is just a moving target. Regardless, it is such waste. I think the taxpayers are so disheartened by the waste.

I would yield for the extra 18 seconds that I have gone over.

Chairman HIGGINS. The gentleman yields and the gentleman's time has expired.

The Chair recognizes the gentlewoman from Texas, Miss Jackson Lee, for a questioning.

Ms. JACKSON LEE. Did you need some seconds, Mr. Correa?

Mr. CORREA. Thank you.

Just trying to figure out your comment about comparing the fence around the Capitol and border wall, to work or not. I think there is a lot more order now that that fence around the Capitol is gone, right?

Ms. JACKSON LEE. Reclaiming my time.

Mr. CORREA. Thank you.

Ms. JACKSON LEE. Thank you.

Let me thank Mr. Higgins, Mr. Correa, Mr. Ivey, Mr. Bishop for their courtesies on this committee that I have been the Ranking Member of on this full committee.

I think this idea, Mr. Correa, of technology is being ignored. I think it is important that the obligated funds are not wasted. They are either in DHS or they are either in DoD, waiting for Congress to do its job of re-appropriations. But I think that the technology is worthy. Some of what the administration has done with some of the funds has helped the State of Alaska with missile field expansion and 2nd Radio Battalion in North Carolina, an Elementary School for U.S. military children, firecrafts, rescue station, etc. So it is not wasted.

I think we have a general disagreement on the value of the wall. I will say to the gentleman that spoke about fentanyl, I don't think there is one person on this committee, on this panel that would not join you in a major effort. I for one, I have introduced a fentanyl bill. I know that the House had one. It wasn't quite my cup of tea, but I am ready for the fight. So I hope that we will have an opportunity to do some of the things that might be within our democratic principles, when I say democracy, and within the justice principles, let's try to do some things together.

But I quickly want to just ask a question of Ms. Cooper. What is the current state of the Southern Border in terms of migrant numbers? Have those numbers gone down? Do you have knowledge of that?

Ms. COOPER. I do not have the most recent numbers in front of me. We have seen, in fact, as of the end of the fiscal year, we have seen approximately 1 million encounters. That is a——

Ms. JACKSON LEE. OK, you don't have the current.

What about you, Ms. Gambler, GSA? Do you have some information about numbers going down or not?

Ms. GAMBLER. We can follow up and provide specific numbers for your office.

Ms. JACKSON LEE. OK, let's do that.

But let me ask both Ms. Cooper, because you are Government right before me, DHS, and Ms. Gambler, I don't think because we do not have a wall that this kind of behavior that I am about ready to report is appropriate. I think we can find ways of dealing with this as we have done before and certainly we should not be in the category of doing inhumane items.

The Department of Public Safety trooper sent an email because he was very concerned about actions happening at the Texas border, where the Governor has placed wire and buoys in water that brought about a pregnant woman having a miscarriage, was found late last month, caught in the wire, doubled over in pain, a 4-year-old girl passed out from heat exhaustion as she tried to go through it and was pushed back by Texas National Guard, a teenager broke his leg trying to navigate the water around it. Then the incident of a pregnant woman—excuse me, on a series of previously-reported drownings in the river during 1-week stretch earlier this month, including a mother and at least one of her two children who Federal Border Patrol agents spotted struggling to cross the Rio Grande, and my understanding is—and given medical care before being transferred to EMF or later declared deceased in the hospital, the second child was never found.

This is a DPS trooper providing an email because of his concern of what is happening in forcing people with the buoys and the wire to go into deeper water and therefore drowning. Yes, they are illegally crossing. This is a country of immigrants, but it is a country of laws, and I do understand that. But we have to—the question is that immigration is a Federal issue, and it needs to be investigated as to the appropriateness of this kind of action and whether this action is truly left to the States where you wind up with this continued loss of life. So, I would like this—Ms. Cooper, you have a comment?

Ms. COOPER. While I can't speak to the policies or actions of the State of Texas, I would like to reassure the Congresswoman and the committee that our Border Patrol agents, as they meet migrants in those locations, take their safety and security as they come into our custody very seriously and ensure to the greatest extent possible that they are taken care of at that moment.

Ms. JACKSON LEE. I would expect to do so. I have seen them and I know they do, but I am asking that you carry this request for an investigation from me regarding the actions that this DPS agent—trooper, excuse me, has suggested. We can provide you additional information. I would ask Ms. Gambler, I know that you are in GAO, that we provide you with information. I have only cited what the trooper has cited in terms of maybe Border Patrol agents being forced to try and help these people. I think that is what I indicated. They were trying to help someone drowning in the middle of buoys and wires, but I would like to have an investigation in that.

Ms. GAMBLER. Congresswoman, thank you.

Well, we would be happy to talk with your office after this hearing.

Let me also just note that GAO has done prior work looking at CBP's provision of care for individuals in its custody and we've made recommendations to CBP in those areas. We'd be happy to brief your office on that work as well.

Ms. JACKSON LEE. Let me just finish one sentence, Mr. Chairman. Thank you for your indulgence.

I think I was specifically making the point of how difficult it makes—whether CBP or in essence Border Patrol, which is at the border, make their job difficult when State actions like this cause what this trooper has suggested has occurred. Loss of life, miscarriage, 4-year-old broken leg, and a mother and her two children, one missing, mother and child dead.

So I think that we have established that immigration and border security is a Federal issue. Whether we agree or disagree with the wall, it is a Federal issue, and this should be investigated whether a State is intrusively, wrongly engaging in immigration responses.

I yield back. Thank you.

Chairman HIGGINS. The gentlewoman yields.

With respect to her request, I feel compelled to state that the State's actions—the State is not here today to speak on their behalf. I would ask that the gentlewoman's questions regarding State law enforcement actions be appropriately directed whereby she may receive the answers she seeks. This committee does not have a witness here today from the State of Texas.

The Chair recognizes the gentleman from Arizona, Mr. Crane, for questioning for 5 minutes.

Mr. CRANE. Thank you, Mr. Chairman.

Today in this committee hearing I have heard that walls will not stop the immigration crisis that we see today. I have heard that walls also will not stop a drone. I have also heard that people are tunneling under walls, and let's not forget the ladders that people are using to climb over the walls.

I want to remind this committee that this committee is called the Homeland Security Committee. It is not called the Homeland wall construction committee. Why do I point this out? Because real security, whether at your house or on the Southern Border or in a prison or at a military base overseas, has always been and will always be protected by overlapping deterrents. I will say it again, real Homeland Security is supported by overlapping deterrents. Now a wall is simply just one of those deterrents that overlaps and works in conjunction with well-trained agents, technology, intelligence, and more. Because you can't just say that one security element is going to keep you safe in any of those environments that I pointed out. It is kind-of like saying, I am not going to use a lock on my front door because it is antiquated and people can go through the window, they can climb the backyard. It would be the same to say I am going to use a lock on my front door, I am going to use an alarm system, and I am also going to use a camera system. That is overlapping deterrence at your own home. Any professional that came in and gave you a site security assessment on your home would advise you to use overlapping deterrents.

I think it is sad that we are still talking about very rudimentary, basic, simplistic, common-knowledge security measures when we know what we are trying to protect. We are trying to protect our citizens, our constituents from all over the country who vote different ways, who think different things, but we know that they are being harmed by everything that we have been discussing in this chamber for months. They are harmed by the fentanyl, they are harmed by the MS–13 gang members, they are harmed by sex trafficking and everything that comes over that Southern Border. I will acknowledge again, we all know that there are people that come over that Southern Border who just want a taste of the American dream and to work hard and to raise a family. We can all acknowledge that. But if we are ever going to get serious about security, we have to quit pointing out that a wall isn't by itself security. We all know that. Real security is always, always, always contingent on whether you have overlapping security elements and every Border Patrol agent will tell you that.

I want to turn now to Mr. Jefferis.

Mr. Jefferis, in your professional opinion, just because something is antiquated like a lock or a wall, do you believe that we should discard it in trying to secure what we want to protect?

Colonel JEFFERIS. With respect to your question, Congressman, I believe that we should look at all opportunities that are out there without giving a definitive answer for my position as a contracting agent.

Mr. CRANE. Thank you.

What about you, Ms. Cooper?

Ms. COOPER. It's been my privilege to support the U.S. Border Patrol for the last 5 years. And in my role, one of my chief responsibilities has been working with each sector to identify their full suite of gaps and requirements. Those come in the form of a dozen different master capabilities, including some of the things you mentioned, additional communications capability—I should say requirements that ultimately lead to solutions such as additional communications capability, additional technology, additional roadways, partnerships, and in certain contexts, barriers, intelligence and information sharing. All of those, when appropriately combined, the right mix in the right place, can add value to our border security enterprise.

Mr. CRANE. Thank you, Ms. Cooper.

I guess what I am trying to say is this, this situation at our Southern Border will not change until my colleagues on the other side, and even those of us on this side, start implementing overlapping deterrents at our Southern Border just like we would at our own homes.

Thank you so much, Mr. Chairman. I yield back.

Chairman HIGGINS. The gentleman yields.

The first series of questions having been completed, we are going to forego a second round of questions for this panel. I very much appreciate the dedication of time that this panel has given the committee today.

The Members of the committee may have some additional questions for these witnesses and we ask that the witnesses respond to

those questions in writing. They will be properly submitted. The witnesses are dismissed.

Mr. IVEY. Mr. Chairman, if I might, before you dismiss the witnesses?

Chairman HIGGINS. The gentleman is recognized.

Mr. IVEY. Thank you, sir.

Colonel, if you could send the responses to the questions we raised to the Chair and Ranking Member as opposed to me or someone else, that would be appreciated.

Is that fine, Mr. Chairman?

Chairman HIGGINS. The gentleman's comment is appropriate.

Mr. IVEY. Thank you, Mr. Chairman.

Chairman HIGGINS. So we are going to recess for 5 minutes and I will gavel in in 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, just a small moment.

Chairman HIGGINS. Another bipartisan moment.

The gentlewoman is recognized.

Ms. JACKSON LEE. Mr. Chairman, with respect, you assessed the witnesses in front of us. I accept that. But for whatever witnesses that might be able to respond to my inquiries, I would like them not to be hindered and to be able to get back with me on that, Mr. Chairman.

Chairman HIGGINS. Noted.

Ms. JACKSON LEE. Thank you so very much.

Chairman HIGGINS. Noted and agreed, good lady.

Ms. JACKSON LEE. Thank you.

Chairman HIGGINS. The witnesses are greatly appreciated and are dismissed.

The committee will be in recess for 5 minutes and I will gavel in in 5 minutes.

[Recess.]

Chairman HIGGINS. The Subcommittee on Border Security and Enforcement and Subcommittee on Oversight, Investigations, and Accountability will come to order.

I am pleased to welcome a compelling panel of witnesses before us today to provide insight on this important topic.

[Witnesses sworn.]

Chairman HIGGINS. Let the record reflect that the witnesses have answered in the affirmative.

Thank you and please be seated.

I would like to now formally introduce our second panel of witnesses.

Mr. Ron Vitiello, in his over 30 years of public service, has served as chief of the United States Border Patrol, acting deputy commissioner of Customs and Border Protection, and director of Immigration and Customs Enforcement. Mr. Jim De Sotle, currently serves as the chief executive officer of LoneStar Pipeline contractors, a Texas-based pipeline and facility company contracted to assist in the construction of the border barrier system. Mr. De Sotle has substantial experience in infrastructure, construction, and technology. Mr. Russell Johnson is a fourth-generation cattle rancher from New Mexico who has experienced first-hand the impact of an unsecure border and the repercussions of the decision to cancel construction of the border barrier system. Mr. Johnson also previously

served as a United States Border Patrol agent. I have Mr. Tenorio. I thank you for being here, Mr. Tenorio. I do not have a summary of your background.

I will recognize the Ranking Member to introduce his witness.

Mr. CORREA. Thank you, Mr. Chairman, for the honor.

Let me introduce neurosurgeon at UC San Diego, Dr. Alexander Tenorio. Dr. Tenorio has been on the front lines treating traumatic brain injuries caused by border wall falls. Mr. Tenorio has published multiple studies documenting the tragic increase in the number of traumatic injuries and mortality caused by the decision to increase the border walls height to 30 feet. Dr. Tenorio has also focused on the economic burden that the increase in traumatic injuries falls have created for hospitals in the San Diego area. Sir, Dr. Tenorio, thank you for being here today with the subcommittee and look forward to hearing your testimony.

Thank you, sir.

Chairman HIGGINS. I thank Ranking Member Correa.

I thank all the witnesses for being here today.

I now recognize Mr. Vitiello for 5 minutes to summarize his opening statement.

STATEMENT OF RONALD D. VITIELLO, PRIVATE CITIZEN, FORMER CHIEF OF THE UNITED STATES BORDER PATROL

Mr. VITIELLO. Good afternoon Chairman Higgins, Chairman Bishop, Ranking Members Correa and Ivey. I'm glad to be with you today and look forward to discussing my experience in border and national security and all things related to my 34 years as a public servant.

I entered on duty in the Border Patrol in Laredo, Texas. I first took the oath in 1985 and reaffirmed it in action, as I worked my way up the chain of command, serving in Texas, Arizona, Vermont, and holding leadership positions as chief patrol agent, the chief at headquarters, I served at CBP's acting deputy commissioner for over a year and served as the acting ICE director while seeking confirmation, being nominated by President Trump. In 2019, I chose to retire from Federal service and now I'm happily in the private sector.

While in headquarters as a chief and as the chief in Rio Grande Valley sector, I was responsible for evaluating and setting requirements for border wall in the front line and served at headquarters during the implementation of the 2006 Secure Fence Act, which deployed 700 miles of border barrier. As the deputy at CBP, I also oversaw the team that set requirements and estimates for the border wall system in 2017 and 2019. The team at CBP and I delivered several prototypes in 2017, giving the operators and builders more knowledge of the best kinds of wall attributes, including anti-breach and anti-climb features. Wall is not the full solution. Wall must be augmented with sensors and all weather access roads and a sufficient number of agents to safely patrol and apprehend smugglers and contraband and criminals that will still cross the border illegally. By combining physical barriers with state-of-the-art—sorry—technology works until it doesn't.

Chairman HIGGINS. Take your time, good sir.

Mr. VITIELLO. The construction of wall and the augmentation of advanced technology in our Southern Border would significantly enhance our national security, control immigration flows, combat criminal activities, ensure public safety, and promote fiscal responsibility by combining physical barriers with cutting-edge surveillance and detection systems. We can effectively address the challenges posed by unauthorized border crossings while maintaining the integrity and sovereignty of our Nation.

Border wall system works, front-line agents know it, and the data shows it. Walls provide agents and operators with an anchor to place technology and patrol assets which can operate more safely and effectively. Securing the homeland is the responsibility of the Executive branch policies. By combining physical barriers with cutting-edge surveillance, border wall systems work, front-line agents know it and the data show it. Walls provide agents and operators with an anchor to place technology and patrol assets which can operate more safely and effectively. When we talk about border wall system, I was implementing on the front line for Secure Fence Act in the Rio Grande Valley sector. I was at headquarters during the Trump administration when we did the combined wall requests that he made to Congress and eventually got funded and accessed funding for. This is an important distinction. Wall by itself isn't going to help the Border Patrol agents, the men and women that are out there on the front lines each and every day. It's a system. Cameras, sensors, all weather access roads, and a sufficient number of agents to do the work that we ask them to do each and every day. It keeps them safe, it keeps the community that they live in safe, and it protects us all. Border security is national security.

I thank you and look forward to your questions.

[The prepared statement of Mr. Vitiello follows:]

PREPARED STATEMENT OF RONALD D. VITIELLO

JUNE 18, 2023

Good afternoon Chairmans Higgins, Bishop, Ranking Members Correa and Ivey. I'm glad to be with you today and look forward to discussing my experience in border security, homeland security, and all things related to my 34 years as a public servant. I entered on duty in the Border Patrol in Laredo, Texas. I first took the oath in 1985 and reaffirmed it in action as I worked my way up the chain of command serving in Texas, Arizona, Vermont, and holding leadership positions as a chief patrol agent, the chief at headquarters. I served as CBP's acting deputy commissioner for over a year and served as acting ICE director while seeking confirmation, being nominated by President Trump. In 2019 I chose to retire from Federal Service, and now I'm happily in the private sector.

While in headquarters and as chief in the Rio Grande Sector I was responsible for evaluating and setting requirements for border wall on the front line, and served at headquarters during the implementation of the 2006 Secure Fence Act which deployed 700 miles of border barrier. As the deputy at CBP I also oversaw the team that set requirements and estimates for the border wall system in 2017–2019. The team at CBP and I delivered several prototypes in 2017, giving the operators and builders more knowledge of the best kinds of wall attributes including anti-breach and anti-climb features. Wall is not the full solution. Wall must be augmented with sensors and all-weather access roads and a sufficient number of agents to safely patrol and apprehend smugglers and contraband that criminals will still cross illegally. By combining physical barriers with state-of-the-art surveillance and detection systems, we can effectively mitigate risks, enhance law enforcement capabilities, and protect the sovereignty of our Nation.

1. Enhancing Border Security.—The construction of a wall provides a tangible physical barrier that deters unauthorized border crossings. It limits the ease of entry for individuals attempting to cross our border illegally, reducing the bur-

den on law enforcement agencies and enhancing the overall security of our Nation. By physically impeding illegal border crossings, we create a first line of defense that allows Border Patrol agents to focus their efforts on detecting and apprehending those who pose a genuine threat.

2. Regulating Immigration.—A secure border is essential for ensuring an orderly and legal immigration process. By deterring illegal border crossings, we can better allocate resources toward processing and vetting individuals who seek lawful entry into our country.

3. Combatting Criminal Activities.—Our Southern Border is unfortunately susceptible to criminal activities such as drug smuggling, human trafficking, and illegal firearms trade. By implementing a wall and advanced technology, we can significantly impede the operations of criminal organizations. Enhanced surveillance systems, such as drones, cameras, and ground sensors, would provide real-time situational awareness to law enforcement, enabling them to respond quickly and effectively to potential threats.

4. Public Safety.—A secure border is synonymous with public safety. By strengthening border security, we can prevent the entry of individuals with criminal backgrounds, thereby reducing the potential for crime within our communities. Furthermore, an increase in technological infrastructure would allow for swift detection and interdiction of potential security threats, ensuring the safety of both our citizens and those seeking legal entry.

5. Fiscal Responsibility.—Contrary to misconceptions, investing in border security measures can lead to long-term cost savings. By reducing illegal border crossings, we alleviate the strain on our immigration enforcement agencies, reduce the burden on the judicial system, and limit the costs associated with detention and deportation. Additionally, technological advancements provide efficient and cost-effective surveillance and detection mechanisms, optimizing resource allocation and reducing operational costs over time.

The construction of a wall and the augmentation of advanced technology on our Southern Border would significantly enhance our national security, control immigration flows, combat criminal activities, ensure public safety, and promote fiscal responsibility. By combining physical barriers with cutting-edge surveillance and detection systems, we can effectively address the challenges posed by unauthorized border crossings while maintaining the integrity of our Nation.

Border Wall System works; front-line agents know it and the data shows it. Walls provide agents and operators with an anchor to place technology, and patrol assets which can operate more safely and effectively.

Securing the homeland is the responsibility of the Executive branch. Policies that promote large-scale illegal migration puts, everyone at risk. Those in the pipeline are trafficked and abused, our cities and towns are burdened with large numbers of low-skilled workers who may have health issues. It overcrowded schools and stresses public health and law enforcement resources. You must get the border controlled physically but if there is no consequence to entering illegally and not following requirements to claim asylum or go to immigration proceedings, we'll continue the lawlessness and significant illegal flow we see today.

Chairman HIGGINS. Thank you, Mr. Vitiello.

I now recognize Mr. De Sotle for 5 minutes to summarize his opening statement and also to correct our pronunciation of your name, good sir, if I haven't gotten it right thus far.

Mr. De Sotle, you are recognized.

STATEMENT OF JAMES DE SOTLE, INTERIM CHIEF EXECUTIVE OFFICER, LONESTAR PIPELINE

Mr. DE SOTLE. Thank you.

Well, it depends on which side of the family. It is either De Sotle or De Sotle. So, De Sotle is what I pronounce it as.

So, Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and distinguished Members of the subcommittee, I want to thank you for allowing me to testify in front of your subcommittee today regarding our experiences as a subcontractor on the Southern Border wall.

So as an overview, in July 2019, Posillico Contractors of Long Island, New York, contracted PLC Group, D/B/A LoneStar, regarding

potential work on the border wall that was being constructed along the U.S.-Mexico border. LoneStar immediately engaged in discussions with Posillico and ultimately signed a subcontract with Southern Border contractors to provide loose concrete, aggregate, and aggregate for Sections 08 and 09 in McAllen, Texas. So SPC was a joint venture between Posillico and SPC.

So LoneStar was responsible for providing loose concrete for the footings of the border wall, as well as grout and necessary aggregate for temporary roads, drainage, and other applications. LoneStar purchased 2 mobile cement plants, 7 cement trucks and various other equipment necessary to fill the contract. So at this point in time we were just getting into heavy civil. We were a pipeline contractor in Midland, Texas. We chose this opportunity to actually get into heavy civil. So we went out and spent a lot of money on equipment in order to make that happen. We won the contract. We were very excited about it.

July 2020, LoneStar commences work on the border wall in sections 08 and 09 in McAllen, Texas. In January 2021, President Biden took office and issued a suspension of work order for the border wall construction. Contractors were actually required to stand by per our contract, so we had to keep our equipment and our labor on-site.

There was no indication of how long this was going to be taking place, so we were left in the dark. There was really no communication around how long we would have to have that equipment and that labor on-site. One other note, we were not able to submit any invoices during this period. So we're paying for labor, we're paying for equipment, no invoices will be submitted. The Army Corps of Engineers would not accept invoices.

I want to be clear, the Army Corps of Engineers was not the issue here. The Army Corps of Engineers was simply following their orders, OK. This went far higher than the Army Corps of Engineers. So I have no animus toward the Army Corps. This is something that I think the administration and Congress in general needs to look at when it comes to small contractors like ourselves, put in situations like this that ultimately put us into a position where we're nearly bankrupt.

May 2021, we sent a letter to the Army Corps of Engineers requesting guidance. To date, we've received no communication back on that letter. LoneStar retained in May 2021 Williams Mullen, a law firm actually out of Washington DC, Dixon, Hughes, Goodman, which are accountants. So we went and found proper lawyers and the proper accountants to actually deal with these Federal contracts. We knew as a subcontractor that we're limited in what we do with the Government. As Colonel Jefferis actually stated, as a subcontractor, I do not have the right that a prime has. I basically have no voice with the Federal Government, period, end of sentence. So we hired these law firms, we brought them in, they worked with our primes, law firms, and accounting firms in order to try to shepherd us through this process. So this is May 2021.

In September 2021, we sent a second letter to the Army Corps of Engineers requesting guidance on payments and monies owed. No response.

October 2021, the Army Corps officially canceled the border wall contract. As I spoke to Colonel Jefferis after his testimony, what ended up happening here, and I will speak further to Colonel Jefferis about this, is the contract was canceled and then it was reinstated and our law firm and our accounting firm both said the same thing, they've never seen this happen before. So now I'm in a position as a subcontractor, my primes contract is now put back into into operation, if you will. I cannot submit a termination settlement proposal because we still have an active contract. So now I'm stuck in a catch–22 in this lurch, and again, time is moving on.

October 2021, SPC's notified that the contract was reinstated for purposes. I just went through—they actually had to go back to the border to actually—they were contracted to go back and deal with safety issues. So when we stopped construction, there were many holes in the wall, there's ditches, there's all kinds of safety issues there. To prevent people from injuring themselves, they went back to actually cure these issues. So that's why they were actually—and they're still down there by the way, they're still working on this to this date.

November 2021 through July 2022, LoanStar works with SVCs, attorneys, Southern Border contractors, attorneys and accounting firms, as well as its own attorneys, to put together our TSP. So this is November 2021 through July 2022, so months and months go by, we're paying our attorneys, we're paying our accountants six figures to make this all happen. July 2022 on the advice of our attorneys, LoneStar finally submitted the TSP. So basically what we did is we went to our prime and we said we cannot wait any longer. We're going to submit. If the Army Corps throws it back at us, they throw it back. We're hopeful that they see the urgency here and they actually take it.

October 2022, so now we're almost 2 years into this. So January '21 to October '22, nearly 2 years, we finally get an official meeting with the Army Corps of Engineers and that started the audit process. So November 2022, the audit process officially started. July or June 2023, or actually today, we are still in that audit process, OK. So we are now 2 years, 7 months without payment from July 21st of 2021. So we're in 2 years, 7 months. We're a small construction company. This is $3.6 million. That's a lot of money for a company of our size. That has had a substantial impact on our business. It's hurt us with our vendors, it's hurt us with potential contracts. The sad thing is we were literally trying to get into heavy civil. This actually killed it. So we were actually moving, we're trying to diversify, we were getting into renewables. This actually you know put a period on that sentence. We no longer can do that, so.

I thank you for your time. I thank you for listening to my testimony, and I look forward to your questions.

[The prepared statement of Mr. De Sotle follows:]

PREPARED STATEMENT OF JAMES DE SOTLE

JULY 13, 2023

OVERVIEW

In or around July 2019, Posillico contractors of Long Island NY contacted PLC Group ("LoneStar") regarding potential work pertaining to the border wall being constructed along the U.S./ Mexico border. LoneStar immediately engaged in discus-

sions with Posillico and ultimately signed a sub-contract with Southern Border Constructors, (SBC) to provide loose concrete and aggregate for sections 08 and 09 in McAllen TX. SBC is a joint venture that Posillico has ownership in.

LoneStar was responsible for providing the loose concrete for the footings of the border wall as well as the grout and necessary aggregate for temporary roads, drainage, and other applications. LoneStar purchased 2 mobile cement plants, 7 cement trucks and various other equipment necessary for fulfillment of our contract.

July 2020.—LoneStar commences work on border wall sections 08/09 in McAllen TX for SBC.

January 2021.—Biden administration issues a suspension order for work pertaining to the border wall construction. Contractors are required to "Stand By". This required our company to continue to maintain a presence onsite and incur daily labor and equipment costs without the ability to invoice. We had NO indication of when or how this suspension would be resolved.

May 2021.—LoneStar sends a letter to the ACoE requesting guidance. To date we have received NO communication from the ACoE.

May 2021.—LoneStar retains William and Mullen law firm and Dixon, Hughes, and Goodman accountants.

September 2021.—LoneStar send a second letter to ACoE requesting guidance on payments of monies owed.

October 2021.—The ACoE officially cancels the border wall contracts.

October 2021.—SBC is notified that its contract is reinstated for the purposes of addressing "Safety" issues as a result of construction being halted. Because our prime had its contract reinstated, we were not able to file our termination settlement proposal (TSP) which further delayed our ability to recoup our losses. Our attorney noted that he had never seen a Federal contract canceled and subsequently reinstated. This put us in an untenable situation.

November 2021–July 2022.—LoneStar works with SBC's attorneys/accounting firm as well as its own attorneys and accounting firm to complete our TSP. During this time we are being advised that the TSP cannot be submitted because SBC is still under contract.

July 2022.—On the advice of our attorneys, LoneStar submits our TSP to the ACoE for $3.6 million.

October 2022.—LoneStar begins the audit process with the ACoE on its TSP.

November 2022–June 2023.—ACoE is in contact with LoneStar throughout the audit process.

June 2023.—ACoE completes its audit and proposes paying LoneStar 50 percent of the submitted costs.

July 2023.—LoneStar is awaiting a date for the "Exit" interview from the ACoE.

Two years and seven months after the suspension of the border wall project, LoneStar has not received a single payment for services rendered.

Impact on PLC Group

The border wall cancellation has had a significant impact on PLC Group. COVID–19 caused a severe downturn in our industry. This downturn was exacerbated by the current administration's policy toward domestic oil and gas production. The combination led to almost 30 months of limited work in the industry. During this downturn our company was subjected to $100 thousand in attorney and accounting fees, and over $1.8 million in capital outlays for the border wall project including startup costs and carrying costs during the suspension, (January–September 2021).

The overall cost to our company is $3.6 million. Construction companies require a significant amount of capital to start and complete a project. Having our capital tied up within this project for 3 years has reduced the number of opportunities our company could pursue. Most recently, in March 2023, we lost a $24 million opportunity with a large producer due to a lack of funding. We were forced to sell our assets in order to keep operations going and as a result, were not able to pursue further civil work. This effectively shut down the civil division.

Chairman HIGGINS. Thank you Mr. De Sotle.

I now recognize Mr. Johnson for 5 minutes to summarize his opening statement.

STATEMENT OF RUSSELL A. JOHNSON, PRIVATE CITIZEN, FORMER AGENT, UNITED STATES BORDER PATROL

Mr. JOHNSON. Chairman Higgins, Chairman Bishop, Ranking Member Correa, and Ranking Member Ivey, and distinguished

Members of the subcommittees, thank you for the opportunity to testify today on the Biden administration's decision to stop border wall construction and the effect that it has had on Americans like me who live and work on or near the Southern Border. It is an honor to share my story with you all today, but also disappointing that this issue still exists.

I'd like to speak briefly about my background and my relationship with the border. I was born and raised in southern New Mexico on a cattle ranch that borders Mexico for approximately 8½ miles. This ranch has been in my family since 1918. Border issues are nothing new to me or my family. For example, my dad and my uncle had a pickup stolen from them at gunpoint by young men who had been guarding a drug field in Mexico. Cattle thieves have crossed into the United States to steal our cattle and illegal immigrants have caused property damage, left trash, and broken into the homes of several of my family members.

I also served 5 years in the United States Border Patrol as a patrol agent in El Paso, Texas. During my service, I worked along the Rio Grande River as well as spent 2 years with Air and Marine Operations. I resigned from the agency in 2016 in order to return to the family business.

This experience has given me a unique perspective on the border as I have seen it through the eyes of a stakeholder as well as a law enforcement officer. For over 100 years, our entire section of border was no more than a five-strand barbed wire fence that my family and I maintained at our own expense. This fence was constantly damaged by illegal traffic, and no Government agency would accept responsibility for this international boundary.

In 2008, a Normandy-style vehicle barrier was installed along roughly half of our border. Though an improvement, it did not solve the problem. The remaining border was still barbed-wire fence and this left us vulnerable to illegal foot traffic and vehicle drive-throughs. In April 2020, wall construction had begun on our neighbor's ranch. Finally, a sense of security and relief from an open border was being provided. Normandy barrier and barbed wire fence was going to be replaced by a 30-foot-tall concrete reinforced steel barrier with stadium-style lighting and sensor technology that provide agents real-time data on attempted crossings. This project came hot on the heels of the surge of traffic we had seen in 2019. As construction began on our ranch, illegal traffic was pushed to areas without the wall. The wall system was going to be the force multiplier that Border Patrol needed to gain operational control of the Southern Border.

When President Biden signed the Executive Order to halt border wall construction, we were left with a ¾-mile gap, one border monument access gate that hadn't been installed, and a few miles of wall that had not been filled with concrete or welded together. Contractors were told to stand down, leaving their equipment, material, and debris scattered along the border.

It's important to note that in New Mexico the wall was built on the Roosevelt Reservation. For this reason, my family and I were never approached by the Federal Government nor given any information regarding wall construction. All information I received was from talking to contractors or the United States Army Corps of En-

gineers. Contractors were eventually told to just make things safe. In doing so, wall panels were consolidated into two different areas, one on our ranch and the other on our neighbor. We were also left with two areas of massive piles of gravel and rock left over from the construction in the mountains. The above-mentioned locations on our ranch are on Bureau of Land Management land and my family owns a grazing lease on said land.

This material has been sitting on the border for over 2 years. Taxpayer dollars are being stockpiled rather than being utilized for their intended purpose. Contractors are now telling my family that these wall panels are going to be hauled off for scrap. If anyone ran their business as inefficiently as the Federal Government has handled this project since the shutdown, they would all be broke.

In the months leading up to January 2021, there was little illegal traffic through our area. When the project was shut down, we saw an immediate increase in traffic. We continued to see this upward trend until Title 42 was lifted. Border Patrol agents tell me that the traffic in my area is slow, but remains steady.

In closing, our Government does not have operational control over our Southern Border. I rarely see an agent on the border in our area. If you do see an agent, they're further north chasing groups of people that have already made it several miles into the United States. I've traveled over 2,000 miles and left my family and business to be here today. Every time I leave, I fear for what my wife and kids may encounter because of our open border. These are fears I shouldn't have as an American living on American soil. My Government is failing to protect this country, and the fiscal irresponsibility is appalling.

I'd like to thank the committee for allowing me to testify today and look forward to answering any questions.

[The prepared statement of Mr. Johnson follows:]

PREPARED STATEMENT OF RUSSELL A. JOHNSON

JULY 18, 2023

Chairman Higgins, Chairman Bishop, Ranking Member Correa, and Ranking Member Ivy, and distinguished Members of the subcommittees, thank you for the opportunity to testify today on the Biden administration's decision to stop border wall construction and the effect it has had on Americans like me who live and work on or near the Southern Border. It is an honor to share my story with you all today, but also disappointing that this issue still exists.

I would like to speak briefly about my background and my relationship with the border. I was born and raised in southern New Mexico on a cattle ranch that runs along the U.S./Mexico border for approximately 8.5 miles. This cattle ranch has been in my family since 1918. I am very familiar with all that happens along the border. My family has experienced very little good, but just about all the bad one can wish to experience regarding the border. My dad and uncle had a pickup stolen from them at gunpoint by young men who had been guarding a drug field in Mexico. We have had cattle thieves cross into the United States to steal our cattle and drive them into Mexico. My parents, uncles and cousins have all had their homes broken into by illegal immigrants. Property damage and trash left behind by illegal immigrants are also things that my family and I deal with.

I served 5 years in the United States Border Patrol as a Border Patrol Agent in El Paso, Texas. In my 5 years of service, I worked along the Rio Grande River as well as spent 2 years as a Supplemental Aircrew Member with Air and Marine Operations. I resigned from the agency in 2016 in order to return to the family business, which was more conducive to raising a family. All my experience from where I grew up to my time served in the United States Border Patrol has given me a

unique perspective on the border as I have seen it through the eyes of a stakeholder as well as a law enforcement officer.

Prior to 2008, our entire 8.5-mile section of border was nothing more than a 5-strand barbed wire fence that my family and I maintained at our expense. This fence was constantly damaged by illegal traffic crossing into the United States. My family and I maintained the fence at our own expense because no Government agency would accept responsibility for it. In 2008, Normandy-style vehicle barrier was constructed and installed along roughly half of that 8.5 miles. This was an improvement over barbed wire, but did not deter vehicle drive-throughs, or human foot traffic. The remaining border was still barbed wire through the mountainous portion of our ranch. This left us vulnerable to illegal traffic, vehicle drive-throughs, not to mention the fact we still had to maintain the barbed wire fence which was serving as the international boundary line.

Fast forward to April 2020. I had been back on the family ranch for a little over 3 years after having resigned from my position with the United States Border Patrol. Border wall construction had begun on our neighbor's ranch and was coming east in our direction. Finally, a sense of security and relief from an open border was being provided. A large, 30-foot-tall concrete reinforced steel barrier, stadium-style lighting and sensor technology that would provide Border Patrol agents real-time data on attempted crossings was going to be erected in place of the barbed wire fence my family had been maintaining for over 100 years. This project came hot on the heels of the surge of traffic we had seen in 2019 when caravans had formed, and groups of illegal immigrants were giving themselves up en masse at Antelope Wells, New Mexico and other ports of entry.

As construction began on our family ranch, illegal traffic was pushed off our ranch and to areas without a border wall. No longer did we have to worry about vehicle drive-throughs and car chases through our ranch. Cattle theft by individuals from Mexico would be a thing of the past. The border wall system was going to be the force multiplier that Border Patrol needed to gain operational control of the southern border. All of that ended January 20, 2021.

As you know, when President Biden took office, one of his many Executive Orders was to halt border wall construction. Construction sure enough stopped on a dime. Not a screw was turning on the border. On our ranch unfortunately, the contractors hadn't finished installing all of the wall. We were left with a ¾-mile gap, one border monument access gate hadn't been installed and a few miles worth of wall had not been filled with concrete or the wall panels welded together.

Contractors working on the wall did not know what was going on, they were just told to stand down. This went on for several weeks with little to no information on what was going to happen. Construction equipment, materials and debris were scattered up and down the border through our ranch and on our neighbor's ranch. This is a good opportunity to explain how the United States Government did not communicate with my family regarding wall construction.

The Roosevelt Reservation gives the Federal Government a 60-foot easement along the Southern Border in New Mexico, Arizona, and California. This easement was established to keep public lands in the respective States free from obstruction for the purpose of border security. For this reason, my family and I were never approached by the Federal Government, nor given any information regarding wall construction. All information I received was from me reaching out to contractors or the United States Army Corps of Engineers working in our area.

Eventually, all the contractors were told to "make things safe" and remove all of their equipment. In doing so, wall panels were consolidated into two different areas, one on our ranch and the other on our neighbor's ranch. Along with the wall panels, we were left with two different areas where rock crushers had been set up to crush gravel from pilings left over from wall construction in the mountains. Massive piles of gravel and rock remain in these two locations on our ranch. All of the above-mentioned locations on our ranch are on Bureau of Land Management land and my family owns the grazing lease on said land.

I mentioned earlier that I was disappointed that this was even an issue. What I have just mentioned regarding the material left behind is nothing new. This material has been sitting on pastureland all over the Southern Border for over 2 years. Taxpayer dollars are rusting away in stockpiles rather than being utilized for their intended use. Contractors are now telling my family that these wall panels are going to be hauled off for scrap. Brand-new, American steel with all of the costs in getting that wall panel fabricated and it's going to scrap. If anyone ran their business as inefficiently as the Federal Government has handled this wall project after the shutdown, they would be broke.

I have yet to mention the effect shutting the wall project down has had on illegal immigrant traffic. In the months leading up to January 2021, there was very little

illegal traffic through our area. As soon as the wall was shut down, we immediately saw an increase in traffic. We continued to see this upward trend until Title 42 was taken away in May of this year. Though we did not see the surge of traffic like we expected to, Border Patrol agents tell me that the traffic in my area is slow, but steady. Our Government does not have operational control over the Southern Border. With very few Border Patrol agents in the field, you will rarely see an agent on the border in our area. If you see an agent, they are further north chasing groups that have already made it several miles into the United States.

I have travelled over 2,000 miles to be here today. I left behind my wife, two young children, my parents, and my business. Ranching on the U.S./Mexico border is not for the faint of heart. Every time I must leave, I fear what my wife and kids may encounter because of our open border, and I'm not there to protect them. I often get asked, "Why don't you just move?" or "If it's so bad, I'd just pack up and leave." Maybe I'm crazy for not entertaining those two ideas, but the way I see it, I am an American. The last time I checked, I still live in the United States and therefore entitled to life, liberty, and the pursuit of happiness. All of which should be protected by my Government who at this time is failing to do so.

In closing, I want to thank the committee for allowing me this opportunity to testify today and I look forward to answering any questions you might have.



Barbed Wire Fence serving as US/Mexico Boundary



Normandy Style Vehicle Barrier



¾ mile gap over the mountain



Wall panels left behind near ¾ mile gap



Wall panels left behind on neighboring ranch



Large pile of rock to be crushed for gravel



Large group of illegal immigrants encountered while horseback

Chairman HIGGINS. Thank you, Mr. Johnson.

I now recognize Dr. Tenorio for 5 minutes to summarize his opening statement.

STATEMENT OF ALEXANDER TENORIO, M.D., RESIDENT PHYSICIAN, NEUROLOGICAL SURGERY, UC SAN DIEGO

Dr. TENORIO. Good afternoon, Chairmen Higgins and Bishop, Ranking Members Correa and Ivey, and Members of the subcommittee. It is an honor to testify before you today about the humanitarian toll and the economic burden imposed by increasing the border wall heights across the Southern region.

I am a fourth-year neurological surgery resident physician at UC San Diego Health. As part of my duties, I treat patients with devastating neurological conditions, including injuries to the brain and spinal cord. This often requires emergent and life-saving treatment of injuries that also includes traumatic injuries after border falls. I have been at the front lines and witness to the devastation that these raised border walls have caused every single day.

During my tenure at UC San Diego, my trauma colleagues and I have observed an unrelenting increase in traumatic injuries after these falls. We're the first institution to describe this phenomenon and have published several peer-reviewed articles detailing this emergent public health crisis. Our research shows that since the U.S.-Mexico border wall was raised up to 30 feet in 2019, there have been a record number of traumatic injuries from border falls. Hospital admissions from border falls at our two major trauma centers have increased almost ten times when comparing 2021 to 2016. Not only has the frequency increased, but the severity and mortality have risen significantly. There have been 16 deaths after the border wall was raised compared to 0 prior. We are also now seeing record number of severe injuries to the spine, the brain, and even the brain's blood vessels, which otherwise can only happen with high-impact trauma. Research from our colleagues in Texas also shows significant increases in border trauma admissions, indicating to us that this is widespread.

In addition to the profound human cost, there has been increased economic burden to our health care system. At our hospital, charges for each patient suffering a spine injury after a border fall increased 70 percent since the border wall was raised. At our two major trauma hospitals, total hospital costs due to all traumatic injuries after border falls increased by 636 percent, from $11 million during the 2016 to 2019 period, compared to $72 million during the 2020 to mid-2022 period.

Now, these are individuals with families, escaping violent threats, untenable economic conditions, and political upheaval. I am reminded of a young patient of mine who had suffered a severe spinal injury and would require surgery. He was a farm laborer back home who had lost his job and his home. He had a young daughter and a young wife and he was now unemployed living in the streets. He came to the United States to escape extreme poverty and feed his family. Now, as I attended to him at our trauma bay and described the extent of his injury, his response wasn't whether he would be able to walk again, but rather he responded, [Speaking foreign language]—when will I leave the hospital to see my family?

Now, I ask the subcommittees to consider the following. Do you believe this individual left his family, risked his life, and climbed that 30-foot barrier due to trivial circumstances? As the son of a

father who escaped violent threats in his hometown, and now a witness to these stories, I can assure you that these people I care for are searching for the same things we all do, safety, security, and a chance for a better life for their family.

Ultimately, these raised border walls have resulted in a record number of traumatic injuries, increased severity and mortality, and increased economic burden to our hospital systems. As a neurosurgeon, I must reveal this untold human suffering and strain on financially-strapped hospital systems to our Nation. I fear this trend will only get worse until we further study the full extent of the humanitarian and economic costs from our current border infrastructure. Only then can we determine sensible alternative solutions.

Thank you to both subcommittees for inviting me to testify today and I hope you do all within your power to recognize the harms of the raised border wall.

I look forward to your questions.

[The prepared statement of Dr. Tenorio follows:]

PREPARED STATEMENT OF ALEXANDER TENORIO

JULY 18, 2023

INTRODUCTION

Good afternoon Chairmen Higgins and Bishop, Ranking Members Correa and Ivey, and Members of the subcommittees. It is an honor to testify before you today about the humanitarian toll and economic burden imposed by increasing border wall heights across the southern region.

My name is Alexander Tenorio and I am a 4th-year neurological surgery resident at UC San Diego Health. As part of my duties, I treat patients with neurological conditions. This involves injury to the brain and spinal cord, which often require emergent and life-saving treatment of devastating injuries. This includes traumatic injuries that occur after border falls. I have been at the front lines, and witness to the devastation that the raised border wall causes every single day.

During my tenure at UC San Diego, my trauma colleagues and I have observed an unrelenting increase in traumatic injuries as a result of border falls. We were the first institution to describe this phenomenon and have published several peer-reviewed articles in academic journals detailing this emerging public health crisis.

SIGNIFICANT FINDINGS

Our research shows that since the U.S.-Mexico border wall was raised up to 30 feet, there have been a record number of traumatic injuries from border falls. Hospital admissions from border falls in California have increased almost 10 times compared to 2016.

Not only has the frequency increased, but the severity of injuries and mortality have risen significantly, with 16 deaths after the border wall was raised compared to 0 deaths prior. We are also now seeing more severe injuries to the spine, brain, and even the brain's blood vessels, which are otherwise uncommon and can only result from high-impact trauma. These are injuries that will leave people unable to work and care for their families. Research from colleagues in Texas also shows significant increases in border trauma hospital admissions, indicating that this issue can be seen across the Southern Border region where the border wall height has also been raised.

In addition to the profound human cost, there has been an increased economic burden to our health care system. Our hospital costs have increased by 636 percent from $11 million prior to the border height increase to $72 million afterwards.

These are young individuals with families escaping violent threats, untenable economic conditions, and political upheaval. I am reminded of one of my patients, a 25-year-old man who had suffered a severe fracture to the spine that would require surgery. He was a farm laborer who had lost his job and his home. He was unemployed, living in the streets with his wife and young daughter. He came to the United States to escape extreme poverty and to feed his family.

While he laid on a stretcher in our trauma bay, I could sense his fear and despair. He was now in another country being held in custody with a severe injury. As I described to him his injury and that he would need surgery, his response wasn't about whether he would be able to walk again. He responded, "Cuando voy a salir del hospital para ver a mi familia?" When will I leave the hospital to see my family?

Now, I ask the subcommittees to consider the following: Do you believe this individual risked his life, left his family, and climbed that 30-foot barrier due to trivial circumstances?

As the son of a father who escaped violent threats in his home town as a teenager and now a first-hand witness to these stories, I can assure you that these people that I care for are searching for the same things that my parents did and that we all do: safety, security and a chance for a better life for their children.

CONCLUSION

Ultimately, these raised border walls have resulted in a record number of traumatic injuries, increased severity and mortality, and increased economic burden to our hospital systems.

As a neurosurgeon, I must reveal this untold human suffering and strain on financially-strapped hospital systems to our Nation. I fear this trend will only get worse without any current system in place to analyze the full extent of the humanitarian and economic costs of border infrastructure policies to help determine sensible alternative solutions.

Thank you to both subcommittees for inviting me to testify today, and I hope the subcommittees do all within their power to recognize the harms of the border wall on human lives and our hospital systems.

REFERENCES

Marshall WA, Bansal V, Krzyzaniak A, et al. Up and over: consequences of raising the US-Mexico border wall height. *J Trauma Acute Care Surg.* 2023; Publish Ahead of Print. *https://pubmed.ncbi.nlm.nih.gov/36972427/*

Liepert AE, Berndtson AE, Hill LL, et al. Association of 30-ft US-Mexico Border Wall in San Diego With Increased Migrant Deaths, Trauma Center Admissions, and Injury Severity. *JAMA Surgery.* Apr 29 2022;doi:10.1001/jamasurg.2022.1885 *https://pubmed.ncbi.nlm.nih.gov/35486395/*

Tenorio A, Brandel MG, Produturi GR, et al. Characterizing the frequency, morbidity, and types of traumatic brain injuries after the Mexico-San Diego border wall extension: a retrospective cohort review. *J Neurosurg.* 01 Feb. 2023 2023:1–6. doi:10.3171/2023.1.Jns221859 *https://pubmed.ncbi.nlm.nih.gov/36806495/*

Tenorio A, Brandel MG, Produturi GR, et al. The impact of the Mexico-San Diego border wall extension on spine injuries: a retrospective cohort review. *J Travel Med.* 2022;29(7)doi:10.1093/jtm/taac112 *https://pubmed.ncbi.nlm.nih.gov/36165623/*

Tenorio, A. Brandel, MG. Produturi, GR. et al. Novel association of blunt cerebrovascular injuries with the San Diego-Mexico border wall height extension. *World Neurosurg.* Published on-line July 5, 2023. doi: *https://doi.org/10.1016/j.wneu.2023.06.127. https://pubmed.ncbi.nlm.nih.gov/37419313/*

Polmear MM, Nicholson TC, Blair JA, Thabet AM, Adler AH, Rajani R. Injuries sustained with falls from height in crossing the United States-Mexico border at a level I trauma center: a prospective cohort study. *JAAOS Glob Res Rev.* 2023;7(6). *https://pubmed.ncbi.nlm.nih.gov/37285513/*

Chairman HIGGINS. Thank you, Dr. Tenorio.

Members will be recognized by order of seniority for 5 minutes of questioning. An additional round of questioning may be called after all Members have been recognized.

I now recognize myself for 5 minutes of questioning.

Mr. Johnson, you stated you had massive piles of rock and gravel and material. I am not talking about the steel, I am talking about massive piles. Describe what you mean by that.

Mr. JOHNSON. Thank you for the question, Chairman Higgins.

In a portion of the area where the border wall was constructed on our ranch was through a slightly mountainous area, and so the mountains had to be taken down to certain grades to accommodate the wall. In doing so, all that rock was taken and piled up, but rather than wasting that rock they were going to crush that rock

into using on the all-weather access roads that were to be constructed.

Chairman HIGGINS. Understood. It was byproduct of of the construction effort. Give us an idea, when you say massive, the size of a suburban or the size of this committee hearing room?

Mr. JOHNSON. Probably two to three times the size of this room, sir.

Chairman HIGGINS. OK. There you go. So America can get an idea. It is on a man's private land. It is left behind by the Government. You are not going to clear that with a shovel and a wheelbarrow.

Mr. JOHNSON. No, sir. Mr. Higgins, if I may, that is on Bureau of Land Management land, but we own the lease of that land.

Chairman HIGGINS. Oh, I understand.

Mr. JOHNSON. It's not private property.

Chairman HIGGINS. But certainly it is not usable.

Mr. JOHNSON. Correct.

Chairman HIGGINS. Right. Are you being compensated at all for the materials left behind, including the steel and anything else?

Mr. JOHNSON. No, sir, not compensated. Like I mentioned in my testimony, we've never been reached out to by any Government entity regarding this project. It's always been us reaching out to them.

Chairman HIGGINS. Have you invoiced the Government?

Mr. JOHNSON. No, sir.

Chairman HIGGINS. I suggest that you do. I would like to see us discuss that in appropriations.

Tell us about the steel, Mr. Johnson. When you say that you have—you described it in your opening statement, but tell us how much steel has been left behind.

Mr. JOHNSON. I haven't gone out and actually counted it, just because of the vast quantities of it. But in the pictures that were up here a minute ago was the section that is on our property. It's probably more than enough panels to fill that ¾-mile gap. Then the storage yard on our neighbor's ranch has probably 3 to 4 times that in panels.

Chairman HIGGINS. By your observations, the steel, how would you grade the quality of that steel?

Mr. JOHNSON. This grade A top American made steel. When it was brought in for fabrication, it was brand new, hot off the presses.

Chairman HIGGINS. You were a border agent at one time, sir?

Mr. JOHNSON. Yes, sir.

Chairman HIGGINS. You recall the original wall construction, those sections made from surplus DoD panels from the Vietnam era?

Mr. JOHNSON. Yes, sir.

Chairman HIGGINS. So relative to that, what my colleagues have said, old technology and physical barriers as a concept for security shouldn't be quantified as old or new. It is a moving target. Would you describe this steel that is left behind as modern steel and robust steel as compared to the old steel that you that you witnessed and encountered when you were a border agent, the original wall?

Mr. JOHNSON. There's truly no comparison. Those bollard wall square tubings are half an inch thick with two joints of rebar and filled with concrete. There's absolutely no——

Chairman HIGGINS. Are you familiar with the concrete that we had anticipated filling those bollards with?

Mr. JOHNSON. In what sense, sir?

Chairman HIGGINS. The kind of sense I can't even explain to you right now.

So you have traveled a long way, and I want to acknowledge, Mr. Johnson, that you have dedicated a great deal of personal time to get here and we thank you for that.

I would like to close by just asking Mr. Vitiello, you had three significant leadership roles in the Department of Homeland Security. How do you think things are going down there?

Mr. VITIELLO. Well, we're in the middle of the worst border crisis than we've ever seen. This administration chose to make incredibly bad choices about the policies that exist at our border today versus what they inherited. Just as an example, illegal migration along the Southwest Border when this President took over was at 45-year lows. Now we're seeing the worst surge ever. Even at half as what it was before Title 42 ended, it overwhelms the system that exists.

Chairman HIGGINS. My time has expired.

I thank the panelists. I recognize the Ranking Member for a questioning.

Mr. CORREA. Thank you, Mr. Chairman. I also want to thank the panelists for traveling far to be with us today. It is important that we, as policy makers, are informed of what is going on out there. So thank you for being here today.

Start out with Dr. Tenorio, San Ysidro area. Last time I was out there, I believe I counted three walls. How many walls do you have out there?

Dr. TENORIO. From my understanding, currently there's an 18-foot barrier and there's a 30-foot barrier that was also constructed afterwards.

Mr. CORREA. Those have been there for a while and yet you still have these issues of people trying to cross, crossing and major injuries resulting?

Dr. TENORIO. Correct. So the border walls were—the construction was ended in the year 2019, at the end of 2019. So all of our studies and research shows that after that, meaning starting in 2020, we started seeing these record number of traumatic injuries. As a neurosurgeon I treat some of the most devastating injuries to the brain and the spinal cord and even the brain's blood vessels. A lot of these injuries, of course, we started seeing them after it was raised.

Mr. CORREA. Mr. Chairman, I would like to submit for the record, 20 minutes ago, CBP just released their June 2023 monthly update. I would like to submit that for the record.

Chairman HIGGINS. Without objection.

[The information follows:]

CBP Releases June 2023 Monthly Update

Statistics show lowest Southwest border encounters since February 2021

WASHINGTON.—U.S. Customs and Border Protection (CBP) today released operational statistics for June 2023, which show a significant and continuing decline in migrant encounters along the Southwest border as well as successful drug interdiction efforts resulting from new enforcement initiatives. CBP's total encounters along the Southwest border in June were the lowest in over 2 years, dropping nearly a third from May.

"Our sustained efforts to enforce consequences under our longstanding Title 8 authorities, combined with expanding access to lawful pathways and processes, have driven the number of migrant encounters along the Southwest Border to their lowest levels. in more than 2 years. We will remain vigilant," said Troy A. Miller, CBP Senior Official Performing the Duties of the Commissioner.

"As our June statistics show, CBP's mission is vast, and thanks to the dedication of our personnel and Federal partners, we are delivering results that keep the American people safe: ensuring border security, seizing drugs, stopping the flow of illicit weapons, rescuing people in distress, facilitating lawful travel and trade, and stopping the entry of harmful agricultural pests."

Below are key operational statistics for CBP's primary mission areas in June 2023.

Ensuring Border Security and Effectively Managing Migration

CBP is processing all migrants under Title 8 immigration authorities, and generally placing individuals who cross the border unlawfully into Expedited Removal or Section 240 Removal Proceedings. Noncitizens who cross between the ports of entry or who present at a port of entry without making a CBP One appointment, are subject to the lawful pathways rule, which places a condition on asylum eligibility for those who fail to use lawful processes, with certain exceptions.

In June—the first full month since the lifting of the Title 42 Public Health Order—the U.S. Border Patrol recorded 99,545 encounters between ports of entry along the Southwest Border: a 42 percent decrease from May 2023. Total Southwest Border encounters in June, including individuals who presented at ports of entry with or without a CBP One appointment, were 144,607, a 30 percent decrease from May 2023. These are the lowest monthly Southwest Border encounter numbers since February 2021.

People who made the dangerous journey to cross the Southwest Border unlawfully have died of dehydration, starvation, and heat stroke. Smuggling organizations abandon migrants in remote and dangerous areas. To prevent the loss of life, CBP initiated a Missing Migrant Program in 2017 that locates migrants reported missing, rescues individuals in distress, and reunifies decedents with their families in the border region. In June 2023, the U.S. Border Patrol conducted nearly 1,700 rescues, bringing the total number of rescues in fiscal year 2023 from 24,056 at the end of May to 25,735 at the end of June.

Safeguarding Communities by Interdicting Dangerous Drugs

CBP continues to interdict the flow of illicit narcotics across the border. CBP has significantly increased non-intrusive inspection scanning capabilities and forward-operating labs to swiftly identify suspected drugs and recognize trends. CBP has found packages of narcotics in roofs, floorboards, door panels, bumpers, tires, gas tanks, car batteries, seats, speaker boxes, false floors, drones, and more.

Nation-wide in June, seizures of cocaine, methamphetamine, heroin, fentanyl, and marijuana (combined, by weight) increased 7 percent from May. To date in fiscal year 2023, CBP has seized more than 22,000 pounds of fentanyl—compared with 8,300 pounds over the same period in fiscal year 2022.

To disrupt supply chains used in the development and movement of fentanyl, CBP launched two new interagency operations in June: Operations Artemis and Rolling Wave. A parallel intelligence and analysis operation, Operation Argus, is providing trade-focused analysis. These efforts build on the success of Operations Blue Lotus and Four Horsemen, which seized nearly 10,000 pounds of fentanyl.

Operation Artemis began on June 5 and has made over 130 seizures, which include:

- 21 pill presses and 54 pill molds
- More than 5,000 pounds of precursor chemicals
- More than 300 pounds of methamphetamine
- And over 5,000 pounds of other drugs.

The U.S. Border Patrol is concurrently running Operation Rolling Wave, surging inbound inspections at Southwest Border checkpoints. This operation has seized:

- More than 1,500 pounds of fentanyl
- More than 1,000 pounds of cocaine
- More than 8,000 pounds of marijuana
- More than 6,500 pounds of meth.

Under Operation Blue Lotus 2.0, which launched on June 12, CBP and HSI have also continued to surge resources to Ports of Entry, where 90 percent of fentanyl is trafficked primarily in cars and trucks. This operation has seized over 1,500 pounds of fentanyl and over 23,000 pounds of other narcotics like cocaine, methamphetamines, and heroin.

Facilitating Lawful Trade and Travel and Promoting Economic Security

To improve the traveler experience while maintaining the highest levels of security, CBP has increased the deployment of technology that provides a more seamless and faster entry into the United States by air, land, and sea. In June, CBP announced the deployment a new Electronic System for Travel Authorization mobile application. CBP continues to improve the travel experience and reduce wait times while enforcing over 400 laws for 40 other agencies and stopping thousands of violators of U.S. law.

Travel volumes continue to rebound globally from pandemic lows. Travelers arriving by air into the United States increased 20 percent from June 2022 to June 2023, and pedestrians arriving by land at ports of entry increased 12 percent over the same period. Passenger vehicles processed at ports of entry increased 11 percent and commercial trucks increased 2 percent from June 2022 to June 2023.

CBP works diligently with the trade community and port operators to ensure that merchandise is cleared as efficiently as possible, and to strengthen international supply chains and improve border security. In June 2023, CBP processed more than 3.1 million entry summaries valued at more than $278 billion. CBP identified an estimated $7 billion of duties to be collected by the U.S. Government. In June, trade via the ocean environment accounted for 39.5 percent of the total import value, followed by air, truck, and rail.

CBP One App

The CBP One mobile application remains a key component of DHS efforts to incentivize migrants to use lawful and orderly processes and disincentivize attempts at crossing between ports of entry. In June, more than 38,000 individuals who scheduled appointments through the CBP One app were processed at a POE.

Since the appointment scheduling function in CBP One was introduced in January through the end of June, more than 170,000 individuals have successfully scheduled appointments to present at a POE using CBP One. The top nationalities who have scheduled appointments are Haitian, Mexican, and Venezuelan. Beginning on July 1, CBP announced the expansion of available appointments for noncitizens through the CBP One app to from 1,250 to 1,450 per day.

Protecting Consumers and Eradicating Forced Labor from Supply Chains

CBP continues to lead U.S. Government efforts to eliminate goods from the supply chain made with forced labor from the Xinjiang Uyghur Autonomous Region of China.

In the year after the agency began implementing the Uyghur Forced Labor Prevention Act on June 21, 2022, CBP has reviewed a total of nearly 4,300 shipments valued at nearly $1.4 billion. In June 2023, CBP stopped 405 shipments valued at more than $239 million for further examination based on the suspected use of forced labor.

Intellectual property rights violations continue to put America's innovation economy at risk. Trade in counterfeit and pirated goods threaten the competitiveness of U.S. businesses, the livelihoods of American workers, and the health and safety of consumers. In June, CBP seized 1,709 shipments that contained counterfeit goods valued at more than $120 million.

Defending our Nation's Agricultural System

Through targeting, detection, and interception, CBP agriculture specialists work to prevent threats from entering the United States.

In June 2023, CBP issued 5,400 emergency action notifications for restricted and prohibited plant and animal products entering the United States. CBP conducted 97,101 positive passenger inspections and issued 678 civil penalties and/or violations to the traveling public for failing to declare prohibited agriculture items.

CBP

U.S. Customs and Border Protection is the unified border agency within the Department of Homeland Security charged with the comprehensive management, con-

trol, and protection of our Nation's borders, combining customs, immigration, border security, and agricultural protection at and between official ports of entry.

Mr. CORREA. The number showed lowest Southwest Border encounters since 2021, February, 2021. In June, the first full month since the lifting of Title 42, the U.S. Border Patrol recorded 99,545 encounters between ports of entry along the Southwest Border. That is a 42 percent decrease from May 2023. Total Southwest Border encounters in June, including individuals who presented at ports of entry were 144,000, about a 30 percent decrease from May 2023. These are the lowest monthly Southwest Border encounters since 2021. I would like to present this for the record.

Mr. Johnson, if I can turn to you, sir. First of all, I want to say that you and your family should not be living in fear. You should not have those metal items left on your property, whether it is your private property or lease. Just unacceptable. How long did you say, Mr. Johnson, that you have been living there your family?

Mr. JOHNSON. I was born and raised there, but I've been back since 2016 when I left the Border Patrol.

Mr. CORREA. So generationally you have been there for—you were born there so you have been there how many—your family how many years?

Mr. JOHNSON. We've been there for 105 years this year. I'm the fourth generation.

Mr. CORREA. When you were in CBP in El Paso, you are green or blue uniform?

Mr. JOHNSON. Green.

Mr. CORREA. Green uniform, OK. I am trying to, in my mind, trying to figure out what is going on in that area. Was it this unsafe 100 years ago?

Mr. JOHNSON. That's kind-of a catch 20–20 on that question. The dynamic——

Mr. CORREA. Would you feel less safe today than your family did 50 years ago?

Mr. JOHNSON. The demographic of the people crossing today versus 20, 50 years ago is completely different. Twenty, 50 years ago, the people crossing were legitimately trying to look for a better way of life. That's not——

Mr. CORREA. Legitimate, undocumented, looking for a job.

Mr. JOHNSON. Right.

Mr. CORREA. Today you have those refugees, you have others that maybe are not?

Mr. JOHNSON. We don't have any refugees coming through in our area. These people are all wearing camouflage, concealing their footprints with booties. They do not want to be apprehended. They do not want to be part of the system. They're trying to slip through the cracks.

Mr. CORREA. I would probably say there are probably some there also that have been pushed in your area given other activities along the Southern Border. So I think you are kind-of bearing the brunt of a lot of things converging on your area of the country, I believe. Would you say that is possibly true?

Mr. JOHNSON. To the best of my knowledge, sir, we're the first gap in the wall coming west out of El Paso, Texas, which is about

90 miles from us. So I would say, yes, we're catching a lot of the extra activity that's being diverted around the wall.

Mr. CORREA. Thank you.

I don't have a lot of time left here, 25 seconds, but I just want to say that—I want to thank you for being here. Again, I just think our policies need to be designed to make sure that as we try to address these management issues at the border, people like you are not put in harm's way, so to speak. My earlier testimony was directed really at trying to make the point that we got to work with a whole lot of other factors, a lot of other solutions, a lot of other governments too, and try to make sure we are addressing these issues. I think that you are here, you made the trip to testify, and I bet you there are folks out there that are also in your situation that couldn't afford to be here today to tell us what is going on. A lot of those people are north of the border and south of the border. Public safety, I think, is an issue that is relevant to all of us, north and south of the border and other regions of the world. So, got to work together to make sure Johnson families, your challenges are addressed.

Thank you, Mr. Chairman, and I yield.

Chairman HIGGINS. The gentlemen yields.

I recognize Chairman Bishop for questioning for 5 minutes.

Mr. BISHOP. Mr. Johnson, since the Biden administration ordered a stop to the border wall construction that was in process, as you have described, what has the Biden administration done to protect you from the consequences that you have described?

Mr. JOHNSON. In our area, the only thing that has changed is there's been one of the fixed integrated camera towers put in and then they're also discussing putting in a rescue beacon on our ranch that will help migrants that they get lost and give up. They can push a button on this rescue beacon. But I'm not quite sure what that has to do with border security.

Mr. BISHOP. How has that helped you?

Mr. JOHNSON. It has not.

I was interested, would you elaborate a little bit more? You said the people who come across are in camo?

Mr. JOHNSON. Yes, sir. It literally looks like a military invasion in the sense that they're all wearing the same camouflage, the same boots, the same backpacks, the same booties to conceal their foot tracks. They do not want to be caught.

Mr. BISHOP. Is this something that has happened only once or twice, or is it a pattern?

Mr. JOHNSON. It's a pattern that started probably in the last, probably about 8 years.

Mr. BISHOP. Whose responsibility is it to protect you from that?

Mr. JOHNSON. Last I thought it was the U.S. Government.

Mr. BISHOP. Why should you be subjected to that kind of invasion across your private property simply because you live and own property at the border of the United States?

Mr. JOHNSON. I thought I should feel just as safe and secure 300 miles inland than where I'm at 3 miles off of the border where my house is located.

Mr. BISHOP. Folks have opined on this panel, these guys up here are all experts you know, that that border walls, barriers don't work.

Mr. Vitiello, do they work? You seem to have had a fair amount of experience with that.

Mr. VITIELLO. They absolutely work. Anybody that's been in the Border Patrol for more than 5 minutes knows that it's much easier to control an area when you have a barrier technology and a sufficient number of agents, plus access to the border to make it more secure. It provides an anchor for those agents to patrol and control area much more efficiently, much more effectively, and safer.

Mr. BISHOP. So how do these folks come up with this, or where is the expertise these folks are drawing on when they keep telling us border walls don't work?

Mr. VITIELLO. I'm here to tell you that they do work. Spent a lot of time setting requirements, watching how it works, talking to agents, did a lot of planning around how we were going to protect that border and they absolutely work.

Mr. BISHOP. So you have witnessed that they work to help interdict people who are crossing illegally. How about effects on communities adjacent to the border wall?

Mr. VITIELLO. So it's a good question.

So it's an anchor for all of the things you must do to control the border. You said earlier about overlapping deterrence. That's a good phrase for it. There is a particular community near San Ysidro, Chula Vista. Back in the 1990's, before the national strategy and what Border Patrol was trying to elaborate across the Southwest Border, that was a lawless area. They had a chain link fence. It has been described by reporters, it was so badly overrun that it looked like a hammock. Just north of that area of the border was a no man's land. It was a big open area where nobody wanted to be. When the sun went down, bad things happened inside of that small canyon.

After 1994, the initial fence that was talked about, the Vietnam landing mat, done by Border Patrol, very DIY project, but immediately after that barrier was installed, people started investing in that area just north of the border. Right now, if you go to that area, it has some of the best strip malls, outlet malls, restaurants, and homes that are worth multi-million dollars just north of the U.S.-Mexico border. Twenty-five years ago people would not go anywhere near that place when the lights were off, when the sun went down, and now it's one of the best neighborhoods in the region.

Mr. BISHOP. Mr. Johnson's family might be envious of that.

Mr. De Sotle, what are the consequences for your business, for your family, of the Federal Government's unbelievably reckless means of curtailing this construction, ending this construction?

Mr. DE SOTLE. Thank you.

The impacts have been primarily financial, stress-related as well. It's put a significant financial burden on our business. So we have, you know——

Mr. BISHOP. Are you going make it or are you going to fail?

Mr. DE SOTLE. Well, I never like to quit. I like to think that we will make it. It's not easy, though. But the reality is right now, it's fairly complicated. Our financial situation is fairly complicated. Ac-

tually involves the Federal Government and involves a Main Street loan, which is very difficult to deal with. The Main Street loan is not something I can go and renegotiate like I could have at a bank. So my debt is with the Federal Government, which does not allow me to renegotiate. So it's not going to be easy to make it to be quite honest. Yes that's the honest truth.

Mr. BISHOP. God bless you, sir.

Mr. Johnson your family as well. My sympathies are with you. My time has expired.

Chairman HIGGINS. The gentleman yields.

Ranking Member Ivey is recognized for 5 minutes.

Mr. IVEY. Thank you, Mr. Chairman.

I did want to follow up on Mr. Correa's point with respect to the new information that just came from CPB, that in the new numbers for June 2023, 144,607, looks like that is roughly—I guess in May 2019, the number was 144,116. So I guess it is comparable to where it was during that time in the Trump administration.

I also want to mention, just ironically, this morning I mentioned my appreciation for the Chair's comments and mentioned that, yes, working together is a good thing. let's see if we can do that. Then I stopped by my office a few minutes ago and I got an article from, looks like the *Daily Caller,* Jennifer Taer. It says, exclusive House GOP is about to drop a massive report alleging that Biden's DHS chief broke the law. I guess this is a build on to the 55-pager that we got. The morning it was released a few weeks ago, the Chairman, Chairman Green, the full committee Chairman, goes through and discusses what is in it and, you know, the dereliction of duty claims and the like. I guess this is more efforts at the trying to push this toward the effort to impeach the Secretary. I don't know who has filed which articles of impeachment for who over there, but this is kind-of the same thing I was talking about a few minutes ago.

So, Mr. Chairman, I appreciate the way you have run this hearing, I really do, but there is a context to this, and that is kind-of a disappointing piece.

Mr. Vitiello, I have got, what is this, NeoKlanist party? I guess this isn't new to you. I guess Senator Peters questioned you about this previously. Apparently, this is a statement that you made on a social media platform. Is that right?

Mr. VITIELLO. It was brought up during the confirmation hearing for the ICE director position before the vote at the committee in which I got bipartisan support. Yes, it was brought up then.

Mr. IVEY. OK, I mean, what does that even mean? What are you saying with a comment like that?

Mr. VITIELLO. My statement is on the record at the hearing. I thought I was making a private communication with an entertainment show. I was wrong about that. That was a public tweet. It was my novice ability of using Twitter back then. I apologized to the committee at the time and said I meant no offense to anyone, and we left it there.

Mr. IVEY. Well, look, I mean I appreciate the fact that you thought it was a private comment, although I can't say I find that particularly reassuring, the fact that you would——

Mr. VITIELLO. It was based on the context that was in the program.

Mr. IVEY. What program was that?

Mr. VITIELLO. It was the Mark Levin show.

Mr. IVEY. OK, I am not really familiar with that, so I guess I will leave it alone. But I will move on.

I want to say this to Mr. De Sotle. I apologize if I mispronounced your name. I was studiously saying LoneStar earlier in the hearing, so I wouldn't mess it up. But as I said earlier, I don't know if you were in the room or not, but I really think it is important—And I guess this would apply to you too, Mr. Johnson, that the Government takes steps to make sure that you are made whole as much as possible. I find your scenario particularly troubling because you are a business trying to act in good faith, contract with the Government through a prime contractor, but that really shouldn't expose you to the type of scenarios that you have described here today. So I do hope that steps will be taken to address that, and we should be getting a response from the Army Corps. That was promised to us.

Mr. Johnson, I am not as clear on what to do for you. I don't know if that is an Army Corps deal or not, but I do hope that we can try and take steps to address what has happened with you.

But, look, this is real people, real businesses getting caught in the crossfire, political disagreement in Washington, DC. That is unfortunate that you are in the middle of that. I don't agree with the desire to spend whatever that number was—I think it was $22 billion to build 900 more miles of wall, because I think there are more effective and efficient ways to protect the border. My colleagues over here disagree. Let's shake it out. But I don't like having civilians get caught in the crossfire. So whatever we can do to try and correct this, I will work with whoever wants to do it to try and make it happen.

So with that, I yield back.

Chairman HIGGINS. The gentleman yields.

The gentlewoman from Georgia, Ms. Greene, is recognized for questioning.

Ms. GREENE. Thank you, Mr. Chairman.

Mr. Vitiello, I would like to thank you for your service as our former U.S. Border Patrol chief. I really appreciate the job you did there. I would like to apologize to you on behalf of the committee for the accusation that just came against you. You were confirmed in a bipartisan Senate, so just wanted to extend that to you.

Mr. VITIELLO. Thank you very much. I had a good run in Government. Got cleared through the committee and was very close to a full confirmation. So, thank you.

Ms. GREENE. Yes.

Also, I would like to point out, it was said on this committee earlier that the border wall was an anti-American movement. That was said by a Democrat Member earlier. I think that is an egregious thing to say. The border wall was being built to protect our country, protect our border, help our Border Patrol agents. I think the most anti-American moment in this country was when a giant fence was erected around the Capitol and left there for months. Our U.S. military was brought in and forced to sleep on the floor

in parking garages for months at a time. I think that is an anti-American moment. But I will move on.

The CBP One app——

Mr. IVEY. Will the gentlelady yield?

Ms. GREENE. No, she will not. I will not.

Mr. IVEY. All right.

Ms. GREENE. CBP One app is now allowing the orderly invasion of 1,500 illegal aliens per day into our country. This is a serious problem.

Mr. Johnson, as you live, you said, is it 3 miles from the border?

Mr. JOHNSON. Yes, ma'am.

Ms. GREENE. Has the CBP One app, with its orderly invasion, sending people to ports where they can make an appointment in their convenient time and choose a port of entry where they show up and then they are allowed to come into the United States at the expense of the United States taxpayer, has this slowed down or stopped people from crossing the border and coming onto your land?

Mr. JOHNSON. I can't speak to how the apps really helped because up until just a few months ago I wasn't even aware of this, but we still have traffic coming through. It has slowed since Title 42 was lifted, but it has never stopped completely.

Ms. GREENE. So it has never stopped. So people are still crossing the border illegally onto your land.

This headline, I read it on our earlier panel, DHS Announces Steps To Protect Border Communities From Wall Construction. This was an actual headline from 2021, April 30, 2021. Did the wall construction or the border wall, did you feel threatened? Was your safety threatened by the wall?

Mr. JOHNSON. It was quite the opposite. We were so glad to see it. It was, like I say, an answer to our prayers because that was going to be some safety and security we had never seen before.

Ms. GREENE. That is what I thought. It seems like it was a very good thing. It was actually helping.

We had a Democrat amendment on this committee to disarm Americans 200 miles into the United States, taking away their guns. That would be you, it would take away your guns if that were to make law. Do you think taking away your guns would help keep you and your family safe from the people that are constantly invading, coming across the border onto your land? Would taking away your guns help keep you safe?

Mr. JOHNSON. Absolutely not. In our area, we are so rural, the only law enforcement we have is Border Patrol. Sheriff's departments stretch thin, response times are well over an hour. You have to rely on yourself for your own safety.

Ms. GREENE. So the Second Amendment, your right to bear arms, is your first line of self-defense?

Mr. JOHNSON. It's not just a luxury, it's a necessity.

Ms. GREENE. Thank you, Mr. Johnson.

In my district, Georgia's 14th District, which is in northwest Georgia, this is far away from Texas, far away from the border, the fentanyl-involved deaths in Georgia alone, have increased by over 230 percent, but in my district, fentanyl-involved deaths have increased by over 350 percent. This looks to be—it has to be a direct

result of the Biden administration's policies. You can't help but to wonder what would it be like in my district? What would it be like in Georgia? What would it be like in the rest of the country if 300 Americans weren't dying every single day from fentanyl?

So Mr. Vitiello—I am sorry if I keep saying it wrong, I apologize—would it be fair to describe the border wall, had it been completed, or at least what we have, as a force multiplier for Border Patrol in areas where it was installed?

Mr. VITIELLO. One hundred percent. Where you have that barrier, you have an anchor for all of the technology and all of the operations that need to occur in that place in the world. So when you control that area, that gives agents more opportunity to find and rescue people that are in distress, to find and rescue people who are being trafficked, to stop fentanyl from coming into the United States. It's a terrible situation that we're in.

We talked a little bit about smuggling through these areas. All smuggling is organized, whether it's narcotics or people. These cartels are being enriched because the pipeline that was opened up at the beginning of this administration is still open, regardless of CBP One, regardless of the number of people, the reduced apprehensions, the reduced encounters. There's still thousands and thousands of people coming to the border every 24 hours. Having the right kind of infrastructure, having enough and sufficient agents, well-trained, and having the technology to support them is still important and always will be.

I did this work for a long time. The American people have demanded a secure border in—for the entirety of my career, most acutely after 9/11, but that desire still continues, and it hasn't been addressed in a sufficient way. There was a lot of progress made in the last administration. That's all been ripped down now.

Ms. GREENE. Thank you.

I yield, Mr. Chairman.

Chairman HIGGINS. The gentlewoman yields.

The gentlewoman from New York, Ms. Clarke, is recognized for 5 minutes.

Ms. CLARKE. Thank you, Mr. Chairman.

I want to yield some time to the Ranking Member of the O&I Subcommittee.

Mr. IVEY. Thank you, ma'am.

I just had two quick comments. One was it was surprising for me to hear that suggestion that putting up a fence around the Capitol after the invasion and raid that led to the deaths of several police officers was more dramatic or less dramatic than the actual invasion itself.

Ms. GREENE. Walls work, apparently.

Mr. IVEY. Hopefully we——

Ms. CLARKE. Reclaiming my time. The time is for Mr. Ivey, not Ms. Greene.

Mr. IVEY. Yes, hopefully we don't have Sinaloa trying to come into the Capitol. But what we had happen on January 6 was sufficiently bad. I appreciate the Department of Justice prosecuting the 700-plus that have done so, so far.

I yield back.

Ms. CLARKE. My question is actually for Dr. Tenorio. Migrants who cross the Southwest Border in search of a better life in the United States face a perilous journey across rocky and dangerous terrain. All too often, Border Patrol agents find migrants who have been injured, dehydrated, or even drowning in the rivers along the journey. But just as dangerous are attempts to climb and breach the border wall, particularly since the Trump administration increased its height. The walls, no matter the height, do not deter migrants, they simply make it more deadly in their attempts to cross.

So Dr. Tenorio, can you describe the nature of the injuries you have seen in your time at UC San Diego hospital and how increasing the height of the border will increase the number of fatal or near-fatal accidents?

Dr. TENORIO. Thank you for the question.

So as a neurosurgeon I see some of the most devastating neurological injuries to the spine and the brain, which as I mentioned often require life-saving treatment. Since the border wall is raised, from our research and what I've observed at the hospital, taking trauma call at this trauma center, there have been a record number of spine injuries. They've increased five-fold since the border wall was raised.

Now, more alarmingly, there has been an increase in the amount of brain injuries, and now we're seeing even injuries to the brain's blood vessels. Now, let me say that with these brain injuries and brain blood vessel injuries, we don't see these unless they're suffering from high-impact trauma. A lot of these patients, that doesn't get captured in the fatality rate or the mortality rate, are these are devastating injuries, so these patients often can't—you know, no longer interact with their family. So they're not counted as a fatality, but again, they're left without being able to interact with their families or unable to walk. You know, they can't support their families anymore.

Now, going to the mortality aspect, as I mentioned in my opening statement, there were zero instances of fatalities after border falls. Now, after the border wall was raised, there's been 16. Now, let me mention that this only captures a fraction of what's going on, because these are only fatalities that are recorded or captured, but I'm sure there's more that are happening that we don't know about either.

Ms. CLARKE. Well, I think, Doctor, we have really got to find a way to address what has become a challenge to our Nation and to those migrants who are seeking a better life. Certainly climbing a border wall only to drop to your death or to a brain injury is not what they had in mind. They just wanted some freedom.

With that, Mr. Chairman, I yield back.

Chairman HIGGINS. Th gentlewoman yields.

The gentleman from Mississippi, Mr. Ezell, is recognized for 5 minutes.

Mr. EZELL. Thank you, Mr. Chairman.

Mr. Johnson, during my first few months in office I visited the border and saw first-hand the impacts of the Biden administration's refusal to resume border wall construction. In front of the mile-long gaps in our border system, there is steel that is literally

rusting away. You said the Federal Government is treating your land like a warehouse because of canceled border wall contracts. Have these abandoned construction materials impacted your ranching business?

Mr. JOHNSON. The areas where these materials are located are impacting us minimally in the sense of like cattle grazing, but it's more aesthetically displeasing. But it's more troublesome that it's sitting there on the ground instead of up in the air, serving its purpose as a wall.

Mr. EZELL. What is the Government telling you about the steel bollards they left on your ranch? What are they telling you about it?

Mr. JOHNSON. There's been zero contact about any plans for removal. What we've heard is just from contractors in passing saying that it's going to be hauled off for scrap.

Mr. EZELL. So the Government hadn't contacted you, said anything?

Mr. JOHNSON. No, sir.

Mr. EZELL. Mr. De Sotle, if that is how I pronounce your name, details surrounding the cancellation of contracts have not yet been disclosed. But it is our impression that the Government intends to continue the terminations for convenience. Can you talk about what the impact has been on your company while being on standby, waiting for the resolution? How did these additional costs add up?

Mr. DE SOTLE. So the additional costs were in excess of almost $1.5 million dollars that we had to absorb as part of our business. So that was capital outlay at a time when—if you remember this is during COVID, so our industry was impacted fairly significantly and the border wall as I mentioned earlier was our first foray into heavy civil. So this was a line of business that we're looking to go into. We were actually excited when we got the contract because we assumed that this was actually going to help through COVID. It was something that was going to continue to be operational. So the impact has been significant. I'm not going to sit here and lie. It's not been the only impact. I'm not going to tell you that either. However, it has not helped at all.

The most concerning thing for me was the lack of communication. The Federal Government simply can ignore you. They can ignore me whenever—you know, I can't invoice them. I have no recourse whatsoever. Even my prime had no recourse with the Federal Government. So that was what was most concerning. The Federal Government simply would not communicate.

Mr. EZELL. No engagement, No help, no anything.

Mr. DE SOTLE. No. I mean other than, quite frankly, Congressman Pfluger's office, there was no communication from the Government. Congressman Pfluger's office actually helped us through a lot of the difficulty, but—I mean there was no payment, but they helped to shepherd us in the right direction on many occasions.

Mr. EZELL. Is there any way to renegotiate a settlement?

Mr. DE SOTLE. We are currently—we finally got the audit completed. They're offering 50 cents on the dollar for our submission. So that is where we stand right now. So we are actually literally next week probably going to negotiation with the Army Corps of

Engineers. Then from there we'll see how that goes. It's gonna be back and forth, I'm sure, for quite a while.

Mr. EZELL. Please stay in contact with our office so that we can try to help you with this.

Mr. DE SOTLE. I appreciate that.

Mr. EZELL. With that Mr. Chairman I yield back.

Mr. DE SOTLE. Yes, I do appreciate it.

Chairman HIGGINS. The gentleman yields.

The gentleman from California, Mr. Garcia, is recognized for 5 minutes.

Mr. GARCIA. Thank you Mr. Chairman and thank you to our witnesses that are here.

I just want to also be clear. I think we have not heard real solutions along our border. I don't believe that our colleagues on the other side of the aisle have proposed real solutions. What we have had and what I have heard over the last few months are some really out there and crazy ideas. We have heard everything from invading northern Mexico to the assertion that we should be sending missiles into Mexico. A member suggested we should maybe build an alligator moat to protect the border along the Mexican border. Of course, Donald Trump famously said that maybe we should even be shooting migrants in the legs to stop them from coming over the border. So these are actually all ideas that have been brought forward to address our border crisis, all of which are incredibly inhumane.

But today I want to address some horrific news that is coming out of Texas. This has been reported by the *Houston Chronicle* about the Governor. Now, the Governor's border security initiative, according to the *Houston Chronicle,* has ordered State troopers in the Department of Public Safety to push small children and nursing babies back into the Rio Grande River. They have been told not to give them water, to these asylum seekers, even in extreme heat.

So I want to submit this article for the record. This actually just came out. I know it is getting a lot of attention. If I can please submit this article into the record.

Chairman HIGGINS. Without objection.*

Mr. GARCIA. So State troopers on this detail have raised concerns that the policies were over the line and inhumane. These are accounts from the State troopers in Texas. The individual reports themselves are horrific. A pregnant woman having a miscarriage was found late last month caught in a wire doubled over in pain. A 4-year-old girl passed out from heat exhaustion after she tried to go through it and was pushed back by the Texas National Guard soldiers. A trooper suggested that Texas had set "traps of razor wire wrapped barrels in parts of the river with high water and low visibility". A trap as we know isn't something that deters migrants; it is something designed to hurt animals.

I want to quote from this article directly. "The trooper's email sheds new light on a series of previously-reported drownings in the river during a 1-week stretch earlier this month including a mother and at least one of her two children who Federal Border Patrol agents spotted struggling to cross the Rio Grande on July 1st." It

*The information was not available at the time of publication.

continues, "According to the email, a State police boat found the mother and one of the children who went under the water for a minute. They were pulled from the river and given medical care before being transferred to EMS, but were later declared dead at the hospital. The second child was never found, the email said." Never found. Now, this is sickening, it is un-American, and Governor Abbott's stunts have consequences.

On another shift, medics said they found about 120 people camping out, including nursing babies and other young children, exhausted, hungry, and tired after a day where the temperature reached 108 degrees. Now, the medics were ordered to push these people back into the river. The medics said that this was, "Not the correct thing to do" and that it could have led to a risk of drowning or great injury. They were told to leave the area.

Now, these aren't reports, by the way, from activists or human rights groups, which could just be ignored by some, these are actually quotes and statements from front-line law enforcement officials that are working there along the border.

Another front-line law enforcement official said, and I quote: "I believe we have stepped over a line into the inhumane. We need to operate correctly in the eyes of God."

Now, the United States, as far as I am concerned, should not be leaving babies to die in the desert or forcing pregnant women back into rivers. We don't order our law enforcement officials to leave people to drown or die. We all want a secure and orderly border, but Governor Abbott's brutal orders aren't accomplishing that and that needs to be brought up today in this hearing. This conduct is disgusting and these issues around this incident should be brought forward into this committee to answer questions. That Governor needs to be held accountable.

I yield back.

Chairman HIGGINS. The gentleman yields.

The gentleman from Oklahoma, Mr. Brecheen, is recognized for 5 minutes.

Mr. BREECHEN. Thank you, Mr. Chairman.

So under the Trump administration, build a wall. Common theme, build a wall. Illegal immigration was at a 45-year low. Biden takes office. President Biden says, not another foot. We now have historic numbers of illegal immigration occurring at our Southern Border. It is not a coincidence. The thoughts on physical barriers go hand-in-hand with what we see as the consequence, the fruit of the decisions. Are you going to be serious about the rule of law, or are you not?

We talk about deaths. I think all of us, in our humanity, our heart goes out to people that undergo hardship, but where is the hardship coming from? What is causing people to drown as they cross the Rio Grande? It is because of a message that says our border is open, increases the number, increases those people that are drowning.

We talk about things that are happening, 18- to 45-year-olds, leading cause of death is fentanyl. That is happening now under the not-another-foot thought. What about human trafficking? What about the 85,000 children that we can't account for in the last 2 years? "Sound of Freedom" is a movie that is getting a lot of atten-

tion. We know that people, those single adults, are using children and they are sending them back across to bring across another single adult. We don't have any idea how many of these children are being utilized for a sex trade. I mean, that is the real tragedy of this, is that we are, by our dereliction of enforcing the rule of law, we are compounding the problems.

So, Mr. Tenorio, as the Democrat-invited witness to come before us who is contending—just to make sure I am understanding this—your contention is because people have fallen off the wall and you have, as a doctor, have seen more accidents and incidents, you are contending that that is justification for bringing down the wall. Am I understanding that correctly?

Dr. TENORIO. Let me clarify that for you, Representative. So I'm here as a neurosurgeon speaking on my experience as a neurosurgeon at a level one trauma center near the border. What——

Mr. GARCIA. Reclaim my time. But your contention is because of the incidents of the accidents, the wall should come down, they are causing more injury. Yes or no?

Dr. TENORIO. That is not my contention, no.

Mr. GARCIA. So you believe we should continue the wall construction?

Dr. TENORIO. You know, I came here,—I'm not a border policy expert, and that's outside of my expertise.

Mr. GARCIA. But I have heard you imply that because of people falling off the wall we should tear down the wall. I mean I have heard that implication. Am I wrong in understanding you?

Dr. TENORIO. I did not make that statement.

Mr. GARCIA. Is that your thought?

Dr. TENORIO. As I mentioned I'm not a border policy expert.

Mr. GARCIA. I think you are——

Dr. TENORIO. I came here as a neurosurgeon to speak on what I've seen at the hospital.

Mr. GARCIA. I understand. I have heard the implication. I think it is pretty clear to those of us that you don't support walls because people are falling off walls and they are getting hurt.

Here is where I want to go with this. For all of us, just make a sound judgment call, OK. Mr. Johnson, I read from 1918 your family has had a ranch, fourth-generation rancher. Same situation, except I live in Oklahoma. Nineteen-eighteen, my great-grandfather moved in and started a family ranch. I don't have to deal with what you have to deal with. I don't have to go climbing in the deer woods and worry about if I am out there deer hunting if I could be the one that could be the prey because somebody that is running a cartel ring could shoot me deer hunting on my own place. That is the kind of—what I understood from what you described, you deal with that. That is a sad reality.

I want to go back to this thought though. I mean if somebody cuts the fence and is stealing your cattle, I mean given what you described, they are not having to cut the fence to steal your cattle, and they slice their hand, should you be responsible for their medical bills?

Mr. JOHNSON. No, sir.

Mr. GARCIA. OK, so same train of thought. Airport parking has barriers around it. If somebody climbs over that wall and breaks

the law, is it my responsibility to be liable because that business owner was trying to protect my property? I mean, if somebody is trying to break into my home, should I tear the door down to make it easier for them the next time so they can come inside my door? Because we are talking about lawlessness. Our heart goes out to people that are harmed, but we are talking about people who are breaking the law. Someone said a while ago, they are just trying to get freedom. Then do it legally. Go through a port of entry. There are many people who do that.

With that, I yield.

Chairman HIGGINS. The gentleman yields.

The gentleman from Arizona, Mr. Crane is recognized for 5 minutes.

Mr. CRANE. Thank you, Mr. Chairman. Thank you to all the witnesses on our panel for coming today and testifying.

I want to start with Mr. Vitiello real quick. Sir, you and I, we are talking about similar things. You called it a security system, I was talking about overlapping deterrence. Either way, it is really the same thing, right? It is just multiple overlapping deterrents that work in conjunction to create the most security possible for whatever institution we are talking about, whether it is a country, a prison, a school, right?

Mr. VITIELLO. I agree with you.

Mr. CRANE. How long were you in the Border Patrol, sir? Was it 33 years?

Mr. VITIELLO. I wore the uniform for 33 years and I was in ICE for almost the last year I was in Government.

Mr. CRANE. You were a chief, is that correct, Mr. Vitiello?

Mr. VITIELLO. I was a chief in two locations on our Northern Border and in the Rio Grande Valley in Texas, and then I was chief at headquarters for a time.

Mr. CRANE. Sir, knowing what you know about border security, what does it make you think when you sit in this chamber and you hear individuals attacking one part of that security system or one of those deterrents, like the wall?

Mr. VITIELLO. It's a little bit frustrating. We should be agnostic about whether walls work or not. It's not a partisan issue. Walls work. Everybody that's been in the Border Patrol for more than 5 minutes recognizes it's easier to control a territory on the border when you have infrastructure that goes along with it. Not just wall. We talked about the comprehensive nature of it. I was thinking through this just a couple of minutes ago. We often talk in this chamber and others in this building about comprehensive immigration reform. Let's talk about comprehensive border security, which talks about our foreign relations overseas, which talks about what Mexico and Canada can do for us to help secure our border. Let's talk about what the State and locals can do and what communities can be active and talk about. Then you have to have physical infrastructure if you want to be successful, especially in the urban areas.

Mr. CRANE. Thank you, sir.

I want to transfer real quick to Dr. Tenorio. Doctor, thank you for coming. I also want to say thank you for your service. I was listening to your testimony, it must be really hard to watch somebody

a young kid or even a mom or a dad come in to your emergency room or your hospital and see a leg broken or a stress fracture a spinal injury or a TBI. Is it pretty pretty tough to watch that, sir?

Dr. TENORIO. Yes, it is. Thank you for the comment.

Mr. CRANE. Yes, sir. Doctor, I wanted to ask you, because I noticed you were getting teared up. I can tell that witnessing these injuries really affect you. But I did want to know, Doctor, have you ever seen an American who has overdosed on fentanyl? Have you ever had to treat one of those?

Dr. TENORIO. I have not had to treat one of those as of today, no.

Mr. CRANE. How about any of your colleagues? Any of your colleagues ever have to treat anybody that has overdosed on fentanyl?

Dr. TENORIO. Yes, they have. I haven't spoken to them about the specifics and what the experience is like though.

Mr. CRANE. OK. Doctor, do you know how many Americans every day—or I should say every year, are dying of fentanyl in the United States?

Dr. TENORIO. No, I do not.

Mr. CRANE. OK. It is about 70,000 right now.

Mr. CORREA. Will the gentleman yield?

Mr. CRANE. Yes. Go ahead, sir.

Mr. CORREA. I just want to say, Mr. Crane, totally agree with you in the fentanyl challenge. That is why we are trying to figure out the priorities in my mind right now. If we want to keep fentanyl out, you go work on, make sure our ports of entry are much more secure because that is where 90 percent of the problem is.

Mr. CRANE. OK, thank you, sir. I appreciate it.

Mr. CORREA. Thank you.

Mr. CRANE. I yield back—take my time.

The reason I am pointing it out, Mr. Ranking Member, is because obviously you guys called him here to talk about the injuries that he has witnessed from the extended height of our walls, right? But I want to point out, again, this is the Homeland Security Committee. Our primary job in this committee is to make sure that our Homeland Security units have the necessary resources, funding, and equipment to make sure that Americans are safe. So the doctor was talking about 16 people that he knows of that have died because they fell off that wall. That is horrible. That is horrible, Doctor. But since the Biden administration took office, Doctor, do you have any idea how many Americans have died because of fentanyl? I just gave you the 1-year number. Any idea how many have died in the 3 years?

Dr. TENORIO. I cannot speak to that, no.

Mr. CRANE. Three hundred thousand, Doctor. How would you like to treat one of those individuals? How would you like to break the news to those family members that—and I know you—I know you are a man, you have a heart. I could see that. But I am asking, do we care about those individuals as well?

Dr. TENORIO. Absolutely. As a physician, I took an oath to take care of every patient that comes to our hospital and I treat every patient the same.

Mr. CRANE. I appreciate that, Doctor. I think that is great.

The last thing I want to say is, Mr. Johnson, how does it make you feel when you hear politicians that you know have camera systems, locked doors, walls, security system, and often armed personnel sit here and talk about how walls don't work? Do you think that they might change their tune a little bit, Mr. Johnson, if they lived at your ranch?

Mr. JOHNSON. I think that's a big issue is nobody truly knows what's going on on the border. Ports of entry, there's more assets allocated there than there are in between the ports. I know that from a professional career as a Border Patrol agent versus my point of view as a stakeholder now.

I would like to take this time to—opportunity to invite any Member of this committee to come down to my ranch and I will show you first-hand what we are dealing with.

Mr. CRANE. Thank you Mr. Johnson.

I yield back.

Chairman HIGGINS. The gentleman yields.

I thank the witnesses for their testimony today and Members for their questions.

The Members of the subcommittees may have additional questions for the witnesses, and we would ask that the witnesses respond to these in writing.

Pursuant to committee rule VII(D), the hearing record will be held open for 10 days.

Without objection, the subcommittees stand adjourned.

[Whereupon, at 5:25 p.m., the subcommittees were adjourned.]

○

4963

WHY EXPANDING MEDICAID TO DACA RECIPIENTS WILL EXACERBATE THE BORDER CRISIS

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH CARE AND FINANCIAL SERVICES

OF THE

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

JULY 18, 2023

Serial No. 118–51

Printed for the use of the Committee on Oversight and Accountability

Available on: *govinfo.gov*
oversight.house.gov or
docs.house.gov

U.S. GOVERNMENT PUBLISHING OFFICE
53–005 PDF WASHINGTON : 2023

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

JAMES COMER, Kentucky, Chairman

JIM JORDAN, Ohio
MIKE TURNER, Ohio
PAUL GOSAR, Arizona
VIRGINIA FOXX, North Carolina
GLENN GROTHMAN, Wisconsin
GARY PALMER, Alabama
CLAY HIGGINS, Louisiana
PETE SESSIONS, Texas
ANDY BIGGS, Arizona
NANCY MACE, South Carolina
JAKE LATURNER, Kansas
PAT FALLON, Texas
BYRON DONALDS, Florida
KELLY ARMSTRONG, North Dakota
SCOTT PERRY, Pennsylvania
WILLIAM TIMMONS, South Carolina
TIM BURCHETT, Tennessee
MARJORIE TAYLOR GREENE, Georgia
LISA MCCLAIN, Michigan
LAUREN BOEBERT, Colorado
RUSSELL FRY, South Carolina
ANNA PAULINA LUNA, Florida
CHUCK EDWARDS, North Carolina
NICK LANGWORTHY, New York
ERIC BURLISON, Missouri

JAMIE RASKIN, Maryland, *Ranking Minority Member*
ELEANOR HOLMES NORTON, District of Columbia
STEPHEN F. LYNCH, Massachusetts
GERALD E. CONNOLLY, Virginia
RAJA KRISHNAMOORTHI, Illinois
RO KHANNA, California
KWEISI MFUME, Maryland
ALEXANDRIA OCASIO-CORTEZ, New York
KATIE PORTER, California
CORI BUSH, Missouri
SHONTEL BROWN, Ohio
JIMMY GOMEZ, California
MELANIE STANSBURY, New Mexico
ROBERT GARCIA, California
MAXWELL FROST, Florida
SUMMER LEE, Pennsylvania
GREG CASAR, Texas
JASMINE CROCKETT, Texas
DAN GOLDMAN, New York
JARED MOSKOWITZ, Florida
Vacancy

MARK MARIN, Staff Director
JESSICA DONLON, Deputy Staff Director and General Counsel
TYLER SANDERSON, Senior Counsel
MALLORY COGAR, Deputy Director of Operations and Chief Clerk
CONTACT NUMBER: 202-225-5074

JULIE TAGEN, Minority Staff Director
CONTACT NUMBER: 202-225-5051

SUBCOMMITTEE ON HEALTH CARE AND FINANCIAL SERVICES

LISA MCCLAIN, Michigan, Chairwoman

PAUL GOSAR, Arizona
VIRGINIA FOXX, North Carolina
GLENN GROTHMAN, Wisconsin
RUSSELL FRY, South Carolina
ANNA PAULINA LUNA, Florida
NICK LANGWORTHY, New York
ERIC BURLISON, Missouri
Vacancy

KATIE PORTER, California *Ranking Minority Member*
ALEXANDRIA OCASIO-CORTEZ, New York
JIMMY GOMEZ, California
GREG CASAR, Texas
SUMMER LEE, Pennsylvania
JASMINE CROCKETT, Texas
Vacancy

C O N T E N T S

Page

Hearing held on July 18, 2023 1

WITNESSES

Dr. Ellen Montz, Deputy Administrator and Director, Center for Consumer Information and Insurance Oversight, Centers for Medicare and Medicaid Services

Oral Statement 4

Written opening statements and statements for the witnesses are available on the U.S. House of Representatives Document Repository at: docs.house.gov.

INDEX OF DOCUMENTS

* Co-Sponsor Hazard Pay; submitted by Rep. Lee.

* Statement for the Record, Center on Budget and Policy Priorities; submitted by Rep. Lee.

* Statement for the Record, National Immigration Law Center; submitted by Rep. Lee.

* Statement for the Record, from various organizations; submitted by Rep. Lee.

* Statement for the Record, FAIR; submitted by Rep. McClain.

* Statement for the Record, National Health Law Program; submitted by Rep. Porter.

Documents are available at: docs.house.gov.

WHY EXPANDING MEDICAID TO DACA RECIPIENTS WILL EXACERBATE THE BORDER CRISIS

Tuesday, July 18, 2023

HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY
SUBCOMMITTEE ON HEALTH CARE AND FINANCIAL SERVICES
Washington, D.C.

The Subcommittee met, pursuant to notice, at 2:11 p.m., in room 2154, Rayburn House Office Building, Hon. Lisa McClain [Chairwoman of the Subcommittee] presiding.

Present: Representatives McClain, Foxx, Grothman, Luna, Langworthy, Burlison, Porter, Ocasio-Cortez, Casar, Lee, and Crockett.

Mrs. MCCLAIN. The Subcommittee on Health Care and Financial Services will come to order. Welcome, everyone.

Without objection, the Chair may declare a recess at any time.

I recognize myself for the purpose of making an opening statement.

Today, we are, again, conducting oversight of yet another disastrous policy by the Biden Administration that will only exacerbate the crisis along the Southern border. The Centers for Medicare & Medicaid Services have proposed a rule to extend Medicaid, CHIP, and Obamacare eligibility, Deferred Action for Childhood Arrivals, or DACA, recipients in direct contradiction to congressional intent.

Once again, the Biden Administration officials are seeking to rewrite laws through agency rulemaking because they know their policies are not supported by the American people, and they would not be able to pass in the House nor the Senate. Instead, they are proposing a rule with dubious legal basis to provide taxpayer-funded Federal health benefits to individuals who have entered this country illegally.

Even President Obama understood this much when his Administration determined in 2012 that DACA recipients should not be eligible for Medicaid. A Federal judge has already deemed the entire DACA Program, which was unilaterally created through nothing more than an emergency memorandum, unlawful. DHS is currently prohibited from accepting further applications by a court order. Despite this, the Administration proceeds with a plan to spend hundreds of millions more of taxpayer dollars on healthcare benefits for DACA recipients.

CMS' own estimates show that the expansion will increase state expenditures for Medicaid and CHIP by $40 million, and Federal expenditures would expand by another $60 million per year, and that does not include the proposed Obamacare expansion, which is projected to cost another $15 million per year. And you know who the Biden Administration expects to pay for it? The American taxpayers.

Further, the Biden Administration's proposal will incentivize further illegal immigration. The Biden Administration has chosen, unfortunately, to prioritize illegal immigrants over the American people. I simply do not understand it. These funds could be used to provide better healthcare to the American people, and that is why we must stop this Administration from rewarding illegal immigrants at the expense of American citizens. We must ensure that Americans are being put first.

By definition, DACA recipients are still and always were unlawfully present in the United States. The Biden Administration cannot simply alter that fact. In extending Federal benefits to illegal immigrants, President Biden is signaling to the rest of the world that not only will the U.S. not enforce laws preventing illegal immigration, but illegal immigrants will be rewarded with Federal benefits. We should not reward individuals unlawfully present in the United States with benefits that were created for American citizens and those who are lawfully present in the country.

The Biden Administration is responsible for one of the worst crises in the recent memory along our Southwest border. By extending Federal benefits to illegal immigrants, the Biden Administration is once again pouring gasoline on an out-of-control fire that will only incentivize more illegal immigration, but such reckless tone, tone-deaf policies have become the status quo for this Administration.

With that, I want to thank Dr. Montz for being here today. We look forward to your testimony.

Now I yield to the Ranking Member, Ms. Porter for her opening statement. Ms. Porter?

Ms. PORTER. Thank you, Chairwoman McClain. We have done some really good hearings together this year. We have come together on a bipartisan basis to uncover the root causes behind the infant formula shortage, we have pointed out how bank regulators need oversight, and we have dug into the role of Chinese money laundering organizations in making the drug cartels rich. What do all of these things have in common? We have tackled real problems: deaths from fentanyl, scared parents unable to feed their babies, risks to our financial system. We have shown we are willing on a bipartisan basis to hold powerful people to account. We identified places where we need guardrails to make our government, our economy, and our country work better. And though we did not agree on everything, we came together on the big picture to achieve progress. I am afraid that none of those things are true for today's hearing.

Today, we are here to discuss the proposed rule from the Biden and Harris Administration that would expand health coverage to everyone lawfully present in the United States. Medicaid and the Affordable Care Act plans are already available to people who are

lawfully present in the U.S., but under current Federal rules, Dreamers are left out of the definition of "lawfully present." President Biden's proposed rule changes that. Why would the President do that? Because, well, DACA recipients are, in fact, lawfully present in the United States. How? Because Congress passed the DACA law. There is not a whole lot else to unpack.

So, what are Republicans trying to do with this hearing? It is not oversight because the ability to go to the doctor is not an abuse of power or an evasion of the law. The title of this hearing gives a clue: "Why Expanding Medicaid to DACA Recipients Will Exacerbate the Border Crisis." Let us look at the premise here. First, some facts. Many DACA recipients already have health coverage through their employers, just like other working-age Americans. Dreamers work hard, pay taxes, and they get employer-provided care. So, how many Dreamers would even get Medicaid under this new rule? About 13,000, about the size of one small town. And then the other Dreamers would be able to buy, using their own wages, healthcare on the exchange, just like anyone else who lives and works here in the United States, and do so in compliance with the law. Somehow letting people who legally live in the United States buy healthcare is going to create a border crisis?

It would be funny to watch this bad argument fall apart if it were not such a waste of time. This Subcommittee has had great hearings under Chairwoman McClain's leadership, hearings that held powerful people accountable, identified missing guardrails, and improved the lives of the people we serve. This hearing does not meet those standards because what powerful people are we holding to account here?

The people who would get healthcare under this rule are not rich or well connected. These folks are not using their powerful positions to abuse the system. They are just regular workers trying to get insurance so they can stay healthy. OK then. So, what missing guardrails are we identifying? None. This hearing is not about putting up guardrails, it is about ripping away a safety net. It is telling people who have followed the rules of the DACA Program that they cannot access healthcare. OK, then. So, how does this hearing make life better for our constituents? All I can say is when you are making it harder for people to be healthy, you are going to have a tough sell that you are in it for the people. And honestly, I think that is why this hearing is framed to be about the border.

Most Americans want healthy communities. Most Americans want Dreamers to have a future in our country. But too many Republican lawmakers do not want either of these things, and they know they are not going to convince the people by arguing against popular policies, like accessible healthcare. So instead, they are bringing in buzzwords like "border crisis" to try to save the day. Republicans need to be able to defend the real reasons that they continue to oppose healthcare expansion if this is the hearing that they want to have. Otherwise, I hope we will go back to having serious oversight hearings. I have seen that the Republicans can do it, and the American people deserve no less. I yield back.

Mrs. MCCLAIN. Thank you, Ms. Porter.

Pursuant to Rule 9(g), the witness will please stand and raise her right hand.

Do you solemnly swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Ms. MONTZ. Aye.

Mrs. MCCLAIN. Let the record show the witness has answered in the affirmative.

We appreciate you being here today and look forward to your testimony. Let me remind the witness that we have read her written statement, and it will appear in full in the hearing record. Please limit your oral statements to 5 minutes.

As a reminder, please press the button on the microphone in front of you so that it is on, and the Members can hear you. When you begin to speak, the light in front of you will turn green. After 4 minutes the light will turn yellow. When the red light comes on, your 5 minutes has expired, and we would ask that you would please wrap up.

I recognize Ms. Montz to begin her opening statement.

STATEMENT OF ELLEN MONTZ
DEPUTY ADMINISTRATOR AND DIRECTOR
CENTER FOR CONSUMER INFORMATION
AND INSURANCE OVERSIGHT
CENTERS FOR MEDICARE & MEDICAID SERVICES

Ms. MONTZ. Good afternoon. Chairs Comer and McClain, Ranking Members Raskin and Porter, and Members of the Subcommittee, thank you for the opportunity to provide an update on the Centers for Medicare & Medicaid Services' work to expand access to healthcare by reducing barriers for Deferred Action for Childhood Arrival Recipients.

Over the last decade, DACA has provided peace of mind and work authorization to more than 800,000 Dreamers. In April 2023, the President announced his intention to expand health coverage for DACA recipients, and directed the Department of Health and Human Services to examine options that would allow DACA recipients to gain eligibility for coverage through health insurance marketplaces, the basic health program, and some Medicaid and Children's Health Insurance Programs. Accordingly, on April 24 of 2023, CMS released a proposed rule which, if finalized, would remove the current exclusion that treats DACA recipients differently from other individuals with deferred action. The proposed change to no longer exclude DACA recipients from CMS' definitions of lawfully present would align with the Department of Homeland Security's definition of "lawful presence" and DHS' explanation of this definition in their August 2022 final rule.

Deferred action recipients, including DACA recipients, have historically been considered lawfully present for purposes of Social Security benefits, pre-dating the DHS DACA final rule. Under CMS' proposed rule, DACA recipients would need to meet all other program eligibility requirements to qualify for coverage under CMS healthcare programs. As with all other enrollees, eligibility information, including an individual's U.S. citizenship or immigration status, would be verified electronically.

The Affordable Care Act generally requires that in order to enroll in a qualified health plan through an exchange, an individual must

either be a citizen or national of the United States or be lawfully present in the United States. The Children's Health Insurance Reauthorization Act of 2009 provided an option for states to cover additional non-citizen populations, including coverage of lawfully residing children and pregnant individuals in Medicaid and CHIP, commonly referred to as the CHIPRA 214 option.

Although HHS interpreted "lawfully present" to exclude DACA recipients in 2012, we now know how important ensuring access to health insurance coverage is to the well-being and productivity of DACA recipients. For example, a 2021 survey of DACA recipients found that although DACA may facilitate access to health insurance through employer-based plans, more than one-third of DACA recipients responded reported that they were not covered by health insurance. These findings suggest that without additional health coverage options, many DACA recipients could be left without access to affordable healthcare coverage. Individuals without health insurance are less likely to receive preventive or routine health screenings and may delay necessary medical care or receive uncompensated care in emergency rooms. The COVID–19 public health emergency further highlighted the need for individuals to have access to high-quality, affordable healthcare coverage.

According to a demographic estimate by the Centers for Migration Studies, over 200,000 DACA recipients served as essential health workers during the COVID–19 public health emergency, including healthcare and in social assistance occupations. During the height of the pandemic, essential workers were disproportionately likely to contract COVID–19. These factors emphasize how increasing access to affordable health insurance would improve the health and well-being of many DACA recipients who are currently uninsured. If the rule is finalized as proposed, it could lead to 129,000 previously uninsured DACA recipients receiving healthcare coverage. Including DACA recipients in the definition of "lawfully present" would align with the goals of ACA and CHIPRA, specifically to reduce the number of people who are uninsured in the United States and make affordable health insurance available to more people. Thank you for the opportunity to testify on this important issue.

Mrs. MCCLAIN. Thank you. The Chair now recognizes Mr. Grothman for 5 minutes, from Wisconsin.

Mr. GROTHMAN. All right. I guess President Biden did run on giving healthcare to people coming across the border. One of the arguments against DACA is the idea that once you grant it once, you are always going to continue granting it, and so far that is true. Do you feel that free healthcare for people who at least came here illegally will result in more illegal immigration, or do you have any study on that or consider whether that is going to be a factor?

Ms. MONTZ. This rule relates to our proposal to include DACA recipients and eligibility——

Mr. GROTHMAN. Right. I know. And by giving DACA recipients free healthcare, people who came across the border, albeit maybe with their parents, although not always, illegally, will this encourage people in the future to come across the border or bring their children across the border?

Ms. MONTZ. DACA recipients are a defined population of individuals who came to the United States as children and have been residing here since 2007.

Mr. GROTHMAN. Right, right, right. And I think the feeling in the past is when you give, say, even amnesty, it causes people abroad to think you are going to get amnesty again. When I have been at the Southern border, already the Border Patrol tells me that people are coming here for American healthcare because they know that America, being so generous, sure, will give you dialysis whenever if they come here. Do you think this sends a message, because I assume if it is OK for people to declare DACA if they came here in 2007, in the next few years, somebody will say, you know, you are DACA if you came here in 2017. In that regard, don't you feel that this promotes illegal immigration?

Ms. MONTZ. I can only speak to what is current law, and this proposed rule proposes to extend health coverage to DACA recipients and not other individuals.

Mr. GROTHMAN. Yes. What do you think is the annual cost of this program?

Ms. MONTZ. Our proposed rule has estimates included in the regulatory impact analysis. We estimate that about 129,000 individuals will gain coverage if this rule is finalized. That is about 13,000 individuals in the 35 states that have chosen the optional coverage in Medicaid and CHIP, and just over 110,000 in marketplace coverage. As for costs, there are roughly 35 states that have chosen the option to cover pregnant individuals and children lawfully present, pregnant individuals and children, we estimate that to be about $100 million per year, and for marketplace coverage, we estimate that to be about $300 million per year.

Mr. GROTHMAN. OK. One of the concerns I have with Medicaid across the board is it does affect the way people behave in order to get the benefit, OK? It both discourages work and discourages marriage. Does that bother you at all that we are adding another benefit to people who are not going to get it if they either arrange for their own healthcare through work, or, like I said, all these income transfer programs discourage marriage. Have you thought about that or done any analysis to see how this will affect people's behavior?

Ms. MONTZ. As I have said, CMS is committed to providing quality affordable healthcare coverage——

Mr. GROTHMAN. So, you do not care. That is not a concern to you?

Ms. MONTZ. What we have seen in the Medicaid Program and other programs as well is that health insurance allows people to be better productive in the work force.

Mr. GROTHMAN. Right. You must know. Maybe you do not know, maybe you do not talk to people. That already in America, people who want to get on Medicaid, adjust their income so they get the benefit, correct? Are you aware of that?

Ms. MONTZ. What I am aware of is that most working-age individuals who are enrolled in Medicaid are employed, and those who are not employed——

Mr. GROTHMAN. They may be employed, but they adjust their income to make sure that they are eligible for this benefit.

Ms. MONTZ. I am not aware of that.

Mr. GROTHMAN. Correct?

Ms. MONTZ. I am not aware of that.

Mr. GROTHMAN. OK. Would you agree to limit the program to a certain cost, or is it going to be the sky is the limit, however many people take advantage of the program?

Ms. MONTZ. In our proposed rule, we have proposed to extend eligibility through the definition of——

Mr. GROTHMAN. So, in other words, it is just changing the eligibility standards that could cost the government an unlimited amount of money and that you are not limiting the amount the taxpayer is going to have to pay?

Ms. MONTZ. As I said, we have estimated the cost of proposed changes under the rule.

Mr. GROTHMAN. OK. Thank you.

Mrs. MCCLAIN. Thank you, Mr. Grothman. The Chair now recognizes the gentlewoman from New York. I can never say your name. I apologize.

Ms. OCASIO-CORTEZ. Ocasio-Cortez.

Mrs. MCCLAIN. Ocasio-Cortez. Thank you——

Ms. OCASIO-CORTEZ. Thank you. Thank you very much. That is all right. Thank you so much, Dr. Montz, for joining us here today. I would be remiss, just for us to put into context what this hearing is about, we are having a hearing about why we should not proceed with healthcare coverage and Medicaid coverage to DACA recipients, people who are lawfully here in the United States. And we are having this hearing on the heels of Governor Abbott in Texas issuing an order to Texas troopers to push children and infants into the Rio Grande River. And now we are having a hearing today about why we should push people who were brought here as children off of healthcare coverage.

I cannot proceed without saying that denying healthcare to anyone, I believe, is morally repugnant, but moreover, I also want to highlight a little bit of the relationship here that the United States has with DACA recipients. Dr. Montz, are you aware of how much in Federal, or state, or local taxes that DACA recipients pay?

Ms. MONTZ. I am not.

Ms. OCASIO-CORTEZ. DACA recipients pay about $6.2 billion in Federal taxes alone. They pay another $3.3 billion in state and local taxes each year. And given that, I think it also further highlights the relationship that the United States has with DACA recipients, which is that we take, and we take, and we take. We take taxes. We take their employment. We have hundreds of thousands of—yes, 345,000 DACA recipients served as essential workers in 2021 during the COVID pandemic alone.

They serve in our healthcare systems, they serve our elderly, they are nursing home workers, and we are having a hearing today as to why people who are American—they are American—do not deserve healthcare. They are here lawfully. They pay more taxes than Facebook does. They pay more taxes than many of our Federal corporations do. DACA recipients pay for Members of Congress' healthcare more than Facebook does, and we are sitting here having a hearing and saying we are going to return that favor by stripping them of their ability to engage in Medicaid when they are

the ones that are changing our grandparents' sheets in a nursing home. I cannot believe this.

The idea that this would somehow act as an incentive when any DACA eligibility ended in 2007, over a dozen years ago, is laughable. As is, I believe, the premise that the American healthcare system is somehow some boon for working-class people and the best in the world. What in the American exceptionalism is going on here? I do not know a group of people that oftentimes are more patriotic to this country than DACA recipients. They give, and they give, and they give to a country that does not love them back in their actions. Yet 74 percent of Americans, Republican and Democrat, believe in a path to citizenship for DACA recipients, for children who were brought here and made this place their home.

These DACA recipients are emblematic of the American Dream, they are America's proof of concept, and to strip and undermine that is to undermine ourselves in this institution. If there is any individual that believes in stripping Medicaid from DACA recipients, I would like to know if they are willing to give the $6.6 billion that DACA recipients pay in Federal taxes back to them. Are we willing to refund the $3.3 billion in state and local taxes that they pay back to them so that they can afford their own healthcare? This should not even be a question right now, and with that, I yield back.

Mrs. MCCLAIN. Thank you. The Chair now recognizes Mr. Burlison from Missouri.

Mr. BURLISON. Thank you, Madam Chair. Thanks for this hearing. Dr. Montz, is the U.S. Government in debt?

Ms. MONTZ. I believe we are.

Mr. BURLISON. Do you happen to know, off the top of your head, how much debt that we currently have?

Ms. MONTZ. I do not.

Mr. BURLISON. It is $32.5 trillion. Do you know how much that is per citizen?

Ms. MONTZ. I do not.

Mr. BURLISON. It is nearly a $100,000 per citizen. Per taxpayer, it is over $250,000. If the bill came due today, every taxpaying citizen in the United States would have to fork up $250,000 because this place blows money, and, you know, have you ever heard of the economist, Milton Friedman?

Ms. MONTZ. Yes.

Mr. BURLISON. OK. Milton Friedman is famous for quoting, and his quote about this issue was that he said, "It is just obvious, should be self-evident to anybody, that you cannot have free immigration and a welfare state." And why would he say that?

Ms. MONTZ. I am not sure.

Mr. BURLISON. Because it is basically a run on the institution. You have individuals who we are now opening up to be charitable to. You know, at the end of the day, when the government taxes someone and then takes that money and gives it to someone, is that charity? Pays for their services, their healthcare.

Ms. MONTZ. I believe we have taxes——

Mr. BURLISON. Yes, we are being benevolent, right? Benevolent. The question at hand is not that benevolence cannot exist in America. The government has a monopoly power on force. When they tax

you, they are forcing you to spend money on the things that government wants to spend money on. They are forcing you to be charitable, to be benevolent with your dollars. I am just beside myself that we would think that this could occur without continuing to bankrupt a Nation that is on the tipping point, on the verge.

So, one of my questions has to do with the fact that when DACA was created under Obama, that he explicitly excluded DACA recipients from Medicaid, CHIP, and ACA benefits. Why did he do that?

Ms. MONTZ. I believe the rule referenced some DHS memorandum and policymaking.

Mr. BURLISON. Well, I do not know that was an answer. You said that they issued a memorandum.

Ms. MONTZ. Sorry. The 2012 rule that used HHS' authority to define lawful presence as it relates to the Affordable Care Act, and CHIPRA 2009 referenced rulemaking done by the Department of Homeland Security in its rationale for excluding DACA recipients from the HHS' definition of lawful presence. As we have put forward in the proposed rule that we recently put out here that we are discussing today, we put forth the Biden Administration's rationale for changing that, for changing that policy interpretation under our authority.

Mr. BURLISON. OK. A question: is DHS currently allowed to add new applicants to DACA?

Ms. MONTZ. I would defer to DHS for that answer.

Mr. BURLISON. So, the way I understand it, the answer is no because a Federal judge held that DACA is unlawful. And so, the question then becomes if it is unlawful, what justification do you have to add individuals on a program that has been deemed by the courts to be unlawful?

Ms. MONTZ. The proposed rule that we put forward reflects current law in which DACA recipients——

Mr. BURLISON. And who directed you on the proposed rule? Did Congress direct you? Do you have direction from Congress?

Ms. MONTZ. It is a proposed rule pursuant to HHS' authority under the Affordable Care Act and CHIPRA 2009.

Mr. BURLISON. Did the White House instruct you?

Ms. MONTZ. Through any general kind of proposed rulemaking process, HHS, the White House, OMB and other affected Federal agencies are involved in the——

Mr. BURLISON. Thank you. At the end of the day, healthcare costs a lot of money. This Nation is nearly broke, and there is not enough to pay for everybody. I yield back.

Mrs. MCCLAIN. Thank you. The Chair now recognizes the gentleman from Texas, Mr. Casar.

Mr. CASAR. Thank you. Just to be really clear about what it is we are debating today, the Biden Administration has chosen to stop discriminating against DACA recipients so they can buy health insurance on the exchanges like everybody else. They pay their taxes, billions in taxes, and thankfully, the Biden Administration has said we are going to stop discriminating against DACA recipients just like we are going to treat them like other legally present people. And Republicans are arguing that we need to undo this really commonsense change from the Biden Administration.

And I have been sitting here this whole hearing, and I still cannot understand from the Republican Majority why they think that DACA recipients, who are paying billions of dollars in taxes to pay for healthcare programs, should not have health insurance and should instead go to the emergency room. So, I will take this moment just to hear from anybody in the Majority to hear why, if they are paying billions in taxes, we should keep discriminating against them.

Or why, if a mom is pregnant, we all chip in, we all participate because we know we want her to be able to take care of her kids. That is why moms who are low income can get access to Medicaid for the folks that are prolife in this group. Why is it that we want moms, who are legally present in this country, to not have access to health insurance? That is the question. It is the only question, if there are any takers.

We have been in bipartisan hearings where we have engaged productively. This is confounding. I want to hear why a mom who is legally present, who has paid her taxes, that we make sure we take care of moms in this country, but then we say, no, DACA recipients, we are going to take your labor, we are going to take your talents, we are going to take your sweat, we are going to take your blood, we are going to accept your brilliance, your talents, your inventions, but, no, if you get pregnant, we are not here, you do not need health insurance. Chairwoman? Anyone?

It is shameful. It is absolutely shameful. Providing people healthcare is not a reward. It is not charity. It is what we do because people go out and work and participate in society, and when my seniors need access to Medicare, I do not say this is a reward or this is charity. I say thank you. This is what we owe to one another, and we should do the same thing no matter who you are or where you are born in this country. It is not a reward. We should just be doing the right thing.

What DACA recipients have been asking for is not charity. It is for us to stop punishing them. They grew up in this country, they immigrated here as children, and they have just said stop punishing us. Let us live like everybody else, and the DACA recipients who are hearing this and their family members should know that you have earned it. You should not have to come and ask us for access to health insurance or to be treated like everybody else. It is something you earn every single day by taking care of your family members, by participating in this country, by taking care of school kids, or at nursing homes, or building amazing things in this country. You already have earned it, and it is just us who have kept you from having it.

But thankfully, the Biden Administration wants to stop this one little bit of discrimination and we have a whole hearing about it, and nobody is willing to say why they want to take health insurance away from a pregnant mom, or why they do not want to let somebody buy health insurance, why they want to send them to the emergency room where it is going to cost us more money and where people will die. We want to stop punishing people. We need to get to a place where we recognize we actually grow our economy, grow our tax base by including more and more people.

Come to Texas, come to a construction site, and tell me what building gets built without immigrant workers. Tell me what inventions get invented without immigrant workers. Just come. But instead, what we see from Governor Abbott is punishing people and, frankly, killing people because he is putting drowning devices in the Rio Grande. A trooper just blew the whistle and said that they are putting out orders that will kill people. We got to stop punishing people, and we should just actually answer the hard question, which is why should politicians keep on running to build their own power by punishing folks and threatening their lives.

So, I want to thank the Biden Administration for doing the right thing on this, and I will still be here waiting to hear just the baseline answer for why we want to take pregnant moms off of healthcare.

Mrs. MCCLAIN. Thank you. And I would like to respond to that is——

Mr. Casar. Please.

Mrs. MCCLAIN [continuing]. We are happy to have that conversation regarding immigration. And I think Congress is the appropriate body of the government to have that conversation. What I think people are irritated with, and I can speak for myself, what I am irritated with is we have three co-equal branches of government to do that. We need to have the appropriate conversations in the appropriate bodies of government agencies, not by with the swipe of a pen with either the agency or the executive branch. So again, sir, I am happy to have those conversations, and that is what——

Mr. CASAR. So, Chairwoman, would you—go ahead.

Mrs. MCCLAIN. If the gentleman will let me finish in response to your question. That is why we need to have the conversations. But what I am tired of is the agencies playing the end-all be-all and with a swipe of a pen reinterpreting definitions or just changing the rules, changing the definitions altogether. I mean, we talk about DACA recipients being children. The average age is 29. So, sir, again, I think you bring up a very, very valid point. This is the body to have those conversations. We have got to stop letting the agencies run with these. We have to follow the law. We are a land and a Nation of laws. So, with that, I yield.

Mr. CASAR. So, Chairwoman, would you co-sponsor a bill with me to say pregnant moms legally present in the country should have access to Medicaid? You know, pregnant moms should not have gone without health insurance.

Mrs. MCCLAIN. And again, sir, I think what we need to get back to is legally present. I am here——

Mr. CASAR. And they are legally present.

Mrs. MCCLAIN. If you could let me respond again, sir.

Mr. CASAR. Go ahead.

Mrs. MCCLAIN. Just finish my response—those are the types of conversations that we need to have. But what I think people are sick of is—let us not redefine the definitions, and maybe we need to spend some time on the definitions. So, again, happy to have that conversation, but with that, I yield to Mr. Langworthy from New York. Thank you.

Mr. CASAR. If we overturn this rule, we are taking pregnant moms off Medicaid.

Mr. LANGWORTHY. Thank you very much, Madam Chair, and I would like to thank Dr. Montz for joining us today to discuss the proposed CMS rule. This rule has far-reaching implications, particularly in our home state of New York where Medicaid is funded through property taxes and many other taxes. New York state firmly holds its place near the very top of the list that has the highest property values, and property taxes are a tremendous burden throughout my district and throughout the entire state.

The consequences of this entire rule are clear. To increase Federal spending and inevitable higher costs will burden hardworking American taxpayers, especially those in New York's 23d congressional District. And while we could engage in debates about costs and figures, it is essential to take a closer look at the actual development of these rules and others like this, just as my colleagues have just discussed. Far too often, we witness unelected officials within this Administration, especially in this particular Biden Administration, pushing their own agenda without giving consideration to due process or the impact on the American taxpayer. It is crucial that we hold the government accountable and ensure that policies are thoroughly examined, transparent and genuinely beneficial to all of our constituents.

So, Dr. Montz, why did CMS decide to develop this rule, and what was the rationale to extend benefits to DACA recipients when the Obama Administration did not do this in 2012?

Ms. MONTZ. Thank you for that question. The CMS is committed to expanding quality, affordable health insurance coverage throughout all of our programs consistent with the law. To that end, we proposed this rule which would align with the current definition. The Department of Homeland Security's longstanding definition of "lawful presence" would align HHS' definition of "lawfully present" with that of the Department of Homeland Security, ensuring that DACA recipients are treated the same as any other recipients of deferred action under the law.

The reason why we pursued this proposed change in addition to those two things I mentioned is, you know, with time and experience, under the DACA Program, we have learned that while the majority of DACA recipients receive health insurance coverage through their employer, still a third of DACA recipients remain uninsured. And we know that uninsurance can lead to certainly detrimental impacts to both individuals, but also our economy.

Mr. LANGWORTHY. So just to be clear, no congressional authority has been granted to CMS to make this rule change, and the Biden Administration has not issued an executive order dictating this rule change?

Ms. MONTZ. Under this proposed rule, HHS is pursuing this proposed rule under our authorities, under the Affordable Care Act and CHIPRA 2009 to define "lawfully present" and "lawfully residing."

Mr. LANGWORTHY. So, in developing this rule, did CMS seek feedback from Customs and Border Protection or U.S. Immigration and Customs Enforcement?

Ms. MONTZ. Just like any development of a proposed rule, that rule is looked at by our HHS, OMB, the White House, and any other affected agencies.

Mr. LANGWORTHY. Yes or no, did you talk to those two specific agencies?

Ms. MONTZ. The Department of Homeland Security did review the role of going through clearance.

Mr. LANGWORTHY. OK. And what was your feedback?

Ms. MONTZ. I would need to get back to you on the specifics.

Mr. LANGWORTHY. OK. With my remaining time, I want to shift and speak about the impacts of this rule and what it would have on the healthcare systems, especially rural hospitals that are already overwhelmed. In the Southwest, we have seen immense stress and overflowed healthcare facilities. Did CMS consider the impacts that this rule would have on these sorts of healthcare facilities?

Ms. MONTZ. In the proposed rule's regulatory impact analysis, we do note that one benefit of this proposed rule would be lower uncompensated care costs borne by the healthcare system that are ultimately borne by local, state, and Federal Government.

Mr. LANGWORTHY. And all the taxpayers. Dr. Montz, New York state pays some of the highest taxes in the country for Medicaid. We spend more than California and Texas combined on the program. How would you justify to my constituents in Western New York, which consists of some of the poorest counties in New York State, that their taxes could go up to pay for illegal immigrants' health insurance when they are struggling to pay for their own?

Ms. MONTZ. What this proposed rule does is propose to modify HHS' definition of "lawful presence" to align with that longstanding definition for the Department of Homeland Security. Under the Affordable Care Act, individuals who are lawfully present are eligible for benefits.

Mr. LANGWORTHY. I yield back, Madam Chair.

Mrs. MCCLAIN. Thank you. The Chair now recognizes Ranking Member Porter.

Ms. PORTER. Many Republican lawmakers seem to believe that President Trump had some great system going at the border when we had kids being separated from their parents, and families being housed in inhumane conditions, and Border Patrol agents put in danger trying to help migrants who are being smuggled by cartels, and that somehow President Biden changed all that awesomeness and started a border crisis. We hear this from them all the time.

Dr. Montz, let us just assume for a moment that there is, and I do not agree with this, a Biden border crisis. That is, like, the Republican's reference in this hearing title. When could that possibly have started? When could the beginning of Biden border crisis possible have started? When was President Biden elected, ma'am?

Ms. MONTZ. I was going say in 2021.

Ms. PORTER. January 20, 2021. Would immigration that happened, let us say, 14 years before that date count as part of the Biden border crisis?

Ms. MONTZ. I do not believe so.

Ms. PORTER. Dr. Montz, tell us, do you know what date Dreamers had to be physically present here in the United States to qualify for DACA?

Ms. MONTZ. 2007.

Ms. PORTER. June 15, 2007. If Dreamers had to be present in the United States 14 years before President Biden was inaugurated in order to become DACA recipients, can you tell me how their immigration in the years before 2007 changed and created a crisis on or after January 20, 2021?

Ms. MONTZ. I cannot.

Ms. PORTER. So, Republicans really cannot blame the DACA Program for any of their grievances, legitimate or, in my opinion, illegitimate, at the border. The DACA Program has nothing to do with what is happening today at our border. So then, what Republicans seem to be saying is that if we provide DACA recipients with healthcare, somehow more people eligible for DACA might cross the border, that might be some bad incentive. So, Dr. Montz, can anyone get DACA status who is not in the United States and has not been living here since 2007? Like, if someone crosses today, can they get DACA status?

Ms. MONTZ. I do not believe so.

Ms. PORTER. What if they crossed, like, 3 years ago? Can they get DACA status?

Ms. MONTZ. I do not believe so.

Ms. PORTER. Five years ago?

Ms. MONTZ. I do not believe so.

Ms. PORTER. Ten years ago?

Ms. MONTZ. Now you are forcing me to do math. I do not believe so.

Ms. PORTER. So, is President Biden expanding who can receive DACA status as part of his rulemaking?

Ms. MONTZ. Our rule strictly pertains to eligibility for CMS health insurance programs.

Ms. PORTER. Eligibility for DACA recipients who have all been here since at least 2007, following the rules, applying for renewals, going to school, and working. So, I do not get it, Dr. Montz. Can you think of any connection between how giving DACA recipients, like children and pregnant women, healthcare incentivizes new immigrants to cross the border if they would not even be eligible for this expanded healthcare that we are talking about?

Ms. MONTZ. I cannot.

Ms. PORTER. So, DACA did not cause a border crisis because stuff that happened before 2007 does not create a border crisis today. And two, giving DACA recipients the healthcare that they need to continue to work, and to earn, and to pay taxes, and to start businesses, and to flourish is not going to increase border crossings. This hearing is called "Why Expanding Medicaid to DACA Recipients Will Exacerbate the Border Crisis." I am sorry, there is no real connection between healthcare for DACA recipients who have been here since before 2007 and anything that is happening at our border, just no connection at all.

I want to close by pointing out, in response to one of my colleagues on the other side's comment about what border agents had told him, the Minority has done numerous hours of questioning of

U.S. Border Patrol chief agents. And during all of those numerous hours of questioning, which are transcribed interviews that anybody can read, not one U.S. Border Patrol chief agent mentioned access to healthcare as a reason for migration to the Southwest border or a concern for border security. I yield back.

Mrs. MCCLAIN. Thank you, Ranking Member Porter. The Chair now recognizes Dr. Foxx.

Ms. FOXX. Thank you, Madam Chair. You know, I think it is a stretch to say that there is no connection at all between people receiving free healthcare in this country who are here illegally, people here illegally, getting free healthcare and there not being people thinking, oh, maybe I could get that free healthcare, too.

Dr. Montz, thank you for being here today. The number of people illegally crossing the border has dramatically increased in recent years, nearly 3 million crossings in 2022, a full million more than occurred in 2021, which was itself a record year for crossings. Do you think that this unilateral expansion of Medicaid by CMS could lead to an additional increase in illegal immigration?

Ms. MONTZ. It is the Department of Homeland Security's longstanding policy that individuals that are subject to deferred action are considered lawfully present in this country. What our proposed rule does is propose to modify the definition of "lawfully present" as it relates to our CMS healthcare programs to ensure that DACA recipients, who are individuals who came to the United States as children and have resided here——

Ms. FOXX. OK. Just answer my question. So, it is the Department of Homeland Security's considered opinion that they can change the definition of who is legal and who is illegal in this country. Is that what you are saying?

Ms. MONTZ. I could not speak for the Department of Homeland Security. What I can say is that under this proposed rule, HHS is using its authority under the Affordable Care Act and CHIPRA 2009 to propose——

Ms. FOXX. Just like the Administration thought it had the authority to pay off student loans under a law passed in 2011. So, would it be fair to call the prospect of receiving free healthcare and other benefits an incentive for people to illegally cross into the United States?

Ms. MONTZ. Under our proposed rule that focuses on DACA recipients, individuals would have had to have resided in the United States since 2007.

Ms. FOXX. OK. So, DACA was ruled unlawful by the Fifth Circuit Court in October 2022. In that case, the state of Texas argued DACA was not only unlawful, but that the program cost the state hundreds of million dollars in healthcare and welfare costs. Can you tell me how much we can expect this unilateral expansion of Medicaid to cost both the states themselves and the Federal Government?

Ms. MONTZ. Our proposed rule includes a regulatory impact analysis, and we estimate for the roughly 35 states that have taken up the option to cover lawfully present pregnant women and children in the Medicaid and CHIP Program, that that would cost about $100 million total a year.

Ms. FOXX. OK. Well, that is what I understand too, that it would be about $100 million, but, again, that it is a program that we believe is illegal. Just last week, this Committee passed the Unfunded Mandates Accountability and Transparency Act, UMATA, a bill I introduced, which aims to prevent exactly this scenario where the Federal Government passes significant costs onto the states, $40 million, we believe, in this case. What kind of input did CMS seek from states before advancing this rulemaking that will cause state budgets an extra $40 million in 2024?

Ms. MONTZ. Thank you for that question. I would note that this is a proposed rule and the comment period just closed, and we are looking at comments that we have received on the rule. I would also note what I indicated before, which is under CHIPRA 2009, it is a state option to cover lawfully residing pregnant individuals as well as children, that continue—nothing in the rule changes. It is a state option.

Ms. FOXX. I have a quick follow-up. In 2012, CMS made a specific decision not to extend healthcare benefits, like Medicaid, CHIPS, and the ACA, to DACA recipients. What does the Agency believe has changed, besides DACA being declared unlawful, to evidence that such a dramatic expansion of eligibility? What has changed?

Ms. MONTZ. Our proposed rule references several reasons why we are proposing this change. First is that CMS is committed to expanding access under the law. Second is that the Biden Administration has indicated commitment to the DACA Program and DACA recipients. And the Department of Homeland Security recently published a final rule that reaffirmed that DACA recipients, like other recipients of deferred action, are considered lawfully present. One of the reasons why we are pursuing this rule is to better align with DHS' definition of "lawfully present." And finally, we have through time and experience come to understand that while the majority of DACA recipients receive health insurance coverage through their employers, still a third remain uninsured. And we want to ensure that DACA recipients are able to keep themselves healthy and productive in the work force.

Ms. FOXX. Thank you. Madam Chair, I yield back.

Mrs. MCCLAIN. Thank you. The Chair now recognizes the gentlewoman from Pennsylvania, Ms. Lee.

Ms. LEE. Thank you, Madam Chair. Folks, this hearing, like so many before it, is nothing more than par-for-course fear mongering by my Republican colleagues. To be very clear, we are not talking about millions of people at the border, a racist myth disproven annually at this point. We are talking about closing a gap in healthcare coverage for about 129,000 people, people with a legal status in this country.

Healthcare is a human right, and it should be available to everyone who resides in this country, no matter who they are. As those of us who care for our fellow man continue to push toward a Medicare for All system, a stop on the fight is fixing a technical wrong, which was not extending the Affordable Care Act to DACA recipients back in 2012. This should be an easy fix. Healthcare coverage ensures that people are accessing services before they are critically sick. It encourages the use of preventative resources, like cancer

screenings and routine vaccinations, something that people who grew up with insurance often take for granted.

Dr. Montz, what are the collective public health benefits of expanding healthcare coverage to more people?

Ms. MONTZ. Thank you for that question. What studies have indicated and certainly experience shows is that when an individual is insured, that individual is better able to keep themselves healthy, for example, go to the doctor to receive preventive services. Keeping yourself healthy also means that you can be more productive at your job and the work force for the economy. Studies have shown that individuals who are insured have 70 percent lower rates of absenteeism in the work force. Additionally, from a, you know, global economy perspective for the United States, being insured means that you are not incurring uncompensated care costs to the healthcare system, which, I have said before, are ultimately incurred by local, state, and Federal Government.

Ms. LEE. Thank you. Our Republican colleagues pretend that DACA recipients are not already here, paying taxes, picking up kids from school and accessing our public health system. This fix not only helps people who have legal status in our country, but all Americans. We are one of the only Western nations that does not have universal healthcare. I do not think our system is as appealing as Republicans are making it out to be. Further, many DACA recipients receive health insurance through work and rely on their benefits, just like nearly everyone on this dais today. Others live in states like California or New York, states that have successfully allowed DACA recipients to enroll in Medicaid and other state-funded plans for years.

What we are talking about today is a proposed rule to extend Affordable Care Act benefits to an estimated 129,000 uninsured DACA recipients. And make no mistake, these individuals are still getting sick and going to taxpayer-funded clinics and emergency rooms, but just like everyone else in this country, they deserve more than just emergency care. They deserve affordable prescription drugs and access to comprehensive healthcare and preventative treatments.

Dr. Montz, knowing that many DACA recipients already rely on our healthcare system, why would it be beneficial to expand their access to affordable insurance?

Ms. MONTZ. Thank you for that question. As I said, there are multiple benefits to being insured versus uninsured, including healthier, more productive life, your, you know, limited risk, receiving high medical bills that you are not able to pay for that then are incurred by the health insurance system.

Ms. LEE. Let me ask. When we are talking about the expansion of Medicaid, who would it apply to and about how many people would that include?

Ms. MONTZ. Our proposed rule estimates that in the roughly 35 states that have elected this option under CHIPRA 214 to cover pregnant individuals and children who are lawfully residing, that that would extend coverage to about 13,000 individuals.

Ms. LEE. Thirteen thousand individuals. Would those states be required to expand healthcare coverage for Medicaid?

Ms. MONTZ. The CHIPRA 214 coverage option is an option for states. They are allowed to cover or not cover lawfully residing.

Ms. LEE. Thank you. Just to conclude, the Affordable Care Act takes important steps to ensure that people are not denied basic healthcare because of their gender, disability status, zip code, or income, but we still need Medicare for All, and we will keep fighting for it. But cutting healthcare is par for the course for the so-called pro-life party. This is just another attempt to gut and block access to programs that help keep vulnerable moms and babies alive as our maternal mortality crisis and rates keep arising. To oppose such a small but important change shows a blatant disregard for human life because no one should be without healthcare. I yield back.

Mrs. MCCLAIN. Thank you. The Chair now recognizes the gentlelady from Florida, Mrs. Luna.

Mrs. LUNA. The Centers for Medicare and Medical Services has proposed a new rule that would reinterpret the term "lawfully present" to expand taxpayer-funded Federal health benefits, specifically Medicaid, Affordable Care Act healthcare coverages, and the Children's Health Insurance Program, to DACA recipients. Expanding benefits in this way would not deter illegal immigration. In fact, it encourages more individuals to take the dangerous trek across our borders illegally. And to put the cost of illegal immigration into perspective, illegal immigration has a net cost of approximately $151 billion per year. This cost is not incurred by illegal aliens that are coming to United States but instead paid for by hardworking Americans, while those breaking the law have zero financial accountability.

This is not the only costs the American taxpayer have taken on. In fact, the U.S. Government spends more than $23 billion annually on Federal medical expenditures and which services are used by illegal aliens to participate. One service costs taxpayers over $5 billion in medical assistance for those born of illegal aliens. Even more concerning are the incentives that those exploiting birth tourism and international commercial surrogacies receive, which will only worsen our immigration crisis that we are facing in our country and defraud the American people. Dr. Montz, are you aware of what birth tourism is?

Ms. MONTZ. I am sorry. Could you repeat the question?

Mrs. LUNA. Are you aware of what birth tourism is?

Ms. MONTZ. No.

Mrs. LUNA. OK. So, birth tourism is when a pregnant woman will come to the United States, basically about to give birth, have their child here, they might not be a citizen, and then ultimately end up leaving the country. Meanwhile, the child will receive citizenship status, but it is a huge problem in this country, mainly because what we are finding is other countries that are more nefarious, like Russia and China, are exploiting the system. Are you aware that some nations that are participating in these illegal activities and exploiting birth tourism and international commercial surrogacy practices are from Russia and China?

Ms. MONTZ. I am not aware of that.

Mrs. LUNA. Are you aware that these two countries have long histories of anti-American espionage activities?

Ms. MONTZ. I would not have any knowledge of that.

Mrs. LUNA. You do not know that Russia does not like us? That is a question.

Ms. MONTZ. I know that Russia is currently at war with Ukraine.

Mrs. LUNA. So, you do not like Russia, correct?

Ms. MONTZ. I do not have any particular opinions that pertain to this hearing.

Mrs. LUNA. OK. Are you aware that China does not like the United States and has engaged in espionage activities against United States?

Ms. MONTZ. I do not have any personal professional knowledge of that.

Mrs. LUNA. OK. Well, I suggest you read Breitbart. Do you believe that allowing these practices puts the national security of the United States at risk?

Ms. MONTZ. I do not believe so.

Mrs. LUNA. You do not believe that allowing a country that engages in espionage against the United States, exploiting birth tourism could potentially open us up for risk?

Ms. MONTZ. I do not have the professional knowledge to opine on that issue.

Mrs. LUNA. Do you believe that individuals from these countries and illegal aliens in general should be allowed to exploit the medical system that you help oversee?

Ms. MONTZ. Again, I am here to talk about the HHS' proposed rule to extend benefits to DACA recipients to ensure that their treatment is in line with other deferred action recipients.

Mrs. LUNA. So, you cannot answer the question. Do you have an opinion on any of that?

Ms. MONTZ. Again, I am here to talk about the proposed rule that CMS has put forward. I am happy to take your questions.

Mrs. LUNA. OK. What would be your solution then for that proposed rule?

Ms. MONTZ. Under the proposed rule, this pertains to DACA recipients. As you know, DACA recipients are a defined population of individuals that came to the United States as children and have been lawfully residing here since 2007.

Mrs. LUNA. When Obama created the program in the Rose Garden?

Ms. MONTZ. I am not familiar with that.

Mrs. LUNA. OK. Can you just briefly tell me about how Nancy Pelosi treated DACA recipients when given the option to make them legal?

Ms. MONTZ. What I can talk about is the proposed rule. What we have proposed to do is further align HHS' definition of lawfully present with that of the Department of Homeland Security's longstanding definition——

Mrs. LUNA. And what is that definition?

Ms. MONTZ. That definition includes all individuals who are subject to deferred action.

Mrs. LUNA. OK. In my opinion, ma'am, you are obviously in charge of a very important program, but this program was created with the intent of making it political, and let us be clear. Whenever they show pictures of DACA recipients, they typically tend to show

Hispanic children when, in actuality, it is more than just the Hispanic demographic. So, I guess the question for you would be, you are in charge of a program that is costing American taxpayers millions and billions of dollars, and yet you are sitting here refusing to answer questions about whether or not that is fair or there is certain terminology being used for these programs.

I guess my suggestion to you is that our rules that we have in place are in place for a reason, and, ultimately, what ends up happening is when you have these programs that are exploited, it does harm people long term. Chairwoman, I yield my time. Thank you.

Mrs. MCCLAIN. Thank you. The Chair now recognizes the gentlelady from Texas, Ms. Crockett.

Ms. CROCKETT. It never ceases to amaze me what will come out of some of my colleagues' mouths. So, it was suggested that you should read Breitbart, and I could not let it go. And so just for the general public, because I do not want anybody to believe this is a good idea, I just got on Google, which if you have a cellphone, we can all do that. Breitbart News Network is an American far-right syndicated news opinion and commentary website founded in mid–2007 by American conservative commentator, Andrew Breitbart. Breitbart News' content has been described as misogynistic, xenophobic, and racist by academics and journalists. So, I do not know that that is where I want anybody to take their cues from, especially when they are trying to run this country. That part, and then let me clear up another little part real quick. DACA is political is what I heard just now. Just to be clear, you have testified that DACA recipients are considered to be lawfully present, correct?

Ms. MONTZ. That is correct. I have said that under the Department of Homeland Security's longstanding definition, DACA recipients are considered lawfully present——

Ms. CROCKETT. Right. They are not considered illegals. They are considered to be lawfully present, but "lawfully present" does not mean that you have the right to vote, correct?

Ms. MONTZ. I would defer to——

Ms. CROCKETT. Well, I will give it to you. Only U.S. citizens can vote, and so, therefore, this idea that it is political or as if the Biden Administration is about to rack up some votes, is just another falsehood. In fact, all we continue to get is half-baked ideas, or half lies, or half-truths, whichever way you want to look at it. Let us talk about the half-baked ideas first, though. My colleague, Ms. Lee, brought up the fact that we are talking about expanding access to pregnant women and children, correct?

Ms. MONTZ. In the Medicaid Program, yes.

Ms. CROCKETT. OK. And this is only in states that have extended Medicaid, correct?

Ms. MONTZ. This is under the proposal. This would impact the roughly 35 states who have chosen the option to cover lawfully residing pregnant individuals as well as children.

Ms. CROCKETT. OK. So, we are talking about pregnant women, and have you heard of the Dobbs decision?

Ms. MONTZ. I have.

Ms. CROCKETT. OK. All right. So, we have a party that says, seemingly, what would Jesus do. Seemingly, that is how they gov-

ern themselves, and so they have decided that all women should just bear all the children and not have any rights to decide what they are going to do. And so even under this set of circumstances, they think that it is great that all women should just be pregnant, but they do not want them to have any access to healthcare. That sounds like a half-baked idea to me to say that forget life when it comes to, say, the life of the mother, because that is a real thing, because if you have healthcare, and I do not know how deeply you have delved into this, but we have been talking, and when I say "we," I mean the Democrats, have been talking about the fact that we have a terrible maternal mortality rate in this country. And when you start talking about people of color or people of lower social economic means, that rate goes up even more astronomically. And, so the idea that people are already dying——

Let me be clear. Are there people that tend to be at a higher risk when they do not have access to healthcare when they are pregnant?

Ms. MONTZ. Yes, it is. It is our belief that being insured leads to better health outcomes.

Ms. CROCKETT. Thank you. Let us also just talk about these half-truths. Really they are just full lies. I was trying to be nice. The reality is that they are trying to make this into the immigration boogeyman that they always talk about. Yet, we have yet to have a bill on the Floor that has been proposed in the form of a policy around immigration. Instead, what they want to do is continue to treat immigrants as if they are the big, bad boogeyman.

And so we are sitting here and we are talking about a program, and you have remained composed, so let me compliment you for that because my colleagues on the other side of the aisle continue to ask you about the border. What in this rule change has anything to do with the border? Just give me one thing that it has to do with the border, one.

[No response.]

Ms. CROCKETT. OK. Exactly. It does not, right? It does not, but for some reason they believe if they say it, that is true. I would love to live in a world where whatever I say somehow is true, but the reality is that if they want immigration reform, they are in control of the House, and they can put a bill on the Floor, but they do not want to do that because they want to continue to say that immigrants are the big bad boogeyman.

Thank you for your service. This has nothing to do with immigration. It has everything to do with being good citizens, and good lawmakers, and good public servants who actually just give a darn about people. Thank you.

Mrs. MCCLAIN. Thank you. I now recognize myself. I think what it has to do, to answer your question, is incentives. I think people are logical and people do things that they believe is in their best interest, and we incentivize people and we incentivize their behaviors, so that is what it has to do with immigration. When we incentivize certain behavior, people respond in a logical fashion.

But with that said, Dr. Montz, in 2012 the Obama Administration created the Deferred Action for Childhood Arrival Program via agency memorandum without any authorization from Congress. But notably, the Obama Administration was careful to clarify that

DACA recipients would not be eligible for participation in Federal healthcare benefits, such as Medicaid, CHIP, and Obamacare. And again, what I want to point out is we have three co-equal branches of government, and we have to stop changing the definitions, and we have to follow the rules of law. And if we do not like the laws, then we have the ability and the authority to change those laws.

Now, CMS has suddenly reversed course and has concluded that DACA recipients should receive Medicaid, CHIP, and Obamacare eligibility, OK? Dr. Montz, did CMS base its decision to reinterpret the Agency's definition of "lawful presence" on a 2021 survey which found that 34 percent of DACA recipients reported not to be covered by health insurance?

Ms. MONTZ. As I have mentioned to a few of your colleagues, as we stated in the proposed rule, we have had several reasons for making this proposed change to treat DACA recipients the same as other recipients of deferred action.

Mrs. MCCLAIN. So, is that a "yes" or "no?"

Ms. MONTZ. Yes, one of the reasons——

Mrs. MCCLAIN. OK. Under the law, are DACA recipients U.S. citizens or lawful permanent residents?

Ms. MONTZ. Under longstanding DHS policy, DACA recipients, just like other recipients of deferred action, are considered lawfully present.

Mrs. MCCLAIN. They are lawful. So, are they U.S. citizens?

Ms. MONTZ. They are not U.S. citizens.

Mrs. MCCLAIN. OK.

Ms. MONTZ. They are lawfully present.

Mrs. MCCLAIN. Yet under the law, do we owe a legal duty to provide healthcare to DACA recipients over American citizens?

Ms. MONTZ. Under the Affordable Care Act, eligibility for the exchanges, as well as premium tax credits and cost sharing reductions, is extended to U.S. citizens, U.S. nationals, and those that are lawfully present.

Mrs. MCCLAIN. So, the answer is yes?

Ms. MONTZ. Yes. The Affordable Care Act covers those that are lawfully present.

Mrs. MCCLAIN. OK. But do we have a legal duty to provide their healthcare over the American citizens?

Ms. MONTZ. What this rule does is extend eligibility. It does not restrict eligibility for any other categories.

Mrs. MCCLAIN. OK. So, I am a firm believer in following the law. Some laws I do not like. Some laws I do not agree with. Unfortunately, we all took an oath to uphold the law. Dr. Montz, are you aware that in 2022 the Fifth U.S. Circuit Court of Appeals affirmed that DACA was unlawful?

Ms. MONTZ. I am aware that there is an injunction for any new DACA recipients.

Mrs. MCCLAIN. OK. Let me try this a different way. Can you tell me how many illegal border crossings the U.S. Border Patrol recorded in Fiscal Year 2021?

Ms. MONTZ. I would defer that answer to——

Mrs. MCCLAIN. Let me help you. It is 6.5 million illegal border crossings. So, what does that have to do, it has to do with incentives, right, and with all of those incentives comes money, and that

money comes at the cost. I have two issues. Who is going to pay, and if we do not like the law, it is up to this body in Congress to change the law. We have got to stop allowing these agencies to redefine and reinterpret the definition. Can you tell me did CMS at all consider how external Federal benefits to DACA recipients would spur future waves of illegal immigration? Did that come into your status at all or your decision at all?

Ms. MONTZ. We endeavor to do our proposed rulemaking under current law, and, as you know, DACA recipients——

Mrs. MCCLAIN. I am sorry. I am running out of time. Yes or no, did that play into your decision at all?

Ms. MONTZ. DACA recipients have been here since 2007, and so we did not believe that there is any impact.

Mrs. MCCLAIN. OK. So, no. So, can you please identify the section of U.S. Code that provides CMS with the authority to set U.S. immigration policy?

Ms. MONTZ. HHS does not set immigration policy. However, we have the authority to set the definition of "lawful presence" as it relates to HHS' programs under the Affordable Care Act.

Mrs. MCCLAIN. OK. So, there is no code that provides CMS with the authority to set the immigration policy? Just, I want to hear that.

Ms. MONTZ. HHS does not set immigration policy.

Mrs. MCCLAIN. All right. So in my opinion, you altered the law in direct contradiction to the decision of the Federal court judge which stated that DACA was unlawful, and you did not consult with the agencies who oversee our immigration system or whether this would exacerbate President Biden's border crisis. Instead, you chose to rewrite the law based on a single study that said 34 percent of DACA recipients who are here in violation of law had difficulty getting healthcare. And I am out of time, so I want to be respectful to my other colleagues.

So with that, I yield to Ms. Lee for her closing statement. Thank you so much.

Ms. LEE. Thank you, Madam Chair. All Americans deserve healthcare, and DACA recipients deserve to have a secure and healthy future in our country. Today we are here because too many Republican lawmakers on this Committee reject this vision and continue to fear monger, lying to the American people to buy into their twisted thinking. Again, Republicans are holding a hearing to deny 129,000 people healthcare. Sad.

Republicans like to paint a picture of America in crisis, millions of people lined up at the border all coming to destroy your way of life. They tell you that if you do not support their policies, the crisis will only get worse. But today, we have not heard any compelling argument that there is any kind of connection between DACA recipients being provided with healthcare and our failing immigration system. DACA recipients cannot just become DACA recipients to get healthcare.

So, let me explain the law. DACA recipients would have had to, one, have come to the United States back in 2007; and two, have been younger than 16 in order to qualify today for healthcare under the Biden Administration's proposed rule. Unless migrants who come or who want to come to the United States for healthcare

are going to go back in time to meet those qualifications, this rule is not going to incentivize any new ones to come to our country for healthcare. The coverage under this rule does not apply to them.

Today, I am disappointed to say that not only has this hearing been disingenuous with the American people, it has wasted an opportunity to go after real waste, fraud, and abuse. It has wasted an opportunity to make our government, our economy, and our country work better. Next time the Subcommittee meets, let us do better.

In closing, Madam Chairwoman, I have statements with me today from pediatricians, budget and policy experts, and immigration rights advocates all stating that President Biden's proposed rulemakes our healthcare statements stronger and affirms that allowing more people to have health insurance is beneficial to our collective well-being.

I ask unanimous consent to enter these enter three statements into the record: one from the National Immigration Law Center; another from the Center on Budget and Policy Priorities; and another jointly from the American Academy of Pediatrics, Center for Law and Social Policy, First Focus on Children, Georgetown Center for Children and Families, Kids in Need of Defense, the Children's Partnership and the Young Center for Immigrant Children's Rights.

Mrs. MCCLAIN. Without objection.

Ms. LEE. Thank you. I yield back.

Mrs. MCCLAIN. Thank you, Ms. Lee. The reason why we are having this hearing is because it is law, right? We are a land and a Nation of laws. Today's hearing demonstrated that the Biden Administration is prioritizing illegal immigrants over the American people. This Administration has chosen to reward those who enter the country illegally, with release from custody in many cases, and now with access to public benefits at the cost of taxpayers and Americans who need it.

We learned that CMS' proposed rule to expand access to Medicaid, CHIP, and Obamacare to DACA recipients will cost American taxpayers millions per year. Last I checked, this body is supposed to be the steward of American taxpayer dollars. That is our job, and that is what we are doing. CMS' own estimates show that Medicaid and CHIP state expenditures would increase by $40 million, and Federal expenditures would increase by $40 million in just the first year. Total expenditures would then balloon up to $130 million per year, and that does not even include the proposed Obamacare expansion which will cost another $15 million to $20 million annually.

Now, I just say that because people have a tendency when they spend other people's money, the taxpayers' money, not to respect it as much as it is their money. That is our job. As messy as it may be, that is our job to be stewards of the American taxpayers' money. I am curious on how we are going to pay for this. Last I checked, we have a major deficit in this country, and I have yet to hear any explanation of how we are paying with this.

So, forget about the changing of the rules. Forget about the reinterpretation. Now we have the cost. It is our responsibility to ask those tough questions, and I will remind everybody that DACA

stands for "Deferred Action for Childhood Arrivals." That means that DACA recipients are still and always have been unlawfully present in the United States. We may not like that, people may not agree with that, but that is the law. And it is up to this chamber to change it, not reinterpret the definition with the stroke of a pen. They would not have even been eligible for Deferred Action otherwise.

Lawless Democrats have deferred the prosecution of these immigration cases, despite Federal judges holding DACA is unlawful and DHS being prohibited from accepting further applicants, and, again, we may not like that, but it is the law. Only in Biden's America can bureaucrats defy Congress and the courts to change the laws and extend benefits to individuals who are unlawfully present in the United States. There is already a crisis at the Southwest border caused by the Biden Administration's failed policy. This proposed rule would only further signal to the world that illegal immigration is rewarded by the current Administration. We put a welcome mat at the door. That is why you see the immigration numbers skyrocketing.

The Biden Administration sees no difference between an American citizen and a non-citizen unlawfully present in this country. That, for me, is simply unacceptable. We should not reward individuals unlawfully present in the United States with benefits reserved for American citizens and those who lawfully present in this country. Even President Obama's HHS knew that expanding public health benefits to DACA recipients was unlawful and a bad idea, but in Biden's America, it seems that wrong is right and up is down, and 2 plus 2 equals 5, and all we have to do is change the definition and say it is so.

Illegal aliens are entitled to the same taxpayer-funded health benefits as American citizens? That does not comprehend with me. I will continue to fight to fix Biden's border crisis and to fight against the Administration's policies that reward those who violate the law because I believe in the rule of law. And make law-abiding citizens pay for it, it does not make sense.

In closing, I want to thank our witness once again for your important testimony.

And without objection, the Members will have 5 legislative days to submit materials and to submit additional written questions for the witnesses, which will be forwarded to the witnesses for their response.

Mrs. MCCLAIN. If there is no further business, without objection, the Subcommittee stands adjourned.

4991

BIDEN AND MAYORKAS' OPEN BORDER: ADVANCING CARTEL CRIME IN AMERICA

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

JULY 19, 2023

Serial No. 118–25

Printed for the use of the Committee on Homeland Security



Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

54–482 PDF WASHINGTON : 2024

COMMITTEE ON HOMELAND SECURITY

MARK E. GREEN, MD, Tennessee, *Chairman*

MICHAEL T. MCCAUL, Texas
CLAY HIGGINS, Louisiana
MICHAEL GUEST, Mississippi
DAN BISHOP, North Carolina
CARLOS A. GIMENEZ, Florida
AUGUST PFLUGER, Texas
ANDREW R. GARBARINO, New York
MARJORIE TAYLOR GREENE, Georgia
TONY GONZALES, Texas
NICK LALOTA, New York
MIKE EZELL, Mississippi
ANTHONY D'ESPOSITO, New York
LAUREL M. LEE, Florida
MORGAN LUTTRELL, Texas
DALE W. STRONG, Alabama
JOSH BRECHEEN, Oklahoma
ELIJAH CRANE, Arizona

BENNIE G. THOMPSON, Mississippi, *Ranking Member*
SHEILA JACKSON LEE, Texas
DONALD M. PAYNE, JR., New Jersey
ERIC SWALWELL, California
J. LUIS CORREA, California
TROY A. CARTER, Louisiana
SHRI THANEDAR, Michigan
SETH MAGAZINER, Rhode Island
GLENN IVEY, Maryland
DANIEL S. GOLDMAN, New York
ROBERT GARCIA, California
DELIA C. RAMIREZ, Illinois
ROBERT MENENDEZ, New Jersey
YVETTE D. CLARKE, New York
DINA TITUS, Nevada

STEPHEN SIAO, *Staff Director*
HOPE GOINS, *Minority Staff Director*
NATALIE NIXON, *Chief Clerk*

CONTENTS

Page

STATEMENTS

The Honorable Mark E. Green, a Representative in Congress From the State of Tennessee, and Chairman, Committee of Homeland Security 1
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security:
Oral Statement 4
Prepared Statement 6

WITNESSES

Mr. Jaeson Jones, Private Citizen, Former Captain of Intelligence and Counter-Terrorism, Texas Department of Public Safety:
Oral Statement 8
Prepared Statement 10
Ms. Jessica M. Vaughan, Director of Policy Studies, Center for Immigration Studies:
Oral Statement 12
Prepared Statement 13
Mr. Derek S. Maltz, Private Citizen, Former Special Agent In Charge, Special Operations Division, Drug Enforcement Administration:
Oral Statement 22
Prepared Statement 24
Ms. Vanda Felbab-Brown, PhD, Director, Initiative on Non-State Armed Actors, The Brookings Institution:
Oral Statement 37
Prepared Statement 38

FOR THE RECORD

The Honorable J. Luis Correa, a Representative in Congress From the State of California:
Press Release 58
The Honorable Glenn Ivey, a Representative in Congress From the State of Maryland:
Article, *The Washington Post*, July 14, 2023 75
Article, July 12, 2023 76
The Honorable Elijah Crane, a Representative in Congress From the State of Arizona:
The Fiscal Burden of Illegal Immigration on United States Taxpayers—2023 Cost Study 95

BIDEN AND MAYORKAS' OPEN BORDER: ADVANCING CARTEL CRIME IN AMERICA

Wednesday, July 19, 2023

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
WASHINGTON, DC.

The committee met, pursuant to notice, at 2:06 p.m., in room 310, Cannon House Office Building, Hon. Mark Green [Chairman of the committee] presiding.

Present: Representatives Green, McCaul, Higgins, Bishop, Gimenez, Garbarino, Greene, Gonzales, LaLota, Ezell, D'Esposito, Lee, Strong, Brecheen, Crane, Thompson, Jackson Lee, Correa, Carter, Thanedar, Magaziner, Ivey, Goldman, Garcia, Ramirez, Menendez, and Titus.

Chairman GREEN. The Committee on Homeland Security will come to order.

Without objection, the Chair may declare the committee in recess at any point.

The purpose of this hearing is to receive testimony on President Biden and Secretary Mayorkas' open border policies and how they have advanced cartel crime in America.

I now recognize myself for an opening statement.

The Southwest Border is wide open and the evidence is clear. More than 5.5 million encounters, more than 1.5 million known gotaways since fiscal year 2021. Nearly 380,000 encounters of unaccompanied minors, a record number of fentanyl poisonings in the United States, largely driven by drugs flooding across our Southwest Border. The crisis is a direct result of DHS Secretary Alejandro Mayorkas' dereliction of duty. This committee's interim Phase One report is being published later today and makes all of this clear. Today's hearing and subsequent hearings will examine the costs and the consequences of these policies.

Now, before I get to the subject of today's hearing, I want to briefly talk about some of those numbers, because I am sure we are in for a few days of some unjustified celebration about what they mean. Keep a few things in mind. Every number that you hear the other side of the aisle talking about is still a number far above crisis levels. Even by the measure of President Obama's former DHS Secretary. We are still averaging more than 3,000 Border Patrol apprehensions a day. Jeh Johnson once said that 1,000 overwhelms the system and is a crisis. We are also seeing the number of inadmissible aliens arriving at the ports of entry continuing to skyrocket, jumping to more than 45,000 in June. Encounters at the ports this fiscal year already exceed last year's by more than

100,000. Last June, they were around 15,000 and 10,000 the year before that. Why the change? Well, because tens of thousands of inadmissible aliens are taking advantage of Mayorkas' new parole programs and his illegitimate CBP One policy, accepting his offer of no-questions-asked release into the United States. More than 170,000 people have used the CBP One app to schedule an appointment since January alone—170,000. The OFO numbers aren't even being released by the administration. Everyone in this room knows these individuals have no lawful basis to enter the country. Everyone also knows that Mayorkas is playing a massive shell game by shifting encounters between the ports of entry to the ports of entry, again, not disclosing the OFO numbers. The outcome, tens of thousands of inadmissible aliens entering Customs and Border Patrol and being released into the country. It is the same. Let's just be honest about that simple fact.

Further, Secretary Mayorkas' insistence that this is legal is a lie. Mass parole is against the laws passed by previous Congresses. As we are going to talk about today, the humanitarian costs of the Secretary's policies are still horrific. The people flooding to our border, whether between the ports or at them, are still having to put themselves in the hands of cartels, paying hundreds of thousands of dollars to get to the border, no matter where they cross. The cartels are still raking in the profits and migrants are still being smuggled, trafficked, and abused.

Our focus today is on the Mexican drug cartels and how they are running wild under Secretary Mayorkas' policies. One thing is clear, the cartels have seized control of our border. These organizations are the most vicious, evil organizations in the Western Hemisphere. What you will hear today from our witnesses will lay that out in eye-opening detail. As you listen, these groups are whom Mayorkas has turned our border over to.

What is unprecedented is the level of control these evil organizations now exert at both our Southwest Border and in the interior of our country. The boldness with which they operate in open defiance of law enforcement and the profits they are raking in, both Americans as well as migrants are suffering from their wrath. It is virtually impossible to cross the Southwest Border without first paying the cartels. People are killed simply for trying to do so.

While Secretary Mayorkas' policies have pulled thousands of Border Patrol agents off the line to process and release these aliens into the interior as quickly as possible, this is not the work they signed up to do. The former chief of the Border Patrol recently told us has made many agents feel like smugglers themselves. Their words, not ours. Cartels purposely overwhelm Border Patrol agents with illegal crossers in one area as a distraction so they can smuggle other aliens or drugs across in the areas just vacated by those agents. Amazingly, Secretary Mayorkas admitted to the Senate under oath in March that he was not aware of this strategy. Meanwhile, his attorney general did know the tactic used by the cartels. Unbelievable. Business is so good that the cartels have devised a complex system for the massive number of people trying to illegally cross the Southwest Border. For instance, cartels use colored wristbands, as I am showing here, to inventory those who are attempt-

ing to cross. Secretary Mayorkas told the Senate in the same hearing he was unfamiliar with these wristbands too.

The violence and atrocities are not just being felt along the border. Our American communities throughout the country are suffering as well. A lot of the violence can often be traced back to the cartels because they often subcontract their mayhem to gangs that effectively function as the cartels national distribution network. Per a recent *New York Post* headline, "Honduran Migrants Working For the Mexican Cartels brazenly took over San Francisco's drug market thanks to lax policies." Another outlet reported in February that the cartels have started operating, "on a very large scale" in Montana, hundreds of miles from the border. Drugs and the violence associated with them are engulfing communities across our country, and it can all be tracked back to the cartels.

The tidal wave of human smuggling and trafficking has led to an increased number of car crashes on our streets, putting law enforcement, innocent Americans, and the migrants themselves at risk. One sheriff told of us his department arrested 169 human smugglers in 2021 and is on pace to arrest more than 900 this year. Another sheriff said his county deals with 3 to 4 chases per day involving groups of 20 people or more. The cartels are recruiting American teenagers to drive for them, implicating our youth in these horrendous crimes. Meanwhile, innocent Americans, like Maria and Emilia Tambunga, have been killed in crashes by those smuggling illegal aliens on our streets and highways. Transnational gangs like MS–13, whose motto is kill, rape, control, are also taking advantage. A senior Border Patrol agent has said that gang members attempt to evade arrest by exploiting the influx of migrants attempting to enter our country. These gangs work closely with the cartels to support operations on both sides of the border. According to ICE, 40 percent of MS–13 members they arrest arrived in the United States as unaccompanied alien children. MS–13 also forces women and girls into sex trafficking to make money for the gang.

Cartels have made a record amount of money over the last 2 years. In 2021 alone, the cartels made an estimated $13 billion just from human trafficking and smuggling. Then there is the fentanyl. It costs as little as $.10 to produce a fake prescription pill laced with fentanyl, which can be sold for $10 to $30. Ten kilos of fentanyl is worth about $20 million, but only costs about $50,000 to produce. Every dollar the cartels rake in comes at the cost of an American life or livelihood. There were more than 109,000 drug deaths in 2022, 107,000 in 2021 alone, many of them from fentanyl. The cartels are continuing to push fentanyl into our country in record amounts, destroying our communities one family at a time.

I am sure we will hear today the same tired talking points that "Most fentanyl is seized at our ports of entry". But a couple of things are worth noting. The majority of fentanyl that is seized has come through the ports of entry, but by definition, that is what is apprehended. Cartels know there is a higher risk of getting caught at the ports of entry because our border isn't secure. We don't know how much cartels are using unguarded entry points to smuggle drugs. My friends on the other side of the aisle won't tell you that while CBP reports the majority of drugs like fentanyl are seized at

the ports, they have also said they believe they only catch 5 to 10 percent of what is coming through either at or between the ports. So that puts it into perspective. Finally, the amount of fentanyl being seized between the ports is increasing. In March, seizures were up 100 percent from the previous year, according to former Chief Raul Ortiz. That is just what is being caught.

As I said earlier, migrants are also victims of cartel atrocities. Once individuals are smuggled into the United States, the cartels often continue to extort and use them. According to Mayorkas' own department, there has been an increase in "alternative forms of payment in exchange for passage, including migrants being required to participate in smuggling controlled substances or other illicit items across the border or to work off those debts through criminal activity after they arrive in the United States." As many as 60 percent of unaccompanied minors are kidnapped and exploited by the cartels. Other migrants are sexually abused and assaulted. One victim told the *New York Times,* "you have to pay with your body." Some are even forced to allow their children to be abused. I can't imagine anything worse.

Secretary Mayorkas and President Biden's policies have encouraged record numbers of people to make the journey to the Southwest Border. This has represented a historic business opportunity for the cartels, who make thousands of dollars on every person they smuggle into our country. Their business model continues to work because instead of enforcing the laws written by this body or removing or detaining those who have no valid claim to enter, Mayorkas' DHS is flashing the neon sign open by releasing millions of inadmissible aliens into the United States. Millions of people are willing to bet they will win the lottery if they make it to the border under this administration's policies and it is a winning bet. The cartels are more than happy to insist. It is no wonder that a majority of Americans think the cartels now have more control of our border than the Biden administration—61 percent of America, according to a poll last fall. With Border Patrol agents so overwhelmed by the historic flow of illegal immigration on Mayorkas' watch, the cartels have filled the vacuum.

While Mayorkas has implemented his open borders agenda, his boss in the White House has utterly failed to put meaningful pressure on the Mexican government to fight back against the cartels and deal with the violence and corruption impacting not just Mexico, but our country as well. The United States is the most powerful Nation in the world, and yet we do not control our own sovereign Southwest Border, according to Chief Ortiz. If that is not evidence of Mayorkas' failures, I don't know what is.

I now recognize the Ranking Member, the gentleman from Mississippi, Mr. Thompson, for his opening statement.

Mr. THOMPSON. Thank you very much.

Mr. Chairman, in nearly 2 decades that I have served on this panel, a panel created in the wake of September 11, 2001 terrorist attack, I have seen this committee come together to address some of the most important Homeland Security issues facing our Nation. From supporting the establishment of the Department of Homeland Security in its early days to implementing the recommendations of the 9/11 Commission, and more recently, enacting significant cyber-

security legislation, this panel has built a record of bipartisanship in service to homeland security. But over the past 7 months, the character of the Homeland Security Committee has fundamentally changed from a bipartisan solutions-focused committee to a platform for the most extreme MAGA schemes. To be honest, I am embarrassed for the Republican Majority wasting the committee's time on so-called investigations. This entire endeavor is nothing more than a political stunt hatched in back rooms so extreme MAGA Republicans can exert power over the Speaker.

Today's hearing is yet another stunt to appease that crowd who are demanding the impeachment of someone, anyone at all. That same goes for the sham, "report" we are hearing from the press that Republicans plan to release today. We have been given no time to review this document, much less offer any input, but if it is anything like the report Republicans released immediately before their last hearing, this one will be rife with errors and full of extreme MAGA rhetoric masquerading as fact.

Meanwhile, the Republican Majority is squandering the Homeland Security Committee's time and opportunity to deal with real work of our committee. In the 7 months since we took our oath from the 118th Congress, the Republican Majority has proven itself to be uninterested in legislating and incapable of serious oversight. Instead of holding oversight hearings that would strengthen our Nation's security and improve our Department of Homeland Security authorities to carry out its complex mission, the Majority is stuck in a Southwest Border Groundhog Day. The Majority has held a variation of this hearing 9 times.

But repeating the same hearing over and over again until extreme MAGA Members get their way is not oversight. Dragging Border Patrol chiefs away from their job for politicizing interviews is not oversight. Don't get me wrong, addressing problems at America's border is a serious task. But oversight is about following the facts, not going on a fishing expedition when the facts don't fit an extreme MAGA narrative. The fact is that the administration plans to address the challenges at our Southwest Border and are working under Secretary Mayorkas' leadership.

Unlawful entries between ports of entry along the Southwest Border have plummeted since Title 42 was terminated on May 11. The number of border encounters overall has plunged in that time, and between May 12 and June 2, DHS repatriated more than 38,400 non-citizens to more than 80 countries. The Biden administration has also taken unprecedented steps to combat the fentanyl crisis through a whole-of-Government strategy focusing on disrupting the illicit fentanyl trade and traffickers' financial activities and addressing substance use here at home. Operational Sentinel, which Secretary Mayorkas stood up in April, has disrupted criminal networks and TCO's financial assets. Operation Blue Lotus, established at ICE in June, has surged resources to ports of entry and interior facilities to combat fentanyl smuggling and break the fentanyl supply chain. Operation Artemis is leveraging intelligence to target precursor chemicals, peel presses, and the movement of illicit fentanyl. Operation Rolling Wave has surged inbound inspections at the Southwest Border, covering every sector.

As recently-named Border Patrol Chief Jason Owens said in a transcribed interview on May 5, we have a very robust, targeted enforcement effort where we work hand-in-hand with our investigative partners to actively disrupt, degrade, and dismantle those networks and those pipelines that are the smugglers. He went on to say because we have got more detection capability, because we have more on the way, we have got the additional processing coordinators, we are in a better situation than we were in years past.

President Biden's and Secretary Mayorkas' leadership and hard work has paid off. Our borders are not open and those arriving outside lawful pathways are being sent home. The facts do not support the Republicans' case. You don't impeach the President or a Cabinet Secretary because you do not like their policies. You surely do not impeach any officer of the United States just to placate the most extreme wing of a political party. It is time to move from this sham impeachment effort and do your duty as overseers and legislators.

President Biden is fulfilling his duties, Secretary Mayorkas is doing his job. If the Republican Majority doesn't like what they are doing or how they are doing it, they should get off their soapbox and work with Democrats to pass bipartisan border security and immigration legislation.

Mr. Chairman, I yield back.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JULY 19, 2023

In the nearly two decades I have served on this panel—a panel created in the wake of the September 11, 2001, terrorist attacks—I have seen this committee come together to address some of the most important homeland security issues facing our Nation. From supporting the establishment of the Department of Homeland Security in its early days, to implementing the recommendations of the 9/11 Commission, and more recently enacting significant cybersecurity legislation, this panel has built a record of bipartisanship in service to homeland security.

But over the past 7 months, the character of the Homeland Security Committee has fundamentally changed from a bipartisan, solutions-focused committee to a platform for the most extreme MAGA schemes. To be honest, I am embarrassed for the Republican Majority—wasting the committee's time on this so-called "investigation." This entire endeavor is nothing more than a political stunt—hatched in back rooms—so extreme MAGA Republicans can exert power over their speaker.

Today's hearing is yet another stunt to appease that crowd, who are demanding the impeachment of someone—anyone at all. The same goes for the sham "report" we're hearing from the press that Republicans plan to release today. We have been given no time to review this document, much less offer any input. But if it's anything like the "report" Republicans released immediately before their last hearing, this one will be rife with errors and full of extreme MAGA rhetoric masquerading as fact.

Meanwhile, the Republican Majority is squandering the Homeland Security Committee's time and opportunity to do the real work of our committee. In the 7 months since we took our oaths for the 118th Congress, the Republican Majority has proven itself to be uninterested in legislating and incapable of serious oversight. Instead of holding oversight hearings that would strengthen our Nation's security and improve the Department of Homeland Security's authorities to carry out its complex mission, the Majority is stuck in a Southwest-Border Groundhog Day.

The Majority has held a variation on this hearing 9 times. But repeating the same hearing over and over again until extreme MAGA Members get their way is not oversight. Dragging Border Patrol Chiefs away from their jobs for politicized interviews is not oversight. Don't get me wrong—addressing problems at America's borders is a serious task, but oversight is about following the facts, not going on a fishing expedition when the facts don't fit an extreme MAGA narrative.

The fact is that the administration's plans to address the challenges at our Southwest Border are working. Under Secretary Mayorkas' leadership, unlawful entries between ports of entry along the Southwest Border have plummeted since Title 42 was terminated on May 11. The number of border encounters overall has also plunged in that time. Between May 12 and June 2, DHS repatriated more than 38,400 noncitizens to more than 80 countries.

The Biden administration has also taken unprecedented steps to combat the fentanyl crisis through a whole-of-Government strategy focusing on disrupting the illicit fentanyl trade and traffickers' financial activities and addressing substance use here at home.

Operation Sentinel, which Secretary Mayorkas stood up in April, has disrupted criminal networks and frozen TCOs' financial assets.

Operation Blue Lotus, established at ICE in June, has surged resources to ports of entry and interior facilities to combat fentanyl smuggling and break the fentanyl supply chain.

Operation Artemis is leveraging intelligence to target precursor chemicals, pill presses, and the movement of illicit fentanyl.

And Operation Rolling Wave has surged inbound inspections at the Southwest Border, covering every sector.

As recently named Border Patrol Chief Jason Owens said in a transcribed interview on May 5, " . . . we have a very robust targeted enforcement effort where we work hand-in-hand with our investigative partners to actually disrupt, degrade, and dismantle those networks and those pipelines that are the smugglers."

He went on to say, "Because we have gotten more detection capability, because we have . . . more on the way, we've got the additional processing coordinators, we are in a better situation than we were in years past."

President Biden's and Secretary Mayorkas's leadership and hard work has paid off. Our borders are not open, and those arriving outside lawful pathways are being sent home.

The facts do not support the Republicans' case.

You don't impeach the President or a Cabinet Secretary because you do not like their policies. And you surely do not impeach any officer of the United States just to placate the most extreme wing of a political party. It is time to move on from this sham impeachment effort and do your duty as overseers and legislators. President Biden is fulfilling his duties. Secretary Mayorkas is doing his job.

If the Republican Majority doesn't like what they are doing or how they are doing it, they should get off their soapboxes and work with Democrats to pass bipartisan border security and immigration legislation.

Chairman GREEN. The gentleman yields.

Other Members of the committee are reminded that opening statements may be submitted for the record.

I am pleased to have a distinguished panel of witnesses before us today.

[Witnesses sworn.]

Chairman GREEN.Let the record reflect—please have a seat—let the record reflect that the witnesses have answered in the affirmative. Thank you.

Now, to formally introduce our witnesses.

Mr. Jones is an internationally-respected border intelligence expert with decades of experience on the Southwest Border. He is a retired captain for the Texas Department of Public Safety's Intelligence and Counterterrorism Division, and has supervised human intelligence operations in multiple nations, including leading the longest 24/7 border operation in Texas history, Operation Secure Texas. He was responsible for leading multiple investigations targeting Mexican cartel leadership, and collaborating closely with the U.S. intelligence community to save numerous lives in both Mexico and the United States.

Ms. Vaughan is director of policy studies for the Center for Immigration Studies, a D.C.-based research institute that examines the impact of immigration on American society and educates policy

makers and opinion leaders on immigration issues. She has been with the Center since 1992 and her area of expertise is immigration policy and operations covering topics such as visa programs, immigration benefits, and immigration enforcement. Ms. Vaughan is an expert on immigration enforcement and public safety, having directed a Department of Justice-funded project on the use of immigration law enforcement and transnational gang suppression. Prior to joining the Center, Ms. Vaughan was a foreign service officer with the State Department, where she served in Belgium, Trinidad, and Tobago.

Mr. Maltz is a retired special agent for the Drug Enforcement Administration who dedicated 28 years of his life to service. He is currently working as a national security and public safety executive who appears on national news networks as a subject-matter expert. Mr. Maltz was the special agent in charge of the United States Department of Justice Special Operations Division for almost 10 years before he left the Federal Government. Mr. Maltz also previously held the position as the chief of the New York Drug Enforcement Task Force, which is the oldest and largest drug task force.

Ms. Felbab-Brown—did I pronounce that correctly—is a senior fellow in the Strobe Talbot Center for Security Strategy and Technology in the Foreign Policy Program at Brookings. She is the director of the Initiative on Non-State Armed Actors. She is also the co-director of the Africa Security Initiative and the Brookings series on opioids, the Opioid Crisis in America: Domestic and International Dimensions. Previously, she was the co-director of the Brookings Project Improved Global Drug Policy: Comparative Perspectives Beyond UNGASS 2016, as well as another Brookings Project Reconstituting Local Orders. She is an expert on international and internal conflicts and nontraditional security threats, including insurgency, organized crime, urban violence, and illicit economies.

I thank the witnesses for being here.

I now recognize Mr. Jones for 5 minutes for an opening statement.

STATEMENT OF JAESON JONES, PRIVATE CITIZEN, FORMER CAPTAIN OF INTELLIGENCE AND COUNTER-TERRORISM, TEXAS DEPARTMENT OF PUBLIC SAFETY

Mr. JONES. Chairman Green, Ranking Member Thompson, and distinguished Members of the committee, I am truly honored to be here in our Nation's Capitol to talk to all of you today about without question what is the most significant national security threat and public safety threat to the American people in this country. That is our common enemy, the Mexican cartels.

After retiring from the Texas Department of Public Safety, I was so frustrated that what was not getting out about their evolution I decided to do it publicly myself. So today I am on your border every other week riding with law enforcement, trying to illuminate their activities and the impacts to the American people. What you have not been told is that these are no longer drug cartels. They have evolved from organized crime in 2006 into an insurgency in Mexico. I was there on the ground with people and we were

stunned at what we were seeing, 6- to 10-hour gun battles with 50 caliber belt-fed machine guns, 40 millimeter grenade launchers, RPGs and LAWS rockets as they truly were fighting back against the most elite special forces in the Mexican government. This was the insurgency.

What brought that about were the Los Zetas. They brought two forms of discipline. The Los Zetas were former Gafe Special Forces who came to work for Cartel del Golfo. What they brought was discipline and tradecraft. From that every other cartel was then forced to create an enforcement wing and rise to the occasion or fall. That is why you see such wide variety of violence, hyper-violence across Mexico today.

In 2010, another major tripwire, and that is when the Zetas began executing mass migrants and Mexican citizens. You may remember the 72 migrants killed in San Fernando. I worked that. The 300 men, women, and children they chopped into pieces, and then "Guisoed", because the Zetas had a saying that you can't count a body that doesn't exist.

Then the final evolution as we see them today, into a true parallel government in Mexico. What was the indicator when that happened? Two thousand fifteen, Operation Jalisco, when their most elite soldiers went in to get El Mencho, the head of Carta Jalisco New Generation, and they were shot down. When we went after Ovidio Guzman in 2019 and the Mexican president of the country was forced to release him. What you weren't told is because the Sinaloa cartel, Ivan, the head of the Chapitos, had so many people's heads at knifepoint, ready to cut them off if the president did not release him.

This is where Mexico is. So how does that impact you here? How does it impact Americans today? I am telling you with everything I am, if we do not designate these cartels as foreign terrorist organizations or at least get the tools of national power, the hundred thousand Americans that we are losing year after year to date is just the beginning. The cartels will not stop because they can't stop. This is what you are not told. The U.S. Intelligence Agency should be briefing you. They do not fear you. They fear their rivals. The reason they continue to escalate in hyper-violence and in capability is because if they don't, then their rivals could completely take them over.

Today, they have evolved again. In February 2021, I broke this story. This is the adjustment, ladies and gentlemen, from the smuggling of people by Cartel del Golfo into the trafficking of men, women, and children. These are wristbands, the Cartel del Golfo, and each one represents a different alien smuggling organization who began moving them into country under debt bondage. We have never seen this before. What I am holding in my hand before you today, I want to be very clear. This is America's new slave trade. Now we have moved these people throughout the country for the best means, but we have sent a virus of debt bondage across the Nation. I am happy to talk to you about that as I broke that story in February 2021.

Finally, I want to say to you this, is they will continue to increase because they have to. Validation to all of you. Look at fentanyl as a great example. The fentanyl that we're seizing mostly

in the streets now is not regular fentanyl. They've gone from regular fentanyl to para-fentanyl to cera-fentanyl, and now introduction of xylazines. You've got four more xylazines coming on board. Get ready. China, they've already evolved around them.

The last part of this, I'll say, because I know I'm running out of time, is that you have to take aggressive action. Texas has spent $9 billion to fight the cartels, and it's still not enough. What we need are authorities beyond the law enforcement capability and the mothers and fathers across this Nation. The indicator to you that this Government is on the right track to end this problem in this country is when we designate these cartels, or at least get the tools of national power and go after them.

Thank you all for having me today.

[The prepared statement of Mr. Jones follows:]

PREPARED STATEMENT OF JAESON JONES

JULY 19, 2023

INTRODUCTION

Chairman Green, Ranking Member Thompson, and distinguished Members of the committee, thank you for this opportunity to speak today about a common enemy we all face and must unite against. This threat represents the most significant national security and public safety threat to the American people. It is the threat we face from the Mexican cartels and Transnational Criminal Organizations (TCOs).

I am grateful for the opportunity today to share my experience as someone who had a long and rewarding 24-year career in Texas law enforcement, retiring as a captain with the Texas Department of Public Safety's Intelligence & Counter-Terrorism division, commanding the Texas Rangers Border Security Operation Center (BSOC), which operates as a cross-border operations center, working closely with U.S. intelligence agencies, Federal, State, and local law enforcement along the border region.

During my career, I was assigned to 9 different duty stations across Texas and on the U.S.-Mexico border in multiple cities, including El Paso, Brownsville, and Laredo, Texas. I have worked and led some of the most complex investigations and intelligence collection against several cartels, including the most hyper-violent at the time, the Los Zetas. It would be their tradecraft and discipline brought into the narco-underworld that would cause the rise of the Mexican cartel evolution from organized crime, into an insurgency, to terrorism, and ultimately into a parallel government as we see them today.

While today's focus is on the impact of Transnational Criminal Organizations (TCOs), it is crucial to address the distinction that exists between TCOs and the Mexican cartels. By comprehending this distinction, elected leaders can better develop comprehensive strategies to combat the Mexican cartels and set priorities that will leverage new authorities for the Homeland Security Enterprise's (HSE) success to defeat these dark networks.

It is imperative to understand the vast disparity between TCOs and the Mexican cartels. In South Texas, for example, it is common for law enforcement to apprehend juveniles almost daily who smuggle people, drugs, and act as lookouts or halcones (falcons), as they are also known across the Southwest Border. I have personally witnessed young juveniles as young as 12 years of age smuggling hundreds of pounds of narcotics in a stolen vehicle; ultimately, crashing into a residence after fleeing from law enforcement. There are many instances of juveniles crossing into the United States overseeing stash houses who direct the care, custody, and control of dozens of economic migrants who illegally entered the United States. These activities constitute the distinction of a TCO.

The Mexican cartels on the other hand control territory, which stretches far beyond Mexico's borders. The Sinaloa Cartel and Cartel Jalisco New Generation (CJNG) are Mexico's two largest cartels. Their activities are no longer isolated to Mexico. These complex dark networks span the world building relationships with other underworld networks now impacting nations in every region of the globe.

The Mexican cartel's evolution would also spark mass hyper-violence upon innocent Mexican citizens and economic migrants seeking a better life just trying to pass through Mexico. Since 2007, there have been over 340,000 murders in Mexico with

disappearances now exceeding 100,000 people. The cartels have a saying, "You can't count a body that doesn't exist." Therefore, they have begun mass incineration of human bodies known as "Guiso," where human remains are cut into pieces and their remains are cooked to ash.

The cartels leverage what is known as "Sicario's," trained assassins who operate as enforcers. Today, they employ tens of thousands of these individuals, including possessing entire enforcement wings within the organization. What is not well-known publicly is that many of these sicarios go through basic, intermediate, and advanced training. Most of the training is conducted by former law enforcement and special forces operators like Guatemalan Kaibiles, Mexico's elite Gafe (similar to American Green Berets), and many other countries. Training is also conducted by known terrorist organizations such as the Revolutionary Armed Forces of Columbia (FARC) which are designated as a foreign terrorist organization (FTO) by the U.S. State Department.

The cartels employ a vast array of military-grade weaponry, comprising of surface-to-air missiles, vehicle-borne improvised explosive devices (VBIED), shoulder-fired anti-tank weapons like the AT4, LAW rockets, RPGs, heavy weapon mounted systems including 50 cal. belt-fed machine guns, grenade launchers, 40mm grenades, hand grenades, and fully automatic-machine guns manufactured from around the world. The majority of these military-grade weapons are purchased through corruption in armories throughout Central American countries. The cartels also operate first-, second-, third-, and fourth-generation armored vehicles as they battle for control of territory. The cartels over time have learned mobility is life, and with each generation of armored vehicles, they employ lighter more agile armored vehicles.

The cartels contract globally with long-haul smugglers and their alien smuggling organizations. They have adjusted from a human smuggling model over the last 2½ years, into a human trafficking model, placing hundreds of thousands of economic migrants into debt bondage. As an example of this transition, Cartel del Golfo also known as CDG, which operates along the Texas/Mexico border from Brownsville to Roma, Texas was so emboldened in February 2021, by the mass migration of economic migrant's numbers that they began placing wristbands on men, women, and children to ensure the tax/piso (payment process) was established. This process created an ongoing payment model, which first collects the migrant's personal identifying information (PII) into the cartel's database. This provides the ability to keep them into debt bondage as their family's personal information in the country of origin is firmly documented including establishing the migrants' destination in the United States. This ensures future payments can be secured in the long term. For the first time in American history, people both legally and illegally in the United States are in debt bondage to terrorist/criminal organizations, operating in a foreign country for years, if not decades to come. This transition firmly establishes America's new slave trade.

As someone who has documented the cartel's evolution into a parallel government, led some of the most complex investigations, and sent critical real-time intelligence supporting precision-led operations with Mexico's most elite special forces, to both rescue migrants from mass murder and apprehend leaders with the cartels, I want to be very clear, the Mexican cartels will not stop, they are going to have to be stopped. The entire approach for success against the cartels hinges on new authorities, prioritizing tools of national power, allowing the use of network theory, and a desperately-needed departure from the failed law enforcement investigative model.

The Mexican cartels have no choice but to increase their capabilities. Their fears are driven by territorial disputes and new advancements by rival cartels that could result in their destruction. This is the reason for their ever-increasing development of new tradecraft, technology, and the weaponization of controlled substances. Examples are the evolution of fentanyl analogs by cartel chemists from regular fentanyl, into para-fentanyl, then to cera-fentanyl, and the recent introduction of xylazine (or tranq, as it is referred) and their increasing appetite for horrific acts of hyper-violence against the innocent.

The Mexican cartels are responsible for the deaths of hundreds of thousands of Americans over the last several years and yet they are still not designated as a foreign terrorist organization (FTO). There is not one designated terrorist organization in the world responsible for killing this many Americans, and yet we still see no action from the U.S. Government to hold the Mexican government, and the Mexican cartels, accountable for the deaths of so many Americans.

CONCLUSION

In closing, there is a vast disparity of capabilities between TCOs and the Mexican cartels. The threats from the Mexican cartels to our citizens today are unparallel.

It is imperative that we marshal our collective will and direct the full force of our national power to confront these organizations. The time for half-measures and fragmented efforts has passed. Now is the moment for decisive and unwavering action to restore safety and security to our communities. This body must be committed to the protection of our citizens (your constituents) as the utmost priority. The future of our great nation depends on our focus against this common enemy.

To all mothers, fathers, and loved ones who have lost someone to these cartels, you are not forgotten. It is with steadfast commitment that I stand before you today, knowing that there can be no appeasement or reasoning with this evil. This is a good versus evil fight. May history remember this day as an important moment when our Nation committed in a resounding decree to end the Mexican cartels, to protect American citizens, and in doing so, we secure a brighter future for generations to come.

Thank you for the opportunity to appear before you today and I look forward to taking your questions.

Chairman GREEN. Thank you.

Ms. Vaughan, you are recognized.

STATEMENT OF JESSICA M. VAUGHAN, DIRECTOR OF POLICY STUDIES, CENTER FOR IMMIGRATION STUDIES

Ms. VAUGHAN. Good afternoon and thank you.

President Biden and Secretary of Mayorkas inherited the most secure border we've probably ever known. But they discarded that security in favor of what they want and what they call a more humane, more equitable system. What they seem to really want is to normalize illegal immigration.

Their system is far from humane. Plenty of people benefit from it, to be sure. Employers seeking exploitable workers, NGO's seeking Government contracts. But the biggest winners are the criminal cartels who've been raking in huge profits made possible only because these policies give them an endless supply of vulnerable customers that they can exploit and abuse, and hundreds of thousands of them are children. The human cost of these policies is unconscionable and for some, irreparable, and indeed most worthy of a hearing.

So the three main elements of the Biden-Mayorkas policies are the catch-and-release policies for illegal border crossers that have brought in more than 2 million people since January 2021, the CBP One program which gives out about 1,500 appointments to inadmissible aliens to enter through the ports of entry, and importantly, the dismantlement of immigration enforcement in the interior so that there's next to no threat of removal for the migrants, including those who abscond from their proceedings, which is the majority. Importantly, so that the employers and traffickers of these illegal workers can avoid scrutiny of their hiring practices.

Biden officials have claimed that CBP One policy is a great success because the illegal migrants no longer have to do business with the cartels, we should be skeptical of this claim. First of all, CBP One can only be used from locations in northern Mexico and the migrants still have to get there. For most, that still means paying a cartel-approved smuggler. The CBP One appointment itself turns out to be yet another opportunity for them to extort the migrants. Of course, the gotaways and the runners who are the bad guys are still coming in, as are the unaccompanied minors.

The situation now is nothing to brag about. We've merely gone from truly catastrophic to very bad. To the extent that there is a

decline in illegal entries is also helped by the efforts of Texas, of course, to block the most popular crossing points.

Biden and Mayorkas have been shockingly indifferent to the consequences of their policies for the migrants whom they are enticing into the cartel's web. The dangers begin on the journey with the high risk of robbery, assault, extortion, injury, illness. As we've discussed, for many, the abuse continues after they get here. Some people pay a discounted fee and give up their children for the smugglers to use to give to other single adults, others agree or are forced to be drug mules. A large number just make a down payment on the smuggling fee that's paid off in fear-driven forced labor debt bondage arrangements that are difficult for them to escape from.

So we now have a thriving market for cartel-involved human trafficking. According to one source, about one-fourth of the victims are children. Part of this is because of the policies of how these kids are handled once they are brought into the country as unaccompanied minors. The Border Patrol has to turn them over to the HHS assembly line where the goal is to flip them over to a sponsor as soon as possible with few questions asked. Not surprisingly, they end up in domestic servitude, working illegally at factories, poultry processing plants, on farms, or in the worst cases, trafficked for sex. These kids are vulnerable targets for criminal gangs like MS–13 and 18th Street, many of whom came here through the very same policies and are looking for new recruits or commodities to make money for the gang.

Some of the worst cases of this I've ever seen are happening very close to here, in PG County, Montgomery, Frederick, Baltimore, Ann Arundel, Fairfax, Loudoun, and Prince William County, have all had horrific cases. The cartels are into the forced labor too, what some have called narco slavery slavery, not just drug mules, but farm workers on the illegal marijuana grows in Oregon and California.

These public safety threats come on top of other significant costs to taxpayers. We have effective tools to fight back against the cartels directly. But the most obvious step is to secure the border and control illegal migration, to deny the cartels the opportunity to make money off the migration dreams of vulnerable people.

[The prepared statement of Ms. Vaughan follows:]

PREPARED STATEMENT OF JESSICA M. VAUGHAN

JULY 19, 2023

Thank you, Mr. Green and Mr. Thompson, for the opportunity to testify today. The mass migration crisis instigated by the Biden administration's misguided immigration policies has caused incalculable harm to American communities, to the integrity of our immigration system, and, tragically, to many of the migrants themselves. While there are a number of beneficiaries of these policies, including employers seeking cheap, exploitable workers; NGO's who are awarded huge contracts to provide services to migrants; and politicians who welcome the addition of non-citizen constituents to their districts, to name a few, the biggest winners under the Biden-Mayorkas policies are the criminal cartels and other transnational criminal organizations who are reaping profits on a nearly unimaginable scale. Drug trafficking is big business, and we've witnessed an alarming spike in the most dangerous drugs like fentanyl, but reportedly in recent years the cartels actually have been making more money from human smuggling and trafficking than from drugs. The fiscal and human cost is serious and enormous. Congress should take certain steps to combat

the cartels specifically, but the most effective action would be to address the main cause of the problem—the array of policies, unauthorized entry programs, and legal loopholes that generate the most profitable customers for the cartels—illegal migrants.

Biden-Mayorkas Policies Set Off Flood of Illegal Migrants; Millions Released into the United States.—When he took office, President Biden inherited what many experts considered to be the most secure land borders in U.S. history, with expanded and improved barriers, updated technology, and more personnel, all of which was backed up by policies that deterred migrants from crossing illegally. Yet on his very first day, President Biden began dismantling these policies and activities that had largely succeeded in controlling recent waves of illegal migrants. Within a short time, on the watch of DHS Secretary Alejandro Mayorkas, that largely secure Southern Border was transformed into a chaotic, lawless, and dangerous frontier, with cartels and criminal smuggling organizations orchestrating illegal crossings of migrants with impunity. The incentive: the understanding that the vast majority of illegal migrants would promptly be released from Government custody and transported to their destination (often with Government funds), despite low expectations that the migrants will comply with immigration proceedings or ever qualify to remain legally.

The Biden-Mayorkas policies, are built on the concept of increasing immigration by "managing" a much higher level of illegal migration and laundering the unauthorized entries using parole and work permit-issuing authority, together with the near-suspension of interior enforcement. The result is a system that is outrageously lucrative for the cartels and the smugglers, traffickers, gangs, and other criminal enterprises involved. Specifically, the Biden administration has arranged it so that the majority of those who do business with the smuggling organizations, which necessarily work under arrangements with the cartels who control the border area, will succeed in gaining entry to the United States with the opportunity to live and work here for an indefinite period, without a meaningful threat of removal. Under these policies, there is a near-endless supply of paying customers willing to risk working with criminal organizations to seek passage to the border.

These policies include:

1. Terminating construction of physical barriers at the border, and suspending operation of other tactics that were effective in deterring illegal entry, such as checkpoints and certain technology-based detection systems.
2. Directing the Border Patrol to coordinate with Mexican authorities to permit groups of migrants to cross the border illegally.[1]
3. Directing the Border Patrol to undermine the border security enhancements installed by Texas authorities.[2]
4. Allowing inadmissible migrants to make appointments to be escorted through the ports of entry for processing and release into the United States. Those arriving without appointments may withdraw their applications and subsequently enter with an appointment.
5. Virtually guaranteed release of families, minors traveling without parents, and those claiming to be a family or minor. These categories of illegal migrants, now represent 30 percent of the current border apprehensions. Little to no vetting is done to verify claimed family relationships (DNA testing was recently suspended). Typically, after processing the migrants are turned over to contractors who provide shelter and arrange transportation to their destination, where they are told to check in with Immigration and Customs Enforcement to receive an immigration court date. Intake agencies are prohibited from sharing information on the minors with ICE, and ICE is prohibited from moving to deport anyone who sponsors a minor.
6. Unaccompanied minors are handed off to the Department of Health and Human Services, which will house them until a sponsor is located. Most are released to individuals claiming to be parents or other relatives, while others are released to lightly-vetted sponsors. Home studies, background checks, and financial assessments are rare, and little meaningful follow-up monitoring is done. The expectation is that any problems will be handled by State and local authorities.
7. Migrants are encouraged to comply with immigration proceedings in order to receive a work permit. This benefit may also lead to qualifying for additional

[1] Todd Bensman, *Biden DHS Coordinating Illegal Immigration In-Flows with Mexico (cis.org),* Center for Immigration Studies, May 10, 2023.

[2] Todd Bensman, *Dispatch from a Militarized Texas Farm—Where Biden's Federal Agents Are Sabotaging the State's Desperate Border Enforcement (cis.org),* Center for Immigration Studies, July 13, 2023.

services, including a driver's license. Their conduct is only lightly monitored to remain in compliance with the terms of their release.

8. Migrants who do not comply with the conditions of their release are not considered targets for immigration enforcement. Only those migrants who commit very serious crimes and serve out their sentences are considered for removal, and only if the crimes occurred recently and no other mitigating circumstances are presented. Tens of thousands of migrants who absconded from proceedings in the past, or whose cases are now considered low priority have been closed, eliminating any threat of removal.

9. Besides giving a pass to illegal migrants who don't comply with release conditions, Mayorkas has directed ICE to refrain generally from investigating employers who hire unauthorized workers and from attempting to detect illegal workers who are using stolen or false identities.

As Border Crossings Rise, So Do Cartel Profits.—Not surprisingly, the number of illegal border crossers and inadmissible migrants has exploded, in response to what the migrants call Biden's "invitacion." This has been a boon for the cartel profits; in the last 2 years, reportedly, the cartels have reaped more revenue from the human smuggling and trafficking business than they have from drug trafficking, and have accumulated more wealth than some entire states in Mexico, reaching sums of as much as $14 billion a year, according to some experts.

Border Patrol encounters of illegal migrants at the border have consistently breached 2 million each year since 2021, and as of May of this year, are already over 2.1 million.

While the number of encounters measures attempted illegal crossings, the more important metric in the context of this discussion is the number of inadmissible aliens who are being released into the country. These are the cartel success stories, and consist of three categories of unauthorized migrants:

1. Illegal border crossers released after apprehension—Under Biden-Mayorkas policies, since January 2021 more than 2.2 million inadmissible aliens have been released into the country after turning themselves over to the Border Patrol or after apprehension.[3] This massive catch-and-release program is operating in defiance of the Immigration and Nationality Act, which requires the Government to return, remove, or detain all illegal border crossers, including those express an intent to make an asylum claim.[4]

2. "Gotaways"—Prior to the implementation of Biden-Mayorkas policies, typically the number of aliens evading apprehension by the Border Patrol remained just over 100,000 per year. Beginning in 2021, that figure rose to nearly 400,000 "gotaways," and then nearly 600,000 in 2022. So far in 2023, reportedly 530,000 illegal aliens have evaded capture, for a total of at least 1.5 million "gotaways" entering under the Biden administration.[5]

3. Unauthorized parole programs—In an attempt to lessen scenes of chaos at the southern land border, Mayorkas recently launched a controversial program to funnel inadmissible migrants to land and air ports of entry and away from illegal land crossings. Migrants make an appointment in advance using a phone app known as CBP One, and are allowed to enter through the land ports on the day of their appointment. In addition, those who show up at legal crossings without a visa and without a CBP One appointment are allowed to withdraw and enter later using the app to make an appointment, usually bypassing the waiting lists, which can be as long as 5 weeks for other users. Initially set at 1,000 per day on May 12 (following the rescission of Title 42), now there are 1,450 appointments available every day at the land ports. In addition, according to our sources, every day more than 1,000 additional migrants who are citizens of Cuba, Haiti, Venezuela, and Nicaragua reportedly are being permitted to fly directly to certain U.S. airports, where immigration officials allow entry without a visa. The estimated total number of unauthorized parolees is 250,000 since January.

New Policies Fail to Make Illegal Migration Safer.—Biden officials have claimed that the policies and programs implemented after the termination of pandemic expulsions have created new "legal" pathways for migrants so that they do not need

---

[3] Andrew R. Arthur, *Decoding CBP's Southwest Border Statistics for May (cis.org),* Center for Immigration Studies, June 26, 2023.

[4] See Hillel R. Smith, "The Law of Immigration Detention," Congressional Research Service, updated September 1, 2022, *IF11343 (Congress.gov)* and Andrew R. Arthur, *DHS Can't Just Release Illegal Migrants at the Border (cis.org),* Center for Immigration Studies, October 22, 2021.

[5] Andrew R. Arthur, *'Got-Away' Tsunami Is the Best Measure of the Decline in Border Security Under Biden (cis.org),* Center for Immigration Studies, June 29, 2023.

to do business with the cartels. In remarks at a meeting with Mexico's President López Obrador and Canada's Prime Minister Justin Trudeau, Biden said:

"People have to make it through jungles and a long journey to the border. And many are victimized, not only in terms of what they have to pay but victimized physically in other ways. And so, we're trying to make it easier for people to get here, opening up the capacity to get here, but not have them go through that godawful process."[6]

Biden officials now claim (without releasing the official statistics to confirm) that illegal crossings have declined by 50 percent or more in the last month. However, there are reasons to be skeptical that the new programs actually have solved the border problems, especially the human smuggling and trafficking problems and the involvement of the cartels. First, since the CBP One app can only be used from locations in central and northern Mexico, migrants still need to get to that area from other parts of Mexico, from Central America, and all the other departure points around the globe. Typically that requires hiring a smuggler who specializes in a particular market, and work and shares profits with the cartels that control the border and passage through other countries.

Notably, U.S. authorities had to shut down the CBP One processing in the city of Laredo for 2 weeks because migrants with appointments were being extorted for amounts in the range of $500 to $13,000. Eventually they reinstated the program, even as the risk of extortion continues. Upon re-opening appointments U.S. officials said that to avoid being extorted in Laredo, migrants should consider applying from other Mexican cities.[7]

Even with the new policies, the numbers of illegal crossers is still unusually high, averaging over 3,500 daily encounters with Border Patrol, and essentially has progressed only from "catastrophic" to "very bad."

In particular, the number of family units and minors does not seem to be abating. According to reports, despite the threats of consequences for illegal entry, many migrants are abandoning the CBP One process in favor of illegal crossings because there is a 5-week waiting period to enter once an appointment is made, and they are still likely to be released into the United States anyway—so there is little advantage to using CBP One. Minors, the category most vulnerable to abuse, are still crossing in very high numbers, with nearly 10,000 apprehended in May 2023.

Moreover, the cartels, along with other bad actors, still need to move their products and operatives across the border for their illicit business purposes, and they do not want to risk detection by using the pathways established by Mayorkas. They continue to exploit the weak links in physical border security to move drugs, gang members, single males, and anyone else who is likely to be flagged and removed if caught.

The Border Patrol and Texas authorities continue to announce significant apprehensions and encounters of illegal crossers, this month, even in the brutal heat of summer. This week, Mexican authorities intercepted least two tractor trailers loaded with hundreds of migrants.

To the extent that there is any improvement at all, it is most likely due to efforts by the State of Texas to physically block the entry points, such as by patrolling on the Rio Grande river, installing razor wire and buoys, and arresting some of those who make it across in areas away from where the Border Patrol is processing illegal migrants.

Lax Border Policies Expose Migrants to Abuse by Cartels.—President Biden, Secretary Mayorkas, and their allies maintain that the arrival of 4 million illegal border crossers in less than 3 years (on top of several million legal immigrants and new temporary workers in the same time frame) is a necessary humanitarian response and good for the country as well. This claim is perhaps naive, but strikes me more as shockingly indifferent to the plight of the large number of migrants who are abused, exploited, and even trafficked after surrendering themselves, their family members, and sometimes their life savings to the criminal organizations who are actually in charge of this system.

The dangers begin on the journey to the United States. Depending on the country of departure, the migrants travel by plane, boat, bus, train, and on foot, usually traversing multiple countries in which they have to be stashed and staged in houses or fleabag hotels, or camp in the wilderness and on the streets of various towns they pass through. Bribes have to be paid to authorities, gangs or cartels on the way, and even if Mexico is the only foreign country they cross, they usually are subjected

---

[6] Joseph R. Biden, *Remarks by President Biden, Prime Minister Trudeau, and President López Obrador in Joint Press Conference/The White House,* January 10, 2023.

[7] Daina Beth Solomon and Laura Gottesdiener, *Exclusive: U.S. restarts asylum appointments at Mexico border town despite extortion threat/Reuters,* June 28, 2023.

to threats, robbery, assault, kidnapping, extortion, illness, injury, and more. An unknown number don't survive the journey to the U.S. border.

Depending on the place of origin, the smuggling fees run in the thousands of dollars. Some migrants will accept discounts on the fees by giving up their children to cross with other adults traveling alone. Others will agree or are forced to be drug mules, perhaps in exchange for a lower fee.

Many migrants agree to a contract stipulating that after making a down payment on the smuggling fee, after they arrive at their pre-arranged destination in the United States, they will work in a job and live in housing arranged by the smugglers. Their smuggling debt and numerous other "expenses" will be deducted from their (low) wages, in the classic debt bondage arrangement, now possible on a much larger scale because of the Biden-Mayorkas policies.

The trafficking and debt bondage incidents involving children are especially horrifying. In 2021, about 27 percent of the cases reported to human trafficking hot lines Nation-wide involved minors. From January 2021 to May 2023 approximately 380,000 unaccompanied minors have been taken into custody by the Border Patrol. Under the current rules, after a cursory screening, the Border Patrol must turn over the minors to the Department of Health and Human services, which, under Biden policies, rushes to place the child with a sponsor. These placements occur without any of the precautions established by State child welfare agencies, and too often put the minors in abusive situations.

This irresponsible process was the subject of a Judiciary hearing several months ago, in which expert witnesses described how countless children have ended up in sex trafficking, forced labor, domestic servitude, or are released to the custody of gang members, predators, or illegal employment in violation of child labor laws.[8] The trafficking and other abuses also have been chronicled in numerous media investigative reports. One of the most informative accounts was the report of a grand jury empaneled in Florida in 2021 to investigate the problem. It observed:

"Some 'children' are not children at all, but full-grown predatory adults; some are already gang members or criminal actors; others are coerced into prostitution or sexual slavery; some are recycled to be used as human visas by criminal organizations; some are consigned to relatives who funnel them into sweatshops to pay off the debt accumulated by their trek to this country; some flee their sponsors and return to their country of origin; some are abandoned by their so-called families and become wards of the dependency system, the criminal justice system, or disappear altogether. Meanwhile ORR's efforts and resources are less directed at preventing or remedying any of these maladies, and instead appear fully focused on maximizing the number of children they can process, heedless of the downstream consequences to either the children or the communities into which they are jettisoned."[9]

Biden officials have been clear that they are more interested in moving UACs through the system as quickly as possible than they are concerned about the safety and well-being of the minors in their custody. In a shocking video that was widely circulated earlier this year at just about the time of one of the news media reports on the burgeoning problem of UAC labor trafficking, HHS Secretary Xavier Becerra urged HHS staff to further accelerate the processing of the kids, saying, "This is not the way you do an assembly line."[10]

Typically, the traffickers promise the young migrants and their families that they can go to school or work in the United States, and instead lure them into indentured servitude, peonage, sex trafficking, extortion, or demand that they work for the smugglers to pay off their debts to the traffickers. In other cases, desperate, unsuspecting, or opportunistic parents will arrange for their child to cross with a trafficker to work in the United States at a farm or factory, or worse. In one notorious case implicating an egg farm in Ohio:

" . . . The defendants and their associates recruited workers from Guatemala, some as young as 14 or 15 years old, falsely promising them good jobs and a chance to attend school in the United States. The defendants then smuggled and transported the workers to a trailer park in Marion, Ohio, where they ordered them to live in dilapidated trailers and to work at physically demanding jobs at Trillium Farms for up to 12 hours a day for minimal amounts of money. The work included

[8] U.S. House Judiciary Committee hearing, *The Biden Border Crisis: Exploitation of Unaccompanied Alien Children/House Judiciary Committee Republicans,* April 26, 2023.

[9] Florida Grand Jury report, p. 4.

[10] *White House promises crackdown on migrant child labor (usatoday.com).*

cleaning chicken coops, loading and unloading crates of chickens, de-beaking chickens and vaccinating chickens."[11]

In 2021, the Federal Government reportedly stopped releasing unaccompanied minors in at least two locations—Enterprise, Ala. and Woodburn, Ore.—due to concerns about organized labor trafficking. The Department of Justice and two other Federal agencies launched investigations based on suspicious clusters of arriving minors: "Some of these situations appear to involve dozens of unaccompanied minors all being released to the same sponsor and then exploited for labor in poultry processing or similar industries without access to education," according to an email from a Justice official. So far, one couple in northern Alabama has been convicted of money laundering and conspiracy to transport illegal aliens unlawfully, and the other investigations apparently are still in progress.[12]

The establishment and resurgence of the transnational gang MS–13 in the Washington DC-Maryland-Virginia area, whose members are largely illegal aliens, many of whom originally arrived as unaccompanied minors, has brought an increase in cases of brutal sex trafficking in the area. The gang preys on young teenage girls who run away from shelters, foster care, or broken homes:

"In the United States, victims of MS–13 tend to be Latino immigrant girls or girls from the Northern Triangle countries who came into the country as unaccompanied minors . . . HHS places minors either in foster care, with family or a sponsor . . . MS–13 preys on the vulnerability of the unaccompanied minors; some have previously suffered sexual abuse either in their home country or during the trip north; others lack a community and do not speak English. Members of MS–13 seek out the vulnerable young girls using violence and other coercive tactics to intimidate the girl into having sex for money to help financially support the gang. Runaways are also appealing to the MS–13. Family problems, transitions from foster care and economic problems are some of the reasons that unaccompanied minors run away from their homes. Many of the unaccompanied minors may have experienced sexual abuse, exploitation, or physical abuse in their home countries or during their migration to the United States and even more suffer from poverty and lack of a stable social network. These are all factors that make young girls more susceptible to human trafficking."[13]

Recent typical cases occurring in the area resulted in the prosecution of 11 MS–13 gang members for sex trafficking, assault, and other charges related to the prostitution of a 13-year-old and 16-year-old runaways. ICE officials have stated that an estimated 40 percent of MS–13 members they arrest originally arrived as UACs.

It is not only minors who end up being trafficked; the cartel-run system sets up adults for abuse as well. In 2021, Texas and New York had the largest number of cases reported on trafficking hot lines, but the places with the highest number of cases per capita were New Mexico, Mississippi, Georgia, Nevada and Washington, DC. Trafficking for commercialized sex is a serious problem, although the type of human trafficking that is most likely to involve illegal border crossers is forced labor trafficking. The most common sectors for this form of trafficking are agriculture/farm work and domestic work.

There are no comprehensive national statistics to quantify the true scale of trafficking or even recent trends, but the prevalence of new cases indicates that the criminal exploitation of workers is thriving under the Biden-Mayorkas border policies. For example, in April 2023, three Brazilian men were criminally charged for targeting and smuggling Brazilians over the Southern Border, for a fee of $18,000–22,000. The illegal migrants were put to work in restaurants owned by the traffickers in Woburn, Mass., and had to share apartments owned or controlled by the defendants, who withheld wages from the victims in order to pay off their smuggling debts and forced them to work long hours, often performing difficult manual labor, while subjecting them to threats of serious harm—including financial harm, violence, and deportation to prevent them from quitting and demanding better pay and working conditions. The defendants carefully monitored changes in immigration policies at the border, coached the migrants on how to answer questions from au-

[11] U.S. Department of Justice, "Two Defendants Plead Guilty to Forced Labor Scheme that Exploited Guatemalan Migrants at Ohio Egg Farms," August 25, 2015.

[12] *U.S. Probes Trafficking of Teen Migrants for Poultry-Plant Work (bloomberglaw.com).*

[13] *The Connection between the Mara Salvatrucha (MS–13) and Human Trafficking (humantraffickingsearch.org).*

thorities, and offered to give fake documents to the victims to support bogus asylum claims.[14]

While some of the labor trafficking involves relatively small-time cruel and unscrupulous employers, the cartels are directly involved in employing an unknown, large number of trafficked illegal migrants on illegal marijuana farms in Oregon and California, and probably other States, in a form of forced labor known as "narco-slavery." One illegal operation using trafficked workers was discovered after the body of a dead worker was discovered at a gas station, and investigators traced the matter back to the farm, uncovering other problems:

"Once Maria began working on the [illegal pot] farm, armed guards prevented her from leaving until the harvest was over. She said there were no bathrooms or beds for the more than 200 workers there. She slept on the floor or on an air mattress. "In the summer heat, she and others were forced to work from 7 a.m. to 10 p.m., Maria said. The guards would determine when they would wake up, eat and sleep."[15]

Authorities sometimes refer to these operations, which usually are run by either the Sinaloa or Jalisco (CJNG) cartels, as "blood cannabis" producers. They typically are found in remote areas of the country and produce marijuana to sell all over the United States. The illegal cartel-run farms are places of squalor and violence, where female employees in particular frequently are sadistically abused and other workers are exploited:

"A man from Spain said he was victimized on a grow in Josephine County [Ore.], to the west of Jackson County and bordering California. The man [said] he was promised $120,000 but was paid $300.
"When the worker demanded his earnings, the growers shot at him. He ran, hopped into his car and sped off as a truck followed him. He hid out in the woods for a couple of days before escaping . . .
"He said other workers are made to work 16 or more hours without a break and sometimes without a meal. And women are sometimes sexually assaulted.
"They come from Mexico, Argentina, Chile, Spain, Honduras, El Salvador, Venezuela, and Colombia and have often spent all of their money to get to the cannabis farms. Workers on illegal cannabis grows like this one in Jackson County, Oregon, are sometimes lured to the region with promises of hotel rooms and six-figure salaries. They often live in squalor without a bed or clean water."[16]

Lax administration of the legal visa programs also has allowed trafficking to flourish, particularly in the H–2A temporary farmworker, H–2B seasonal temporary worker, and J–1 exchange worker categories, but this trafficking is most frequently run by labor contractors and other staffing companies.

All of these problems are facilitated by the moratorium on worksite enforcement imposed by Mayorkas. Immigration enforcement at the worksite is the obvious place to detect instances of exploitative employment of migrants, but the Biden administration has shifted most work on these cases to the Department of Labor, which should also be involved, but lacks some of the authorities of DHS agencies, especially concerning non-citizens, who are responsible for at least half of the forced labor trafficking violations that have been prosecuted in Federal court each year, according to the Human Trafficking Institute.[17]

Biden-Mayorkas Policies Expose U.S. Communities to Threats.—The flood of people to the border brought on by the Biden-Mayorkas policies has created conditions that make it difficult, and at times impossible, for border officers to determine the identity, age, citizenship, and background of those they apprehend. The emphasis is on swift release of those caught crossing illegally and those seeking entry at the ports of entry, including those allowed to enter using CBP One. A cursory biometric and biographic screening is done, but if migrants have not previously been in the United States, there is little basis for assessing whether any individual migrant might pose a threat. The few documents that migrants might bring with them (those not ditched prior to crossing) are of little use to U.S. authorities.

---

[14] Department of Justice, *District of Massachusetts/Three Indicted for Forced Labor and One Charged with Labor Trafficking at Woburn Restaurants/United States Department of Justice,* April 4, 2023.

[15] Allie Weintraub et al, 'Narco slaves': Migrant workers face abuse on Oregon's cartel-run, illegal pot farms—ABC News, December 15, 2022.

[16] Beth Warren, *Cartel-backed pot grows linked to California, Oregon human trafficking (usatoday.com),* June 18, 2023.

[17] *Federal Human Trafficking Report/Human Trafficking Institute.*

These careless policies have created scores of new victims in American communities—all of which were preventable crimes. For example:

- Last month in El Paso, Eddy Jose Ortega Alvarado, a Venezuelan man who reportedly was allowed to enter using CBP One on May 20, 2023, has been accused of murdering a Honduran woman he was staying with in a dwelling that has been identified as an illegal alien stash house. Border Patrol agents told the news media that they had run a criminal history check on Ortega, but with the recent high volume of people to be processed and very limited access to criminal histories in other countries, there are "bad apples" who make it through.[18]
- In a case highlighted by the Florida Grand Jury, a 24-year-old man made it through Border Patrol screening posing as an unaccompanied child, and qualified to be placed with a sponsor in Jacksonville, whom he later murdered.[19]
- Several Venezuelan men who recently arrived in Chicago have been charged with a variety of crimes, including stabbings and shoplifting. Some have been arrested multiple times during the few months since their arrival. The State judge in one case lamented the lack of information on the men:

  "These are individuals who've not been in the country very long. You're now telling me that they were arrested at Macy's, committing a felony retail theft. So the court wants some idea of who is in front of me. Additionally, as the public defender just indicated, one person has already indicated he's using another name. So, who are these people? Who are these individuals?"[20]

- School resource officers around the country are asking the same questions about some of the students they are observing in the public schools. Officers I have met have described disturbing cases of gang infestation and violence in the schools attributed to newly arrived unaccompanied minors, the entrapment of recently-arrived girls into sex trafficking, and kids arriving at school after working the overnight shift at a poultry processing plant, and more.
- Federal agents recently prosecuted members of the MS–13 gang in Virginia for sex trafficking case, among other crimes. They recruited a group of girls who had entered as unaccompanied minors, were placed in a group home in Fairfax, Va, and then ran away, into the clutches of the gang. The teen victims were brutally beaten to initiate them into the gang, and then repeatedly forced to engage in prostitution both to members of the gang and outsiders. From once court document:

  "MINOR 2 was sex trafficked by numerous MS–13 gang members and associates shortly after she and MINOR 3 ran away from Shelter Care on August 27, 2018. According to MINOR 2, MINOR 3 informed her that she would engage in sex in exchange for money, food, and other things that MINOR 2 needed. During interviews with law enforcement, MINOR 2 and MINOR 3 both discussed staying at the residence of MOISES and JOSE ELIAZAR, two brothers who lived together . . . in Woodbridge, Virginia . . . MINOR 2 informed law enforcement that multiple men engaged in sex with MINOR 2 in the wooded area behind MOISES' apartment . . . Geolocation data obtained during the investigation shows that MINOR 2 was harbored at multiple locations in Northern Virginia and Maryland . . . Numerous social media conversations involving MOISES, GUTIERREZ, and others, show their active involvement in finding different residences to harbor MINOR 2 for purposes of commercial sex."[21]

- There are reports of several instances of individuals who had been watchlisted as known or suspected terrorists who still managed to enter the United States, either as asylum seekers[22] or because overwhelmed border officials could not

---

[18] Dave Burge and Fernie Ortiz, *Migrant arrested, charged with capital murder in death of another migrant | KTSM 9 News,* June 5, 2023.

[19] *Illegal immigrant who posed as minor while crossing border charged with murder (nypost.com).*

[20] *Venezuelan migrant arrested 3 times since arriving in Chicago 3 weeks ago: prosecutors—CWB Chicago,* May 9, 2023 and John Binder, *Sanctuary City Chicago: Migrants Accused of Stabbing, Shoplifting While Living in Taxpayer-Funded Shelters (breitbart.com),* May 18, 2023.

[21] *Affidavit in Support of Criminal Complaint and Arrest Warrant in United States* v. *MOISES et al,* July 31, 2020.

[22] Todd Bensman, *The Biden Admin Released a Suspected Terrorist into the United States After He Illegally Crossed the Border (cis.org),* Center for Immigration Studies, March 4, 2022.

react to the derogatory information. The latter case was the subject of a scathing report from the DHS Office of the Inspector General.[23]

Besides the array of past and future individual criminals who have been allowed to enter after crossing illegally, either by the design of the Biden-Mayorkas policies or as "gotaways", there is an even more concerning threat to the public from the cartels and other transnational criminal organizations that routinely exploit the border policies for their illicit business purposes. Most are sophisticated organizations, and the most successful are nimble in adapting to emerging opportunities, whether in human and drug trafficking across the U.S. border, or even more complex ways. Not only have they evolved "horizontally" to branch out into new ventures, for example getting involved in human trafficking as well as drug trafficking, in fentanyl trafficking as well as heroin and marijuana trafficking, and stealing oil as well as automobiles—they also have shown that they will evolve "vertically," to control every level of production, distribution, and retail sales of their illicit products.

This vertical evolution presents a very serious threat to American communities. The Mexican cartels (and numerous other transnational criminal organizations) have not been content to remain in Mexico; they already have established operations in the United States. Federal agencies made more than 300 arrests for Mexican cartel-related crimes in 2022, according to one analysis.[24] To manage these operations, the cartels need to move their people into U.S. communities. This requires thwarting U.S. immigration controls, which is not difficult at the moment. Once here, they will try to gain control of the environments in which they operate, whether through violence or through the corruption of public officials. Some communities have already experienced such violence, such as in the case of the illegal marijuana grows in California and Oregon, or in the case of Goshen, Calif., where in January 2023, 6 people were executed in an "early morning massacre" that authorities described as a likely cartel hit.[25]

These public safety threats come on top of the other significant costs to taxpayers, including the cost of expanded services to the migrants and lost job opportunities and depressed wages for legal U.S. workers. For example, Texas has told Federal courts that State taxpayers have incurred expenditures of hundreds of millions of dollars a year for medical care, schools, shelter and criminal justice costs attributed to the illegal migration brought on by the Biden-Mayorkas policies.

Recommendations.—The Biden administration has implemented policies that incentivize illegal migration on a massive scale, to the profit of criminal smugglers and traffickers, even with full knowledge of the risks that such policies will endanger the safety and well-being of the migrants. Some supporters of these policies have defended them on the belief that they are aiding the reunification of families, providing a safe haven from difficult living environments in their home countries, and even benefiting U.S. employers. On the contrary, I submit that there is no possible rationalization for policies that facilitate the abuse and exploitation of migrants and the endangerment of American communities on such a scale. There is no possible humanitarian or economic motive that could justify or make up for the damage that has been done by the cartels and the smugglers and traffickers who work with them.

Some suggest that a strong law enforcement agency response to target the cartels would solve the problems. Certainly that would help, and these reforms should occur, but such a surgical approach limited to targeting individual cartels and transnational criminal organizations will not be enough, even if a few cartels could be eradicated.

As long as the careless and poorly-managed immigration policies of the Biden administration remain in place, which allow for the near-unlimited illegal entry of migrants who do not have to establish admissibility, eligibility, or qualifications in any form, we can expect that the cartels and other criminal groups will exploit these policies to their own profit and convenience. If the policies are reversed, to end the mass catch-and-release of illegal crossers, to end unauthorized parole entry programs, to return Border Patrol agents to patrolling the border, to resume enforcement of immigration laws in the interior—especially at the work place, then it becomes much harder for the cartels to make a profit off of the migration dreams of vulnerable people in other countries, and they will find other business opportunities.

---

[23] Department of Homeland Security Office of the Inspector General, *OIG–23–31—CBP Released a Migrant on a Terrorist Watchlist, and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest (REDACTED) (cis.org),* June 28, 2023.

[24] Andrew Dorn and Steve Joachim, *Map: Tracking drug cartel arrests across the United States (newsnationnow.com),* February 16, 2023.

[25] Stella Chan, Goshen, *California shooting: 6 people, including a baby, were killed in a 'cartel-style execution,' sheriff's office says / CNN,* January 17, 2023.

To solve the problem, Congress must change the immigration laws and rein in the executive policies that are incentivizing the mass illegal migration of both adults and minors. When we reach the point where migrants understand that there is no point in entering an agreement with a criminal smuggling organization or a labor trafficker, or even attempting to illegally join a family member in the United States, because such illegal entry and employment will not be tolerated and result in the consequence of being sent home promptly, then the smugglers and traffickers will have few clients, and the Government agencies will have a much greater ability to deal with a far fewer number of exploitation cases.

Many of these reforms would be accomplished by H.R. 2640, the Border Security and Enforcement Act of 2023, introduced by Mr. McClintock and Mr. Biggs, which passed the House and is now before the Senate. Congress should also make use of its appropriations authority to de-fund the most egregiously damaging programs established by the Biden administration, including CBP One, other parole programs, the Mayorkas immigration enforcement prioritization scheme, and migrant resettlement initiatives that in reality are the final leg of illegal human smuggling operations. In addition, Congress should appropriate funds to be awarded to State and local governments to initiate programs to combat human trafficking, smuggling, and other activities that involve the cartels and transnational criminal organizations.

Chairman GREEN. Thank you, Ms. Vaughan.

I now recognize Mr. Maltz for 5 minutes.

STATEMENT OF DEREK S. MALTZ, PRIVATE CITIZEN, FORMER SPECIAL AGENT IN CHARGE, SPECIAL OPERATIONS DIVISION, DRUG ENFORCEMENT ADMINISTRATION

Mr. MALTZ. Thank you for the opportunity to speak today on this very important topic.

After a 28-year career with DEA, I've been supporting law enforcement agencies all over the country and I also support the grieving families that are burying their loved ones on a daily basis. I believe the safety and security of America must be a top priority. The current border policies are placing every American at risk. The Mexican cartels are taking over and taking advantage of the vulnerabilities at the border, but they're working with the Chinese transnational criminals at levels we've never seen in the country. They're operating with no fear.

The brave men and women in CBP are doing tremendous work, but they're distracted every day because they're dealing with a tsunami of migrants coming in from over 150 countries. How can any reasonable person in America think the current situation at the border, which is now impacting all of America, is safe and secure? Makes no sense. Look at the historic number of deaths, right—I deal with this every day—9,161 dead Americans. Headline news today, 9 in Cleveland, Ohio. Most ever in a 24-hours period dead. Last month another public service alert because there were 5 dead in 12-hour period. This is what's happening. What about Ray Lewis, the legendary NFL player? What about this famous actor Robert De Niro's grandson, dead? What about baby Elijah in Florida with the fentanyl that a mother mixed in the blender?

Look at the escalating crime in the country. Look at the known gotaways, 1.5 million that are all over the country. We don't even know who they are, where they are, what they're doing here. Look at the 143 migrants have been apprehended this year at the border. Think about that. There was only 3 in 2020 during the last administration and in the last year. Think of how many terrorists and criminals are part of the gotaways. This is common sense. You don't have to be an expert to understand that. Look at the record

number of migrant deaths from them making treacherous journeys to get here. Baking in the desert and in the back of tractor trailers and this man is pulling them off the desert with the sheriffs and stuff on the ground. Look at the sexual assaults and the rapes and the migrants on the journey. Remember, depression, anxiety, and mental illness are on the rise and all of our Americans are turning to drugs for help. But unfortunately to the illicit drug supply. Allowing Mexican cartel operatives and unidentified people from around the world to enter the country illegally at record levels is enhancing the ability of criminals to kill Americans.

This is not what the Government should be doing to keep us safe. You don't have to be a border expert, an immigration expert to understand that the administration's policies related to the border are a recipe for disaster. I'm not a MAGA lunatic, OK. Look at the recent Statement on China made by FBI Director Wray. Now let's think about it. He said how China is the most—biggest national security threat to our long-term of this country. Based on that warning, let's look at the facts. Already this year, 14,655 Chinese nationals, many of them military-aged men, are being apprehended on the border. Let's look deeper. That's 1,540 percent increase from last year and over a 10,700 percent increase from 2021. So my question to everyone here, what are they coming here for? Military-aged men from China? How many are in those gotaways? Remember the bombing campaign from China continues from the Chinese labs with the xylazine. This is a tranquilizer for horses. It's rotting people from the inside out, causing necrosis. Mike McCaul, thank you sir, because you made this statement and I'll never forget it. Selling fentanyl to America is a great foreign policy for China. He's right on point and the man's been around homeland security issues a long time.

Synthetic drugs made in labs in China and Mexico are record levels game-changer for the United States. The Chinese criminals are providing critical money-laundering services which I can answer questions about. This is a disaster for America and I'm concerned. It's not a red or a blue issue. It's a red, white, and blue issue, and every American should care.

So in my view, it's chemical weapons destroying our country rapidly. One of the biggest obstacles for us law enforcement is the corrupt, high-level government corruption. We can't rely on soft-on-crime and corrupt leaders in Mexico to save our kids. So as far as I know, there's never been a terrorist organization in the history of America that has killed this many Americans. The cartels must be dealt with accordingly and severely for what they're doing to our families and communities.

Law enforcement's done tremendous work, and my hat goes off to all of them, saving lives every day. DEA last year 58 million fake pills, 13,000 pounds of fentanyl, 400 million deadly dosage units taken off the street. Homeland Security Investigations, CBP during operation Blue Lotus, 8,200 pounds of fentanyl, 2 months at two POEs. The sad part everyone has to think about, how much is being produced and how much is already here. So DEA warns Sinaloa and Jalisco are the biggest threats, drug threats we've ever seen. So, folks, where's the Operation Warp Speed COVID-like thing for fentanyl?

Last thing, without border security, we have no country. Thank you very much.

For the Ranking Member, sorry, we're wasting your time.

[The prepared statement of Mr. Maltz follows:]

PREPARED STATEMENT OF DEREK S. MALTZ

JULY 19, 2023

Chairman Mark E. Green, Ranking Member Bennie Thompson, and distinguished Members of the committee, I would like to thank you for this opportunity to speak today about the catastrophic situation in America caused by the Mexican Cartels, the open borders and the escalating fentanyl poisoning crisis. I am grateful for the opportunity to share my experience and thoughts as America faces complex challenges with this unprecedented national security and public health disaster. I had a long rewarding 28-year career as a special agent in the Drug Enforcement Administration (DEA). I retired from the DEA in July 2014 but remain actively involved in the private sector supporting law enforcement agencies around the world as they aggressively target Transnational Criminal Organizations (TCOs). I'm also very engaged in supporting families around the country who have lost loved ones to the devastating substance fentanyl entering America at historic levels.

During the last 10 years of my career, I was the agent in charge of the DEA's Special Operations Division (SOD) in Northern Virginia. In that capacity, I ran the SOD operational coordination center with 30 participating agencies, to include representatives from Canada, Australia, and the United Kingdom. SOD's primary mission is to support and synchronize the investigative efforts of Federal, State, local, and international law enforcement agencies. SOD focused substantial resources on the Mexican cartels since they have been one of the greatest threats to the United States for several years. SOD was instrumental in supporting the Mexican government and several U.S. agencies to capture the former leader of the Sinaloa Cartel, El Chapo Guzman, on two occasions, and coordinating the world-wide investigations against the cartel. SOD also has a long history of coordinating the efforts of agencies around the world disrupting and dismantling major criminal networks.

Unfortunately, the threat of the Mexican cartels has grown tremendously over the years from drug cartels to TCO's to narco-terrorists. In my view they remain the greatest daily threat to the citizens of this country. They have killed more Americans than any other terrorist organization and the rate of death and destruction continues to escalate. The cartels control the importation and distribution of heroin, cocaine, methamphetamine, and deadly fentanyl. They work closely with Chinese Criminal Networks (CCN) and together they are destroying communities and families throughout the United States and are killing record numbers of our future generation.

I remain committed to work with Congress, my colleagues in the Government agencies and fellow citizens who have lost their loved ones to the drug crisis to help develop recommendations and solutions to build more effective approaches to eliminate the current threats. Too many Americans are dying from fentanyl poisoning and citizens all over the United States are impacted by the Mexican cartels and the CCN.

It is time to work together and put politics aside. "The current unprecedented fentanyl poisoning crisis that's killing our kids at record levels is not a Red or Blue Issue. It's a Red, White, and Blue issue. We need all Americans to work together now to save lives."

We must utilize the best and brightest patriots serving the country and combine the arsenal of capabilities and authorities to decimate the cartel's deadly production operations in Mexico. We must simultaneously dismantle their importation and distribution networks to eliminate the growing threat to the United States and our citizens. The U.S. agencies must continue to work together with innovative strategies to shut down the flow of precursor chemicals shipped to Mexico from China, India, and other countries around the globe that are used in the production of dangerous synthetic drugs. The evolving sophisticated money-laundering schemes offered by the CCN to the cartels must also be shut down.

The U.S.G. must also use all Treasury and economic sanctions to disrupt the movement of criminal proceeds to the foreign leaders who run these networks. As the country faces these growing threats, especially with the involvement of the CCN's and their partnership with the cartels, law enforcement needs the full support of Congress. This historic ongoing national security threat requires a true "whole-of-America approach." While we must continue to treat those with mental ill-

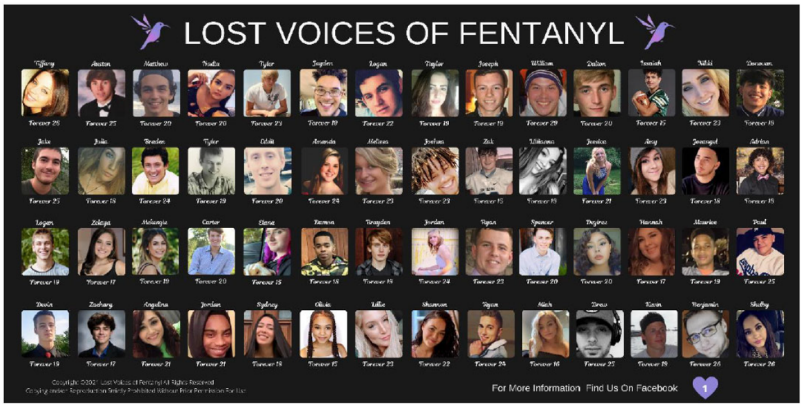
ness and drug addiction, the Mexican cartels and the CCN must be held accountable for their devastation and damages. They can no longer operate with impunity, and we need Congress and Government leadership to step up their efforts with a greater sense of urgency.

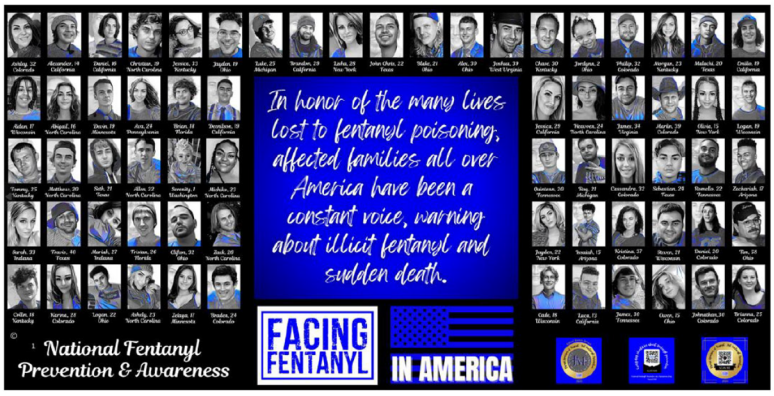
President Biden said appropriately on December 15, 2021, while speaking about his Executive Order on Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade,

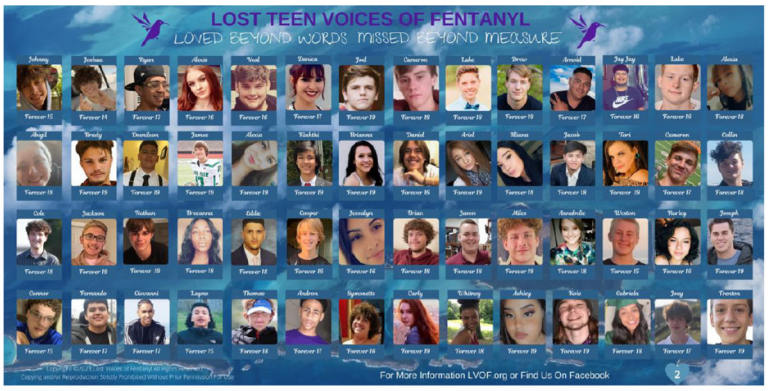
"trafficking into the United States of illicit drugs, including fentanyl and other synthetic opioids, is causing the deaths of tens of thousands of Americans annually, as well as countless more non-fatal overdoses with their own tragic human toll. Drug cartels, transnational criminal organizations, and their facilitators are the primary sources of illicit drugs and precursor chemicals that fuel the current opioid epidemic, as well as drug-related violence that harms our communities. I find that international drug trafficking—including the illicit production, global sale, and widespread distribution of illegal drugs; the rise of extremely potent drugs such as fentanyl and other synthetic opioids; as well as the growing role of internet-based drug sales—constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States."

(Executive Order on Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade, 2021)

Based on the President's statement above, and knowing the Mexican cartels are responsible for shipping record amounts of deadly substances and sending their operatives into the country from Mexico, any reasonable person can understand that the current border policies are enhancing the cartel's ability to operate successfully, contradict the President's statement, and that the border must be secured to ensure increased public safety and security in America.







OVERVIEW

On July 12, 2023, White House Office of National Drug Control Policy (ONDCP) Director Dr. Rahul Gupta released an update on drug overdose deaths in America. The latest CDC report shows 109,940 predicted overdose deaths in the 12-month period ending in February 2023. Most of these deaths are caused by illicit synthetic drugs like clandestinely-manufactured fentanyl and methamphetamine, often in combination with other drugs, including cocaine and heroin. (Dr. Rahul Gupta Releases Statement on CDC's New Overdose Death Data, 2023) This alarming statistic reflects that America is losing around 9,161 people per month to drugs.

When you look closer into the statistics in some areas of the country like New Orleans, 95 percent of overdose deaths in 2022 were from fentanyl according to Coroner Dr. Dwight McKenna. (Robin, 2023)

When you look at the death statistics in San Diego, California, there was a 2,375 percent increase in fentanyl-related deaths in the 5-year period 2016–2021. (Fentanyl Seizures at Border Continue to Spike, Making San Diego a National Epicenter for Fentanyl Trafficking, 2022)

According to the Families against Fentanyl who have analyzed CDC statistics and have done a tremendous job educating the public on the troubling trends involving fentanyl, they revealed the following in the recent report "The Changing Faces of Fentanyl Deaths."

(The Changing Faces of Fentanyl Deaths, 2023)

- Synthetic opioid (fentanyl) poisoning was still the leading cause of death among Americans 18 to 45 in 2021.

- Synthetic opioid (fentanyl) fatalities among children are rising faster than any other age group.
- In just 2 years, synthetic opioid (fentanyl) deaths among children ages 1 to 4 more than tripled, and increased 4-fold among infants less than one, and children ages 5 to 14.
- Since 2015, deaths among infants increased nearly 10-fold; among children ages 1 to 14 deaths increased 15-fold: an increase of more than 1,400 percent.

These are staggering statistics impacting communities all around the country, and all Americans should be alarmed and demanding accountability from the leaders.

Look at the recent press stories involving celebrity families, a 9-month-old baby and Black and Hispanic Americans impacted by deadly fentanyl. This again highlights how citizens are suffering, from all walks of life, because of the ruthless cartels and the wide-open borders.

- Ray Lewis III, the son of two-time Super Bowl champion Ray Lewis, has died, police said in an incident report detailing a suspected overdose. (Press, 2023)
- Robert De Niro's grandson Leandro died from fentanyl-laced pills (Ushe, 2023)
- Teen mom charged with aggravated manslaughter for giving 9-month-old baby fentanyl (El-Bawab, 2023)
- As Fentanyl Overdose Rates Rise Among Latinos, So Do Calls for Government Action (Gunderson, 2023)
- Mass. set a record for opioid overdose deaths. Black residents were hardest hit (Bebinger, 2023)

Sarah Richardson, Program Manager at the Chicago Department of Public Health Office of Substance Use, said city data shows a deepening crisis. "What we're seeing in Chicago right now is that 80 to 90 percent of our overdose deaths involve fentanyl, and a growing number of those deaths involve fentanyl as the only opioid in that death," Richardson said. "The number of Latinos in the community that have experienced a fatal overdose has significantly increased in recent years. We've seen those increases across every demographic group, but the greatest increase has in fact been in our Latino communities in Chicago."

There are so many stories around the country that highlight the unprecedented nature of the fentanyl poisoning crisis. Please see the mass poisonings all over the country at the end of this document.*

Over the last few years while actively supporting law enforcement in the private sector, I participated in the production of documentaries, national media segments, Congressional, think tank and educational sessions, and rallies with grieving families and non-profits from around America to help educate the public and bring needed awareness to the dangerous and evolving synthetic drug crisis.

I will continue to engage with families who lost children from these poisonous substances hitting our communities like a tsunami. It's hard to imagine the lack of engagement and action from of our national leaders in Washington especially on the education for young Americans and the mixed messages from the leadership. I have worked tirelessly with families to recruit celebrities, professional athletes, role models and social media influencers to help create a movement to get specific messages to the kids. Sadly, these efforts to date haven't been very successful due to the stigma related to drugs and lack of knowledge on the current crisis. All Americans must realize this ongoing poisoning crisis is like nothing we have ever seen and the I believe if the right celebrity pushed out short social media videos, the kids would get the important messages. We must all accept that most children are not watching Congressional hearings, mainstream media, cable news, or listening to podcasts so it's critical to have role models step up in a big way to fill the educational void.

The Mexican cartels are also working in close partnership with CCN, operating with impunity and killing our citizens at historic levels. The threats posed by the cartels are growing rapidly as they make billions of dollars, especially benefiting from human smuggling with the porous Southern Border. The current border policies are irresponsible and placing all Americans at risk. As we see all the troubling news on the fentanyl poisoning crisis, there are also dangerous connections between the criminal activity of the Mexican cartels and terrorist groups like Hezbollah. The topic of narco-terrorism has been a priority of mine for many years, and we documented a very disturbing partnership during DEA's priority operation Project Cassandra to show the growing role of Hezbollah, working with the cartels in drug trafficking and global money laundering.

As we look at the latest statistics from the U.S. Customs and Border Protection (CBP), all Americans should be concerned with the fact that in fiscal year 2023 through May there were 127 U.S. Border Patrol Terrorist Screening Data Set (TSDS) encounters between ports of entry of non-U.S. Citizens. This reflects a stag-

*The information has been retained in committee files.

gering increase compared to the 3 apprehended for the entire fiscal year when the last administration enforced strong border security policies.

The country is currently being invaded by an overwhelming number of illegal immigrants from over 150 countries and deadly drugs killing Americans at historic levels. The brave men and women of CBP are being inundated with administrative duties and migrant processing instead of focusing on protecting our national country. The outrageous dereliction of duty by the current administration with the weak border policies distracting our CBP from securing the country is placing every American at risk.

The *New York Times* headline published on July 13, 2023, says "This Agency Was Created With a Terrorism Focus. Now It Also Has to Care for Migrants.

- Customs and Border Protection was set up after 9/11 amid the fight against terrorism. Its responsibilities have ballooned with the influx of asylum-seeking migrants crossing the Southern Border."

You don't have to be a border or immigration expert to understand that the current administration's policies related to the border are a recipe for a disaster. Look at the recent statement made by FBI Director Christopher Wray,

- "I've said before, there is no doubt that the greatest long-term threat to our nation's ideas, our economic security, and our national security is that posed by the Chinese Communist government." (Inside the FBI: The China Threat, 2023)

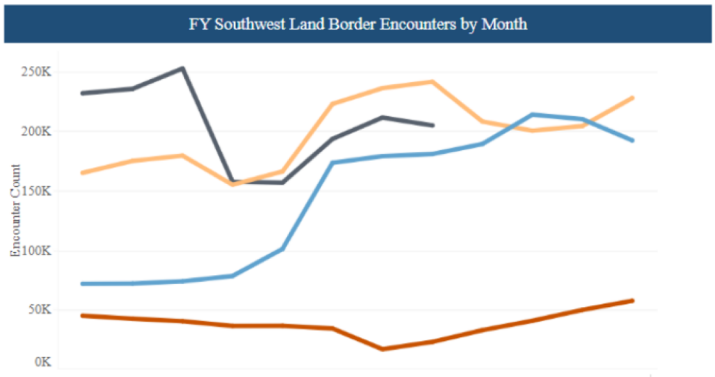
In June there were several news reports on the disturbing number of Chinese nationals crossing the U.S. Border.

Fox Business reported on June 26, 2023,

- "There are certain Chinese coming in that are really disturbing," Gatestone Institute senior fellow Gordon Chang said. Packs of Chinese males of military age, unattached to family groups pretending not to speak English. These are probably saboteurs who arecoming in on the first day of war with Asia."
- Rep. Mark Green, R–Tenn., also claimed that "10,000-plus" Chinese nationals have been apprehended in fiscal year 2023, "a massive 300 percent increase" from the year prior. (Altus, 2023)
- A recent Fox News report also reflected that over 12,000 Chinese nationals were apprehended at the border this fiscal year thus far.

This concerning statement by the FBI Director combined with CBP's statistics related to the massive increase of military age Chinese national men apprehended at the border and that over 1,500,000 known got-aways have been documented during this administration, I would say as an experienced public safety and law enforcement executive, the entire country is at serious risk.

Below provides the very alarming statistics of the fiscal year through May of Southwest Land Border Encounters: *(CBP.gov, 2023)*



	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	Total
2023 (FYTD)	231,531	235,185	252,280	157,359	156,634	193,234	211,159	204,561					1,641,943
2022	164,837	174,845	179,253	154,874	166,010	222,574	235,785	241,136	207,834	200,162	204,087	227,547	2,378,944
2021	71,929	72,113	73,994	78,414	101,099	173,277	178,795	180,597	189,034	213,593	209,840	192,001	1,734,686
2020	45,139	42,643	40,565	36,585	36,687	34,460	17,106	23,237	33,049	40,929	50,014	57,674	458,088

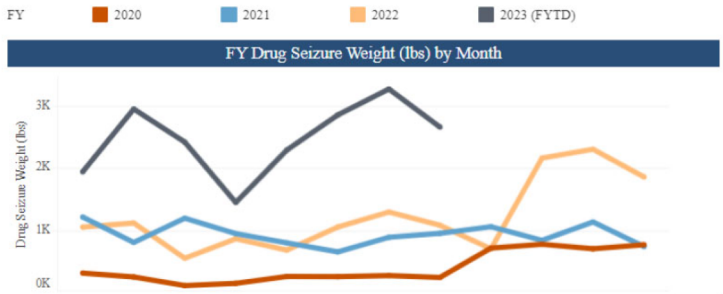
On July 12, DEA Principal Deputy Administrator George Papadopoulos testified before the House Homeland Security Subcommittee on Border Security and Enforcement at a hearing entitled, "Protecting the U.S. Homeland: Fighting the Flow from the Southwest Border" Mr. Papadopoulos stated the following:

- The Sinaloa and Jalisco Cartels pose the greatest criminal drug threat the United States has ever faced.
- The availability of fentanyl throughout the United States has reached unprecedented heights. In 2022, DEA seized more than 58 million fake pills containing fentanyl, and 13,000 pounds of fentanyl powder, equating to nearly 400 million deadly doses of fentanyl. This is enough fentanyl to supply a potentially lethal dose to every member of the U.S. population. These seizures occurred in every State in the country.
- These ruthless, violent, criminal organizations have associates, facilitators, and brokers in all 50 States in the United States, as well as in more than 100 countries around the world.
- The Sinaloa Cartel and the Jalisco Cartel and their affiliates control the vast majority of the fentanyl global supply chain, from manufacture to distribution.
- The cartels are buying precursor chemicals in the Peoples Republic of China; transporting the precursor chemicals from the PRC to Mexico; using the precursor chemicals to mass produce fentanyl; using pill presses to process the fentanyl into fake prescription pills; and using cars, trucks, and other routes to transport the drugs from Mexico into the United States for distribution. It costs the cartels as little as 10 cents to produce a fentanyl-laced fake prescription pill that is sold in the United States for as much as $10 to $30 per pill. As a result, the cartels make billions of dollars from trafficking fentanyl into the United States.
- The business model used by the Sinaloa and Jalisco Cartels is to grow at all costs, no matter how many people die in the process. The cartels are engaging in deliberate, calculated treachery to deceive Americans and drive addiction to achieve higher profits.

Steven Cagen, assistant director, Homeland Security Investigations, testified at the same Congressional hearing as Mr. Papadopoulos and made the following statements:

- TCOs flood the United States with deadly drugs, including illicit fentanyl and other opioids.
- Criminal organizations in the 21st Century do not limit themselves to a single criminal enterprise. These criminal organizations have expanded beyond narcotics smuggling and have morphed into poly criminal TCOs involved in the associated crimes of weapons trafficking, human trafficking, human smuggling, money laundering, and other crimes.
- TCOs have also evolved beyond insular entities and have sought out partnerships with competing TCOs in furtherance of their criminal activities. For example, the illicit collaboration between Chinese TCOs and Mexican cartels has created a complex criminal ecosystem that is fueling money-laundering and narcotics-trafficking operations, specifically illicit fentanyl, into and within the United States.
- Chinese money-laundering organizations have developed sophisticated networks in the United States, Mexico, China, and throughout Asia to facilitate money-laundering schemes.
- Mexican cartels have taken over fentanyl production and operate on an industrial scale, they are obtaining precursor chemicals from China and synthesizing these chemicals in Mexico to produce fentanyl. Mexican cartels then smuggle the fentanyl into the United States in either powder or pill form for distribution.
- Chinese TCOs also facilitate the trafficking and distribution of illicit fentanyl pills by providing the Mexican cartels with the pill press equipment to make the fake oxycodone pills.
- The Mexican cartels are purchasing these pill presses directly from Chinese manufacturers that are producing the equipment specifically for illicit activity.

CBP has also reported staggering drug seizure statistics for the first 8 months of fiscal year 2023. CBP reports they seized 19,800 pounds of fentanyl. Although, I appreciate the incredible work of CBP and all the law enforcement agencies and I'm totally impressed with the dedication of the men and women on the front lines, these large seizures of deadly drugs should be a "wake up call" for all Americans. It's obvious and alarming to anyone who works in drug enforcement or border security that if this is what agencies are seizing, then everyone should be concerned on how much is being manufactured in Mexico, imported, and now on the streets in America.



	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	Total
2023 (FYTD)	1.9K	2.9K	2.4K	1.4K	2.3K	2.9K	3.3K	2.7K					19.8K
2022	1.1K	1.1K	549	862	680	1.1K	1.3K	1.1K	700	2.2K	2.3K	1.9K	14.7K
2021	1.2K	804	1.2K	945	797	652	886	950	1.1K	837	1.1K	737	11.2K
2020	310	249	110	146	257	254	271	240	713	774	702	766	4.5K

To be clear, the current crisis can't be solved with law enforcement alone. This complex and emerging problem requires that all Americans unite. The United States needs more focus and resources on drug education, treatment, and rehabilitation in addition to law enforcement. This is an unprecedented public health, national security, and community safety matter that also has huge mental health ramifications for the addicted as well as their families. Sadly, Americans are turning to what they

think are legitimate prescription pills for help and are getting "fake" pills containing deadly fentanyl. Our citizens are being deceived to death in an exorbitant number of cases. There are many great American patriots working in the medical, education, addiction, science, technology, financial, and other private-sector industries that can help develop comprehensive strategies and plans to deal with this matter.

The status quo is an unacceptable option as too many lives are on the line. There must be accountability for all resources provided to these initiatives since it's not good enough to just provide funding. We need to see the death rates decline across the country.

America has outdated technology and laws, limited resources directed at these national security threats, deceptive political leadership and huge morale issues across the agencies who are responsible for keeping the country safe. There is a concerning movement involving experienced law enforcement personnel retiring rapidly. This is happening as the cartels are building up their capabilities, enhancing their weapons systems, expanding their product line and unfortunately after forming a lethal partnership with CCN. Sadly, this has resulted in increased violence and escalating deaths in the United States.

As a DEA supervisor for many years, the agent in charge of SOD for almost 10 years and as an huge supporter of law enforcement and grieving families since retirement, I learned so much about the evolution of the opioid addiction crisis, the "bombing of America" from synthetic drugs coming from China and Mexico, the growing role of CCN in drug trafficking and money laundering and the increased threats posed to our country from the Mexican "terror" cartels.

Over the last year, there has been increased press reporting and Government warnings about new and more powerful synthetic opioid drugs or New Psychoactive Substances (NPS) like Nitazene, Etonitazene, Isonitizene, and Protonitazene. Nitazines are being sourced from China and being mixed into other drugs. DEA, Washington Field Division put out a warning on June 1, 2022, alerting the public about this emerging threat. (New, Dangerous Synthetic Opioid in D.C., Emerging in Tri-State Area, 2022)

In addition to the Nitazene class of drugs, American communities have been saturated with Xylazine mixed with fentanyl, known as Tranq. Xylazine is a non-opiate sedative, analgesic, and muscle relaxant only authorized in the United States for veterinary use and not approved for human consumption. However massive amounts of illicit Xylazine are being produced in Chinese labs as well and now this deadly flesh-eating drug is destroying Americans all over the country.

On March 20,2023, DEA put out an emergency public warning on the widespread threat of Xylazine mixed with Fentanyl and on July 11, 2023, the White House announced warnings and a plan to deal with this emerging drug threat. As stated in the press release, ONDCP Director Dr. Gupta said,

"Xylazine has been detected in nearly every State in the country." And "I have seen the devastating consequences of xylazine combined with fentanyl firsthand."

(FACT SHEET: In Continued Fight Against Overdose Epidemic, the White House Releases National Response Plan to Address the Emerging Threat of Fentanyl Combined with Xylazine, 2023) (DEA Reports Widespread Threat of Fentanyl Mixed with Xylazine, 2023)
(The Growing Threat of Xylazine, 2022)

Deadly chemical substances are being manufactured in Chinese labs and being distributed all over America. Although I appreciate of the Government warnings and plans to deal with these emerging drug threats, SYNTHETIC DRUGS COMING FROM CHINA AND MEXICO HAVE BEEN A GAME CHANGER FOR THE UNITED STATES and we are under attack in my view. The U.S.G. must be way more aggressive in dealing with this growing public health and national security threat. Aggressive action plans, operational implementation and accountability on the leaders should be a top priority. Allowing the Mexican cartel operatives and people from around the world to enter the country illegally at record levels is enhancing the ability for criminals to kill Americans.

SYSTEMATIC CORRUPTION IN MEXICO AND GROWTH OF THE CARTELS

Another disturbing aspect involving the Mexican cartels is their role as narco-terrorists and their advancement with the use of technology and weapon systems to enhance their deadly business enterprise. They are not typical crime groups as they conduct acts of terrorism not solely in furtherance of drug trafficking but for the purpose of instilling fear in the public and influencing.

The cartels are responsible for utilizing terror tactics to silence, torture, and kill civilians, government officials, Catholic priests, and news reporters, who publicly

speak out against the violence inflicted by the cartels. The Mexican cartels have become Mexico's insurgency's and have utilized terror tactics. They have corrupted the system and undermine the Mexican government and the rule of law. The Mexican cartels have recruited hundreds of trained law enforcement and military personnel who now carry out executions and assassinations on behalf of the cartels. The cartels routinely conduct beheadings, in which corpses and heads are hung on public display. The cartels are also indiscriminately killing to scare the general population into submission and subservience.

The conviction of Genaro Garcia-Luna, former director of Mexico's Public Security, in Federal court in New York and the DEA arrest of Salvador Cienfuegos, former defense secretary of Mexico, reflects the level of corruption at the highest level of the Mexican government. (Mexico's former public security chief convicted in U.S. drug case, 2023)

(Golden, 2022) Having the top government officials on the Mexican cartel's payroll, help the cartels operate with impunity moving tons of drugs around the world and make billions. One of the biggest obstacles for U.S. law enforcement is overcoming the presence of high-level corruption in Mexico.

In my view, the U.S. Government mistakenly views the Mexican cartels as only transnational crime organization, and its current strategy to attack the cartel threat at the border and in America are insufficient to end the Mexican cartels chaos and massive deaths to Americans. Look at the amounts of young Americans dying daily from their poisonous substances. The production is on the rise and the supply of these poisonous drugs are vast. The United States must accept and come to the realization that the cartels are operating like the most dangerous terrorist organizations in the world.

As far as I know, there has never been a terrorist organization like al-Qaeda, Hezbollah, or ISIS, that has killed this many Americans. The U.S. Government assessment of the cartels must be updated. From my perspective, it doesn't matter what the U.S.G. decides to name the cartels, but rather what does matter is that the cartels are held fully accountable with the right force. The consequences for their actions must be appropriate based on their level of devastation they have caused American families. On September 11, 2001, approximately 3,000 Americans were killed, and the United States responded appropriately. With hundreds of thousands being killed from poisonous fentanyl, it's about time the cartels feel the full force of America.

The United States and Mexico efforts and strategies against the Mexican cartels have been proven to be ineffective in its ability to curtail and significantly reduce the level of drug trafficking and violence inflicted by the cartels. America must confront the level of violence and terror carried out by the cartels. The U.S.G. should not limit the strategy to combat the cartels with law enforcement alone. Additional capabilities must be put on the table to combat the Mexican "terror" cartels. The U.S.G must use whatever authorities are needed to create a seamless plan to bridge the gap between the law enforcement, military, and the intelligence community to decimate these ruthless networks.

The cartels utilize military grade weapons and C4 explosives and have been found to be in possession of weapons such as assault rifles, pistols, grenades, RPG rocket launchers, claymore anti-personnel mines and man portable air defense systems. The Mexican cartels have taken control of Mexico through active means of terrorism. During my last trip to the Rio Grande Valley, Texas, I was extremely concerned to learn about the 9,000 drones used by the cartels for surveillance inside America especially knowing how the cartels are now dropping C4 explosives on their adversaries in Mexico. It's a threat growing daily on our Southern Border and the use of drones and explosives is a huge risk to our brave men and women of CBP who are fighting daily to keep us safe.

On July 12, 2023, as reported in ABC News, A drug cartel set off a coordinated series of 7 roadway bombs in western Mexico that killed 4 police officers and 2 civilians. The governor of Jalisco state said the explosions were "a trap" set by the cartel to kill law enforcement personnel. This is another recent example of the advanced terrorist-style attacks carried out by the Mexican Cartels. (STEVENSON, 2023)

RECOMMENDATIONS

- The President should hold a White House Summit immediately to declare a national health and security emergency based on the historic number of deaths from fentanyl and the escalating growing lethal relationship between the Mexican cartels and the CCN. All Americans must understand this is not the same old drug problem and synthetic drugs have changed the game.

- Create an Operation Warp Speed type of response for Fentanyl like we had for COVID and apply the best practices and lessons learned to address the current fentanyl poisoning crisis.
- The President should direct the Department of Education to implement a mandatory and robust curriculum at all schools to ensure young Americans are learning about the emerging deadly synthetic drug threats.
- The President must mandate the CDC to update the processes on reporting timely and producing accurate statistics on fentanyl and other synthetic drug poisonings and deaths.
- The White House should collaborate with professional athletes, role models, celebrities, and social media influencers to start an immediate outreach campaign to push impactful video reels on social media sites targeting the younger generation. The White House is currently using social media influencers to push campaign messages out so why not message about fentanyl to save American lives in the current state of emergency.
- Declare fentanyl a weapon of mass destruction.
- Work with Mexico and provide full U.S. support to decimate the cartel's operations.
  - Hold high-level security meetings with the Mexican counterparts to accurately assess their commitment to shut down the cartels and implement bilateral strategies.
  - Offer the use of U.S. military assets for training, capabilities, and resources to ensure the appropriate resources are directed at the threats.
  - Apply pressure on Mexico for increased information sharing and bilateral investigations.
  - Increase operations to arrest and extradite the highest members of the cartels to face justice in the United States.
  - Increase operations in Mexico to identify and destroy fentanyl and methamphetamine manufacturing labs.
  - Consider precision strikes on the cartel's production labs in Mexico.
- Declare the Sinaloa and CJNG cartel's terrorist organizations based on their growing direct threats to the United States and Mexico and apply the appropriate U.S. authorities, resources, and capabilities.
  - Since this recommendation is stuck in U.S. bureaucracy and doesn't seem to have the full support of U.S. leadership, the United States must at least respond appropriately based on the gravity of the threats posed by the cartels. The current response is unacceptable and irresponsible by anyone who took the oath to support the U.S. Constitution and protect America.
- Increase U.S. Treasury designations and sanctions to target people and businesses facilitating the deadly criminal enterprises and flooding America with poisonous drugs. Seize as many assets derived from criminal activity as possible.
- Expand multi-agency task forces with additional resources to target the supply of precursor chemicals from China and other countries to the Mexican cartels.
- Build up relationships with China, India, and other countries involved in shipping pre-cursor chemicals to the cartels.
- Strengthen border security with the policies that work and always place the interest of American citizens first.
  - Need additional scanning resources at the border.
  - Implement border walls with appropriate technology where necessary based on Homeland Security expertise not based on political motives.
  - Continue the border wall construction.
  - Implement remain in Mexico sound and common-sense policies to address the tsunami of illegal migrants entering the United States.
  - Eliminate the loopholes for the fraudulent asylum claims.
- Office of National Drug Control Policy of United States should develop Public Service Announcements immediately and establish close partnerships with grieving families and nonprofits who are fighting daily to spread awareness and save lives.
- Hold social media companies accountable for facilitating the movement of deadly drugs and other serious criminal activity like "sextortion" on their platforms.
- Increase resources for mental health, treatment, and rehabilitation for drug addiction and apply strict accountability for the resources. Need to articulate the results and progress.
- Provide resources for lab analysis and medical examiners to expedite the process.

- Set up fentanyl death task forces like Task Force 10 in San Diego and multi-agency task forces like in Los Angeles to aggressively prosecute fentanyl dealers who are killing citizens.
  - Increase resources and prosecutions of synthetic drug violators and ensure maximum penalties.
- Establish a more formal DC-based multi-agency "Synthetic Drug Task Force" to use existing resources at the National Targeting Center at DOD, National Targeting Center at CBP, DOJ OCDETF Fusion Center, SOD, DEA's Special Intelligence, HIDTAs, HHS, FDA, USPS, Treasury, and other key agencies.
  - Build new strategies to stop the complex money-laundering schemes used by the CCN to assist the cartels by moving funds efficiently back to the leaders.
- Must address the outdated laws and polices especially related to criminal communications.
  - Work with technology companies and law enforcement to collaborate on the growing concern of encrypted communications and the impacts to national security.
  - Address the DOJ policy regarding the December 16, 2022, memorandum to all Federal prosecutors on charging, pleas, and sentencing on drug crimes.
    - The perception from law enforcement around America is their own DOJ is way to "soft on criminals". The dedicated law enforcement is working hard to keep citizens safe are feel strongly they are being undermined. There are huge moral issues developing.
- Must engage with mail services companies like UPS, FEDEX, DHL, and others to address the movement of deadly substances into America.
  - Need updated technology at mail facilities to screen and identify contraband moving around the country.

** The above is not an all-inclusive list of recommendations to address this very complex and escalating crisis.

CONCLUSION

The Mexican cartels, Sinaloa, and CJNG, currently operate throughout the United States and around the globe. They are working with CCN and are flooding America with deadly synthetic drugs. They are operating with impunity while taking full advantages of the vulnerabilities in the U.S. system and failing border policies and immigrations laws. The cartels are growing in strength and power and using advanced technology and weapons systems to grow their operations. Migrants are dying in record numbers on their journey to America and being exploited and trafficked by the cartels at the most inhumane levels we have ever seen.

The current enforcement focus, treating the cartels as only criminal organizations, is not enough to stop the death and destruction. The United States must shut down the cartel's ability to operate with or without Mexico placing the safety and security of Americans first. We must use all authorities and capabilities of not only law enforcement but the intelligence community, the Department of Defense and Treasury Department as one force to decimate the cartels.

CBP must focus their resources on border security and not have to be inundated with migrant processing, baby sitting, and administrative duties. The country is saturated with crime, drugs, and violence fueled by the Mexican cartels and, the cartels are taking full advantage of the massive addiction and the demand for opioids and methamphetamines all over the United States.

During his Senate testimony on February 15, 2023, Dr. Rahul Gupta, Director, Office of National Drug Control Policy of United States, stated the following related to the current drug situation:

- "Worst drug crisis we have ever seen."
- "Unacceptable to me"
- "Unacceptable to the President"
- "Direct threat to public health and national security"
- "New era of drug trafficking".

Based on these statements, the American public and specifically the families who have lost loved ones to poisonous fentanyl, deserve full transparency and way more action. Solving this unprecedented national security and public health crisis won't go away from just words. We need new strategies and way more action. We must recognize that this is something America has never faced before, and we are losing the future generation rapidly.

Terrorists will continue to tap into the incredible amounts of money generated from drug trafficking and many other criminal activities such as human trafficking, counterfeiting, weapon sales, and sex trafficking so it's imperative that our hard-

working law enforcement and other U.S. Government personnel get the resources and support to enforce the laws and keep Americans safe.

We need the leadership of the Attorney General, the Secretary of the Department of Homeland Security, executives from the Department of Defense and the intelligence community to unite and battle these growing adversaries. We also need to work closely with our State and local counterparts who are under-resourced trying to deal with this crisis on the front lines. We need to unite our agencies as the complexity of the threats continues to grow. The threats to this great country are moving at lightning speed and we need a sense of urgency at this point. It's evident that the Mexican cartels are moving extremely fast while our investigators and assets are getting "stuck in the mud" of politics, bureaucracy, and antiquated laws.

In my view, fentanyl is a chemical weapon and the narco-terrorists' Mexican cartels are destroying our country as their work closely with the CCN.

We need to step up the game with a sense of urgency. Law enforcement will continue to do their best in enforcing the laws, but America needs Congress and White House leadership to further engage on these growing issues. The death rates are spiking and impacting Republicans, Democrats, and Independents. We must come together and develop updated strategies to combat these threats.

As DHS Secretary Mayorkas stated during a Senate hearing in March 2023, "The record number of Americans dying of fentanyl overdoses is now the "single greatest challenge we face as a country." Based on this statement, America needs policies and actions consistent to this assessment.

Thank you for the opportunity to speak on these important topics impacting our national security and public safety.



(Chart made by Derek Maltz depicting the complexity of crime in America. The gap between "good and evil" is growing rapidly resulting in a more dangerous America)

REFERENCES

Altus, K. (2023, June 26). *Chinese nationals crossing US border with 'really disturbing' intentions, expert warns.* Retrieved from *foxbusiness.com: https://www.foxbusiness.com/politics/chinese-nationals-crossing-border-really-disturbing-intentions-expert-warns*

Bebinger, M. (2023, June 22). *Mass. set a record for opioid overdose deaths. Black residents were hardest hit.* Retrieved from *www.wbur.org: https://www.wbur.org/news/2023/06/22/opioid-overdose-deaths-massachusetts-race-disparities*

CBP.gov. (2023, July 15). Retrieved from Southwest Land Border Encounters: *https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters*

DEA Reports Widespread Threat of Fentanyl Mixed with Xylazine. (2023, March 20). Retrieved from *dea.gov: https://www.dea.gov/alert/dea-reports-widespread-threat-fentanyl-mixed-xylazine*

Dr. Rahul Gupta Releases Statement on CDC's New Overdose Death Data. (2023, July 12). Retrieved from *WhiteHouse.gov: https://www.whitehouse.gov/ondcp/briefing-room/2023/07/12/dr-rahul-gupta-releases-statement-on-cdcs-new-overdose-death-data-showing-a-full-year-of-flattening-overdose-deaths/#:?:text=This%20-latest%20CDC%20report%20'shows,drugs%2C%20including%20cocaine%20an.*

Eastern District of New York Press. (2023, Feb 21). Retrieved from *Justice.gov: https://www.justice.gov/usao-edny/pr/ex-mexican-secretary-public-security-genaro-garcia-luna-convicted-engaging-continuing.*

El-Bawab, N. (2023, July 14). *Teen mom charged with aggravated manslaughter for giving 9-month-old baby fentanyl.* Retrieved from *abcnews.go: https://abcnews.go.com/US/teen-mom-charged-aggravated-manslaughter-giving-9-month/story?id=101293592.*

Executive Order on Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade. (2021, Dec 15). Retrieved from *whitehouse.gov: https://www.whitehouse.gov/briefing-room/Presidential-actions/2021/12/15/executive-order-on-imposing-sanctions-on-foreign-persons-involved-in-the-global-illicit-drug-trade/.*

FACT SHEET: In Continued Fight Against Overdose Epidemic, the White House Releases National Response Plan to Address the Emerging Threat of Fentanyl Combined with Xylazine. (2023, July 11). Retrieved from *whitehouse.gov: https://www.whitehouse.gov/briefing-room/statements-releases/2023/07/11/fact-sheet-in-continued-fight-against-overdose-epidemic-the-white-house-releases-national-response-plan-to-address-the-emerging-threat-of-fentanyl-combined-with-xylazine/.*

Fentanyl Seizures at Border Continue to Spike, Making San Diego a National Epicenter for Fentanyl Trafficking. (2022, Aug 11). Retrieved from *justice.gov: https://www.justice.gov/usao-sdca/pr/fentanyl-seizures-border-continue-spike-making-san-diego-national-epicenter-fentanyl.*

Gans, J. (2023, Feb 8). *21 States call on Biden to label Mexican drug cartels terrorist organizations.* Retrieved from *TheHill.com: https://thehill.com/homenews/state-watch/3849600-21-states-call-on-biden-to-label-mexican-drug-cartels-terrorist-organizations/.*

Golden, T. (2022, Dec 8). *The Cienfuegos Affair: Inside the Case that Upended the Drug War in Mexico..* Retrieved from *newyorktimes.com: https://www.nytimes.com/2022/12/08/magazine/mexico-general-cienfuegos.html.*

Gunderson, E. (2023, July 21). *As Fentanyl Overdose Rates Rise Among Latinos, So Do Calls for Government Action.* Retrieved from *wttw.com: https://news.wttw.com/2023/07/01/fentanyl-overdose-rates-rise-among-latinos-so-do-calls-government-action.*

Inside the FBI: The China Threat. (2023, April 21). Retrieved from *fbi.gov: https://www.fbi.gov/video-repository/inside-the-fbi-the-china-threat-042123.mp4/view.*

Justice News. (2020, 17 November). Retrieved from *justice.gov: https://www.justice.gov/opa/pr/joint-statement-attorney-general-united-states-william-p-barr-and-fiscal-general-mexico.*

Mexico's former public security chief convicted in U.S. drug case. (2023, Feb 21). Retrieved from *pbs.org: https://www.pbs.org/newshour/world/mexicos-former-public-security-chief-convicted-in-u-s-drug-case.*

New, Dangerous Synthetic Opioid in D.C., Emerging in Tri-State Area. (2022, June 1). Retrieved from *dea.gov: https://www.dea.gov/stories/2022/2022-06/2022-06-01/new-dangerous-synthetic-opioid-dc-emerging-tri-state-area.*

Press, A. (2023, June 17). *Ray Lewis III, son of two-time Super Bowl champ, dies of suspected overdose.* Retrieved from *Click2houston.com: https://www.click2houston.com/sports/2023/06/16/ray-lewis-iii-son-of-2-time-super-bowl-champ-ray-lewis-dies/.*

Robin, N. (2023, May 16). *Catastrophe;' 95 percent of overdose deaths in New Orleans were from fentanyl in 2022.* Retrieved from *fox8live.com: https://www.fox8live.com/2023/03/16/catastrophe-95-overdose-deaths-new-orleans-were-fentanyl-2022/.*

Stevenson, M. (2023, July 12). *Roadway bombs planted by drug cartel in Mexico kill 4 police officers, 2 civilians.* Retrieved from *abcnews.go: https://abcnews.go.com/International/wireStory/roadway-bomb-planted-drug-cartel-kills-3-police-101164435.*

The Changing Faces of Fentanyl Deaths. (2023, Jan 12). Retrieved from *familiesagainstfentanyl.com: https://www.familiesagainstfentanyl.org/research/fentanyl-by-age-and-cause-report.*

The Changing Faces of Fentanyl Deaths. (2023, Jan 12). Retrieved from *familiesagainstfentnayl.org: https://www.familiesagainstfentanyl.org/research/fentanyl-by-age-and-cause-report.*

The Growing Threat of Xylazine. (2022, Dec 21). Retrieved from *dea.gov: https://www.dea.gov/sites/default/files/2022-12/The%20Growing%20Threat%20of%20-Xylazine%20and%20its%20Mixture%20with%20Illicit%20Drugs.pdf.*

U.S. Customs and Border Protection. (2023, Feb 22). *Drug Seizure Statistics.* Retrieved from *CBP.com: https://www.cbp.gov/newsroom/stats/drug-seizure-statistics.*

Ushe, N. (2023, July 6). *Robert De Niro's grandson Leandro died from fentanyl-laced pills.* Retrieved from *USAToday.com: https://www.usatoday.com/story/entertainment/celebrities/2023/07/06/leandro-de-niro-rodriguez-fentanyl-cause-of-death-report/70386773007/.*

Chairman GREEN. I now recognize——

Mr. THOMPSON. Hold on a minute. Why do you reference me?

Mr. MALTZ. Because in your opening statement, you said that this was a charade, it was a waste of time, whatever words you used, and the kids are dying at record levels, and I don't appreciate that.

Mr. THOMPSON. Look, I had said——

Chairman GREEN. Hold on. The Ranking Member is not recognized.

We are going to continue on with our witnesses.

Ms. Felbab-Brown, you are recognized for 5 minutes.

STATEMENT OF VANDA FELBAB-BROWN, PH D, DIRECTOR, INITIATIVE ON NONSTATE ARMED ACTORS, THE BROOKINGS INSTITUTION

Ms. FELBAB-BROWN. Thank you for this opportunity to testify.

As was said, I'm a senior fellow at the Brookings Institution. The Brookings Institution is U.S. nonprofit organization devoted to independent research and policy solution. My testimony represents solely my personal views and not those of anyone else.

U.S. domestic prevention, treatment, harm reduction, and law enforcement measures are fundamental and indispensable to countering the devastating fentanyl crisis. Mexican criminal groups, particularly e Sinaloa Cartel and Cartel Jalisco Nueva Generación, source fentanyl and fentanyl precursors in China, synthetize them into fentanyl in Mexico, and then smuggle them into the United States. Some 90 percent of fentanyl seizures occur in legal ports of entry, and this is very likely where most fentanyl is smuggled through. Mexican cartels predominantly hire U.S. citizens to smuggle drugs across the border. U.S. citizens represent more than 85 percent of those convicted of fentanyl charges.

Drugs are hidden frequently in personal vehicles or within legal cargo. New ports of entry scanning technology authorized by the Biden administration are expected to significantly increase the percentage of inspected vehicles and cargo. A most welcome development. A highly pernicious recent development is the establishment in Mexico of pharmacies that sell fentanyl-laced drugs and other dangerous substances, as well as drugs such such as antibiotics and steroids without prescription. These are located in major tourist areas and very likely are linked to Mexican cartels. Yet, although they operate in plain sight of Mexican authorities, the Mexican authorities appear to take little action against them.

Increasing payments for precursors originating in China are now occurring in wildlife, a significant problem endangering public health and safety, as well as food and security and global biodiversity with repercussions for the United States.

In Mexico, the collapse of rule of law is profound and goes far beyond the high rates of homicides and disappearances. While the administration of President Andres Manuel López Obrador persists in its do-little policy vis-á-vis Mexican cartels, the groups are in-

creasingly resorting to more brazen violence, enjoying high levels of impunity as well as governing large scope of economies, institutions, and a significant number of people while seeking to influence elections.

In contrast, in the United States, because of the high effectiveness of U.S. law enforcement and policies, Mexican criminal groups are far less violent and do not behave in the same way. Indeed, the overwhelming majority of violent, serious crime in the United States are committed by U.S. citizens.

U.S. counter-narcotics and law enforcement bargaining with Mexico is constrained by the U.S. reliance on Mexico to stop migrant flows to the United States. If the United States were able to pass the comprehensive immigration reform that would allow legal pathways for those seeking protection and opportunities in the United States, it would be far better able to induce the Mexican government to meaningfully cooperate on counternarcotics and other law enforcement issues.

In its engagement with the Mexican government the United States should prioritize shutting down Mexican pharmacies that sell fentanyl and methamphetamine-laced drugs, the actual dismantling of drug-trafficking networks, not merely seizures and labs and more effective Mexican prosecutorial action.

Rather than designating Mexican criminal groups as foreign terrorist organizations, the United States should further significantly intensify border inspections. That requires adequately resourcing U.S. Customs and Border protection, both with resources and personnel for legal ports of entry, as well as developing packages of leverage, such as indictment portfolios and visa denials against Mexican officials who sabotage rule of law in Mexico and facilitate cartel activities.

The United States should also adopt a true whole-of-Government approach to countering fentanyl smuggling, authorizing a wide range of U.S. agencies, including the departments, to support U.S. law enforcement. Because the cartels are no longer specializing simply in drug trafficking, but a whole variety of legal and illegal economies, the approach needs to be multifaceted. That means increasing intelligence collections against a wide variety of activities the cartels engage in, such as crimes against nature and consequently the number of U.S. Fish and Wildlife special agents and investigators, as well as other specialists for other economies. It also means bringing a wide set of law enforcement actors to organized crime drug force task forces.

Thank you.

[The prepared statement of Ms. Felbab-Brown follows:]

PREPARED STATEMENT OF VANDA FELBAB-BROWN

JULY 17, 2023

Dear Chairman Green, Ranking Member Thompson, and distinguished Members of the Committee on Homeland Security: I am honored to have this opportunity to testify at this hearing entitled, "Biden and Mayorkas' Open Border: Advancing Cartel Crime in America."

I am a senior fellow at the Brookings Institution where I direct The Initiative on Non-State Armed Actors and co-direct the Africa Security Initiative. Illicit economies, such as the drug trade and wildlife trafficking, organized crime, and corruption, and their impacts on U.S. and local security issues around the world are the

domain of my work and the subject of several of the books I have written. I have conducted fieldwork on these issues in Latin America, Asia, and Africa. I have been studying crime and security policies in Mexico and their impact on public safety in the United States for over two decades and have recently returned from a month-long research trip in Mexico in June 2023.

This testimony draws extensively on my many publications on crime issues in Mexico, available on my page on Brookings's website,[1] as well as my latest research trip in Mexico.

The Brookings Institution is a U.S. nonprofit organization devoted to independent research and policy solutions. Its mission is to conduct high-quality, independent research and, based on that research, to provide innovative, practical recommendations for policy makers and the public. The testimony that I am submitting represents solely my personal views and does not reflect the views of Brookings, its other scholars, employees, officers, and/or trustees.

EXECUTIVE SUMMARY

U.S. domestic prevention, treatment, harm reduction, and law enforcement measures are fundamental and indispensable to countering the devastating fentanyl crisis.

However, the structural characteristics of synthetic drugs such as fentanyl, including the ease of developing similar, but not scheduled, synthetic drugs and their new precursors—increasingly a wide array of dual-use chemicals—pose immense structural obstacles to controlling their supply.

Nonetheless, given the extent and lethality of the synthetic opioid epidemic in North America and its emergent spread to other parts of the world, even supply control measures with partial and limited effectiveness can save lives and thus need to be designed as smartly and robustly as possible.

THE TRAFFICKING PATTERNS

Mexican criminal groups—principally the Sinaloa Cartel and Cartel Jalisco Nueva Generación (CJNG)—source fentanyl, fentanyl precursors, and pre-precursors from China. In Mexico, they synthesize the precursors into fentanyl. Sometimes they traffic finished fentanyl to the United States in an unadulterated form; other times, they mix it into other drugs, press it into pills, and traffic such fentanyl contraband to the United States.

Some 90% of fentanyl seizures occur in legal ports of entry.

Mexican cartels predominantly hire U.S. citizens to smuggle drugs across the border; U.S. citizens represent more than 85% of those convicted of fentanyl charges. Drugs, such as fentanyl, are frequently hidden in concealed vehicle compartments driven by U.S. citizens with U.S. license plates. Traffickers also extensively hide fentanyl and other drugs within legal cargo entering the United States through legal ports of entry.

Yet despite efforts to increase port-of-entry inspections, the U.S. Customs and Border Protection (CBP) agency is able to inspect only some of the entering vehicles. New ports-of-entry scanning technologies authorized by the Biden administration are expected to significantly increase the percentage of inspected vehicles, a most welcome development.

Yet drug trafficking groups also utilize other smuggling methods, such as tunnels, maritime boats, and drones.

A highly pernicious recent development is the establishment of pharmacies in Mexico, particularly in major international tourist areas, that sell fentanyl-laced drugs, other dangerous substances, and regulated medications, such as antibiotics, without prescription. Most likely linked to major Mexican cartels, these pharmacies significantly increase the dangers of fentanyl trafficking as well as increased threats to global public health, security, and the economy. Yet although these pharmacies operate in violation of Mexican laws and in plain sight, there appears to be little meaningful action by Mexican law enforcement and regulatory authorities to shut them down.

Money laundering

Chinese actors have come to play an increasing role in laundering money for Mexican cartels, circumventing the U.S. and Mexican formal banking systems. Other money laundering and value transfers between Mexican and Chinese criminal networks include trade-based laundering; value transfer utilizing wildlife products,

[1] Vanda Felbab-Brown, The Brookings Institution, *https://www.brookings.edu/people/vanda-felbab-brown/*.

such as protected and unprotected marine products and timber; real estate; cryptocurrencies; casinos; and bulk cash. Indeed, despite intensified efforts by the United States to counter the flow of bulk cash to Mexico across the U.S.-Mexico border across several administrations, extensive amounts of illicit money and weapons continue to flow from the United States to Mexico.

The increasing payments for drug precursors originating in China in wildlife products are particularly noteworthy. This method of payment engenders multiple threats to public health and safety, economic sustainability, food security, and global biodiversity. If this wildlife trafficking spreads dangerous zoonotic diseases, it could even pose a threat to national security.

The Behavior of Mexican Cartels in Mexico and in the United States

In Mexico, the collapse of the rule of law is profound and goes far beyond the high rates of homicides and disappearances of people perpetrated by criminal groups. While the administration of President Andrés Manuel López Obrador persists in its do-little policy, Mexican criminal groups are resorting more and more to brazen violence while enjoying high levels of impunity in Mexico.

In Mexico, Mexican criminal groups increasingly govern a large scope of territories, economies, and institutions and a significant number of people. They have also profoundly intensified their efforts to influence elections at all levels of the government.

Investigative and prosecutorial capacities in Mexico remain limited. They are overwhelmed by the level of crime in Mexico and suffering from criminal infiltration, corruption, and political interference despite decades-long efforts at reform.

In the United States, because of the high effectiveness of U.S. law enforcement, Mexican criminal groups behave strikingly differently: they are far less violent and do not have the capacity to govern people, institutions, or territories. The overwhelming majority of violent and serious crimes in the United States are committed by U.S. citizens.

Indeed, even in Mexico, Mexican criminal groups intensely fear U.S. law enforcement actions. Yet the Mexican government has gravely undermined the capacity of U.S. law enforcement to operate in Mexico.

Mexican drug cartels are expanding their role into crimes against nature, and they are also increasingly infiltrating and seeking to dominate a variety of legal economies in Mexico, including fisheries, logging, and agriculture, and extorting an even wider array of legal economies.

Because of the diversification of the economic portfolio of Mexican cartels and Chinese criminal networks, focusing primarily on drug seizures close to their source is no longer an adequate approach for effectively countering drug smuggling networks that send pernicious drugs to the United States or their financial systems.

Countering poaching and wildlife trafficking in Mexico and thwarting illegal fishing in Mexican and Latin American waters are increasingly important aspects of countering Mexican drug-trafficking cartels and their damaging effects in the United States and Mexico. Indeed, this convergence of illicit economies also provides the United States with new opportunities for intelligence gathering and law enforcement actions, even as China-Mexico law enforcement cooperation against the trafficking of fentanyl and precursor agents for meth and synthetic opioids remains minimal.

Mexico's Inadequate Law Enforcement Cooperation with the United States

Just like with China, Mexico's cooperation with U.S. counternarcotics efforts is profoundly hollowed out. The Mexican government of López Obrador has eviscerated counternarcotics and law enforcement cooperation with the United States since 2019 and particularly since 2020 when U.S. law enforcement activities in Mexico became shackled and undermined by Mexican government actions.

The U.S.-Mexico Bicentennial Framework for Security, Public Health, and Safe Communities[2] of the fall of 2021 reiterates multiple dimensions of counternarcotics cooperation, including law enforcement, and emphasizes the public health and anti-money-laundering elements of the agreement, as the Mexican government sought.

In practice, however, the Mexican government's actions and cooperation on its side of the U.S.-Mexico border remain profoundly inadequate, including and particularly in law enforcement actions to counter the Mexican criminal groups and their production and trafficking of fentanyl. Crucially, even when drug laboratories are

[2] "Summary of the Action Plan for U.S.-Mexico Bicentennial Framework for Security, Public Health, and Safe Communities: A Fact Sheet," U.S. Department of State, January 31, 2022, *https://www.state.gov/summary-of-the-action-plan-for-u-s-mexico-bicentennial-framework-for-security-public-health-and-safe-communities/*.

actually busted by Mexican authorities, little network dismantling and few meaningful drug prosecutions follow. Traffickers can thus easily survive and recover from limited financial losses by erecting new drug labs.

U.S. counternarcotics and law enforcement bargaining with Mexico is constrained by the U.S. reliance on Mexico to stop migrant flows to the United States. Both the Trump and the Biden administrations strongly prioritized securing Mexico's cooperation in stopping the flows of undocumented migrants to the United States. This prioritization—and the dependence on Mexico's cooperation on that issue—has left the Mexican government feeling emboldened to disregard other U.S. interests and Mexico's commitments, such as on counternarcotics and law enforcement cooperation. If the United States were able to conduct a comprehensive immigration reform that would provide legal work opportunities to those currently seeking protection and opportunities in the United States through unauthorized migration, it would have far better leverage to induce meaningful and robust counternarcotics and law enforcement cooperation with Mexico and would be better able to save U.S. lives.

Policy Priorities and Tools

Although supply control measures have partial and limited effectiveness, improving them to supplement U.S. domestic treatment and harm reduction measures is important.

Strengthening border controls at legal ports of entry through which the vast majority of fentanyl enters the United States is one such important measure, as is demanding better cooperation from the Mexican government.

Since Mexican drug cartels have diversified their activities into a wide array of illicit and licit commodities, primarily focusing on drug seizures close to the source is no longer sufficient for effectively disrupting fentanyl smuggling and criminal networks implicated in it.

Rather, it is imperative to counter all of the Mexican criminal groups' economic activities. This includes countering poaching and wildlife trafficking from Mexico and illegal logging and mining in places where the Mexican cartels have reach, acting against illegal fishing off Mexico and around Latin America and elsewhere, and shutting down wildlife trafficking networks into China. These are all increasingly important elements of countering Mexican and Chinese drug-trafficking groups and reducing the flow of fentanyl to the United States.

In its law enforcement engagement with the Mexican government, the United States should prioritize:

- shutting down Mexican pharmacies that sell fentanyl- and methamphetamine-adulterated drugs;
- not merely seizures and busts of laboratories but the actual dismantling of drug trafficking networks, particularly of their middle-operational layers that are hard to recreate and the removal of which significantly hampers the ability of criminal groups to operate and smuggle contraband;
- and far more effective Mexican prosecutorial actions against suppliers.

The United States has various tools to induce better cooperation from Mexico: Designating Mexican cartels as Foreign Terrorist Organizations (FTOs) would enable intelligence gathering and strike options for the United States military, such as against some fentanyl labs in Mexico. But the number of available strike targets in Mexico would be limited, and the strikes would not robustly disrupt the criminal groups. Neither would the FTO designation add authorities to the economic sanctions and anti-money laundering and financial intelligence tools that the already-in-place designation of Transnational Criminal Organization carries.

Moreover, such unilateral U.S. military actions in Mexico would severely jeopardize relations with our vital trading partner and neighbor and the FTO designation could significantly limit and outright hamper other U.S. foreign policy options, measures, and interests.

Instead, the United States should:

- consider further significantly intensifying border inspections;
- adequately resource U.S. law enforcement agencies such as the U.S. Customs and Border Protection (CBP) to adopt the most advanced scanners and increase the number of CBP inspectors at U.S. legal ports;
- develop packages of leverage, including indictment portfolios and visa denials, against Mexican national security and law enforcement officials and politicians who sabotage rule of law cooperation in Mexico, facilitate cartel activities, and undermine law enforcement cooperation with the United States.

Importantly, to effectively counter the fentanyl-smuggling actors, the United States should expand and smarten up its own measures against criminal actors, including by:

- truly adopting a whole-of-Government approach to countering fentanyl-smuggling entities;
- authorizing a wide range of U.S. Government agencies, including the Departments of State and Defense, to support U.S. law enforcement against Mexican and Chinese criminal actors and fentanyl trafficking and crimes against nature;
- collecting relevant intelligence on crimes against nature to understand criminal linkages to foreign governments and criminal groups and elevate such intelligence collection in the U.S. National Intelligence Priorities Framework;
- expanding the number and frequency of participation of U.S. wildlife investigators and special agents in Organized Crime Drug Enforcement Task Forces (OCDETF);
- increasing the number of U.S. Fish and Wildlife Service special agents and investigators, which have flatlined since the 1970's even as the value of wildlife trafficking has significantly increased since then; and
- designating wildlife trafficking as a predicate offense for wiretap authorization.

THE TRAFFICKING PATTERNS

Synthetic opioids are the source of the deadliest and unabating U.S. drug epidemic ever. Since 1999, drug overdoses have killed over 1 million Americans,[3] a lethality rate that has increased significantly since 2012 when synthetic opioids from China began supplying the U.S. demand for illicit opioids. In 2021, the number of fatalities was 106,699[4]; in 2022, it is estimated at 107,477.[5] Most of the deaths are due to fentanyl, consumed on its own or mixed into fake prescription pills, heroin, and increasingly methamphetamine and cocaine.

After years of intense U.S. diplomacy, China placed the entire class of synthetic opioids on a regulatory schedule.[6] Yet it remains the principal (if indirect) source of U.S. fentanyl.[7]

The fentanyl scheduling and China's adoption of stricter mail monitoring have created some deterrence effects. Instead of finished fentanyl being shipped directly to the United States, most smuggling now takes place via Mexico.

Mexican criminal groups—principally the Sinaloa Cartel and CJNG—source fentanyl, fentanyl precursors, and pre-precursors from China. In Mexico, they synthesize the precursors into fentanyl. Sometimes they traffic finished fentanyl to the United States in an unadulterated form, other times, they mix it into other drugs, press it into pills, and traffic such fentanyl contraband to the United States. The Mexican cartels are also increasingly exploring the possibility of moving fentanyl production and pill-pressing sites to other parts of the world, such as Colombia and Guatemala.[8]

---

[3] Julie O'Donnell, Lauren J. Tanz, R. Matt Gladden, Nicole L. Davis, and Jessica Bitting, "Trends in and Characteristics of Drug Overdose Deaths Involving Illicitly Manufactured Fentanyls—United States, 2019–2020," Morbidity and Mortality Weekly Report, 70, No. 50, December 17, 2021.

[4] Merianne Rose Spencer, Arialdi M. Miniño, and Margaret Warner, "Drug Overdose Deaths in the United States, 2001–2021," NCHS Data Brief No, 457, Centers for Disease Control and Prevention National Center for Health Statistics, U.S. Department of Health and Human Services, December 2022, *https://www.cdc.gov/nchs/data/databriefs/db457.pdf.*

[5] "Dr. Rahul Gupta Releases Statement on CDC's New Overdose Death Data," The White House, Office of National Drug Control Policy, January 11, 2023, *https://www.whitehouse.gov/ondcp/briefing-room/2023/01/11/dr-rahul-gupta-releases-statement-on-cdcs-new-overdose-death-data-2/#:?:text=Rahul%2520Gupta%252C%2520Director%2520of%2520the,period%2520-ending%2520in%2520August%25202022.*

[6] Mark Landler, "U.S. and China Call Truce in Trade War," *The New York Times,* December 1, 2018, *https://www.nytimes.com/2018/12/01/world/trump-xi-g20-merkel.html.*

[7] Vanda Felbab-Brown, "China's Role in the Smuggling of Synthetic Drugs and Precursors," The Brookings Institution, March 2022, *https://www.brookings.edu/events/chinas-role-in-the-smuggling-of-synthetic-drugs-and-precursors/.*

[8] Luis Chaparro, "Sinaloa Cartel Exports Fentanyl 'Kitchens' from Mexico to Colombia amid International Crackdown," Fox News, June 13, 2023, *https://www.foxnews.com/world/sinaloa-cartel-export-fentanyl-kitchens-mexico-colombia-international-crackdown;* Vanda Felbab-Brown, "How the Taliban Suppressed Opium in Afghanistan—and Why There's Little to Celebrate," *Time Magazine,* July 17, 2023, *https://time.com/6294753/taliban-opium-suppression-afghanistan/;* Vanda Felbab-Brown, "The Foreign Policies of the Sinaloa Cartel and CJNG—Part V: Europe's Supercoke and On-the-Horizon Issues and the Middle East," *Mexico Today, https://www.brookings.edu/opinions/the-foreign-policies-of-the-sinaloa-cartel-and-cjng-part-v-europes-supercoke-and-on-the-horizon-issues-and-the-middle-east/;* Vanda Felbab-Brown, "The Foreign Policies of the Sinaloa Cartel and CJNG—Part IV: Europe's Cocaine and Meth Markets," *Mexico Today,* September 2, 2022, *https://www.brookings.edu/opinions/the-foreign-policies-of-the-sinaloa-cartel-and-cjng-part-iv-europes-cocaine-and-meth-markets/;* and Vanda Felbab-Brown, "The Foreign Policies of the Sinaloa Cartel and CJNG—Part I: In the Americas," *Mexico Today,*

It appears that the vast majority of fentanyl enters the United States through legal ports of entry. Certainly, in 2022, 90% of fentanyl seizures occurred at a legal port of entry or interior vehicle checkpoints.[9] In 2022, Border Patrol agents who were not at vehicle checkpoints accounted for just 9% of fentanyl seizures.[10] Since October 2022, i.e., the start of the 2023 fiscal year, 92% of fentanyl seizures occurred at legal ports of entry.[11]

Mexican cartels intensively hire U.S. citizens to smuggle drugs across the border because U.S. citizens generate less suspicion and are often subject to less inspection scrutiny than foreign nationals. Drugs, such as fentanyl, are frequently hidden in concealed vehicle compartments driven by U.S. citizens with U.S. license plates. In 2022, 88% of fentanyl trafficking convictions were of U.S. citizens.[12] In 2021, U.S. citizens accounted for 86.3% of fentanyl convictions.[13] Only 0.02% of people arrested by Border Patrol crossing illegally into the United States possessed any fentanyl.[14]

Traffickers also extensively hide fentanyl and other drugs within legal cargo entering the United States through legal ports of entry.[15]

Yet for years, CBP has been able to inspect only a small percentage of the vehicles that cross the U.S. land borders. In 2019, CBP acknowledged that it was able to inspect only 2% of all private vehicles and only 16% of commercial vehicles at land legal ports of entry.[16]

The Biden administration has appropriately sought to redress this challenge by installing powerful scanners at legal ports of entry. Their augmented efficiency allows for better visibility into individual vehicles and their cargo as well as the scanning of more vehicles.[17] Once the new scanners are deployed, the number of inspected vehicles is expected to rise dramatically to 40% of passenger vehicles and 70% of cargo vehicles.[18]

But even with the installation of advanced technology to better scan more vehicles entering through U.S. legal ports of entry, a significant percentage of vehicles and cargo will still go unchecked.

Yet drug trafficking groups also utilize other smuggling methods, such as tunnels under the U.S.-Mexico border and postal or courier services. Increasingly, the smuggling methods feature drug trafficking by boats on the seas and by drones across the land border with Mexico. The very high potency-per-weight ratio of synthetic opioids and improving payloads of commercial off-the-shelf drones make the smuggling of fentanyl through this method increasingly feasible and profitable.

A highly pernicious recent development is the establishment of pharmacies in Mexico, particularly in major international tourist areas, that sell fentanyl-laced drugs and other dangerous substances. Proliferating in places such as the Mayan Riviera and Los Cabos over the past 3 years, these pharmacies are physical buildings that appear like other Mexican pharmacies. Yet they openly advertise drugs such as antibiotics, anabolic steroids, and prescription opiates and sell them illegally without a prescription. Investigative work by *The Los Angeles Times* and separately by Vice discovered that drugs sold as Percocet, for example, also contained fentanyl

---

July 22, 2022, *https://mexicotoday.com/2022/07/22/opinion-the-foreign-policies-of-the-sinaloa-cartel-cjng-part-i-in-the-americas/*.

[9] U.S. Customs and Border Protection (CBP), "Drug Seizure Statistics fiscal year 2023" and "Drug Seizure Statistics fiscal year 2022," *https://www.cbp.gov/newsroom/stats/drug-seizure-statistics*.

[10] David J. Bier, "Fentanyl Is Smuggled for U.S. Citizens by U.S. Citizens, Not Asylum Seekers," CATO Institute, September 14, 2022, *https://www.cato.org/blog/fentanyl-smuggled-us-citizens-us-citizens-not-asylum-seekers*.

[11] Adam Isacson, "Weekly U.S.-Mexico Border Update: Fentanyl, CBO One, 'Friendship Park,' Washington Office on Latin America, March 24, 2023, *https://www.wola.org/2023/03/weekly-u-s-mexico-border-update-fentanyl-cbp-one-friendship-park/*.

[12] U.S. Sentencing Commission, "Quick Facts: Fentanyl Trafficking Offenses," 2022, *https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Fentanyl_FY21.pdf*.

[13] [Footnote not provided.]

[14] David J. Bier, "Fentanyl Is Smuggled for U.S. Citizens by U.S. Citizens, Not Asylum Seekers."

[15] Drug Enforcement Administration (DEA), "2020 National Drug Threat Assessment," March 2021, *dea.gov/sites/default/files/2021-02/DIR-008-21_2020 National Drug Threat Assessment_WEB.pdf*.

[16] Leandra Bernstein, "Vehicle Scanning Technology at the Border Is about to Ruin the Drug Trade," NBC Montana, August 29, 2019, *https://nbcmontana.com/news/nation-world/vehicle-scanning-technology-at-the-border-is-about-to-ruin-the-drug-trade*.

[17] Nick Miroff, "U.S. Deploys Powerful Scanners at Border to Fight Fentanyl Smuggling," *The Washington Post*, March 9, 2023, *https://www.washingtonpost.com/nation/2023/03/09/united-states-arizona-border-fentanyl/*.

[18] Ibid.

and methamphetamine.[19] During my June 2023 fieldwork in Mexico, shop assistants in these pharmacies claimed they could mail any of these drugs to the United States without a prescription.

Amidst an already terrible drug epidemic, these pharmacies greatly magnify the threats to public health. U.S. citizens have long been used to buying medications that are too expensive in the United States from Mexico. Unwittingly, intending to buy other medication, they may end up buying drugs causing lethal overdose or addiction. The legitimate veneer of these pharmacies also exposes a much wider set of potential customers to fentanyl and other dangerous drugs, ranging from teenagers to the elderly. Because the pharmacies aggressively target international tourists in major vacation resort areas, they also export the fentanyl epidemic to other regions of the world, such as Western Europe. Many of these pharmacies are likely linked to the Sinaloa Cartel and CJNG. Further funding the Mexican cartels and other drug trafficking networks, a geographic spread of fentanyl use would augment the global public health disaster.

The adulteration of fake medications with fentanyl and methamphetamine is not the sole problem. The unauthorized sale of antibiotics without prescription at these pharmacies also poses other massive global public health, economic, and security harms, such as the intensified emergence of drug-resistant bacteria.

Shutting down these unscrupulous pharmacies to minimize the criminals' market access and to reduce exposure to customers is imperative. Simply seizing illicit pills while letting the pharmacies operate is inadequate. Shutdown and strong prosecutorial actions are necessary against suppliers. Yet while these pharmacies operate in violation of Mexican laws, in plain sight, and visibly saturate major tourist areas, there appears to be little law enforcement action by Mexican officials and regulatory authorities, such as from Mexico's Federal Commission for Protection Against Sanitary Risks (COFEPRIS).[20]

MONEY LAUNDERING

The National Drug Intelligence Center of the U.S. Department of Justice estimated in 2008 that Mexican and Colombian drug trafficking groups earned between $18 billion and $39 billion a year from wholesale drug sales.[21] In 2010, the U.S. Department of Homeland Security (DHS) estimated bulk cash smuggling to Mexico at between $19 billion and $29 billion annually.[22] Other estimates from the United Nations Office on Drugs and Crime, research organizations, and news media have assessed Mexico's drug export revenues to have been in the range of $6 billion to $21 billion a year between 2010 and 2018.[23]

Mexican cartels utilize many money-laundering methods, among which are illicit money-laundering systems such as the black-peso market, trade-based money laundering, real estate, cryptocurrencies, casinos, and bulk cash.[24] Indeed, despite intensified efforts by the United States to counter the flows of bulk cash to Mexico across the U.S.-Mexico border across several administrations, extensive amounts of illicit money and weapons continue to flow from the United States to Mexico.

The cartels are also increasingly using a novel approach: Chinese informal money exchange systems based out of the United States and Mexico.

Although it is not clear what percentage of the cartels' illicit profits is laundered through Chinese money transfer networks, U.S. officials fear that the effectiveness

---

[19] Connor Sheets and Keri Blakinger, "Fentanyl-tainted Pills Now Found in Mexican Pharmacies from Coast to Coast," *The Los Angeles Times,* June 14, 2023, *https://www.latimes.com/world-nation/story/2023-06-14/fentanyl-tainted-pills-now-found-in-mexican-pharmacies-from-coast-to-coast;* and Deborah Bonello, "Cartels Are Using Pharmacies To Sell Fake Pills Laced With Fentanyl and Meth to Unwitting Tourists," *Vice,* June 14, 2023, *https://www.vice.com/en/article/m7bbxv/mexico-pharmacies-fake-pills-cjng-sinaloa-cartel.*

[20] In June 2023, COFEPRIS finally raided three such pharmacies in Los Cabos, arresting 4 and seizing some 25,000 pills. See Brittny Mejia, "Mexico Raids Pharmacies in Probe of Fentanyl-Laced Pills," *Los Angeles Times, https://www.latimes.com/world-nation/story/2023-07-07/mexican-authorities-raid-pharmacies-in-inquiry-into-fentanyl-tainted-pills.*

[21] "Illicit Finance," in National Drug Threat Assessment 2009 (Washington, DC: National Drug Intelligence Center, U.S. Department of Justice, December 2008).

[22] [Footnote not provided.]

[23] See "Estimating Illicit Financial Flows Resulting from Drug Trafficking and Other Transnational Organized Crimes: Research Report," (Vienna: United Nations Office on Drugs and Crime, October 2011); Beau Kilmer, Jonathan P. Caulkins, Brittany M. Bond, and Peter Reuter, "Reducing Drug Trafficking Revenues and Violence in Mexico: Would Legalizing Marijuana in California Help?" (Santa Monica, Calif.: RAND Corporation, 2010); Gabriel Stargardter, "Mexico's Drug Cartels, Now Hooked on Fuel, Cripple the Country's Refineries," Reuters, January 24, 2018, *https://www.reuters.com/investigates/special-report/mexico-violence-oil/.*

[24] Vanda Felbab-Brown's interviews with current and former U.S. and Mexican officials and law enforcement officers, Mexico City, and by virtual platforms, October and November 2021.

of the Chinese networks' money laundering is such that it is even displacing established Mexican and Colombian money launderers and putting the flows of cartel money even more out of reach of U.S. law enforcement.[25] In some cases, a particular Chinese money-laundering network managed to get itself hired by both the Sinaloa Cartel and the CJNG; in other cases, they worked exclusively with just one of them.[26]

The increasing payments for drug precursors in wildlife products coveted in China—for Traditional Chinese Medicine, aphrodisiacs, other forms of consumption, or as a tool of speculation, such as in the case of the highly-prized swim bladder of the endemic and protected Mexican totoaba fish poached for Chinese markets—are particularly worrisome.[27] Other wildlife commodities used for money laundering, tax evasion, and as barter payments between Mexican cartels and Chinese precursor networks include abalone, jellyfish, and lobster.[28] Instead of paying in cash, Chinese traffickers are paid in commodities. The amount of value generated by wildlife commodity payments, likely in the tens of millions of dollars, may not cover all of the precursor payment totals, but could cover a substantial percentage since the total payments for precursors likely amount to tens of millions of dollars also.[29] Wildlife barter may not displace other methods of money laundering and value transfer. But the increasing role of this method can devastate natural ecosystems and biodiversity in Mexico as the cartels steadily seek to legally and illegally harvest more and more of a wider range of animal and plant species to pay for drug precursors. In Mexico, poaching and wildlife trafficking for Chinese markets are increasingly intermeshed with drug trafficking, money laundering, and value transfer in illicit economies.

THE BEHAVIOR OF MEXICAN CARTELS IN MEXICO AND IN THE UNITED STATES

The connections between the illegal drug trade and the timber and wildlife trade and trafficking from Mexico to China are all the more significant as poaching and wildlife trafficking in Mexico is increasing and Mexican drug cartels are expanding their role in crimes against nature.

They are also increasingly taking over legal economies in Mexico, including logging, fisheries, and various agricultural products such as avocados, citrus, grain corn, mining, and water distribution in parts of Mexico. Such takeover of legal economies by the cartels does not merely entail extortion—enormously wide-spread as many businesses in Mexico do not have the capacity to shield themselves from extortion by Mexican criminal groups. These organized crime groups across Mexico, especially the Sinaloa Cartel, often seek to monopolize the entire vertical supply chain. Fisheries provide a prime example. Beyond merely demanding a part of the profits from fishers as extortion, the criminal groups dictate to legal and illegal fishers how much the fishers can fish, insisting that the fishers sell the harvest only to the criminal groups, and that restaurants, including those catering to international tourists, buy fish only from the criminal groups. Mexican organized crime groups set the prices at which fishers can be compensated and restaurants paid for the cartels' marine products. The criminal groups also force processing plants to process the fish they bring in and issue it with fake certificates of legal provenance for export into the United States and China. They charge extortion fees to seafood exporters. They also force fishers to smuggle drugs.

---

[25] Drazen Jorgic, "Special Report: Burner Phones and Mobile Banking Apps: Meet the Chinese Brokers Laundering Mexican drug money," Reuters, December 3, 2020, *https://www.reuters.com/article/us-mexico-china-cartels-specialreport/special-report-burner-phones-and-banking-apps-meet-the-chinese-brokers-laundering-mexican-drug-money-idUSKBN28D1M4.*

[26] Vanda Felbab-Brown's interviews with U.S. Government and law enforcement officials, Mexico City, and by virtual platforms, October and November 2021.

[27] Vanda Felbab-Brown, "China's Role in Poaching and Wildlife Trafficking in Mexico" (The Brookings Institution, March 2022, *https://www.brookings.edu/events/chinas-role-in-poaching-and-wildlife-trafficking-in-mexico/).* For background, see also Vanda Felbab-Brown and Alejandro Castillo, "Restore US-Mexico seafood trade & save the vaquita," *Mexico Today,* May 7, 2021, *https://mexicotoday.com/2021/05/07/opinion-restore-us-mexico-seafood-trade-save-the-vaquita/;* Enrique Sanjurjo-Rivera, et. al., "An Economic Perspective on Policies to Save the Vaquita: Conservation Actions, Wildlife Trafficking, and the Structure of Incentives," *Frontiers in Marine Science* (August 27, 2021), *https://doi.org/10.3389/fmars.2021.644022.*

[28] Vanda Felbab-Brown's interviews with current and former U.S. and Mexican officials and law enforcement officers and Mexican fishery experts and high-level fishery operators, Mexico City, and by virtual platforms, October and November 2021.

[29] Vanda Felbab-Brown's interviews with U.S. law enforcement officials, Mexico City, and by virtual platforms, October 2021.

Mexican criminal groups are also expanding into illegal fishing outside of Mexico.[30] There have long been suspicions about the extent to which Latin American fishing fleets are also engaged in the smuggling of drugs such as cocaine to the United States.[31] The penetration of legal fisheries by Mexican cartels further facilitates their drug smuggling enterprise.

Similarly, massive Chinese fishing fleets have long engaged in illegal fishing, sometimes devastating marine resources in other countries' exclusive economic zones. However, there also appears to be a growing involvement of Chinese fishing ships in drug trafficking, compounding the extensive problem of Chinese cargo vessels carrying contraband such as drugs and their precursors as well as wildlife.[32] And there is the possibility that Chinese fishing flotillas or individual vessels operating around the Americas and elsewhere in the world may carry spy equipment collection intelligence for China.

Within Mexico, Mexican criminal groups often control extensive territories where the government has only limited control and sporadic access and some of which have become outright no-go-zones for government officials.

They have also profoundly intensified their efforts to influence elections at all levels of the government.

Indeed, the collapse of the rule of law in Mexico is profound and goes far beyond the very high homicide rates; since 2017 more than 30,000 Mexicans have been killed per year[33] while more than 112,000 remain disappeared.[34]

In Mexico, Mexican criminal groups increasingly govern a large scope of territories, economies, and institutions and a significant number of people.

Because of the high effectiveness of U.S. law enforcement, in the United States, Mexican criminal groups behave far less violently and do not have the capacity to govern people, institutions, or territories.

The overwhelming majority of violent and serious crimes in the United States are committed by U.S. citizens. For example, according to the Centers for Disease Control and Prevention, 26,031 crimes were committed in the United States in 2021 and 24,576 in 2020.[35] Yet in the fiscal years 2022, 2021, and 2020, which span the calendar years, non-citizens in the United States committed only 62 homicides, 60 homicides, and 3 homicides respectively, according to CBP.[36]

Indeed, even in Mexico, Mexican criminal groups intensely fear U.S. law enforcement actions.

Yet the Mexican government has gravely undermined the capacity of U.S. law enforcement to operate in Mexico. At the beginning of his administration, López Obrador announced a strategy of "hugs, not bullets" toward criminal groups that sought to emphasize socio-economic programs to deal with crime and address the causes that propel young people to join criminal groups. But that strategy never articulated any security or law enforcement policy toward criminal groups. Worse, as the López Obrador administration persists in its do-little policy, Mexican criminal groups are resorting more and more to brazen violence and impunity in Mexico.

Like other Mexican presidents since the 1980's, López Obrador reshuffled Mexican security institutions. Most significantly, he abolished the Federal Police—because of its infiltration by Mexican criminal groups, a systematic and pervasive problem for all of Mexico's law enforcement forces for decades. (Since the 1980's, the many iterations of law enforcement reforms have failed to expunge such infiltration and corruption across Mexican agencies.)

---

[30] Vanda Felbab-Brown's interview with a top executive of a large Mexican seafood exporter, Mexico, November 2021.

[31] Vanda Felbab-Brown's interviews with Latin American law enforcement officials, December 2017, November 2021, and February 2022.

[32] Vanda Felbab-Brown's interviews with U.S. Government and law enforcement officials, October 2021.

[33] Instituto Nacional de Estadística y Geografía (INEGI), Defunciones por Homicidios, Gobierno de México, *https://www.inegi.org.mx/sistemas/olap/proyectos/bd/continuas/mortalidad/defuncioneshom.asp?s=est#;* and Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública (SESNSP), Datos Abiertos de Incidencia Delictiva, Gobierno de México, *https://www.gob.mx/sesnsp/acciones-y-programas/datos-abiertos-de-incidencia-delictiva?state=published.*

[34] Comisión Nacional de Búsqueda, Estadísticas del El Registro Nacional de Personas Desaparecidas y No Localizadas (RNPDNO), Gobierno de México, *https://versionpublicarnpdno.segob.gob.mx/Dashboard/ContextoGeneral.*

[35] Centers for Disease Control and Prevention, National Center for Health Statistics, "National Vital Statistics System, Mortality 2018–2021," *https://wonder.cdc.gov/controller/datarequest/D158;jsessionid=A6B25FA1C3F284E8DEF7DC5C5846#Citation.*

[36] "Criminal Noncitizen Statistics Fiscal Year 2023," U.S. Customs and Border Protection, *https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-noncitizen-statistics.*

In its place, López Obrador created a National Guard staffed mostly by Mexican soldiers and police officers from the former Federal Police. However, the National Guard is not and could never be an adequate replacement for the Federal Police. The Federal Police, with all its faults, had the greatest investigative capacities and mandates, while the National Guard has no investigative mandates and very little capacity; it can only act as a deterrent force by patrolling the streets, something that it has not been effective at, or acting against crime in flagrancia. As a Mexican lawyer told me in 2021: "The National Guard are the most expensive mannequins in Mexico."

Investigative authorities in Mexico are predominantly under the Office of the Attorney General (Fiscalía General de la República, FGR), the Federal Ministerial Police, and state prosecutorial offices. But as with other law enforcement institutions in Mexico, the FGR's capacities are limited, overwhelmed by the level of crime in Mexico, and suffer from criminal infiltration, corruption, and political interference despite decades-long efforts at reform.

The effective prosecution rate for homicides in Mexico continues to hover at an abysmally low 2% and remains in single digits for other serious crimes.[37]

Essentially, the Mexican president has hoped that if he does not interfere with Mexico's criminal groups, they will eventually redivide Mexico's economies and territories among themselves, and violence will subside. That policy has been disastrous for many reasons: Most important, because it further undermines the already-weak rule of law in Mexico, increases impunity, and subjects Mexican people, institutions, and legal economies to the tyranny of Mexican criminal groups. But also because Mexico's out-of-control criminal market, plagued by a bipolar and increasingly internationalized war between the Sinaloa Cartel and CJNG, has little chance to effectuate such stabilization.

MEXICO'S INADEQUATE COOPERATION WITH U.S. COUNTERNARCOTICS EFFORTS

Just like with China, Mexico's cooperation with U.S. counternarcotics efforts is radically eviscerated. The profound hollowing out of Mexico's cooperation with U.S. counternarcotics efforts is part and parcel of the overall lack of a security policy of the López Obrador administration. But it also goes beyond that.

In the spring of 2023, López Obrador began falsely denying that fentanyl is produced in Mexico, deceptive statements echoed at his behest by other high-level Mexican officials and agencies.[38] Blaming fentanyl use in the United States on U.S. moral and social decay, including American families not hugging their children enough (the statement an apparent nod to his strategy of confronting Mexican criminals with "hugs and not bullets"), the Mexican president also proceeded to deny that fentanyl is increasingly consumed in Mexico.[39] With his statements, López Obrador is not just unwittingly (or knowingly) echoing China's rhetoric, but also publicly dismissing two decades of a policy of shared responsibility for drug production, trafficking, and consumption between United States and Mexico.

But that spring crisis was merely the visible tip of the iceberg of how Mexico has eviscerated counternarcotics and law enforcement cooperation with the United States during the López Obrador administration. When López Obrador assumed office in December 2018, he started systematically weakening that collaboration. From the beginning of his administration, he has sought to withdraw from the Mérida Initiative, the U.S.-Mexico security collaboration framework signed during the Felipe Calderón administration. And he sought to redefine the collaboration extremely nar-

---

[37] Catalina Kűhne Peimbert, et al, "Impunidad en homicidio doloso y feminicidio 2022," *Impunidad Cero,* December 2022, *https://www.impunidadcero.org/uploads/app/articulo/175/contenido/1669895146I15.pdf;* and Vanda Felbab-Brown's interviews with Mexican security and legal experts, Mexico City, June 2023.

[38] Ken Dilanian, "Drug war cooperation between the United States and Mexico is at its lowest point in decades. What went wrong?" NBC News, March 17, 2023, *https://www.nbcnews.com/politics/national-security/no-cooperation-us-mexico-drug-war-rcna75093;* Vanda Felbab-Brown, "The U.S.-Mexico Fentanyl Meltdown—Part I: The State of Noncooperation," *Mexico Today,* March 19, 2023, *https://mexicotoday.com/2023/03/19/opinion-the-u-s-mexico-fentanyl-meltdown-part-i-the-state-of-noncooperation/.*

[39] Mark Stevenson, "Mexican president to US: Fentanyl is your problem," Associated Press, March 9, 2023, *https://apnews.com/article/mexico-fentanyl-epidemic-overdoses-26f735a54ee0ba075c394ce85aef03d0;* "Mexican president blames US fentanyl crisis on 'lack of hugs' among families," Associated Press, March 17, 2023, *https://www.theguardian.com/world/2023/mar/17/mexico-president-fentanyl-hugs-children-amlo#:?:text=%25E2%2580%259CThere%2520is%2520a%2520lot%2520of,said%2520of%2520the%2520US%2520crisis;* Vanda Felbab-Brown, "AMLO's Security Policy: Creative Ideas, Tough Reality," The Brookings Institution, March 2019, *https://www.brookings.edu/wpcontent/uploads/2019/03/FP_20190325_mexico_anticrime.pdf.*

rowly: U.S. assistance to Mexico was intended to reduce demand for drugs in Mexico, while the United States focused on stopping the flow of drug proceeds and weapons to Mexico and reducing demand at home. Previous Mexican governments also certainly sought a significant increase in U.S. law enforcement focus on those two types of illicit flows but were willing to collaborate also inside Mexico.

After the United States arrested former Mexican Secretary of Defense Gen. Salvador Cienfuegos in October 2020 for cooperation with a vicious Mexican drug cartel, López Obrador threatened to end all cooperation and expel all U.S. law enforcement personnel from Mexico.[40] To avoid that outcome, the Trump administration handed Gen. Cienfuegos over to Mexico where he was rapidly acquitted.

But despite this significant U.S. concession, Mexico's counternarcotics cooperation remained limited. Meanwhile, U.S. law enforcement activities in Mexico became shackled and undermined by a December 2021 Mexican national security law on foreign agents.[41] As Matthew Donahue, a former high-level Drug Enforcement Administration (DEA) official, stated, since then and because of the continually immense level of corruption and cartel infiltration in Mexican security agencies, Mexican law enforcement spends more time surveilling DEA agents than it does cartel members.[42]

With the threat of Mexico's unilateral withdrawal from the Mérida Initiative, the United States Government worked hard to negotiate a new security framework with Mexico—The U.S.-Mexico Bicentennial Framework for Security, Public Health, and Safe Communities[43]—in the fall of 2021. The United States emphasized the public health and anti-money laundering elements of the agreement, as the Mexican government sought. The Framework reiterates multiple dimensions of counternarcotics cooperation, including law enforcement.

In practice, however, the Mexican government's actions and cooperations on its side of the U.S.-Mexico border remain profoundly inadequate, including and particularly in law enforcement actions to counter the Mexican criminal groups and their production and trafficking of fentanyl.

The U.S.-Mexico law enforcement cooperation has thus been only limping. The Mexican government has conducted some interdiction operations based on U.S. intelligence, and some collaboration has persisted at the sub-Federal level in Mexico. While the DEA's operations in Mexico remain hampered and limited, other U.S. law enforcement actors in Mexico have been able to induce some cooperation, with some Mexican government agencies even sharing some intelligence with the United States.

Crucially, as DEA Administrator Anne Milgram stated in her February Senate testimony, the Mexican government continues to be unwilling to share samples and information from its claimed lab busts and fentanyl and fentanyl precursor seizures.[44] It is still not allowing the participation of DEA agents, even in only an observer role, in the interdiction operations it claims it has conducted. All of which raises questions about the drug busts. Extraditions of indicted drug traffickers to the United States from Mexico also remain limited.

There have been some recent improvements. Finally, at least some senior Mexican law enforcement officials began acknowledging again that fentanyl is produced in Mexico, an admission necessary for improving U.S.-Mexico collaboration.[45] In fact, the Mexican military now claims that it seized 7 tons of fentanyl over the past 5 years and busted 1,740 drug laboratories.[46] However, as Reuters' investigative work

---

[40] Vanda Felbab-Brown, "A Dangerous Backtrack on the U.S.-Mexico Security Relationship," *Mexico Today,* December 21, 2020, *https://www.brookings.edu/blog/order-from-chaos/2020/12/21/a-dangerous-backtrack-on-the-us-mexico-security-relationship/.*

[41] "Mexico softens rules for controversial new foreign agents law," Reuters, January 14, 2021, *https://www.reuters.com/article/us-mexico-usa-security/mexico-softens-rules-for-controversial-new-foreign-agents-law-idUSKBN29J24M.*

[42] Dilanian.

[43] "Summary of the Action Plan for U.S.-Mexico Bicentennial Framework for Security, Public Health, and Safe Communities: A Fact Sheet," U.S. Department of State, January 31, 2022, *https://www.state.gov/summary-of-the-action-plan-for-u-s-mexico-bicentennial-framework-for-security-public-health-and-safe-communities/.*

[44] Questions and answers period, U.S. Senate Foreign Relations Committee hearing "Countering Illicit Fentanyl Trafficking," February 15, 2023, *https://www.foreign.senate.gov/hearings/countering-illicit-fentanyl-trafficking.*

[45] Luis Chaparro, "Mexico's President Says His Country Doesn't Produce Fentanyl. His Military Seized 7 Tons in 5 Years," *Vice,* June 28, 2023, *https://www.vice.com/en/article/93k3kp/mexico-president-fentanyl.*

[46] Ibid.

showed, even in recent months, the Mexican military was fabricating and manipulating drug seizure and bust data.[47]

Crucially, even when labs are busted, little network dismantling and few meaningful drug prosecutions follow in Mexico. Traffickers can thus easily survive and recover from limited financial losses by erecting new drug labs.

Overall, Mexico's law enforcement cooperation with the United States has dramatically weakened and is still troublingly inadequate.

CONCLUSIONS, POLICY IMPLICATIONS, AND RECOMMENDATIONS

As vast numbers of Americans are dying from fentanyl overdose and Chinese and Mexican criminal groups expand their operations around the world and into a vast array of illegal and legal economies, the United States finds itself in hollowed out and weak cooperation with both countries. Below I offer some policy implications and recommendations on how the United States can attempt to induce Mexico to better cooperate with U.S. counternarcotics and law enforcement objectives. I also provide suggestions for what law enforcement and policy measures the United States can undertake independently, even if Mexico continues to reject robust cooperation.

The structural characteristics of synthetic drugs, including the ease of developing similar, but not scheduled synthetic drugs and their new precursors—increasingly a wide array of dual-use chemicals—pose immense structural obstacles to controlling supply, irrespective of political will to prohibit and regulate their use, enforce the regulations, and take actions against trafficking.

U.S. domestic prevention, treatment, harm reduction, and law enforcement measures remain indispensable and fundamental for countering the devastating fentanyl crisis. It is likely that the most powerful measures to address the opioid crisis are internal policies such as expanded treatment and supervised use.

However, given the extent and lethality of the synthetic opioid epidemic in North America and its emerging spread to other parts of the world, even supply control measures with partial and limited effectiveness can save lives. That is a worthwhile objective. The Commission on Combatting Illicit Opioid Trafficking stressed that targeted supply reduction and the enforcement of current laws and regulations are essential to disrupting the availability of chemicals needed to manufacture synthetic opioids.[48] The commission also highlighted how improved oversight of large chemical and pharmaceutical sectors and enhanced investigations of vendors or importers in key foreign countries can help disrupt the flow.[49] The commission offered supply-side control recommendations include reducing on-line advertising, encouraging enhanced anti-money laundering efforts in China and Mexico, enhanced interdiction efforts, and increased international scheduling of at least synthetic drug precursors that are only used for illicit purposes and enhanced control of precursor flows through collaboration with China and international counternarcotics organizations.[50]

In its law enforcement engagement with the Mexican government, the United States should prioritize:

- shutting down Mexican pharmacies that sell fentanyl- and methamphetamine-adulterated drugs;
- not merely seizures and busts of laboratories, but the actual dismantling of drug-trafficking networks, particularly of their middle-operational layers that are hard to recreate and the removal of which significantly hampers the ability of criminal groups to operate and smuggle contraband;
- and far more effective Mexican prosecutorial actions against suppliers.

My recommendations below analyze and recommend tools to induce Mexico to cooperate more robustly with U.S. law enforcement measures.

U.S. counternarcotics and law enforcement bargaining with Mexico is constrained by the U.S. reliance on Mexico to stop migrant flows to the United States. If the United States were able to conduct a comprehensive immigration reform that would provide legal work opportunities to those currently seeking protection and opportunities in the United States through unauthorized migration, it would have far better leverage to induce meaningful and robust counternarcotics and law enforcement co-

---

[47] Drazen Jorgic, Jackie Botts, and Stephen Eisenhammer, "Exclusive: Amid U.S. pressure on Fentanyl, Mexico Raises Drug Lab Raids Data," *Reuters,* March 17, 2023, *https://www.reuters.com/world/americas/amid-us-pressure-fentanyl-mexico-raises-drug-lab-raids-data-2023-03-17/.*

[48] Commission on Combatting Synthetic Opioid Trafficking, The Final Report, February 2022, *https://www.rand.org/hsrd/hsoac/commission-combatting-synthetic-opioid-trafficking: xiv.*

[49] Ibid.

[50] Ibid: 36–44; and 54–57; 61–64.

operation with Mexico and would be better able to save U.S. lives. Nonetheless, even absent such reform, the United States can take impactful measures that I discuss below.

INDUCING COOPERATION FROM MEXICO

Various U.S. lawmakers have proposed designating Mexican criminal groups as Foreign Terrorist Organizations (FTO).

An FTO designation would enable intelligence gathering and strike options for the United States military, such as against some fentanyl laboratories in Mexico or visible formations of large Mexican cartels—principally CJNG.

However, such unilateral U.S. military actions in Mexico would severely jeopardize relations with our vital trading partner and neighbor whose society is deeply intertwined with ours through familial and other connections. Calls for U.S. military strikes against fentanyl-linked targets in Mexico have already been condemned by Mexican government officials, politicians, and commentators.

Meanwhile, the number of available targets in Mexico would be limited. Most Mexican criminal groups do not gather in military-like visible formations. Many fentanyl laboratories already operate in buildings in populated neighborhoods of towns and cities where strikes would not be possible due to risks to Mexican civilians. Moreover, fentanyl laboratories would easily be recreated, as they already are.

Nor would the FTO designation add authorities to the economic sanctions and anti-money laundering and financial intelligence tools that the already-in-place designation of Transnational Criminal Organization (TCO) carries. The latter designation also carries extensive prohibitions against material support.

But an FTO designation could significantly limit and outright hamper U.S. foreign policy options and measures. Clauses against material support for designated terrorist organizations have made it difficult for the United States to implement non-military and non-law-enforcement policy measures in a wide range of countries, such as providing assistance for legal job creation or reintegration support for even populations that had to endure the rule of brutal terrorist groups. To be in compliance with the material support laws, the United States and other entities must guarantee that none of their financial or material assistance is leaking out, including through coerced extortion, to those designated as FTOs.

Yet such controls would be a significant challenge in Mexico where many people and businesses in legal economies, such as agriculture, fisheries, logging, mining, and retail, have to pay extortion fees to Mexican criminal groups. The attempted controls could undermine the ability to trade with Mexico as many U.S. businesses would not be able to determine whether their Mexican trading or production partner was paying extortion fees to Mexican cartels, and thus guarantee that they were not indirectly in violation of material support clauses.

The FTO designation could also hamper the delivery of U.S. training, such as to local police forces or Mexican Federal law enforcement agencies, if guarantees could not be established that such counterparts had no infiltration by criminal actors.

Instead, if the López Obrador administration continues to deny meaningful law enforcement cooperation, the United States may have to resort to significantly intensified border inspections, even if they significantly slow down the legal trade and cause substantial damage to Mexican goods, such as agricultural products. Even with the significant improvement in vehicle and cargo inspection expected to be reaped from the scanning technologies the Biden administration authorized for deployment at the U.S. ports of entry, a significant percentage of vehicles and much cargo will still go unchecked.

Under optimal circumstances, U.S.-Mexico law enforcement cooperation would be robust enough to make legal border crossings fast and efficient. Joint fentanyl and precursor busts and seizures could take place near the production laboratories and at warehouses. The inspections of legal cargo heading to the United States could take place close to the production and loading site in Mexico. Under the Mérida Initiative, the Obama administration, in fact, sought to develop with Mexico such systems of legal cargo inspection inside Mexico and away from the border. But if Mexico refuses to act as a reliable law enforcement partner to counter the greatest drug epidemic in North America, which is also decimating lives in Mexico, the United States may have to focus much-intensified inspections at the border, despite the economic pains.

But if the López Obrador administration refuses to cooperate, manual inspections, even though costly to Mexican—and U.S.—businesses, should be mounted.

Effective border interdiction, however, requires meaningfully resourcing U.S. law enforcement agencies at U.S. legal ports of entry through which the vast majority of fentanyl enters the United States. That means allocating sufficient resources for

CBP port-of-entry inspectors as well as high-tech scanners. Any reduction in CBP budget allocation to inspections at legal ports of entry would severely and perniciously intensify the flows of dangerous drugs to the United States.

Furthermore, packages of leverage, including indictment portfolios and visa denials, should also be developed against Mexican national security and law enforcement officials and politicians who sabotage the rule of law in Mexico, assist Mexican criminal groups, and perniciously hamper law enforcement cooperation with the United States. Calls to undertake such sanctions by Republican senators led by Senator Bill Hagerty of Tennessee should be carefully and diligently explored.[51]

EXPANDING AND SMARTENING UP U.S. MEASURES AGAINST CRIMINAL ACTORS

Importantly, the United States has significant opportunities to rapidly strengthen and smarten up its own measures against Mexican criminal actors participating in fentanyl and other contraband trafficking.

Already, the Biden administration has sought to intensify and harmonize U.S. law enforcement actions against fentanyl trafficking. In March 2023, for example, it launched Operation Blue Lotus to coordinate cooperation across CBP, Immigration and Customs (ICE), Homeland Security Investigations (HSI), and other Federal, State, Tribal, and local law enforcement agencies.[52]

Scaling up such efforts is necessary.

Some new anti-fentanyl law enforcement measures would also simultaneously enhance U.S. measures to counter wildlife trafficking and protect public health and global biodiversity.

But since Mexican drug cartels have diversified their activities into a wide array of illicit and licit commodities, primarily focusing on drug seizures close to the source is no longer sufficient for effectively disrupting fentanyl smuggling and criminal networks implicated in it.

Rather, countering other economic activities of the Mexican criminal groups is imperative. This includes countering poaching and wildlife trafficking from Mexico and illegal logging and mining in places where the Mexican cartels have reach, acting against illegal fishing off Mexico and around Latin America and elsewhere, and shutting down wildlife trafficking networks that extend into China are increasingly important elements of countering Mexican and Chinese drug-trafficking groups and reducing the flow of fentanyl to the United States.

To effectively counter fentanyl-smuggling actors requires a whole-of-Government approach—not simply on paper, but truly in implementation. A wide range of U.S. Government agencies should be authorized to support U.S. law enforcement against Mexican and Chinese criminal actors, fentanyl trafficking, and crimes against nature. These include U.S. intelligence agencies, the Department of State, the Department of Defense, and U.S. Fish and Wildlife Service (USFWS).

Moreover, the focused collection, analysis, and reporting of intelligence by a variety of U.S. Government actors against wildlife trafficking, illegal fishing, and illegal mining could beget new opportunities to understand the criminal linkages to foreign governments, including China's, to confirm or dismiss concerns as to whether Chinese fishing vessels carry spy equipment, and to identify the crucial vulnerabilities of Mexican and other dangerous cartels.

To such end, crimes against nature should be elevated as a collection and reporting priority of the U.S. intelligence community, and within the U.S. National Priorities Framework.

Stove-piping in information and intelligence gathering across a wide set of illicit economies should be ended. Gathered information and intelligence should be shared with interagency analysis groups intent on interdicting the illicit international flow of scheduled drugs and endangered species. Such efforts could be enabled by significantly increasing the number of USFWS special agents and by augmenting their respective participation in interagency Organized Crime Drug Enforcement Task Forces investigations.

The relevant intelligence on crimes against nature to understand and dismantle criminal networks could include names, phone numbers, license plates, courier ac-

---

[51] Adam Shaw, "Senators Urge Biden Admin to Slap Sanctions, Visa Bans on Mexican Officials to Force Action against Cartels," Fox News, June 21, 2023, *https://www.foxnews.com/politics/senators-call-biden-admin-impose-sanctions-mexican-officials-force-action-against-drug-cartels.*

[52] "DHS's New Operation Blue Lotus Has Already Stopped More Than 900 Pounds of Fentanyl from Entering the United States," U.S. Department of Homeland Security March 21, 2023, *https://www.dhs.gov/news/2023/03/21/dhss-new-operation-blue-lotus-has-already-stopped-more-900-pounds-fentanyl-entering#:?:text=Since%20its%20launch%20on%20March,states%20-through%20Sunday%2C%20March%2019.*

counts, bank accounts, and wiretapped conversations. Conversely, countering groups perpetrating crimes against nature could be productive in terms of freezing accounts and visas to interdict the smuggling of drugs, guns, and humans that they're conducting.

Enhancing intelligence collection and law enforcement action opportunities stemming from such an expanded lens to cover all of the activities, including crimes against nature, of dangerous and nefarious actors, such as Mexican cartels and Chinese criminal groups, requires enlarging the pool of USFWS special agents and uniformed wildlife inspectors at the U.S.-Mexico border and transportation hubs within the United States. The DEA appropriately enjoys strong capacities, currently maintaining a force of 4,000 agents.[53] In contrast, the number of USFWS special agents has for years hovered at a mere and insufficient 220.[54] For years, this inadequate number has not increased even though poaching, illegal logging, mining, and trafficking in natural resource commodities have grown enormously over the past three decades, are continually expanding, and increasingly involve Mexican drug cartels as well as Chinese criminal networks.

As a corollary and imperative effort, U.S. law enforcement agencies' legal authorities to counter wildlife trafficking should be expanded. Importantly, wildlife trafficking should be designated as a predicate offense for wiretap authorizations.[55] Such expanded authority would bring about multiple benefits: including the enabling, understanding, and demonstration of the connections between wildlife and transnational organized crime networks and foreign bad actors, enhancing the ability to disrupt fentanyl trafficking, and allowing for more expeditious and pointed prosecution of wildlife trafficking crimes. Currently, Federal legislation at the foundation of wildlife crime prosecution, at the core of which is the Lacey Act, often entails proof of knowledge on the part of the defendant, a requirement that wiretap authorization would greatly facilitate, in the interest of prosecuting transnational wildlife trafficking and convicting criminal syndicates.

Many fentanyl-trafficking networks are not narrowly specialized in fentanyl or drugs only. Many Mexican cartels and criminal groups no longer solely focus on drug smuggling. Fentanyl smuggling networks have powerful protectors among corrupt government officials worldwide. Incentivizing better cooperation from the Chinese and Mexican criminal governments is important. But particularly given the challenges in inducing such cooperation in the current geopolitical environment and given the policy orientation of the current Mexican government, it is equally crucial to enhance the United States' own policy tools to counter fentanyl-trafficking networks. Expanding the intelligence-gathering aperture and mandating and resourcing a whole-of-Government approach in support of U.S. law enforcement will save U.S. lives currently decimated by fentanyl overdoses.

Chairman GREEN. Thank you, Ms. Felbab-Brown.

I just want to make a statement here. Look, witnesses as well as Members of the Committee, we have some rules. Those rules are that you direct your comments to the Chair. So if you direct them to another Member on the dais or even within the committee, we don't do that unless we ask for time to yield and then you can ask a question. There are procedures on how to do that. Your comments, especially for the witnesses, should be directed to the Chair.

I want to make sure that is real clear.

Mr. IVEY. Mr. Chairman.

Chairman GREEN. Yes, the gentleman is recognized.

Mr. IVEY. I appreciate that comment, but I really want to raise a point of order here.

Chairman GREEN. OK.

Mr. IVEY. I don't think I have ever seen a witness personally attack a Member like that at a hearing.

---

[53] DEA Administrator Anne Milgram, DEA Leadership profile, *https://www.dea.gov/about/dea-leadership#:?:text=As%20Administrator%2C%20she%20leads%20an,foreign%20offices%20across%20the%20globe*.

[54] U.S. Fish and Wildlife Service, Office of Law Enforcement, "Law Enforcement at a Glance," Fiscal Year 2022, October 28, 2022.

[55] See 18 USC 2516, Authorization for interception of wire, oral, or electronic communications.

Chairman GREEN. OK. Let me just—here, I will clarify it. You are no longer recognized.

Mr. Maltz, the better way to have said what you wanted to say would have been to someone on the committee or to say, it has been said that this is a waste of time, and you could say that is offensive to me, there are Americans dying. You could make the comment like that. But to direct it at the Ranking Member is inappropriate, and I think everyone would agree with that.

With that, I recognize—Mr. Carter, you are recognized.

Mr. CARTER. Thank you.

Parliamentary inquiry. Shouldn't our role be to discourage disrespectful behavior and not coach on how to do it more appropriately?

Chairman GREEN. Look, no—hold on, hold on. Let me be clear here. In previous hearings, we have had individuals attack individuals on my side of the aisle, and I gaveled them down.

Mr. CARTER. No, I——

Chairman GREEN. Hold on. You cannot address your comments to an individual about an individual, but you can say Secretary Mayorkas lied. But you can't say Secretary Mayorkas is a liar. I know it is a subtle difference, but the rules are very clear. The rules of the House are very clear on that. So the point is, you cannot direct anything other than to the Chair. That is the rule, and that is the rule we will live by.

Mr. CARTER. And to preserve decorum and respect. Rather we agree or disagree, no Member, Republican, Democrat or other, no Member of the Committee should disrespect a Member of—that is a witness. But what we witnessed a second ago was a direct attack.

Chairman GREEN. Yes. Well, what—yes.

Mr. CARTER. I appreciate you telling him he shouldn't have done that, but I would like to go a step further. May I? If I would, very respectfully.

Chairman GREEN. Yes, sure.

Mr. CARTER. That we may——

Mr. BISHOP. Look, if we are going to entertain a debate on this, it needs to be two-sided.

Chairman GREEN. Hold on just a second, Mr. Bishop.

Mr. BISHOP. If we are going to entertain a debate, I insist that it be two-sided.

Chairman GREEN. Mr. Bishop, you hold on just a second and I will recognize you in a moment.

Mr. BISHOP. Very well.

Chairman GREEN. Don't do that again, please.

Mr. BISHOP. I will be heard if we are going to hear both sides.

Chairman GREEN. Mr. Carter, finish your comment.

Mr. CARTER. Mr. Chairman, thank you.

My only comment is that we should always preserve decorum and respect. We can disagree without being disrespectful. You think that is a debate, Mr. Bishop, I am sorry.

Chairman GREEN. You are disagreeing with me. I appreciate that. What I am saying is there is a way to say things without directing your comment against an individual. You can say that Secretary Mayorkas lied, you can't say, Secretary Mayorkas is a liar. You can say, I don't think this is a waste of time and I am offended

when someone suggests that it is a waste of time. I think making that point clear is important for the whole committee.

Mr. Bishop, you are recognized.

Mr. BISHOP. Thank you, Mr. Chairman.

At the outset, the Ranking Member said he was embarrassed that we would undertake this hearing, that it was so worthless, it was embarrassing to him. That witness responded to that because it was an attack on that witness, every witness on this panel and every Member on this side of the dais. I would like to know why a Member of Congress, because he sits up here at this dais, can feel free to disrespect people who come at our invitation to testify by declaring what they have to say about youth being killed by fentanyl poisoning across this country, that that is not worth this committee's time. But a response to that is objected to.

I will say another thing. Forensically, in every hearing that I have attended where witnesses testify, they address their remarks to the Chairman and to the Ranking Member. I have never heard it done otherwise, I have never heard anybody remonstrated for addressing the Ranking Member, and I don't know why this would be the first time that would be brought up. I object to it.

Chairman GREEN. We are not going to debate this.

Mr. IVEY. May I respond to that?

Chairman GREEN. No. I will advise Members that under Clause 1 of Rule 17 of the Rules of House, they must observe the House standards of decorum in debate and conduct. They must speak and act respectfully and may not use disorderly words, unparliamentary language, such as words impugning the motives of their colleagues, or words that are personally offensive.

I would encourage the Members to adhere to the House standards of decorum and proceed in order. We need to get on with this.

Members will be recognized by the order of their seniority for their 5 minutes of questioning. An additional round of questioning may be called after all Members have been recognized.

I now recognize myself for 5 minutes of questioning.

My first question is to Mr. Jones. The cartels have essentially taken over a lot of the drug networks inside many of the United States cities. Some headlines just in the past few weeks about San Francisco alone, they basically have seized control and are coordinating with the gangs to seize control of drug trade in San Francisco. They have essentially taken over all the criminal networks, much like a mafia. The Attorney General, Merrick Garland, has admitted to the Senate that the cartel strategy was to flood the Border Patrol and by tying up Border Patrol, because Border Patrol now is doing basically a catch-and-release system, then the drug cartels will slip people around the other side.

Can you tell us how this policy of the open border and this strategy of the cartels have combined to allow them to basically take over crime in the cities?

Mr. JONES. Chairman, the way it works on your Southwest Border, you hear the term all the time, operational control. The problem is, no one ever tells you how the cartels have it. That's what I'm going to share with you here today and to answer your question.

That is that they utilize a network known as the Halcon Network. Halcons are scouts, they're lookouts. They check on and off just like law enforcement, anywhere from 8-hour shifts, 10-hour shifts, 12-hour shifts. I've seen them in South Texas as far as 30 miles into the United States, I have seen them in Arizona as far as 70 miles. They leverage two-way handheld encrypted radio, sometimes encrypted apps, and they communicate back to what is known as synthral. So what happens is you have these lookouts everywhere. When what they call the gate is open, the gate, meaning a bend in the river or a bend at your border, when there is no law enforcement, they surge with whatever commodity it is that they want to push. So when you're talking about based on the policies of all of these migrants that have come from all over the world, what is happening is the cartel by design will push hundreds of people, as you have seen on every news station over the last few years, and the media focuses on that, that causes the surge of local, State, and Federal law enforcement to that location. They do that by design because it opens up the other gates. Now, if they're going to move a commodity directly linked to a cartel boss, they'll shut down more gates to ensure that commodity makes it in.

What they do, Chairman, is they contract directly with U.S.-based street gangs and what we call tier one gangs, those are gangs which impact multiple regions in our country, they work directly with the cartels. Today, it is very important to understand your U.S.-based street gangs are working side-by-side, contracting with the cartels. I could go on and on here, but in 2009, eMe—Mexican Mafia—I was a lieutenant Laredo, Texas over two major drug squads as the war broke out between CDG and the Zetas, and we were stunned at what we found. We had Mexican Mafia working in Mexico, working operations, going through basic, intermediate, and advanced training from former Special Forces and law enforcement, conducting hits in the United States, and getting reduced costs of cocaine for that. That is the way it really works.

So when you wonder today why you are being overrun with drugs, it is because the tier one gangs and U.S.-based street gangs are contracting and working directly with these cartels. I will go back to this, and that is that they will not stop. They can't. They're going to have to be stopped. We're going to have to really take extreme aggressive action to fix this.

Chairman GREEN. How has the open policies, the basic catch-and-release, and this stimulation of a mass wave of migration by having an open border facilitated this process?

Mr. JONES. This is it. I want to be very clear here. Historically, your cartels, the Mexican cartels, we call them drug cartels because that's what they work today, they are in over 54 countries around the world. This is not a U.S.-Mexico problem, ladies and gentlemen. Cartel Jalisco New Generation we know is in 48. This will not stop. Now they've transitioned into the final version of human trafficking known as debt bondage. I am holding it in my hands. This is it. This is how emboldened they've become.

So I can't stress to you that you have to take extreme, extreme action to go after these cartels and to truly create relationships with Mexico and the rest of the world in what we call a unified command and treat them as the dark networks that they are.

I'm happy to discuss that with you as to how to go after them.

Chairman GREEN. Thank you. I now recognize the Ranking Member for 5 minutes questioning.

Mr. THOMPSON. Thank you very much, Mr. Chairman.

Mr. Jones, you talked about that Congress should take extreme action. Let me tell you what was in the last omnibus package that we passed in 2023. We provided $17 billion for Customs and Border Protection, including an increase in spending by 17 percent over the previous year. It allowed for hiring operations along the Southwest Border. We also provided funding for 19,855 Border Patrol agents, an increase of over 300 agents, the most since 2011. We also appropriated $60 million more to hire 125 Customs and Border Protection officers and mission support staff at our ports of entry.

But I would also tell you, not a single Republican on this committee voted for it. It was passed only by Democrats. We are the ones who are trying to put by the resources to the good men and women along the border who are addressing this. Every time an opportunity presents itself to put resources on the border Democrats are the one who vote for it. You can talk tough, but when it comes time, as a Member of Congress, you really need to vote your conviction. So if you don't give the men and women the money they need to help protect us, then that is our fault. But thank goodness the Democrats in Congress gave the money that was asked for by the Department. We need more.

I look forward to when the next time that people ask for money, like I hear you talking about resources, that they will vote for it, because that is the only way we can address this problem.

The other situation, as I said, I have been on the committee a long time. Responsible men and women can disagree, but there is a way you can be disagreeable. I understand the witness is on the Republican side. This is a great democracy, and it is only great because of the men and women who live in it. It is not a personal attack, it is just the facts.

I hope, Mr. Maltz, you understand that. But be that as it may, there are some policy differences. I think 9 hearings on this subject is a bit much. I am embarrassed at that because we are wasting time trying to impeach a Secretary when we ought to be providing our men and women along the border resources. I have never voted against the Homeland Security budget since the Department was created. I don't plan to ever vote against it because it is not the right thing to do.

Now, I will disagree with this Chairman, I will disagree with that Chairman, and we will probably continue, but we are adults. I just think as long as we act as adults, we will get things done.

People around the world look at us. They want to be like us. But what I see happening and trying to disagree and trying to somehow take it to another level, is just not who we are.

So, Dr. Felbab-Brown, can you tell me what kind of programs you have seen that have been helpful along the border in addressing this problem?

Ms. FELBAB-BROWN. Certainly. Improving input technologies so that inspections of vehicles, cargo, and people crossing the border can be intensified is a very useful measure. The CBP several years ago stated that it is only capable of inspecting about 2 percent of

personal vehicles crossing and about 17 percent of cargo vehicles. Raising that number to a much higher level, especially because the vast majority of fentanyl is seized and very likely smuggled through legal ports of entry, is a good way of reducing the amount of fentanyl coming into the United States.

It's not a sufficient policy. A whole-of-Government approach needs to be adopted. Increasing collection intelligence on a variety of activities that the criminal cartels, Mexican cartels engaging, deploying various tools, various agencies of the United States to be able to facilitate U.S. law enforcement work.

Mr. THOMPSON. I yield back.

Chairman GREEN. The gentleman yields.

I recognize the gentleman from Texas, Mr. McCaul.

Mr. MCCAUL. Mr. Chairman, I want to thank Mr. Jones and Mr. Maltz for your service, your law enforcement service in the line of duty in very dangerous conditions. Mr. Maltz, I want to thank you also for your comment about foreign policy because I can't think from a Communist China standpoint a better foreign policy than introducing poison through Mexico into the United States, killing Americans and making money off it. It is almost like a reverse Opium war. They see it that way. It has killed 70,000 young people, 20,000 pounds of fentanyl seized, enough to kill 4.6 billion people. My children have been to 5 funerals of their friends who thought they were taking Xanax or ADD medication and they never woke up.

Mr. Jones, I know I commend you for being, No. 1, my great State of Texas, what you have done. We know this better, I think, than anybody. I remember going down after Mayorkas rescinded Remain in Mexico. I talked to the Border Patrol chief, and it was chaos. I said, what do you attribute this to? Is there any cause and effect, a direct cause and effect between what you are seeing now and what the policy change of this administration? He said, Congressman, there is no question there is a direct cause and effect between the rescission of Remain in Mexico and what we are seeing today.

What else are we seeing? A human trafficking event of my lifetime. I have never seen anything like this. I was a U.S. Attorney at Western District of Texas at the Texas border, I was a Chairman of this committee. We were, Ms. Vaughan, getting this under control. We were controlling political asylum because the cartels manipulate political asylum claims. When the Remain in Mexico went into place, they couldn't manipulate anymore. You know why? Because they couldn't get into the United States. Their claims were adjudicated with them in Mexico. Therefore, catch and release was ended finally. The very first bill I introduced in Congress 20 years ago. Imagine.

Here we are today. It is alive and well, and this Secretary is responsible, in my judgment. The rising crime, and the women go into sex trafficking, the unvetted homes that these kids go to, and the men go to MS–13. There is a criminal enterprise now not just in Mexico and in Latin America, but right here in the United States, and it was created by this administration's policies.

So my question to the three of you Mr. Jones, Ms. Vaughan, Mr. Maltz, do you believe that the actions of this Secretary by rescind-

ing Remain in Mexico, a policy that was effectively working, that has created this criminal enterprise, do you believe that this Secretary is responsible for and complicit with the criminal enterprise that has resulted as a result of these policies being rescinded?

Mr. Jones.

Mr. JONES. Yes, I do. That is validated by not only the data from the United States Customs and Border Protection that validates the numbers that crossed into our country as a result of the exemptions created under Title 42, which Secretary Mayorkas is the architect behind that. In addition, the overdose deaths in this country due to the sheer impact to mothers and fathers and families across this country. The data validates it.

Mr. MCCAUL. One thing to add, the district court said you must re-implement Remain in Mexico. The Secretary did not comply with that order. He failed to comply with that order.

Ms. Vaughan.

Ms. VAUGHAN. I do believe that the Biden-Mayorkas policies are responsible. A disaster. They're what's responsible for the situation that we have today. No amount of money that is funneled to these agencies is going to help the situation until the officers and agents are allowed to do their job. The policies at this point are more important than the money.

Mr. MCCAUL. In fact, they said, sir, we are turning our backs on you because you turn your back on us, as I recall.

Mr. Maltz.

Mr. MALTZ. Well, I say it starts at the top with the President and it comes down. I just want to say that I make these collages of these dead kids on my own time to help spread the awareness. So the results are just dead children and families going to funerals. That's what it comes down to. I'm not an expert on immigration law or border policies, but I know what's going on in America. That's why I'm here today.

So thank you.

Mr. MCCAUL. That is why we marked up a bill in my committee to designate fentanyl as a chemical weapon under the Chemical Weapons Convention, Mr. Jones. I will give us more authorities to go after him.

I yield.

Mr. BISHOP [presiding]. The former Chairman yields back.

I now recognize the gentleman from California, Mr. Correa, for his 5 minutes of questions.

Mr. CORREA. Thank you, Mr. Chairman.

Before I start with my comments, I wanted to submit for the record, without objection, CBP release, June 2023. Just came out yesterday, showing the lowest Southwest Border encounters since February 2021. If I may read, total Southwest Border encounters in June, including individuals who presented at ports of entry with or without CBP One appointments were down 30 percent to 144,000. If I could submit that to the record, sir.

Mr. BISHOP. Without objection.

[The information follows:]

CBP Releases June 2023 Monthly Update

Statistics show lowest Southwest border encounters since February 2021

WASHINGTON.—U.S. Customs and Border Protection (CBP) today released operational statistics for June 2023, which show a significant and continuing decline in migrant encounters along the Southwest border as well as successful drug interdiction efforts resulting from new enforcement initiatives. CBP's total encounters along the Southwest border in June were the lowest in over 2 years, dropping nearly a third from May.

"Our sustained efforts to enforce consequences under our longstanding Title 8 authorities, combined with expanding access to lawful pathways and processes, have driven the number of migrant encounters along the Southwest Border to their lowest levels. in more than 2 years. We will remain vigilant," said Troy A. Miller, CBP Senior Official Performing the Duties of the Commissioner.

"As our June statistics show, CBP's mission is vast, and thanks to the dedication of our personnel and Federal partners, we are delivering results that keep the American people safe: ensuring border security, seizing drugs, stopping the flow of illicit weapons, rescuing people in distress, facilitating lawful travel and trade, and stopping the entry of harmful agricultural pests."

Below are key operational statistics for CBP's primary mission areas in June 2023.

Ensuring Border Security and Effectively Managing Migration

CBP is processing all migrants under Title 8 immigration authorities, and generally placing individuals who cross the border unlawfully into Expedited Removal or Section 240 Removal Proceedings. Noncitizens who cross between the ports of entry or who present at a port of entry without making a CBP One appointment, are subject to the lawful pathways rule, which places a condition on asylum eligibility for those who fail to use lawful processes, with certain exceptions.

In June—the first full month since the lifting of the Title 42 Public Health Order—the U.S. Border Patrol recorded 99,545 encounters between ports of entry along the Southwest Border: a 42 percent decrease from May 2023. Total Southwest Border encounters in June, including individuals who presented at ports of entry with or without a CBP One appointment, were 144,607, a 30 percent decrease from May 2023. These are the lowest monthly Southwest Border encounter numbers since February 2021.

People who made the dangerous journey to cross the Southwest Border unlawfully have died of dehydration, starvation, and heat stroke. Smuggling organizations abandon migrants in remote and dangerous areas. To prevent the loss of life, CBP initiated a Missing Migrant Program in 2017 that locates migrants reported missing, rescues individuals in distress, and reunifies decedents with their families in the border region. In June 2023, the U.S. Border Patrol conducted nearly 1,700 rescues, bringing the total number of rescues in fiscal year 2023 from 24,056 at the end of May to 25,735 at the end of June.

Safeguarding Communities by Interdicting Dangerous Drugs

CBP continues to interdict the flow of illicit narcotics across the border. CBP has significantly increased non-intrusive inspection scanning capabilities and forward-operating labs to swiftly identify suspected drugs and recognize trends. CBP has found packages of narcotics in roofs, floorboards, door panels, bumpers, tires, gas tanks, car batteries, seats, speaker boxes, false floors, drones, and more.

Nation-wide in June, seizures of cocaine, methamphetamine, heroin, fentanyl, and marijuana (combined, by weight) increased 7 percent from May. To date in fiscal year 2023, CBP has seized more than 22,000 pounds of fentanyl—compared with 8,300 pounds over the same period in fiscal year 2022.

To disrupt supply chains used in the development and movement of fentanyl, CBP launched two new interagency operations in June: Operations Artemis and Rolling Wave. A parallel intelligence and analysis operation, Operation Argus, is providing trade-focused analysis. These efforts build on the success of Operations Blue Lotus and Four Horsemen, which seized nearly 10,000 pounds of fentanyl.

Operation Artemis began on June 5 and has made over 130 seizures, which include:

- 21 pill presses and 54 pill molds
- More than 5,000 pounds of precursor chemicals
- More than 300 pounds of methamphetamine
- And over 5,000 pounds of other drugs.

The U.S. Border Patrol is concurrently running Operation Rolling Wave, surging inbound inspections at Southwest Border checkpoints. This operation has seized:

- More than 1,500 pounds of fentanyl
- More than 1,000 pounds of cocaine
- More than 8,000 pounds of marijuana
- More than 6,500 pounds of meth.

Under Operation Blue Lotus 2.0, which launched on June 12, CBP and HSI have also continued to surge resources to Ports of Entry, where 90 percent of fentanyl is trafficked primarily in cars and trucks. This operation has seized over 1,500 pounds of fentanyl and over 23,000 pounds of other narcotics like cocaine, methamphetamines, and heroin.

Facilitating Lawful Trade and Travel and Promoting Economic Security

To improve the traveler experience while maintaining the highest levels of security, CBP has increased the deployment of technology that provides a more seamless and faster entry into the United States by air, land, and sea. In June, CBP announced the deployment a new Electronic System for Travel Authorization mobile application. CBP continues to improve the travel experience and reduce wait times while enforcing over 400 laws for 40 other agencies and stopping thousands of violators of U.S. law.

Travel volumes continue to rebound globally from pandemic lows. Travelers arriving by air into the United States increased 20 percent from June 2022 to June 2023, and pedestrians arriving by land at ports of entry increased 12 percent over the same period. Passenger vehicles processed at ports of entry increased 11 percent and commercial trucks increased 2 percent from June 2022 to June 2023.

CBP works diligently with the trade community and port operators to ensure that merchandise is cleared as efficiently as possible, and to strengthen international supply chains and improve border security. In June 2023, CBP processed more than 3.1 million entry summaries valued at more than $278 billion. CBP identified an estimated $7 billion of duties to be collected by the U.S. Government. In June, trade via the ocean environment accounted for 39.5 percent of the total import value, followed by air, truck, and rail.

CBP One App

The CBP One mobile application remains a key component of DHS efforts to incentivize migrants to use lawful and orderly processes and disincentivize attempts at crossing between ports of entry. In June, more than 38,000 individuals who scheduled appointments through the CBP One app were processed at a POE.

Since the appointment scheduling function in CBP One was introduced in January through the end of June, more than 170,000 individuals have successfully scheduled appointments to present at a POE using CBP One. The top nationalities who have scheduled appointments are Haitian, Mexican, and Venezuelan. Beginning on July 1, CBP announced the expansion of available appointments for noncitizens through the CBP One app to from 1,250 to 1,450 per day.

Protecting Consumers and Eradicating Forced Labor from Supply Chains

CBP continues to lead U.S. Government efforts to eliminate goods from the supply chain made with forced labor from the Xinjiang Uyghur Autonomous Region of China.

In the year after the agency began implementing the Uyghur Forced Labor Prevention Act on June 21, 2022, CBP has reviewed a total of nearly 4,300 shipments valued at nearly $1.4 billion. In June 2023, CBP stopped 405 shipments valued at more than $239 million for further examination based on the suspected use of forced labor.

Intellectual property rights violations continue to put America's innovation economy at risk. Trade in counterfeit and pirated goods threaten the competitiveness of U.S. businesses, the livelihoods of American workers, and the health and safety of consumers. In June, CBP seized 1,709 shipments that contained counterfeit goods valued at more than $120 million.

Defending our Nation's Agricultural System

Through targeting, detection, and interception, CBP agriculture specialists work to prevent threats from entering the United States.

In June 2023, CBP issued 5,400 emergency action notifications for restricted and prohibited plant and animal products entering the United States. CBP conducted 97,101 positive passenger inspections and issued 678 civil penalties and/or violations to the traveling public for failing to declare prohibited agriculture items.

CBP

U.S. Customs and Border Protection is the unified border agency within the Department of Homeland Security charged with the comprehensive management, con-

trol, and protection of our Nation's borders, combining customs, immigration, border security, and agricultural protection at and between official ports of entry.

Mr. CORREA. I just wanted to, first of all, thank our witnesses for being here today. I want to quote General John Kelly when his Secretary of Homeland Security would say, border security does not end or begin at the border.

Mr. Jones, I want to say I heard your testimony I listened to it very carefully. I got to tell you, I really don't like what you said. But as an individual that has worked a lot on both sides of the border, I have to tell you, you have some valid points. We do need some extreme solutions. We need to coordinate with Mexico. We need to get it right.

Speaking to Mexican officials recently, and they reminded me that just recently they had seized 46,000 bank accounts, were blocked. The equivalent of almost $700 million of money from organized crime, have entered into an anti-money-laundering binational group with the United States, 1,600 members of the Mexican military today are deployed at 55 security points along the border, seizures recently, 7.5 tons of fentanyl, 1,700 labs shut down, almost 74,000 criminals arrested in Mexico. Then, of course, in January of this year, the arrest of Chapo's son Ovidio Guzman, that erupted into one of those gunfights that you are describing where 12 Mexican Marines were killed. So I think the effort is there, but I just don't think it is enough because this is an effort that is going to require all of us working together.

Last week, Chairman Higgins and I introduced the bill, legislation to really enhance, support homeland security's investigation of transnational criminal units—I should say investigations of transnational criminal units, Mexico, Central America, and South America. Is this the kind of efforts do you think that would help us really drill down and work with other countries south of the border to identify some of these folks?

Mr. JONES. Thank you for the question, Congressman.

I will tell you that those statistics you gave are fantastic and I applaud the efforts of all of those in Mexico who are in harm's way. They have some incredible people working to try to fight for their country. But none of this matters. If you notice, not one cartel has fallen. As a matter of fact, more Mexican citizens and more migrants have fallen to these cartels and been brutalized like we've never seen before in Mexico. You also see violence now spreading across the country at levels where historically, sir, it was along our frontera, with our border. Today it is across the nation of Mexico. Where I'm going with that is I want you to know that the effort is not near enough. Not even close.

Mr. CORREA. You know, if I may interrupt you, because I only have a minute left, but there is a new dynamic emerging, leverage partnership dependence. Mexico is now our largest trading partner in the world. We are going to depend on each other for economic success, livelihood, and we need to work together to address these common issues.

I have 44 seconds very quickly. Any thoughts how to move forward on that?

Mr. JONES. I think that's a great point about how we can leverage and work together because of that exact reason. They are deal-

ing with guns going south and military-grade weapons coming north. We have a lot of areas that we can work with the Mexicans and we should, as somebody that has done it. It is all with relationships. But I want to tell you and be very honest, there is a lack of effort in Mexico right now. They put a lot of pretty paint on the wall. It means nothing and it is doing nothing. You see it in the deaths of Americans, you see it in the deaths of Mexican citizens and it's just pretty paint on the wall that doesn't amount to anything.

Mr. CORREA. I do hope we can engage in a transparent manner to address these issues that do affect my citizens on Main Street on a daily basis in terms of fentanyl deaths.

Thank you Mr. Chairman. I yield. My time is up.

Chairman GREEN. The gentleman yields.

I now recognize Mr. Higgins from Louisiana.

Mr. HIGGINS. Thank you, Mr. Chairman. I thank you ladies and gentlemen for being before us today.

Let's see if we can clarify for the American people.

Mr. Jones and Mr. Maltz, I am going to go to you in my limited time.

Mr. Jones, confirm please your former title in law enforcement. We have here you were former captain of intelligence and counterterrorism with Texas Department of Public Safety, is that correct?

Mr. JONES. Yes sir, it is.

Mr. HIGGINS. So you have a great deal of expertise in law enforcement, do you not?

Mr. JONES. Yes, sir.

Mr. HIGGINS. You are a resident of Texas?

Mr. JONES. Yes, sir.

Mr. HIGGINS. You know what is going on down there, don't you brother?

Mr. JONES. Yes, sir.

Mr. HIGGINS. Roger that.

Mr. Maltz, according to my information, you are a former special agent in charge of Special Operations Division with the Drug Enforcement Administration, the DEA. Is that correct, sir?

Mr. MALTZ. That's correct.

Mr. HIGGINS. You have a long history in law enforcement, do you not?

Mr. MALTZ. Yes, sir.

Mr. HIGGINS. Where do you live, sir?

Mr. MALTZ. I live in Virginia now.

Mr. HIGGINS. Well, congratulations, living off of the border. You spent a lot of time down there in DEA operations, did you not?

Mr. MALTZ. Absolutely, yes.

Mr. HIGGINS. You know what is going on down there?

Mr. MALTZ. Yes, sir.

Mr. HIGGINS. Let's get to it, shall we?

Since President Biden was inaugurated and made perhaps the poorest decision in the history of poor decisions by hiring Secretary Mayorkas to enact his policy, because although Secretary Mayorkas has a great deal of expertise, as you gentlemen do as well, he has the added responsibility as the Secretary to advise the President if the President's policies are injurious to America. Once those poli-

cies have been demonstrated to be clearly injurious to our country, the Secretary, further reflective of his oath, has a responsibility to step away from that administration if the President does not abide by his advice when the President's policies that the Secretary is enacting are clearly hurting our country. They absolutely are.

Gentlemen, I am going to ask you a little bit about cartels' access to our country. You both have conducted United States operations in and with Mexico, have you not?

Mr. JONES. Yes, sir.

Mr. HIGGINS. Mr. Jones, yes? Mr.——

Mr. MALTZ. Yes, sir.

Mr. HIGGINS. Yes and yes. The United States operations in Mexico, must they follow United States law and be organized with the Mexican government and Mexican law enforcement?

Mr. MALTZ. Yes, sir.

Mr. HIGGINS. Mr. Jones.

Mr. JONES. Yes, sir.

Mr. HIGGINS. Yes and yes, of course. So we have operations in Mexico, law enforcement operations in Mexico, but we have to follow the law, do we not?

Mr. MALTZ. Right. If I may add, the best example of that is the unified operation to capture Chapo Guzman on two occasions working with the Mexican Marines. They did the operation, not the United States. They went out and they grabbed them. They had the courage to do it.

Mr. HIGGINS. Understood. I like your spirit.

So let's compare that to the cartels. Gentlemen, do you consider it a true statement that the cartels have gained unprecedented access and networking within the United States of America? Mr. Jones.

Mr. JONES. Yes. Yes, sir. I do.

Mr. MALTZ. Yes, sir.

Mr. HIGGINS. Have you seen this increase incredibly over the last 2 years? Mr. Jones.

Mr. JONES. Yes, sir.

Mr. HIGGINS. Mr. Maltz.

Mr. MALTZ. Yes.

Mr. HIGGINS. Roger that. Do they have to follow our laws?

Mr. MALTZ. No way.

Mr. HIGGINS. Absolutely not.

Mr. MALTZ. There's no fear. They're not going to go to jail.

Mr. HIGGINS. They have unfettered access to the communities of America, and they traffic in two things, drugs and human beings. This administration has accommodated their efforts. Oh, how can you say that, Congressman Higgins? Well, let me give you an example. We have spoken a great deal about technology on the border. My colleagues across the aisle stated, we don't want a wall, wall is old tech, we don't need a barrier system, we have technology. OK. First of all, that is in denial of the fact that a physical barrier is part of a security system that includes physical barriers to deter and delay an attempted criminal crossing or trafficking of human beings and drugs into our country. Second, let's talk about the technology. Much has been said about drones being used. We have technology on the border, was requested by law enforcement

on the border during the Trump administration, approved by Congress, funds appropriated, contracts arranged for to detect and take down cartel drones. That is called the detection and mitigation capabilities of our anti-drone tech deployed on the border, called the defensive and offensive operations of that anti-drone tech. Somewhere since Secretary Mayorkas has been in charge—and I promise you we will find the smoking gun—since Secretary Mayorkas has been in charge, the offensive capabilities or the mitigating capabilities of that anti-drone tech has been suppressed.

Mr. Chairman, my time has expired, but my passion has not. I yield.

Chairman GREEN. Sometimes Clay Higgins just says it the best way.

I now recognize Mr. Carter—I think, is who is up next, from Louisiana.

Mr. CARTER. Thank you, Mr. Chairman.

Mr. Chairman, I ask unanimous consent to enter into the record an article titled "Cadre of Nativist Groups: Figures Have Long Pushed Replacement by Immigration Ideas into Mainstream", which explains how the replacement conspiracy theory has inspired domestic terrorism and documents that the Buffalo mass shooter cited by Ms. Vaughan's research is justifying his domestic terror attack.

Mr. Chairman, this hearing is, unfortunately a sham. It is a dangerous national platform that risks legitimizing the extremist idea terrorists latch on when carrying out attacks on the homeland. In this committee, all of us should frown on that. So I would like to enter this to the record so everyone will have an opportunity to read it, sir.

Chairman GREEN. Without objection, so ordered.*

Mr. CARTER. Most migrants coming to our border have no other legal pathway to the United States for citizenship and are seeking asylum here because they have no other legal pathway, which is their legal right. However, our system was not set up for this kind of volume that we are experiencing, and it is absolutely unsustainable, I think we all agree.

Dr. Brown, as director of initiatives for non-state armed actors at the Brookings Institute, what are recommended practices that can be used at our ports of entry to put human rights at the forefront?

Ms. FELBAB-BROWN. Congressman, thank you for your question.

Certainly, a comprehensive immigration reform that would allow legal paths of entry into the United States would immeasurably improve U.S. law enforcement domestically, as well as it would improve capacities to induce partnership and meaningful cooperation from vital partners and countries such as Mexico.

In the mean time, increasing inspection is what is an important measure, as well as recognizing that the cartels are no longer singularly focused on smuggling drugs, but are engaged in a whole variety of activities that require all of U.S. Government response.

Mr. CARTER. Thank you.

*The information was not available at the time of publication.

We are witnessing a shift around the world of people seeking asylum, safety, and economic prosperity. Individuals are fleeing economic uncertainty, government corruption, and violence. This is not only a struggle here in the United States, but world-wide.

Ms. Vaughan, with your work for immigration studies, would you agree that there is an unprecedented movement of vulnerable people in the Americas and world-wide?

Ms. VAUGHAN. There certainly is unprecedented movement of inadmissible migrants into the United States. That is for sure, yes.

Mr. CARTER. How is that impacting our points of entry?

Ms. VAUGHAN. It is overwhelming the men and women of the Border Patrol and CBP to the extent that they cannot adequately talk to migrants to detect trafficking, for example. They are forced to process and release them as quickly as possible. It is distracting them from preventing gotaways who are often the bad actors, and the drug loads from coming into the United States. It is creating chaos in border communities and impacting the safety of those communities, it is compromising the safety of the people who live along the border, who have to deal with the cartels bringing loads of people and drugs through their private property and threatening their lives and well-being.

I mean the problems created by this open border are just incalculable. And——

Mr. CARTER. So how would we—we are all ears now and we are presumably here to listen, to learn, and to do better. So now we are all ears. How should Government interact with our regional partners to make a difference?

Ms. VAUGHAN. Well, I think that United States needs to make it clear to our international partners that this level of migration, illegal migration into the United States cannot be sustained. It's causing problems with our country, and that we need to work together to address it and stop it. Because to the extent that the criminal cartels are enriched and emboldened, it affects civil society in their countries as well. It's destabilizing to Mexico and to some of the other—Panama is terribly destabilized because of the trafficking that occurs through the Darién Gap.

Mr. CARTER. Thank you.

Ms. VAUGHAN. They have an interest in working with us, too.

Mr. CARTER. Thank you very much.

My time has expired. I yield back. Thank you, ma'am.

Chairman GREEN. The gentleman yields.

I now recognize Mr. Bishop of North Carolina.

Mr. BISHOP. Thank you, Mr. Chairman.

Mr. Jones, you are the witness I have been waiting to hear for months and months in this committee. You talked about the—and I forgot how you described it—ultra violence? What did you say about—what did you call the violence?

Mr. JONES. Hyper-violence.

Mr. BISHOP. Hyper-violence among Mexican cartels. I have questioned witnesses here before about, in January in Culiacan, I believe there was open warfare, 50 cal machine guns being used, narco tanks driven by cartel soldiers against Mexican army. This is the second taking or the second effort to take Ovidio Guzman, I believe. You have said—I think it certainly is—I have some con-

cern about militarizing this dispute and having the United States military take on the Mexican cartels. I am open to the debate on that. But there is another aspect of this that is of interest to me. I wonder if you can comment on it, because the wristbands that you hold up testify to it.

You talked about bond—what did you call that—bondage slavery?

Mr. JONES. Debt bondage, sir.

Mr. BISHOP. Debt bondage, yes, sir.

So you got hundreds of thousands, or at least 150,000, 200,000 migrants entering per month, Mexican cartel has tabs on all of them. We saw the headline the Chairman put up during his opening statement from the *New York Post* that Honduran migrants were operating the drug trade—or I believe is what they said in San Francisco. Very troubled place, as you know. As they bring these very vulnerable human beings that they have absolute control over and knowledge of into the United States, they are keeping tabs on them, these criminal organizations, could they not develop the same sort of hyper-violence in the United States that we are seeing in Mexico given sufficient time?

Mr. JONES. They will. I can assure every Member here, if you do not take action on this and change what we are doing and look at them not as you are hearing, as criminals, but truly as terrorist organizations and leverage the full weight of this Government, it is coming here. I worked in 2015, the beheading of an individual in Port Isabel, South Padre Island, that was committed by a U.S. Border Patrol, working from the navel up all the way up. His entrails were removed in his head, as far as we can tell, was taken back to Mexico. I worked the 2013 lawyer where El Gato spent a million dollars putting tracking devices all over his family's vehicles and then were able to locate him in South Lake, Texas, and then executed him. So that they are here, sir. They are here and they are among us.

Mr. BISHOP. The people who have erased our borders as a means of improving their voter population might—already have gotten more than they bargained for I would say in the fentanyl deaths I am going to ask Mr. Maltz about next. But they also may see yet more. We may see the same sort of open militarized conflict with our own law enforcement and military resources here in the United States. That is what you are saying?

Mr. JONES. I have video that I've submitted to this committee of 50 caliber rifles, fully-kitted individuals, on Interstate 10, Tucson to Arizona, passing two Arizona State troopers.

Mr. BISHOP. The only thing——

Mr. JONES. I can go on. They are here, sir.

Mr. BISHOP. My fellow lawmakers only decry the fact that we are not spending more money letting that happen.

Mr. Maltz, I want to ask you, you ever been to Charlotte, North Carolina?

Mr. MALTZ. Yes, sir.

Mr. BISHOP. You know the community just north, very affluent community just north of there called Cornelius?

Mr. BISHOP. Not aware of that, no.

Mr. BISHOP. Hough High School. A member of a sports team up there, young man died a week or so ago. They say that fentanyl has pierced Hough High School in Cornelius, North Carolina. It is happening everywhere, not just at the border, everywhere across this country.

But there is something even—I don't know if you can say more disturbing than that. I just watched the movie "Sound of Freedom", and I would urge everybody to go see it. But the problem of child sex trafficking is, I understand, at epidemic levels as well. Been fed from places south of the United States, but now in the United States we have children that—600,000 children, minors come into the United States under the policies Democrats have advocated, Secretary Mayorkas is overseeing, 85,000 we have lost track of. These people are showing up in factories and the like. But that is not even the worst of it, it is the people being sold into another form of bondage, Mr. Jones, sex trafficking. You keep up with that at all, Mr. Maltz? The sex exploitation of children?

Mr. MALTZ. Yes, sir. Because the cartels control it all at the border. They have total control of the border. So they're making money on all those young kids, those innocent kids. That's why I commented before, because of all these rapes and these assaults on these young children as they make the journies up into the United States.

But one thing I would want to add is that Secretary of Mayorkas did say that the fentanyl overdoses are the single greatest challenges that we have in America. But my question to everybody is then why would you reverse the policies that were working before to keep those people out? It's the operatives that are all over our country now running the business of collecting money, of pushing the poison on the streets, and they're getting right over the border. They have total control.

Mr. BISHOP. If you think the problem is so insignificant that it embarrasses you to consider it, Mr. Maltz, that would be your answer.

I yield back.

Chairman GREEN. The gentleman yields.

I now recognize Mr. Thanedar.

Mr. THANEDAR. Thank you, Mr. Chair. Thank you to the witnesses who are here today.

Two months ago, the DEA confirmed the interception of a massive shipment of over 20 kilograms of fentanyl during a routine traffic stop in my beloved city of Detroit. Now, just think about this for a moment. Fatal dose of fentanyl is only 2 milligrams. Now, if you look at this 20 kilogram seizure of fentanyl, and if I do a quick math here, that 20 kilograms is enough to kill 10 million people. That is almost the entire population of my State of Michigan.

But let me clarify. This deadly drug finds its way to my district because there is a name, an unattended addict, a path of destruction waiting for it. That is the root cause of this fentanyl crisis, demand for the opioid.

My message to my Republican colleagues is that the opioid epidemic does not begin or end at our borders. This crisis is not a border crisis, it is a public health crisis. We need to focus on health care. By doing so, we not only save lives, but also disrupt the prof-

itability of these cartels. It is a win-win situation. We can cripple their operation while healing those trapped in this grip of addiction.

Dr. Brown, can you discuss how treating demand for these drugs would hurt cartel operations while saving lives?

Ms. FELBAB-BROWN. Thank you.

I stated at the beginning of my testimony that focusing on treatment, demand reduction, and harm reduction approaches is absolutely critical and indispensable. This is indeed what will save us lives.

Law enforcement actions, both on the U.S. side of the border and internationally, are also very important because we do want to minimize the amount of flows to the United States and also because the objective should be dismantling the drug trafficking groups. However, expanding access to insurance so that more people in the United States could receive treatment, adopting the smartest most proven evidence based approaches so that people are not dependent on sourcing illicit drugs on the illegal market, so they are not dependent on sourcing illicit drugs, period, is crucial. With that and a very important element of that is also a significant over prescription of legal opioids.

I want to go back to emphasizing another point from my testimony. The real big danger currently of pharmacies in Mexico that are brick-and-mortar buildings, look like any pharmacies, and are selling all kinds of drugs, including fentanyl- and meth-laced adulterated drugs to international tourists such as U.S. citizens. They need to be shut down.

Mr. THANEDAR. Thank you, Dr. Brown.

My understanding is that the administration is working to expand its public health initiative to combat the fentanyl epidemic. Do you view this as a necessary step?

Ms. FELBAB-BROWN. Yes. The Biden administration deserves enormous credit for framing a lot of our drug policy in terms of public health. Significant genuine progress has been made, and some of them precedes initiative already from during the Trump administration with States, State legislature, and Members of Congress, the U.S. Congress recognizing the need to adopt much smarter, much wider strategies, such as the availability of medications that reverse overdose.

Mr. THANEDAR. Thank you, Dr. Brown.

Mr. Chairman, I yield back.

Chairman GREEN. The gentleman yields.

I now recognize Mr. Gimenez from Florida.

Mr. GIMENEZ. Thank you. Thank you very much.

In September, September 11, 2001, terrorists killed around 3,000 Americans and we went 7,000 miles, and we waged war for 20 years because 3,000 Americans were killed. Seventy thousand Americans are being killed every single year by fentanyl and we are doing nothing about it.

I had the director of the FBI sitting in that chair and I asked him, do you think that we should be labeling the Mexican cartels, the multinational cartels, as terrorists? He says well, this is a technicality. Well, they are terrorists. They are killing us. As a matter of fact, we only lost 60,000, close to 60,000, people in Vietnam in

10 years of war. They are killing 70,000 Americans every single year and they are right across the border.

So my question to you, Mr. Jones, is this: Do you believe that the Biden administration policies have strengthened the Mexican cartels?

Mr. JONES. Yes, sir, I know they have.

Mr. GIMENEZ. Do you believe that by strengthening the Mexican cartels, we are actually not only destabilizing the United States of America, but we are also helping to destabilize Mexico?

Mr. JONES. Yes.

Mr. GIMENEZ. There is the crux of the matter. So we can fund $10 billion and put CBP agents locked and armed 2,000 miles on the border, and unless we change the policy, nothing changes. Is that correct?

Mr. JONES. That is absolutely correct. This is an authority. This is not a money issue any longer. We, as lawmen, do not have the authorities we have needed to go after these cartels. That is the problem. I don't believe in going to war with the cartels. They are dark networks, Congressman. The way we win against them is giving us the authority for full spectrum operations, leveraging our full U.S. intelligence agencies, law enforcement and military, but mostly clandestine operations. How you go after the Sinaloa cartel as a network will be much different as to how we go after the Gulf Cartel del Noreste and many others, because these networks are different and we have to fight in the future differently than we have in the past.

Mr. GIMENEZ. I agree. But also we need to change our policy so that the migrants who are coming through, who think they can get into the United States, that are paying them their passage, deprives them of that revenue and makes them weaker. Is that correct?

Mr. JONES. It does. But you also need to understand these cartels are global. You hear all the time that right now they're making billions of dollars off of the human trafficking of people. That's absolutely true. They're making more than they are off of drugs. But when you look at them in the totality today, look at why Cartel Jalisco New Generation has risen so quickly, so fast. Because they began moving their narcotics overseas to Europe, Russia, and Australia, making hundreds of thousands of dollars. Literally, one kilo at one time in Australia was $180,000. This is why their rise is so massive. But what are you always told by these so-called experts? That these cartels—listen, if you just legalize, it'll all go away. Look at what has happened to us.

Mr. GIMENEZ. You are right. This is not a simple answer to the problems that we face in the United States, but we need to view them as adversaries. We need to view them as people that are killing Americans, 70,000 a year.

Look, I was in the streets of Miami. I am a paramedic. That is my craft, all right So in the 1970's and the 1980's they responded to overdoses left and right, all the time, and overdoses with opioids. But they weren't laced with this poison. This poison hooks them, makes it much more addictive, and then it kills us. We have to do something about it. What the Biden administration is doing is not doing very much to protect American lives. That is the duty of Gov-

ernment. The duty of Government is to protect the lives of American citizens. In this respect, the Biden administration and this Secretary is failing miserably.

Much has been said about the decrease in the number of migrants that are coming through the border. Now, from the height and yes, maybe it was, but the number that I got, the last in February 2020, only 36,000 migrants were encountered at the border. Now we are looking at as 100,000 as being a good number, 150,000 being a good number. It is an utter disaster what is happening at the border—it is an utter disaster what is happening at the border.

One final thought. My colleagues across the aisle think that everything can be solved by throwing money at it, and it cannot. In this case, the best thing we can do is change the policies. By changing the policies, you will then disincentivize the migrants from coming into the United States, deprive the cartels of the money that they get from them, and then we can start focusing in on destroying the cartels, which are the source of the fentanyl, which is killing 70,000 Americans every single year.

I yield back. Thank you.

Chairman GREEN. The gentleman yields.

Without objection, the title of Ms. Vaughan's testimony submitted for the record has to be stricken. The wording of that title makes an accusation against the President and the Secretary that they are accomplices to crime, and we have to strike that.

So, without objection, the title of that testimony is stricken.

We will move to the next question.

I now recognize Mr. Magaziner for 5 minutes.

Mr. MAGAZINER. Well, thank you, Chairman.

The American people want us to work together in a bipartisan way to solve the Nation's problems and to strengthen our security. But instead, we are here for yet another episode of impeachment theater, the latest installment in House Republicans' plans to impeach someone, anyone, from the Biden administration. It is disappointing and the facts don't support it.

The premise of the argument—and we all know that this is where this is headed—the premise of the argument is something like this, that Secretary Mayorkas, President Biden are breaking the law because they are not attempting to stop transnational criminal activity at the border. Unfortunately for my colleagues, the facts are not on their side.

Here is just a sample of the actions that the Biden administration has taken to combat transnational criminal organizations at the border. In 2021, Secretary Mayorkas launched Operation Sentinel, a collaborative, inter-agency effort to disrupt logistical networks of criminal organizations. Also in 2021, the administration launched Joint Task Force Alpha to enhance U.S. enforcement efforts against smuggling and trafficking groups operating in Mexico and in the Northern Triangle countries. December 2021, President Biden issued Executive Order 14060, establishing the United States Council on Transnational Organized Crime. The Executive Order outlined a policy for the United States to combat TCOs and established a council to monitor the production and implementation of coordinated strategic plans to do just that. President Biden signed legislation to increase funding for border security, for better

technology at points of entry, for more Border Patrol agents. In almost every case, our Republican colleagues who were there last year voted against this legislation. This year, the Biden administration launched operation Blue Lotus and operation Four Horsemen, inter-agency surges of operations to seize narcotics, investigate crimes, and investigate dangerous individuals associated with TCOs. In just 2 months, those operations seized nearly 10,000 pounds of fentanyl and more than 10,000 pounds of other narcotics, like cocaine and methamphetamines. In the last week alone, Operation Blue Lotus arrested 284 people on fentanyl charges.

I can keep going. Secretary Mayorkas launched Operation Artemis to target precursor chemicals, pill presses and parts, and finished substances involved in fentanyl. Secretary of State Blinken, who some of our colleagues are also trying to impeach, organized a ministerial meeting with more than 80 countries to launch a global coalition to address synthetic drug threats, a worldwide effort led by the United States to disrupt fentanyl supply chains. In April, the Biden administration's Justice Department announced charges against 28 Sinaloa cartel leaders. Of course, most importantly, since the expiration of Donald Trump's Title 42 policy, illegal border crossings are down more than 50 percent. That is on President Biden's watch.

So, listen, we can all have our own opinions about whether the administration is doing a good job or not. Everybody is entitled to those opinions. But if your core argument is that the Biden administration is breaking the law by not trying to disrupt TCOs, the facts don't support it. We are going to keep having this debate, apparently for months to come, but that is the central point.

Here is what it all boils down to. Even though the administration have taken numerous actions to address the challenges at the border, detaining criminals, seizing drugs, some of our colleagues are just hell-bent on impeaching a Cabinet Secretary for the first time in 150 years. For some, this has been the plan all along. House Republicans first introduced articles of impeachment against Secretary Mayorkas 2 years ago, when the guy had only been in office for a couple months. They have been gushing to their donors about impeachment behind closed doors before they even took control of the House and before any of these investigations even began, even though there is no legal basis.

So, look, the American people want us to work together to secure the border on a bipartisan basis. There are things that we could be doing. We should invest in technology and personnel, we should strengthen our relationships with allies in the region who are key partners in this fight, we can reform the immigration system to make it more orderly, we can finally do something about the guns across the border from the United States of Mexico, which is a part of this problem that our colleagues don't ever want to talk about. But in order for us to move forward in a productive way, impeachment theater has to stop so that we can get to work for the American people.

I yield back.

Chairman GREEN. The gentleman yields.

I now recognize Ms. Lee from Florida for 5 minutes.

Ms. LEE. Thank you, Mr. Chairman.

Ms. Vaughan, I would like to return to your testimony. You touched on a subject that I think is a very important aspect of what we are here to discuss today, and that is human trafficking and how these policies are affecting women and girls and children who are being trafficked. Specifically, you used the phrase in your opening that these kids go into the HHS assembly line with few questions being asked. I would like to focus a bit there. It is correct, is it not, that when that happens, we have seen numerous incidents of children who are actually put into placements in homes that prove to be unsafe?

Ms. VAUGHAN. Absolutely, yes. There are a number of instances where, for example, girls have been placed with older men in what is clearly an exploitative situation. There are kids who have been turned over to labor traffickers, there are kids who get turned over to gang members, there are kids who get placed into domestic servitude and other forms of abuse. It's really quite horrific.

Ms. LEE. Well, and I know we have also seen cases where—and this happened even in my own State—if the children themselves aren't screened, that can pose a danger or an inappropriate circumstance for a host family. Is that also correct?

Ms. VAUGHAN. Yes. There are problems at some of the shelters, sometimes incidents of predatory behavior on the other kids who are housed there until their release. There was the case in Jacksonville where the alleged minor, who turned out to be 24 years old, because the Border Patrol is not able to really screen people, murdered his sponsor.

Ms. LEE. In your opinion, after children are placed in these sponsor homes, is there an adequate level of follow-up and supervision that is occurring by HHS?

Ms. VAUGHAN. Absolutely not. There's almost no supervision or follow-up that goes on. These standards that they have for not only placements but also post-placement services, are way, way inferior to the procedures that every State in the Union uses for foster care placements, for example. It's been said that it is harder to adopt a cat than it is to sponsor an unaccompanied minor. There are rarely background checks done, almost never home studies, no financial assessments. The Biden administration has stopped doing background checks on other people in the households to make sure that the placements are safe. This is something that simply would not be tolerated in our foster care system.

Ms. LEE. You also mentioned that roughly a one-fourth of the trafficking victims were children. Would you tell us a little bit more about that and the patterns that you see that are affecting young people and children that are coming to this country?

Ms. VAUGHAN. Well, what happens is the smugglers often either convince the parents of these kids that they're going to have a better life in the United States, so pay us a down payment on the smuggling fee now and the child will make enough money or be able to go to school or some other tale to get the parents to release the kid who, when they get to the United States, are released to a sponsor who turns out to be a trafficker or are put directly into trafficking situations. Sometimes it's forced labor trafficking, sometimes it's commercial sex, sometimes it's domestic servitude. But the child is isolated from their family members in the complete

control of the people who have custody of them. There's no monitoring of the situation by the Federal Government that put them in this situation. There is very little opportunity for seeing what's going on in some of these workplaces to rescue the kids. It's a lot of, frankly, hear no evil, see no evil, there must not be any. Really deliberately kind-of looking the other way at what is happening.

Ms. LEE. Thank you Ms. Vaughan.

Agent Maltz, I want to return to you. You used a phrase in your written—which is important and I want to be sure that we today hear the distinction that you make as someone who spent so many years with DEA. The distinction is between drug traffickers, which is something that we have seen obviously for many decades coming across our Southern Border, but you use the phrase narco-terrorist. Would you please explain to us the distinction between a drug trafficker and a narco-terrorist?

Mr. MALTZ. Well, a drug trafficker is in the business to make money only. The cartels, when I first started to work, we know them as drug traffickers, right? But they've evolved from drug traffickers to transnational criminals. But now they're narco-terrorists. Just look at the death and destruction of what they're doing in that country. I mean when I was the head of the Special Operations Division, I kept on my phone the greatest hits of the violence in Mexico with the head, the decapitations, the chopping off limbs, throwing people in acid. They used to have a guy called the stew maker. He would drop—they were never found. That's why in Mexico today there's so many disappearances. They don't want to put that out because it's going to deter any tourism in Mexico. But these cartels—I mean Jaeson can tell you, he reports on it every week, every 2 weeks. They got tanks, they got rockets, they got drones that drop explosives. That's another thing that makes me concerned as a citizen because as our brave men and women are on the border, what happens if one day they drop the explosives on our own people? Right?

So these guys have evolved to the point where—I mean they're a multi-billion-dollar enterprise, they have plenty of money, they have no rules, they have no bureaucracy. So I'm very concerned about their evolution and the lack of the way we deal with them.

Ms. VAUGHAN. Thank you, Agent Maltz.

I am out of time.

Mr. Chairman I yield back.

Chairman GREEN. The gentlewoman yields.

I now recognize Mr. Ivey.

Mr. IVEY. Thank you, Mr. Chairman. I appreciate it.

Got a lot of ground to cover. I do want to start off with agreeing with Mr. Magaziner with respect to the—we have got sort-of two tracks of things going on here. One is there is an impeachment track that is pretty obvious that—the dereliction of duty language dovetails exactly with Ms. Greene's HRS 598, which has articles to impeach President Biden. So we know that is part of what is going on. But the fact that you all are here as a panel, I do have some questions I want to ask you.

I appreciate we may have some differing views, but I do want to try and figure out some of the things that are going on here, be-

cause I do think we have a duty to try and address the problems that we have got.

Ms. Vaughan, you mentioned Prince George's County, and I was the State's attorney there, the local prosecutor. One of the groups that we prosecuted was MS–13 repeatedly. In fact, we did a joint prosecution with the U.S. attorney at the time, President Trump's deputy attorney general. A lot of the stuff that they were doing looks a lot like some of the things we are talking about now. The human trafficking piece, the prostitution up and down the coast, the enforcers, the money and all of that.

So, Mr. Jones, I want to come to you at some point too, but I do wonder about some of the differences that seem to be there.

Mr. Maltz, I think you kind-of touched on this, but in the old days, and I will put myself in that category, the sale of drugs, they weren't trying to kill their customers, basically. So they would sell addictive drugs, cocaine, heroin, whatever, but they weren't necessarily killing them off. Fentanyl seems fundamentally different to me in the sense that, yes, it is extremely addictive, more addictive than those, but it is also the fatality rates are incredibly high. The things I would like to try and figure out if we get a chance to move to a hearing on that front would be why that change in the business model has taken place.

Mr. Jones, I want to get a—I might have to ask you all to send in a written response or something just because I am almost halfway through my time. Mr. Jones, to you, you have made a couple references to, I think, essentially military action, I think was the way you phrased it. Need more authority and more tools beyond law enforcement was one. Then in your last answer that you gave a few minutes ago, you mentioned explicitly wanting to have the military get involved in the pushback against the cartels.

I will pause for this answer. What exactly do you have in mind on that front?

Mr. JONES. Yes, sir. What I'm talking about is the tools of national power. Here, what I mean by it. Our system by design, as you know, as a former prosecutor, moves very slow. It's exactly how we want it under our Fourth Amendment.

Mr. IVEY. Let me ask you to cut to the chase, because I am down to a minute-and-a-half. What exactly—because military involvement is a very big step.

Mr. JONES. If we operate beyond the investigative model what it allows us to do is go after their assets and their money, real-time versus work in 2-year cases. It allows us to limit them mobility globally around the world just to Mexico, because now you can't get on aircraft, you can't get on boats. Third, it allows us to remove them who are here on visas, because most of you would be stunned. They have the money for visas. So it puts speed in the system and gives us tools. Now we go after the network and that's how we win.

Mr. IVEY. Let me reclaim my time. I don't know that you need the military to do any of those three things. I think the Department of Justice does that currently. But we can maybe discuss that at another time.

I also had a question to Mr. Maltz. You mentioned working with China and I think Mexico. Here at a previous hearing—I can't remember if it is Mr. Higgins or Mr. Bishop, but we had someone at

the—I want to say it was the White House that also said the importance of getting involved with China, especially in blocking the amount of precursors that are coming out of China and going to Mexico. Because when the relationship between the United States and China broke off a few years ago, China stopped enforcing the exportation of precursors that led to the really explosion of the availability of that in Mexico. That witness' thought was that—part of the answer was going to be that we needed to work with China to address that.

With respect to Mexico—I am running out of time—but, Mr. Jones, you mentioned another issue too, which was money. You are the first witness I have heard in one of these hearings to say more money isn't the issue. We have had CBP and those guys come up and talk about we need more agents, we need everything really, because they are outgunned in a variety of ways. So I guess I will have to get that from you later on.

I would ask for unanimous consent to offer a couple of articles, "How to Stop the Mexican Cartels: Stop Supplying Them With Guns"**—Which I think was a point you made, Mr. Jones—"On Biden's Border Policy Critics Both Left and Right Are Wrong", "Southern Border Eerily Quiet After Policy Shift on Asylum Seekers".

Chairman GREEN. Without objection, so ordered.

[The information follows:]

ARTICLE, *The Washington Post*

OPINION: ON BIDEN'S BORDER POLICY, CRITICS BOTH LEFT AND RIGHT ARE WRONG

By the Editorial Board

July 14, 2023 at 7:30 a.m. EDT

Uncontrolled migration across the U.S.-Mexico border is not in anyone's interest except, perhaps, for the smugglers who profit by charging people to make the difficult and dangerous trek. After much hesitation, during which unauthorized attempted border crossings reached an all-time high of 2.76 million in fiscal 2022, the Biden Administration acted to stem the flow and redirect it into lawful, more manageable channels. Initial data from the Department of Homeland Security shows progress: Daily Border Patrol encounters with migrants fell from 10,000-plus just before May 11, when the policy went into effect, to 3,400 in early June. Set forth in regulations finalized May 10, the plan seems to be preventing the border chaos many had feared would follow expiration of emergency powers under Title 42, a public health law that had allowed Federal authorities to expel migrants summarily during the pandemic.

There's a catch, though: President Biden's policy has to be consistent with Federal law. And critics from both ends of the political spectrum have gone to Federal court arguing that it's not. On July 19, a judge in Oakland, Calif., is set to hear a coalition of immigrants' rights advocates, headed by the American Civil Liberties Union, who claim, in effect, that the Biden plan unlawfully truncates the right to asylum. Meanwhile, red States, headed by Texas, accuse the administration of the opposite: letting in hundreds of thousands of migrants without sufficient legal authority.

The courts should let the administration's approach, which includes a 2-year time limit, run its course. Some of the legal arguments against it are serious. Yet, so is the Biden administration's case: that the President is trying to address a major problem through a pragmatic exercise of his existing authority.

Essentially, the new policy offers migrants incentives and disincentives—carrots and sticks—the net effect of which is to discourage irregular border-crossing. The disincentive, framed as a "rebuttable presumption" against entry, is swift expulsion and a 5-year bar on reentry for those who cross between ports of entry without first seeking asylum in a third country en route. The incentive is that these tough condi-

** The information was not available at the time of publication.

tions do not apply to migrants who first make appointments using a cellphone app to apply for asylum at ports of entry and wait in Mexico for their turn. The rule contemplates advance processing for asylum in a third country as well. Separately, it offers 30,000 people per month from Venezuela, Nicaragua, Cuba, and Haiti—main sources of the 2022 border surge—direct access to the United States via 2-year humanitarian parole, provided they have a U.S. sponsor.

ARTICLE SUBMITTED BY RANKING MEMBER GLENN IVEY

SOUTHERN BORDER 'EERILY QUIET' AFTER POLICY SHIFT ON ASYLUM SEEKERS

By Nick Miroff and Toluse Olorunnippa

July 12, 2023 at 6 o'clock a.m. EDT

EL PASO—On the border bridge from Mexico, about 200 asylum seekers lined up on a recent morning with their phones open to a Customs and Border Protection mobile app, ready for appointments at a reception hall on the U.S. side.

Thirty miles north, the Biden administration provided a different reception for those attempting to enter the United States illegally, bringing them to a massive tent complex in the desert for migrants facing deportation. The new 360,000-square-foot facility's shelves were stocked with diapers, snacks and baby formula, signs of the administration's efforts to meet the changing demands of U.S. immigration enforcement.

The two locations illustrate the extent to which Biden administration officials have begun transforming the way asylum seekers and migrants are processed along the southern border since May 11, when the White House lifted the pandemic policy known as Title 42. The policy had allowed quick expulsions of migrants who entered the United States illegally but no penalty for those who tried to get in again and again.

Now the administration is allowing tens of thousands of migrants to enter the United States legally each month through the mobile app CBP One, while those who don't follow the rules face ramped-up deportations and tougher penalties.

The preliminary result is a nearly 70 percent drop in illegal entries since early May, according to the latest U.S. Customs and Border Protection data. After 2 years of record crossings and crisis-level strains, the Biden administration appears to have better control over the southern border than at any point since early 2021.

The president's critics continue to depict his border policies as too permissive—geared more toward accommodating mass migration than deterrence. But the decline in illegal crossings undermines a key line of attack for President Biden's Republican critics and bolsters Democrats' argument that the pandemic expulsion policy was partly to blame for record numbers of border arrests.

Administration officials acknowledge it is too soon to tell whether their new approach can achieve lasting effects. Republican State officials are suing in Federal court to block Biden's policies expanding legal entries through CBP One. At the same time, immigrant advocacy groups have filed challenges in Federal court to Biden's new border restrictions on asylum seekers who cross illegally.

The recent drop in illegal crossings does not mean fewer than half as many migrants are coming to the United States. President Biden is allowing roughly 43,000 migrants and asylum seekers per month to enter through CBP One appointments and accepting an additional 30,000 through a process called parole. The new legal channels appear to be absorbing many of the border crossers who for years have entered unlawfully to surrender in large groups, overwhelming U.S. border agents.

U.S. agents made about 100,000 arrests along the Mexico border in June, the first full month that Biden's new measures were in effect, down from 204,561 in May, according to the latest CBP data. It was the largest 1-month decline since Biden took office.

Imelda Maynard, the legal director of Diocesan Migrant & Refugee Services in El Paso, which aids migrants, described the past several weeks in the city as "eerily quiet." The number of migrants released by CBP onto the streets of El Paso dropped to zero in recent days, according to the city.

"We've been so used to putting out fire after fire, we're like: Where are all the people?" Maynard said.

'We're so close'

On the outskirts of El Paso, where for much of the past 2 years migrants have attempted to enter illegally each day through the steep canyons of Mount Cristo Rey, a CBP helicopter and a team of agents gave chase one recent morning to a single border-crosser. He turned back south.

With CBP using more contractors at its facilities to help perform tasks such as data entry, medical screening and child care, Biden officials say more U.S. agents can return to patrol duties. That appears to be making it harder for border-crossers to sneak through.

The factors that have fueled migration to the United States remain largely unchanged, but for the first time since Biden took office, the President's team is testing a new border-management strategy, one it considers a more humane and effective alternative to the Trump administration's approach. At the heart of the strategy is a belief that reducing the chaos and illegality of migration is more feasible than trying to stop it.

Legislative proposals to overhaul the U.S. asylum process continue to face steep odds in a polarized U.S. Congress, which hasn't passed significant immigration legislation in nearly two decades.

Blas Nuñez-Neto, the top border policy official at the Department of Homeland Security, said the Administration's measures remain vulnerable to adverse court rulings because they rely on executive actions rather than congressional fixes, which remain stalled.

The fact that the new Biden system is working as intended is encouraging, Nuñez-Neto said in an interview. "But it's still too early to draw any definitive conclusions about what we're going to see in the coming weeks and months."

For migrants in Mexican border cities trying to secure a CBP One appointment, the wait can be harrowing.

Jose Ricardo Pimentel, a 33-year-old Venezuelan, stood on the bridge on a recent morning. Lowering his voice to a whisper, he acknowledged that he'd slipped into the line without an appointment that day because he was so desperate to leave Mexico.

"I was kidnapped along the highway to Ciudad Juárez and held for 22 days," he said. "I'm scared."

Pimentel reached the front of the line to plead his case, but U.S. officers saw his name wasn't on their list. They turned him back.

Pimentel fell in behind other families who lacked appointments but were clinging to faint hopes the CBP officers would allow them to enter anyway.

Leidimar Muñoz; her husband, Alexander Gonzalez; and their 7-year-old daughter, Yefreannys, waited there, too, but they gave up after 5 hours in the 100-degree heat.

"My daughter couldn't stand it any longer," said Muñoz, also from Venezuela. "She was hungry and asking to use the bathroom."

The family walked back down the bridge into Ciudad Juárez, then laid out a blanket under the bridge's shade, sharing a plate of chicken and fried rice from a foam container. Yefreannys took out Play-Doh and Barbie dolls from a dusty backpack with a cat face.

Muñoz had registered the family for a CBP One appointment 8 days earlier. The average wait for an appointment was 4 to 6 weeks, but she didn't want to move into a shelter farther away from the border bridge. They were spending nights under the bridge, sleeping outdoors on the patio of a Mexican migrant services center.

Downtown El Paso seemed within grasp, its skyline visible past the border wall and the spools of concertina wire.

"We're so close," Muñoz said.

Before May 11, the family could have joined the tens of thousands of other Venezuelans crossing illegally and surrendering to border agents with an expectation they'd be quickly released into the United States. Now doing so would risk deportation back to Mexico and ineligibility for asylum. Muñoz had to wait, glued to the mobile app.

Criticism from all sides

The drop in illegal crossings has given Biden a reprieve on one of his most vulnerable issues ahead of next year's Presidential election. White House officials expressed a sense of validation at seeing the border numbers fall after the expiration of the pandemic restrictions—noting how Republican politicians had been warning of impending chaos after May 11.

But even as Biden's aides expressed relief, the president himself has largely refrained from calling out his detractors over the issue. The challenges with border enforcement have vexed his administration since its earliest days, with fast-changing migration patterns, court orders that kept Title 42 in place and criticism from both liberals and conservatives.

The issue is bound to remain a sticking point during the 2024 campaign. Former president Donald Trump—who initiated the Title 42 policy and predicted that its

end would lead to record migration—has accused Biden of deliberately undermining border security by lifting the restrictions.

Recent polling indicates that immigration is one of Biden's biggest political liabilities, with 6 in 10 adults saying they disapprove of his handling of the border, according to a recent AP–NO RC poll. In the aftermath of Title 42's lifting, several Republican candidates have announced Presidential bids—and almost all of them have used their campaign launches to attack Biden on immigration.

In some cases, the disapproval is coming from Biden's side of the aisle—with Democrats criticizing him as being too harsh toward migrants.

Crystal Sandoval, director of strategic initiatives for Las Americas, an advocacy group working on both sides of the border, said Biden's restrictions have effectively "ended" access to asylum. Though the administration is allowing tens of thousands to enter with CBP One appointments to live in the United States while their protection claims are pending in U.S. courts, asylum seekers who might be fleeing immediate danger face new hurdles if they cross the border illegally.

"Is it really due process?" said Sandoval, whose organization has been helping migrants in Ciudad Juárez fix errors to their CBP One registrations.

"I expected more," she said. "We can and should do better."

A floating city

The deceased man lay facedown in a sandy berm about five miles north of the border wall and 100 yards from a highway.

A CBP helicopter first spotted him, sending agents on horseback. They estimated he'd been there about a week. Pieces of sponge were glued to his boot soles, a tactic used to mask footprints. The sun had left his limbs the color of charcoal.

He was one of two deceased migrants recovered in the Santa Teresa, N.M., area, just outside El Paso, on a recent morning.

Crossings have historically dipped during the peak summer months when temperatures along the border soar past 100 degrees. But as migrants trying to evade capture face tougher odds to sneak through, they often resort to more remote areas with greater risk. They may be U.S. deportees, or have criminal records, making them ineligible for CBP One.

Border agents in CBP's El Paso sector are still averaging 400 to 500 arrests per day, bringing detainees to the sprawling new detention facility comprising brightly lit, climate-controlled tents that resemble puffy clouds. The size of six football fields, it is the largest and perhaps least harsh CBP facility ever built, with capacity for more than 2,500.

The Border Patrol supervisor running the facility likened it to a cruise ship—a small self-contained city floating on the desert. With hot showers, onsite laundry and scores of private booths where migrants can videoconference with attorneys, asylum officers and immigration judges, the facility's operating costs exceed more than $1 million per day.

Border Patrol officials said the facility allows them to manage detainees using far fewer agents. They can reserve the more austere, jail-like detention cells at Border Patrol stations for migrants considered security risks. Family groups, unaccompanied minors and others deemed lower risk can be held at the tent complex, where contractors perform administrative and custodial tasks that have long grated on agents.

Rep. Tony Gonzales (R–Tex.), a border-district lawmaker who criticized the new facility's price tag after a recent tour, said 100,000 illegal crossings a month still add up to more than a million annually, near historic highs. Asylum seekers who are released into the United States while their claims are pending rarely end up deported, even though the majority of their cases are rejected in U.S. immigration court, he said.

"If this is what the administration thinks is a win, they're on the complete wrong path," Gonzales said.

He said he is concerned that the arrival of tens of thousands of migrants through CBP One has effectively "streamlined and normalized illegal immigration."

"So they won't be deported, but they'll be living in the shadows all their lives," Gonzales said. "It's wrong to funnel them down a dead end."

Under CBP policy, 72 hours is the maximum amount of time migrants should remain in the agency's custody before they are released or transferred to another agency such as Immigration and Customs Enforcement for longer-term detention. The 3-day window is generally too short to resolve asylum seekers' claims of persecution in their home countries.

The Biden administration appears to be using the new tent complex to hold detainees longer, allowing more time for the government to apply the new asylum restrictions and deport those who disregard the CBP One route.

Border Patrol officials providing a tour of the facility did not allow interviews with detainees. But one man lining up for a shower said he'd been there 18 days.

Olorunnipa reported from Washington.

Mr. IVEY. Thank you, Mr. Chairman.

Chairman GREEN. The gentleman yields.

I now recognize. Mr. Garbarino from New York.

Mr. GARBARINO. Thank you, Mr. Chairman. Thanks to the witnesses for being here today.

Mr. Jones, in its own 2021 Border Security Metrics Report, DHS documented an increase in alternative forms of payment in exchange for passage, including migrants being required to participate in smuggling controlled substances or other illicit items across the border or to work off debts upon arrival in the United States, as well as reports of harsh negotiations concerning payment plans with family members. Can you talk about the rising prevalence of debt bondage and how the cartels are using those they smuggle and traffic into the country due to the work on their behalf?

Mr. JONES. Absolutely.

The Gulf Cartel specifically has a saying, and that is that people are the gift, they keep giving, because they can make them move the commodity just as you just acknowledged. But we have seen that on the border where they're now making migrants carry narcotics, we have seen where they then exploit them. We've seen where other migrants are now being used to transport migrants themselves. Because you can truly make this commodity do what you want it to do. What these really represent, and that's the most important here to understand, is this is a process. Because just as Border Patrol was being absolutely overwhelmed with these people, so were the cartels. The Gulf had to come up with a process that worked. You're seeing it on each of these. You've got some you can look here and you'll see. That number goes into a database, and if you—at the time that we broke this story, if you were a Mexican citizen, it was $2,500 just across the river in South Texas, if you were Central American, it was $3,000, if you were Chinese, $5,000, and if you were Russian or Middle Eastern, $9,000. I've never seen money like that, ever. It was always $100, if that, and they didn't care where you went. Now, think of this. Now these people are moved throughout our Nation, but yet they are indebted to these people for years, if not decades to come in a foreign country. This is where we really are now.

Mr. GARBARINO. You talked about how you have seen this before, but lower numbers with these higher numbers and the amount of people, is this relatively a new phenomenon under Secretary Mayorkas?

Mr. JONES. It is. Now, the smuggling of people has always been there, but the adjustment from smuggling into the trafficking through debt bondage, because due to the sheer numbers, they thought, God, we can make so much money and we can do it for the long run. This is the game-changer. When you think of human trafficking, most people think of commercial sex. That's one piece of it. Don't forget, you have forced labor, and this is your final form, debt bondage. Now it's Nation-wide.

Mr. GARBARINO. Mr. Jones, I want to continue with the profits on fentanyl and human trafficking. In July 2021 you said I can

without any doubt tell you that the profits they are making today are like nothing we have seen prior. This is a major revenue stream. How have those profits increased since Secretary Mayorkas took office? How much do you think the cartels are making annually on human trafficking and smuggling alone?

Mr. JONES. We don't really know what the exact amounts are. I mean, look, this is going to go on for decades. Many of us will be dead and gone before we clean this up. But I can tell you this. There will not be a law enforcement agency in this country that is going to be doubling down on the threat that we are now facing from trafficking as a result of what Secretary Mayorkas is the architect behind these changes. When he took power and he created the three exemptions under Title 42, allowing UACs, unaccompanied alien children, into the country, when he allowed pregnant mothers to come into the country, and when he allowed family units, this was the game-changing moment. It's validated by the data. If you just look at CBP when these people began pouring across the country.

Mr. GARBARINO. I was trying to do some numbers before with what you said. You said went from $100 to $3,000 for some, $2,500 for others, $5,000 up to $9,000.

Mr. JONES. That was just at the river, sir. Just at the river. Never mind what country of origin where you came from. Right now, if you're Chinese, to cross from China to Ecuador and then make your way up, they're charging $35,000 a head. They're moving 35 at a time in Fronton. Then the Cartel del Noreste, literally takes all of their ID before they let them into the United States and they drop it on the mic side so that when it comes across, it holds up Border Patrol longer so that they can then move weapons south, and as much commodities in as they need to.

Mr. GARBARINO. So for the last 2½ years, it seems that the profits for these drug cartels have increased immensely?

Mr. JONES. Agreed.

Mr. GARBARINO. How are these profits giving these cartels more power, making them more dangerous?

Mr. JONES. Well, look at the military-grade weaponry they're now using, look at the level and span of control in Mexico. The people of Mexico have taken the blunt of this. They've lost over 340,000 citizens since 2007. In the last national election, CNN did a fantastic work. There was 132 politicians and staffers killed. Anybody can Google it. Mexico has truly fallen to these cartels. When I tell you they're a parallel government, you are truly looking at a narco-state. The problem is when you're killing journalists in Mexico and they can't get the information out, this is why we are so far behind what these cartels are doing. That's why we and Americans are feeling the impact in every part of this Nation today.

Mr. GARBARINO. I am out of time, but if you could respond in writing more about what is happening to the American citizens because of the cartels, that would be great.

Thank you, Mr. Chairman, I yield back.

Chairman GREEN. The gentlemen yields.

I now recognize Ms. Jackson Lee of Texas.

Ms. JACKSON LEE. I am kind enough to yield to the next individual. I will come back after that.

Chairman GREEN. We can go out of order, absolutely.

Ms. JACKSON LEE. Thank you.

Chairman GREEN. Ms. Garcia, you are recognized.

Mrs. RAMIREZ. Ramirez. Ms. Ramirez.

Chairman GREEN. Ms. Ramirez. I am sorry.

Mrs. RAMIREZ. Thank you. Thank you, Chairman and Ranking Member Thompson.

We have been here for about an hour-and-a-half and I want to thank you for this hearing. Today's hearing should be shedding light on the pressing issues surrounding immigration policies, what is causing migration, and how do we make sure the children we talk about, the children that I actually know personally are cared for. Instead, I think we continue to politicize an issue that actually both sides need to address, which is immigration reform.

I actually want to get back to why we are all here today. The American people expect us to do our job and to solve the problems. They expect us to have unbiased people who are witnesses here and provide us an opportunity to shed light on how we move forward. As I think about the hearing now and hearing the witnesses, I think about just last year how a horrific domestic terror attack at a Buffalo, New York supermarket left our Nation reeling. My colleagues across the aisle offered up their thoughts and prayers, but they offered no actions to address racially- and ethnically-motivated violent extremism. It is not lost on me that before murdering 10 people at the supermarket last year, the shooter wrote, and I quote, "We are experiencing an invasion on a level never seen before in history." However, twisted justification, the shooter believed he was repelling an invasion of the United States by immigrants from Latin America. Does that sound familiar?

Mr. Maltz, in your testimony you said I know what is going on in America. So let me ask you, do you support the assertion that the United States is experiencing a historic invasion by immigrants? That is a yes or no question.

Mr. MALTZ. Illegal immigrants, immigrants from around the—yes.

Mrs. RAMIREZ. Yes or no?

Mr. MALTZ. Yes.

Mrs. RAMIREZ. So you believe that we are experiencing a historic invasion of immigrants?

Mr. MALTZ. Yes.

Mrs. RAMIREZ. So despite knowing that the Pittsburgh shooter justified his actions based on the idea of an immigrant invasion to replace white people, despite knowing that invasion ideology was used to justify the shootings in El Paso and Buffalo, you continue to espouse this great replacement theory and extremist ideology that people like me, when my mother crossed the border pregnant with me, don't deserve to be here because we are invading the country?

Mr. Chairman, this hearing is not a fact-finding mission, it is a raw political sham to stoke fear and it will continue to justify the violence against immigrant communities. I find that unacceptable. This body's job is to address the problems in our country, not to

spew more hate. That is what we should be focusing on, legislative solutions, not divisive distractions, and prioritizing the expansion of resources for immigrant communities and comprehensive immigration reform. That is how we address public safety.

So let me just end by saying let us direct our efforts toward meaningful action that upholds our values and ensures the security and well-being of all of us, regardless of immigration status. That is the America that I know, that is the America that I love.

With that, Chairman, I yield back.

Chairman GREEN. The gentlelady yields.

I now recognize Mr. Ezell for his 5 minutes.

Mr. EZELL. Thank you Mr. Chairman and thank you panel for being here today.

I know it is a lot going on and we appreciate your time here.

I spent 42 years in police service, 3-term sheriff and enjoyed every day of it. I will tell you, the safety and security of people has always been on my mind, not only of my home State of Mississippi, but across this Nation. I want to be clear that due to the Biden administration's open border catch-and-release policies, cartel crime is transitioning from a border issue to a national issue. Every State is a border State.

Border Patrol agents have arrested more than 30,000 illegal aliens with criminal backgrounds since Joe Biden took office. While this is a staggering number, it does not even consider the illegal aliens with criminal backgrounds that have evaded Border Patrol and entered the country illegally.

Mr. Jones, in your estimation, how many criminals, gang members, or suspected terrorists are now in the United States among the 1.5 million getaways that have evaded Border Patrol agents?

Mr. JONES. Congressman, thank you for your service.

We have no idea. The border is so wide open.

Mr. EZELL. That is exactly right.

What threats do these individuals pose to communities not just at the border, but throughout this country?

Mr. JONES. Everything from terrorism to the unprecedented amounts of deaths that we're seeing of American citizens from fentanyl and the many other drugs that are crossing that Southern Border.

Mr. EZELL. Mm-hmm.

Mr. Maltz, we know cartels are the leading criminal organizations that manufacture and distribute illegal fentanyl in our country. Over the past 3 years, Border Patrol has seized over 45,000 pounds of fentanyl, enough to kill over 10 billion people. Most of that fentanyl has been seized at the ports of entry on the border. However, the sheer amount of this drug on our streets shows that the ports of entry aren't the full story.

Can you walk the committee through how cartels are using Mayorkas' open border between the ports of entry where there is little infrastructure stopping them to smuggle these drugs into our country?

Mr. MALTZ. So I would say, first of all, they're making billions of dollars, so funding is not an issue. Then they're flooding the zones. They're sending massive amounts of migrants to certain areas where they know Border Patrol has limited resources, and

then they're using the open border area to just smuggle in unlimited amount of people, unlimited amount of drugs, and, of course, bringing the weapons south and the money south. So it's basically they're just taking full advantage of the vulnerabilities and the weaknesses. The poor Border Patrol is out there and they don't have the personnel. They don't have enough people in certain sectors.

I mean, obviously, this document—and I deliberately attached this into the record—it's all the news, the headline news of all the mass poisonings. So that's the ultimate impact when the cartels have such control at the border to send their people into America to set up operations and move this poison all over the place.

Mr. EZELL. Do you believe a border wall would deter the flow of fentanyl in this country?

Mr. MALTZ. Yes, because the border wall would then force everybody to go into the POEs, where we could put the best and brightest and resources and technology and scanning and canines and do much more thorough searching. We wouldn't have to worry about our manpower running around the open border trying to chase people down, sometimes one and two guys. It's very, very dangerous to be out there when you don't have the manpower.

So I would prefer to focus everybody into the POEs. That's not going to solve the problem, but it's going to help and that's what we're looking to do.

Mr. EZELL. Very good.

From what we have heard today, it is completely irresponsible that President Biden from his first day in office he signed an Executive Order pausing border wall construction. The 70,000 fentanyl deaths in America are directly attributed to this open border policy.

Mr. Chairman, I will not stop working with you to protect our Nation's families.

With that sir, I yield back.

Chairman GREEN. The gentleman yields.

I now recognize Ms. Jackson Lee from Texas for 5 minutes.

Ms. JACKSON LEE. I have been in this committee and I have watched Chairman Green and Chairman Thompson work very well together on a number of issues. In fact, they have shown themselves to be respectful of each other. For that I say thank you.

I have had the ability to monitor what has been going on in this room and I frankly believe that problems don't get solved by castigating and making incorrect statements.

I also have a 28-year history in this Congress and have been involved with immigration for at least that long a period of time. In the Judiciary Committee, as Ranking Member of the Immigration Subcommittee, and this committee as Chair of the Transportation Security Committee, Ranking Chair of the Border Security Committee, and as a Texan have been to the border many times. I do believe that we can do this and solve the problem of immigration reform together.

What I also know is at least the border in Texas there are many who are on the border that don't want a border wall because of its intrusiveness. In addition, because of topography and design, the border wall sometimes is not effectively put in the right place to be able to create any kind of criminal incident. After Title 42, we

have found statistically, as answered by those at CBP, Customs and Border Protection, and the Border Patrol that numbers are clear, that we have worked to do together on those who are coming across. It is clear that not one American, no matter what their party affiliation, abhors cartels violence and viciousness, and will come together to work on that issue.

But it does no good for any of us to suggest that the President of the United States and the Secretary of Homeland Security are the key and only reasons for migration. I take offense and it is wrong frankly because migration is a world-wide concern. Some would say problem, others would say crisis. People desperately come even if it is for their economic goodness and they argue something else.

We well know that immigrants contribute $1.3 trillion in spending power to the economy. We also realize that not one single person sitting in this room was an indigenous person in the United States of America. Your ancestors came from somewhere. Mine came unwillingly in bondage.

But it is clear to me that we have to find a better way.

Let me quickly raise this question. Let me quickly do so. In 2018, the Nation was horrified when a domestic terrorist shot down 11 worshippers at the Tree of Life Synagogue in Pittsburgh. Before going on this rampage, the shooter shared a manifesto alleging that, "The Hebrew Immigrant Aid Society likes to bring invaders in that kill our people. I can't sit by and watch my people get slaughtered." Two weeks before that, he called immigrants hostile invaders on social media.

Ms. Vaughan, do you believe there is a flood of immigrant invaders at the Southern Border who are slaughtering victims in American communities? This is a yes or no answer.

Ms. VAUGHAN. No. They're taking advantage of the opportunities that are offered by the current policies.

Ms. JACKSON LEE. So you have answered no. So let me just say this. In your testimony, on page 8 of your written testimony, you say there is a flood of people in the border, to the border brought on by the Biden-Mayorkas policies, and that these careless policies have created scores of new victims in American communities, all of which were preventable crimes. Ms. Vaughan, the issue of your partisan extremism goes beyond your testimony today. On November 4, 2021, you alleged that the tragic murder of a man in Florida that year was another casualty due to Biden's open border. Two years before that, on January 8, 2019, you laid blame for the horrific murder of a police officer, Mrs. Singh, in San Joaquin Valley at the feet of Democrats' border weakening and sanctuary policies. I find this very dangerous, because we need to come together as Americans, frankly, to be able to work, not name-call, but to be able to say, none of us wanted those kinds of incidents. How dare you say that any of us will want to have an officer killed or family killed? Neither does the President and neither the Secretary.

Let me move quickly to something that is very important, Mr. Green, and I appreciate if you would allow me to do that.

I happen to be someone who knows that there are barriers that can be utilized in certain ways, being a Texan. I also know that we need to stop penalizing nonprofits for trying to help persons so that

cities wouldn't have to put persons somewhere because the nonprofits have them. But let me raise this to a former DPS. I want to applaud a DPS officer who is on duty today in Texas who became a whistleblower to ask the question, why is State government and this Lone Star effort causing immigrants to die in the water, causing a pregnant woman to miscarry over the raised wire and the buoys that are there, forcing them to go into deeper water, why a mother lost her life, her child's life, and another child is missing, why a little 4-year-old was denied water. This is the words of DPS whistleblower right on staff today. The question would be to all of you, as I asked the question, this is not America. The Border Patrol agents saying that the razor wire and the buoys are creating a difficult situation for them because as sworn officers of the United States of America, they are sworn to protect these people even as they will send them back. They are going into deeper water to save lives.

Chairman GREEN. The gentlelady's time has expired.

Ms. JACKSON LEE. I am putting that on the record, Mr. Chairman, because I want an investigation. These are not governmental witnesses, they are witnesses who have come to share their stories. But I want an investigation.

Mr. JONES. Can I respond to that?

Ms. JACKSON LEE. I want an investigation.

Mr. JONES. Is there availability for me to respond to that accusation?

Chairman GREEN. Hold on, hold on. I am taking control back, the gentle lady's time has expired.

Ms. JACKSON LEE. The gentleman is not——

Mr. D'Esposito is recognized from New York. You may yield, if you would like to, to Mr. Jones.

Ms. JACKSON LEE. The gentleman is not on staff at this point.

Mr. D'ESPOSITO. Mr. Chairman, I would like to yield to Mr. Jones.

Mr. JONES. I am the only one sitting in this room that's been exactly where those accusations were made. On my phone I've got video of what the men and women of law enforcement at local, State, and especially the Texas Department of Public Safety and National Guard are going through as hundreds of people 3 miles from the closest port of entry are being crossed by the cartels. To say that the men and women of DPS are throwing babies into the river is absolute absurd——

Ms. JACKSON LEE. I didn't say——

Mr. JONES [continuing]. And that they would do that——

Ms. JACKSON LEE. I didn't say that.

Mr. JONES. That's the accusation in there.

Chairman GREEN. The gentleman is recognized. The gentleman may——

Ms. JACKSON LEE. Mr. Chairman, he cannot malign me in this room. I did not say——

Mr. JONES. Not only that——

Mr. D'ESPOSITO. Ms. Jackson Lee, I believe this is my time. Ms. Jackson Lee.

Chairman GREEN. Mr. D'Esposito, you have reclaimed your time.

Mr. D'ESPOSITO. Thank you.

So the name of this hearing, "Biden and Mayorkas' Open Border: Advancing Cartel Crime in America", I have heard this described as a sham, I have heard it described as theater, I heard it described as a complete waste of time. It is beyond explanation. People are dying and crimes are being committed. How is that a sham? How is that theater? How is any of that a waste of time?

I want to thank all of you for being here today. Mr. Jones, Mr. Maltz, I want to thank you for your service in law enforcement. I too spent a career in law enforcement and retired from the NYPD as a detective.

There is no doubt there is a crime crisis in America thanks in part to the dereliction of duty of Secretary Mayorkas' wide open Southwest Border.

I am going to ask all of you, it is a yes or no question, do you believe the Biden administration's soft-on-crime policies, such as their efforts to limit law enforcement access to surplus Federal equipment and their restrictions on Federal grant dollars to police departments worsen our Nation's crime prices?

Mr. Jones, yes or no?

Mr. JONES. Yes.

Mr. D'ESPOSITO. Ms. Vaughan, yes or no?

Ms. VAUGHAN. Yes.

Mr. D'ESPOSITO. Mr. Maltz, yes or no?

Mr. MALTZ. Yes.

Mr. D'ESPOSITO. Ms. Felbab-Brown, yes or no?

Ms. FELBAB-BROWN. No.

Mr. D'ESPOSITO. OK. So I have heard this also mentioned that we should be thankful that the numbers have fallen to such a low level. They are not low. There are still thousands upon thousands of people coming to this country illegally and thousands and thousands more that we don't even know about. Quite frankly, it is like celebrating a category 3 hurricane instead of a category 4 hurricane. It is absurd.

I want to focus on the law enforcement for a second. Mr. Jones, what are some of the main consequences for local law enforcement of increased cartel activity in their jurisdictions?

Mr. JONES. They are completely overrun on the Southwest Border. If you go to Arizona right now and you sit back with Sheriff Mark Lamb, let me tell you, I've embedded with his law enforcement agency. You realize out of 1 out of every 10 traffic stops that man is making and his personnel are in pursuits 70 miles into the country. These agencies are overrun. The Texas Department of Public Safety has spent $9 billion from the State legislature to try to support operations between the ports of entry because we are overrun with crime.

Mr. D'ESPOSITO. Mr. Maltz, do you believe that law enforcement throughout this country faces more threats of violence because of our open borders?

Mr. MALTZ. Absolutely. I also know they're retiring at record levels at the executive leadership level because they can't take it anymore. The mixed messages are overwhelming.

Mr. D'ESPOSITO. So you don't believe the lines at the pension section just happened to happen?

Mr. MALTZ. I just know that I talk to people every day and they're leaving law enforcement because morale is at a rock level, at the lowest level, because of this. They signed up to keep America safe.

Mr. D'ESPOSITO. I agree. It is because of exactly failed leadership like this.

Mr. Jones and Mr. Maltz, I am going to ask you a question. Both of you have served in leadership capacities in law enforcement, have ever and would you ever make a decision that would put any of your officers in danger?

Mr. MALTZ. Never.

Mr. JONES. Never.

Mr. D'ESPOSITO. Right. That is why we are here today, because we are talking about cartels, we are talking about crime that is being committed, and we are talking about Secretary Mayorkas and his dereliction of duty. Why? Because he makes policies and carries out policies that have put people in danger, has put law enforcement in danger.

I only have 40 seconds left. A general question to Mr. Jones and Mr. Maltz, what are the broader impacts on first responders, law enforcement, fire service because of the cartel along the border? Please, if you could do 10 seconds a piece.

Mr. JONES. Completely overrun. When you look in South Texas right now, you've got Texas troopers who've been deployed for 2½ years, 12,000-plus Texas National Guardmen completely overrun and overwhelmed after—exhausted.

Mr. D'ESPOSITO. Thank you.

Mr. Maltz.

Mr. MALTZ. The criminals don't fear any repercussions of their actions because they're not being held accountable.

Mr. D'ESPOSITO. Exactly. So what we are seeing here today, we are answering the question to this hearing. So it is not a sham, it is not a waste of time, it is actually a mission. It is a mission to make this homeland, our homeland, the United States of America, safer for our children and our grandchildren.

Mr. Chairman, I yield back.

Chairman GREEN. The gentleman yields.

I now recognize Mr. Menendez of New Jersey.

Mr. MENENDEZ. Thank you, Mr. Chairman.

We can all agree that Mexican cartels pose a direct threat to U.S. interest. We can all agree that we need to fight the scourge of fentanyl in this country. We can also agree that this body and the U.S. Government should prioritize addressing these issues.

But today's hearing has not been a serious discussion of ways to protect American families from cartel activities or fentanyl trafficking. How can we engage in good-faith discussions of border policies when this committee's Majority is using this committee to arrive at a pre-determined destination, the impeachment of Secretary Mayorkas, a destination they have said both publicly and behind closed doors they are set on reaching. No matter what the facts are, no matter what the administration has done to address these critical issue, when witnesses confirm what the Majority already believes instead of engaging in actual fact-finding.

Ms. Vaughan, you work for the Center for Immigration Studies, is that correct?

Ms. VAUGHAN. Yes, I do.

Mr. MENENDEZ. Ms. Vaughan, yes or no, did you speak at an event organized by the Social Contract Press?

Ms. VAUGHAN. Look, I have said that you——

Mr. MENENDEZ. Yes or no? Yes or no? Yes or no? Yes or no? You were able to answer other questions in a yes-or-no fashion. Yes or no?

Ms. VAUGHAN. Look, what I said is that——

Mr. MENENDEZ. You did. Did you appear——

Ms. VAUGHAN [continuing]. You're trying to distract from a serious topic——

Mr. MENENDEZ. Did you appear—excuse me, Mr. Chairman——

Ms. VAUGHAN [continuing]. By smearing——

Mr. MENENDEZ [continuing]. This is my time.

Ms. VAUGHAN. Attempting to smear me.

Mr. MENENDEZ. No, I am just asking you questions.

Chairman GREEN. The gentleman reclaims his time.

Ms. VAUGHAN. Denigrating——

Mr. MENENDEZ. Did you appear alongside an editor of *Chronicles* magazine, yes or no?

Ms. VAUGHAN. Could you repeat it, please?

Mr. MENENDEZ. Did you appear alongside an editor of *Chronicles* magazine, yes or no?

Ms. VAUGHAN. Not that I know of.

Mr. MENENDEZ. Did you give an interview to the American Free Press?

Ms. VAUGHAN. I've never heard of it.

Mr. MENENDEZ. You have never heard of the American Free Press?

Ms. VAUGHAN. No, sir.

Mr. MENENDEZ. You have never done work with the American Free Press? OK, well, we will go back to the record.

Ms. VAUGHAN. Please explain to me——

Mr. MENENDEZ. It is important that—excuse me. I am reclaiming my time. I think it is important that we shed light on the organization you work for as well as the three organizations that I believe you have either worked for or appeared alongside.

The Center for Immigration Studies has been labeled an anti-immigrant hate group by the Southern Poverty Law Center.

Ms. VAUGHAN. That is a complete——

Mr. MENENDEZ. The Social Contract Press, a white nationalist publisher, has been labeled as a designated hate group by the Southern Poverty Law Center. According to the Southern Poverty Law Center, *Chronicles* magazine is a publication with strong neo-Confederate ties that caters to the white nationalist movement. According to the Anti-Defamation League, the American Free Press is an antisemitic newspaper founded by a Holocaust denier.

On the day that Congress welcomed the Israeli president to address us, we have someone who has contributed to an antisemitic newspaper founded by a Holocaust denier, a witness who makes 9 assertions in her written testimony about the administration's policies, assertions the Majority will likely rely on to further their

cause for the impeachment of Secretary Mayorkas. Yet only 2 citations were provided for those 9 assertions, both of which were provided by the Center for Immigration Studies, where you work, again, an organization that has been labeled an anti-immigrant hate group.

I also think it is important that we discuss some of these issues through the lens of our values. Members of the Majority, along with some of our witnesses, have mentioned their concern for the safety of migrants. Ms. Vaughan, you contend that the administration's policies expose migrants to abuse by the cartels. I am glad that you recognize that the long and difficult journey that migrants face is an issue of concern. Immigrants travel to the United States by any means they can, in search of a better life for their family, including on foot for hundreds, if not thousands of miles, enduring exposure to injury and illness along the way. That is why it is unconscionable to me that you also go out of your way to praise what Governor Abbot of Texas has done. You say in your testimony that, "To the extent there is any improvement at all it is most likely due to efforts by the State of Texas to physically block the entry points, such as by patrolling the Rio Grande River, installing razor wire and buoys." I am sure that many of us saw the reports this week about how Texas is telling their medics in the Department of Public Safety to treat migrants inhumanely. There has been a soaring heat wave in the Southwest, yet medics have reportedly been told not to give out water. Governor Abbott has made crossing the Rio Grande River a more dangerous and even deadly proposition by adding the buoys and razor wire mentioned that you alluded to in your testimony, including in areas of the river with high water and low visibility.

This report included a story of a 19-year-old woman trapped in the wire who is having a miscarriage. Five immigrants have drowned in a 1-week period in the area near where this wire was installed. Where is the humanity for these people? Where is your outrage when you hear these stories? What are you doing to change the outcome for the people trying to get to this country, our country to live their American dream for the betterment of their families? Where is your outrage when they have to encounter these conditions trying to get here to seek asylum?

I yield back.

Chairman GREEN. The gentleman yields.

I recognize, Mr. Brecheen of Oklahoma.

Mr. BREECHEN. Mr. Chairman, at the onset of my time, I would like to yield 30 seconds to Ms. Vaughan.

Chairman GREEN. Ms. Vaughan, you are recognized.

Ms. VAUGHAN. I am outraged because I cannot imagine a more inhumane policy than one that entices vulnerable migrants to turn over their life savings, their families, their kids to criminal smuggling organizations because they believe that they will be allowed to stay in this country, and end up in debt bondage and other horrific situations. Frankly, I'm saddened that Members feel the need to distract from this horrific treatment of people by impugning my motives, insulting me, smearing, repeating lies about me to distract from a horrible problem.

I sat and testified as a witness at a hearing about a year ago that Ms. Jackson Lee held in which she brought in three survivors of human trafficking. It was a very well-done hearing. We heard their stories. They were brave. This is a real issue, a real atrocity that is occurring at our border. To act like this is some kind of political stunt is a shame.

Mr. BREECHEN. Mr. Chairman, if I may, I want to give you some time, if I may reclaim my time.

Chairman GREEN. The gentleman reclaims.

Mr. BREECHEN. Look, let's just talk about the difference of where we have come in 2 years. Historic lows in 45 years of illegal immigration, historic lows by the person at the helm who enacts laws, historic lows of illegal immigration. Now we have the most illegal immigration in our country's history. Decisions matter. A lack of leadership on this front matters. People are losing their lives. Children are being sold into the sex traffic slave trade because of decisions that are being made.

In 2022, human trafficking arrests have increased 50 percent, 72 percent of trafficking victims are immigrants.

Mr. Jones, a minute ago, you talked about some things that we have to be concerned about. The new mob, the cartel coming into the United States. The new mob. I want you to recite the fact that you said a minute ago. How many politicians were killed in Mexico?

Mr. JONES. In the last national election—if you'll look up, CNN did some great reporting on this—132, including their staff.

Mr. BREECHEN. Mr. Jones, are they coming to a State near you? Are the cartels richer and more powerful because of this administration, President Biden's decision and Secretary Mayorkas' decision? Are they more powerful and richer today?

Mr. JONES. This is a whole new scheme that has resulted in them getting richer right here in debt bondage.

Mr. BREECHEN. Are they more powerful in America because of the decisions at the Executive helm?

Mr. JONES. Yes, sir.

Mr. BREECHEN. In America debt bondage, we keep hearing about debt bondage. Thirty-five thousand dollars if you are coming from China, the cartel is charging you to come into this country. Do we not think that they are going to employ not only the tactics of the employment, but what about prostitution to repay that debt?

Mr. JONES. In every form that you can think of, they're going to require these people—and then when they've paid it, they're going to say they did something wrong, and now they owe another $5,000, $10,000, $15,000, because that's what they can do. You see, they know where their families are in their country of origin, and they know where they're going here in our country. It's all right here in the numbers in their database.

Mr. BREECHEN. Mr. Chairman, I am concerned about the Biden administration, as I know many of us on this committee are, their policies, these unaccompanied alien children, and it is run by the Department of Health and Human Services. So some of you have some great insight on that fraudulent use of that UAC program. Children that are being trafficked, they are being abused, they are being sold into sex trade.

I want to ask Ms. Vaughan, what do you know about children that have been involved in the sex trade because of the UAC program implementation?

Ms. VAUGHAN. Well, in many cases, their lives are ruined. In some cases, it happens because they get preyed on when, for example, they're in shelters in places like San Antonio or New York or Chicago that are overrun. They're there by themselves.

Mr. BREECHEN. Is this administration making sure that those children who may be forced to say they are related, is this administration making sure that they verify that they are those children? What change over the prior policy is not making sure that they are the children?

Ms. VAUGHAN. Well, previously the policy was that no child would be without a certain level of vetting of the sponsor.

Mr. BREECHEN. Does that include DNA tests to make sure if that child's being forced?

Ms. VAUGHAN. OK, well, DNA testing was done at the border because there was a problem——

Mr. BREECHEN. Has that been changed under this administration?

Ms. VAUGHAN. Yes, it has. They eliminated——

Mr. BREECHEN. So are we complicit? Is this administration potentially complicit in children who are being forced to claim they are related, being sold into a sex trade, and we could have caught them at the border if we had have done DNA analysis? This administration is undermining that process?

Ms. VAUGHAN. The cartels and smugglers are thrilled that the DNA testing policy has been abandoned because it makes it very easy for them now to rent, kidnap, and use children to assist other inadmissible illegal aliens in crossing into the United States.

Chairman GREEN. The gentleman's time has expired.

I now recognize Ms. Titus for her 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, may I introduce into the record—please, just very briefly.

Chairman GREEN. Do you want to ask Ms. Titus to introduce that for you, Ms. Jackson Lee? Ms. Titus has been recognized.

Ms. TITUS. I ask unanimous consent to enter into the record——

Ms. JACKSON LEE. The Texas troopers accounts of bloodied and fainted migrants on the U.S. Mexico border. Also in the *Houston Chronicle, the Washington Post.* These were not my words, the words of a Texas trooper words.

Chairman GREEN. Without objection, so ordered.*

Ms. JACKSON LEE. I thank the lady. Thank you.

Ms. TITUS. I am just wondering how you know that the cartel members are thrilled. Have you done polling of these cartel members or something to figure out how thrilled they are about this?

Ms. JACKSON LEE. It is OK.

Ms. TITUS. That is a rhetorical question.

I just sit here one more time and listen to one more hearing trying to attack the Secretary, trying to attack the President, talking about the border with inflammatory titles like The Open Border, Advancing Cartel Crime. Meantime, we got domestic terrorism, we

*The information was not available at the time of publication.

got antisemitism, we got Asian hatred, we got cybersecurity. All of that is being ignored, and all of those things are serious problems.

It is so easy just to point a finger at one person and say, oh, it is his fault for being a bad manager. But if you look at the issue from a historical, sociological, and economic standpoint, you will find that it is much more complicated than that. You can look at the complex history of Central and South America. You can look at our currently-strained relationship with Mexico. You can look at the broken immigration system that we don't seem to be able to fix. You can look at the immense power of the cartels and their abuses at every level, using guns that they have mostly gotten from across the border and selling drugs to people in the United States because we have customers here who want that, as we have a decades-long opioid crisis, and there is no agreement on border policies. We hear from some members of the border what we need are more resources, we hear from whatever your sources are from disgruntled people at the border that it is all management's fault.

Let's look at this comprehensively. I would ask you, Doctor, you mentioned in Europe there is a difference between the way the cartels work in Mexico and when they come to the United States. Largely that can be credited to our law enforcement doing a good job. They are not as violent, they don't infiltrate governments, they don't raid villages here. But we don't have a very good relationship with Mexico on this front like we do on some other diplomatic fronts. Could you talk a little bit about how we could maybe improve that relationship so we can jointly go after some of these cartels?

Ms. FELBAB-BROWN. Several years ago, the U.S. Government and the Mexican government established a policy or basic understanding of shared responsibility. This notion of shared responsibility carried across both Republican administration and Democratic administration on the U.S. side and across several Mexican governments. Unfortunately, although this notion is still in rhetoric, the current Mexican government of President López Obrador has significantly walked away back from it. We have seen really during his administration a very profound hollowing out of cooperation. He is also adopting policies, or the lack of policies in Mexico, that are enabling in their lack of response the Mexican cartels. It is difficult to see how this could be changed during the last year of his administration, but there will be elections in Mexico.

It is clear that any kind of effective policy requires respect and recognition of interest on both sides. But unfortunately, this is not happening with the current Mexican government. The Biden administration has done its best to try to induce better cooperation from Mexico. But we have very far to go.

Ms. TITUS. Thank you. I hear from your other panel members that the way to solve this problem is get rid of Mayorkas and maybe build a wall. Are there other things more realistic that we could do to make the situation better just on our side?

Ms. FELBAB-BROWN. Absolutely. Certainly there are many opportunities to strengthen both treatment, demand reduction, and address those important dimensions, as well as access to medications, such as overdose medication, other medication for those that have substance use disorders.

There are other opportunities to strengthen law enforcement actions. These include resourcing far better legal ports of entry so more inspections can take place. This includes expanding the policies, how we tackle the cartels, not simply thinking of them as smuggling entities or drug-smuggling entities only, but targeting their many dimensions, including their other access to money through joint task forces that have U.S. law enforcement agents as well as other members of relevant agencies.

So whole-of-Government approach that expands both Departments of State, Department of Defense, that expands authorities of agencies such as U.S. Fish and Wildlife.

Ms. TITUS. Well, we also hear that some of the Mexican pharmacies are selling drugs laced with fentanyl. That is to a lot of American tourists who are down there, that is not the cartels, but there may be a connection. Also these retail crimes here in this country often use what they sell on the internet or sell wherever to fund some of these things, like trafficking. That would be kind-of part of the all-of-Government approach that we might address. Is that right?

Ms. FELBAB-BROWN. Absolutely.

Ms. TITUS. Well, thank you.

Mr. Chairman, I yield back.

Chairman GREEN. The gentlelady yields.

I now recognize Mr. Crane from Arizona.

Mr. CRANE. Thank you, Mr. Chairman. Thank you all for coming here today.

I continue to hear the same thing. I want to echo what my colleague Mr. D'Esposito was saying. I can't help but notice, this is a sham, this is more impeachment theater. This is the Homeland Security Committee. If we are not talking about this, I don't know what else we are going to be talking about. If we are not talking about trying to hold the individuals that are in charge of leadership on homeland security accountable, I don't know what else we are going to be talking about.

I wish you gentlemen were here yesterday. Some of my colleagues on the other side were trying to undermine how effective walls and barriers are. It is sad. I spent a lot of my life in the military, and I worked in Special Forces, so I understand security, I understand security systems. We talked about overlapping deterrents, we talked about using trained personnel, technology, barriers, intelligence, all of these things together. Overlapping deterrents and security systems to secure whatever you want to secure. It is sad to me that my colleagues on the other side of the aisle can't even acknowledge that barriers, whether it is around their house, their schools, these complexes, whatever it is, are effective.

Mr. Jones, I want to ask you about that, sir, because I know you understand security a lot better than the average individual. Do you find individuals that isolate barriers and walls and say they are archaic and ineffective, do you find those individuals serious when it comes to actual security?

Mr. JONES. I think they don't understand what's taking place. In South Texas, for example, you can be inside a stash house in a matter of seconds. So it's not about an electronic wall for detection, it's about how fast can you get a law enforcement personnel there.

Mr. CRANE. Yes.

Mr. JONES. When you go to Arizona, for example, you've got a lot of space there. You still have the challenge. That where we are in 2024, it's not about the detection issue, it's about how you get law enforcement able to respond before they're picked up or inside these stash houses. That's the core fundamental problem.

Mr. CRANE. These overlapping deterrents help give our law enforcement officials time to respond. Is that correct?

Mr. JONES. It's correct.

Mr. CRANE. Mr. Maltz, would you agree with that?

Mr. MALTZ. Absolutely, yes.

Mr. CRANE. OK, great.

Mr. Jones, you were talking about classifying cartels as terrorist organizations. I have heard that argument before. I understand why that argument is being made. But I want to ask you something, sir. Did you watch the videos of the United States pulling out of Afghanistan?

Mr. JONES. Yes, sir, I did.

Mr. CRANE. Did you watch the people hanging from planes?

Mr. JONES. Yes, sir, I did.

Mr. CRANE. Mr. Maltz, did you watch that?

Mr. MALTZ. Yes. I also witnessed my brother coming back in a body bag from the war in Afghanistan.

Mr. CRANE. Thank you, sir.

One of my biggest concerns when we start talking about that stuff, sir, is it would be the same leadership fight against the cartels. That concerns me. Quite honestly, I don't trust them to do that job. That is one of the biggest issues that I have.

I also want to hear your thoughts, sir, because I know you have done this for a long time, how that would affect some of the asylum claims.

Mr. JONES. Sure. First, we have to understand that the issue right now that we have with these cartels is it's about authorities. I don't look to go to war using our military in Mexico.

Mr. CRANE. Right.

Mr. JONES. We have proven in the past, working with the Marines, working with SEMAR, driving intelligence-led operations. But what we didn't do was network theory. We leveraged a law enforcement model and it was too slow. What does it do? It goes after the bosses.

Mr. CRANE. Just out of time—for time's sake, sir, so you are talking more about using intelligence.

Mr. JONES. Absolutely. But we will have——

Mr. CRANE. OK. You are not talking about——

Mr. JONES. We will have to use overt action at times. Look, the air is—you're not flying over there without getting shot down.

Mr. CRANE. Thank you, sir.

My last question. The Federation for America Immigration Reform, FAIR, recently calculated the cost of illegal immigration to be $150.7 billion to Americans. Do you know how much a border wall would cost to build? Anybody on the panel have any idea, roughly? The same group says about $22 billion. Mr. Jones, do you think that would be a good investment?

Mr. JONES. I think right now, beyond anything regarding money being spent by this committee or any others to the protection of this country, you have to look at the totality of these cartels in providing the authorities we need. That is our real issue right now.

Mr. CRANE. Thank you, sir.

Mr. Chairman, I ask for unanimous consent to enter this article into record.

Thank you. I yield back.

Chairman GREEN. Without objection, the article is entered.

[The information follows:]

THE FISCAL BURDEN OF ILLEGAL IMMIGRATION ON UNITED STATES TAXPAYERS—2023 COST STUDY

MARCH 8, 2023

Report by FAIR Research—March 2023

The following is a summary of our cost study findings. To access our full report, including State-specific information, click here.

KEY HIGHLIGHTS

- At the start of 2023, the net cost of illegal immigration for the United States—at the Federal, State, and local levels—was at least $150.7 billion.
- FAIR arrived at this number by subtracting the tax revenue paid by illegal aliens—just under $32 billion—from the gross negative economic impact of illegal immigration, $182 billion.
- In 2017, the estimated net cost of illegal migration was approximately $116 billion. In just 5 years, the cost to Americans has increased by nearly $35 billion.
- Illegal immigration costs each American taxpayer $1,156 per year ($957 after factoring in taxes paid by illegal aliens).
- Each illegal alien or U.S.-born child of illegal aliens costs the United States $8,776 annually:
- Evidence shows that tax payments by illegal aliens cover only around a sixth of the costs they create at all levels in this country.
- A large percentage of illegal aliens who work in the underground economy frequently avoid paying any income tax at all.
- Many illegal aliens actually receive a net cash profit through refundable tax credit programs.

INTRODUCTION

This cost study report is currently the only comprehensive examination of the financial impact of illegal immigration in the United States. Every day, hundreds of millions of dollars in American taxpayer money are spent on costs directly associated with illegal immigration. Only a small fraction of these costs is ever recouped from taxes paid by illegal aliens, with the rest falling on the shoulders of American citizens and legal immigrants.

Our aim in this report is to show the American people the fiscal burden of illegal immigration at every level and across nearly all aspects of life. These costs range from emergency medical care to in-State tuition; from incarcerating illegal aliens in local jails to Federal budgets that pay out billions in welfare every year. Because there are so many different ways that money is spent on illegal aliens at both the State and local levels, the information in our report is otherwise hard to find (or even intentionally hidden). This report supersedes FAIR's 2017 cost study and highlights massive increases in spending related to illegal immigration that were implemented while American citizens deal with an uncertain economy.

THE NUMBER OF ILLEGAL IMMIGRANTS IN THE UNITED STATES

Estimating the fiscal burden of illegal immigration on the U.S. taxpayer depends on the size and characteristics of the illegal alien population. FAIR defines "illegal alien" as anyone who entered the United States without authorization or anyone who unlawfully remains once his/her authorization has expired. Unfortunately, the U.S. Government has no central database containing information on the citizenship status of everyone lawfully present in the United States.

The overall problem of estimating the illegal alien population is further complicated by the fact that the majority of available sources on immigration status rely on self-reported data. Given that illegal aliens have a motive to lie about their immigration status in order to avoid discovery, the accuracy of these statistics is dubious at best. All of the foregoing issues make it very difficult to assess the current illegal alien population of the United States.

However, FAIR now estimates that there were at least 15.5 million illegal alien residents as of the beginning of 2022. This estimate takes into account drastic, ongoing increases in illegal immigration under the Biden administration. This estimate also includes some categories of individuals without legal status, like DACA recipients and parolees, who are illegal aliens under law but misleadingly excluded from many estimates. For more information on how we reached this figure, refer to the FAIR study "How Many Illegal Aliens Live in the United States?"

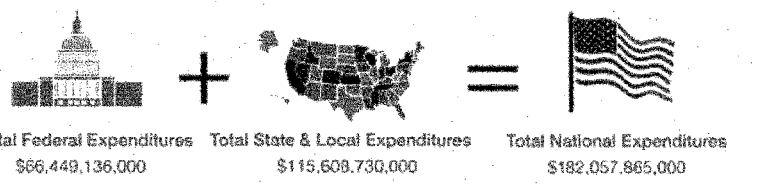
THE COST OF ILLEGAL IMMIGRATION TO THE UNITED STATES

At the Federal, State, and local levels, taxpayers shell out approximately $182 billion to cover the costs incurred from the presence of more than 15.5 million illegal aliens, and about 5.4 million citizen children of illegal aliens. That amounts to a cost burden of approximately $8,776 per illegal alien/citizen child. The burden of illegal immigration on U.S. taxpayers is both staggering and crippling, with the gross cost per taxpayer at $1,156 every year.

Illegal aliens only contribute roughly $32 billion in taxes at the State, local, and Federal levels. This means that the net fiscal cost of illegal immigration to taxpayers totals approximately $150.7 billion.

In 2017, FAIR estimated the net cost of illegal immigration at approximately $116 billion. This means that in just 5 years, the cost of illegal immigration has increased by nearly $35 billion. This rapid increase is a consequence of the ongoing border crisis and a lack of effective immigration enforcement. The sections below further break down and explain these numbers at the Federal, State, and local levels.

TOTAL GOVERNMENTAL EXPENDITURES ON ILLEGAL ALIENS



TOTAL TAX CONTRIBUTIONS BY ILLEGAL ALIENS

TOTAL ECONOMIC IMPACT OF ILLEGAL IMMIGRATION

FEDERAL

Federal Spending

The approximately $66.4 billion in Federal expenditures attributable to illegal aliens is staggering, and constitutes an increase of 45 percent since 2017. This amounts to roughly $3,187 per illegal alien, per year.

FAIR believes that every concerned American citizen should be asking our Government why, in a time of increasing costs and shrinking resources, it is spending such large amounts of money on individuals who are not authorized to be in the United States. This is an especially important question in view of the fact that the taxes paid by illegal aliens offset very little of the enormous costs stemming from their presence in the country.

- Federal Education—$6.6 Billion
- Total Federal Medical Expenditures—$23.1 Billion
- Total Federal Justice Enforcement Expenditures—$25.1 Billion
- Total Federal Welfare Programs—$11.6 Billion
- Total Overall Federal Expenditures—$66.5 Billion

Federal Taxes

Taxes collected from illegal aliens help offset fiscal outlays and therefore must be included in any examination of the cost of illegal immigration. However, illegal alien advocates frequently cite the alleged large tax payments made by illegal aliens as a justification for their unlawful presence and as a reason itself to grant them amnesty. That argument is nothing more than a red herring. Such claims rarely look at the costs associated with illegal immigration, and instead only focus on the amounts contributed to the economy and paid in taxes.

Most studies grossly overestimate both the taxes actually collected from illegal aliens and, more importantly, the net amount of taxes actually paid by them (i.e., the amount of money collected from illegal aliens and ultimately kept by the Federal Government). A predominant reason for this is that in recent years, the United States has focused on apprehending and removing almost solely criminal aliens (and since President Biden took office, many criminal aliens are now protected from deportation as well). Because of this, the majority of illegal aliens seeking employment in the United States now live in an environment where they have little fear of deportation even if discovered.

- Federal Tax Receipts from Illegal Aliens—$24.6 Billion
- Net Federal Impact of Illegal Aliens—$50.2 Billion

STATE AND LOCAL

The total fiscal burden of illegal immigration on State taxpayers has now reached a staggering $115.6 billion, which is 30 percent more than it was in 2017. The primary reasons for this, aside from a rapid increase in the illegal alien population, are that a number of States have opted to expand access to State welfare, education, and medical programs to illegal aliens. These expansions have led to taxpayers paying tens of billions in additional funding to cover these costs.

Concerningly, as will be seen in the following section, the taxes paid by illegal aliens to State and local governments fall far short of making up for the numerous additional State-funded benefits they are receiving. Moreover, with many States set to begin offering even more benefits to illegal aliens, as mentioned previously, these costs are only expected to increase even further.

State and Local Spending

- State Educational Expenditures—$73.3 Billion
- State Medical Expenditures—$18.6 Billion
- State Administration of Justice Expenditures—$21.8 Billion
- State Welfare Expenditures—$2 Billion
- State and Local Expenditures—$115.6 Billion

State and Local Taxes Collected

As with Federal costs, State and local costs are offset—to some degree—by the taxes illegal aliens pay. As noted in the Federal taxes portion of this section, proponents of illegal immigration argue that the taxes paid by illegal aliens result in a net boon to State and local coffers. However, this is a spurious argument. Evidence shows that the tax payments made by illegal aliens fall far short of covering the costs of the services they consume.

It is also important to note that calling illegal alien tax payments a net receipt is a mischaracterization. The overall wage depression inflicted on local labor markets by the presence of large numbers of illegal aliens willing to work for less than market rates has far-reaching fiscal implications that are often not quantified on average balance sheets. Low-wage workers generally access more government benefits than higher-paid employees. Furthermore, illegal aliens also tend to remit large portions of their earnings back to their home countries, and thus less money is incorporated back into local economies and less is paid in local sales and excise taxes. However, because this study looks at the fiscal impacts of illegal immigration, and tax collections are a fiscal offset, we do our best to estimate how much of the fiscal costs borne by taxpayers are reduced by taxes paid by illegal aliens.

Illegal aliens are not typical taxpayers. First, the large percentage of illegal aliens who work in the underground economy avoid paying any income tax at all. Those that do work in the formal economy often receive back more than they pay to the Federal Government through refundable tax credit programs. Finally, the average earnings of illegal alien households are considerably lower than earnings of legal aliens and native-born workers, thus they typically fall into the lowest tax brackets.

- State Taxes Collected—$15.2 Billion
- Net State Impact—$100.4 Billion

COMBINED FEDERAL STATE COST TABLES

- Federal and State Fiscal Outlays—$182 Billion
- Federal and State Tax Contributions—$31.4 Billion
- Net Cost of Illegal lmmigration—$150.7 Billion
- Cost of Illegal Immigration by State (PDFs)

NOTES ABOUT THIS REPORT

- A Note on the Lack of Transparency in Government Data Reporting
- Summary of Methodology

Chairman GREEN. I now recognize Ms. Greene.

Ms. GREENE. Thank you, Mr. Chairman.

Human trafficking is a $150 billion-a-year industry. In 2021, Georgia had one of the highest number of cases per capita that were reported through trafficking hotlines. The northern area of Atlanta is well-known. It is one of the highest places of human trafficking, human sex trafficking of women and children. Women and girls represent approximately 71 percent of all trafficking victims globally. More than 90 percent of detected female victims are trafficked for the purpose of sexual exploitation. Approximately one-third of all human trafficking victims are children. This next sentence is hard to even read because it is our country. The United States is one of the top destinations for human trafficking and is among the largest consumers of child sex. The average age of entry into the commercial sex market is 12 years old.

In the past few weeks, there has been a lot of controversy about a movie called "Sound of Freedom". I can't understand why anyone would say anything negative about a movie that is trying to expose child sex trafficking, especially when it involves our United States border.

Ms. Vaughan, can you tell me, is it a conspiracy theory? Is child sex trafficking a conspiracy theory?

Ms. VAUGHAN. It is most certainly not a conspiracy theory. It occurs far too much. I have met with and hugged survivors and heard what they have gone through. To refer to it as a conspiracy is an insult to what they have endured.

Ms. GREENE. Is our border a serious issue, the fact that our border is open, and the amount of people coming across our border, is that contributing to child sex trafficking?

Ms. VAUGHAN. It is most definitely contributing to the problem of not only child sex trafficking, but forced labor and domestic servitude and debt bondage, as we've discussed today.

Ms. GREENE. Is our current administration's border policies contributing to child sex trafficking?

Ms. VAUGHAN. They are certainly facilitating it, yes. So it's happening with more frequency as a result of the loose policies at the border and the lack of enforcement, frankly, in the interior of the country as well that would help rescue some of these survivors—or at least turn them into survivors as opposed to victims.

Ms. GREENE. Thank you, Ms. Vaughan.

Fentanyl deaths are at an all-time high, 300 Americans dying every single day from fentanyl. Having a top government official on the Mexican cartels' payroll helped the cartels operate with impunity, moving tons of drugs around the world and make billions. It cost the cartels as little as $.10 to produce the fentanyl-laced fake

prescription pill—$.10. That is sold in the United States for as much as $10 to $30 per pill.

Mr. Maltz, with your experience in your career in the DEA, is the amount of fentanyl coming across our border, is this an all-time high?

Mr. MALTZ. Yes. I mean, this is the greatest drug threat we've ever faced in the history of the country. But I want to add that it's really not a drug, it's a chemical weapon coming out of China. Just like the K2, the spice now, the xylazine, that is rotting people from the inside out. This is deliberate, in my opinion, my expert opinion, from all the years of doing this. I lived this nightmare starting in about 2008, and then fentanyl started 2012. This is deliberate, and I would say based on my experience, it's like—just like the Afghans used to say, selling heroin to the West is a Jihad against America. Well, for China, they're undermining, they're destroying our country and they're sitting back using the Mexican cartels to do the dirty work.

Ms. GREENE. I agree with you Mr. Maltz. I believe, and I would ask your opinion as well, with the Biden administration's policies allowing the Mexican cartels to traffic the amount of poison fentanyl that is coming across China, it seems to be it is not negligence. It is not that they don't know it is happening, they know it is happening. It is hard to deny 300 Americans dying every single day from fentanyl. But would you agree that the Biden administration's policies is helping the Mexican cartels traffic this Chinese poison fentanyl into the United States?

Mr. MALTZ. Little boy, 3 years old, from Kentucky—and this is his mother in the coffin here with the kid because of fentanyl. It's happening every day all over the country. I deal with the families, I know. That's really sad. It's very sad that the current administration overturned strong homeland security policies that kept us all safe. That's my passion. I mean, I can't believe this is happening to this great country.

Ms. GREENE. I agree with you, Mr. Maltz. It seems that border security should be our utmost important issue that we are working on, not only to stop child sex trafficking, human trafficking, but also to prevent the poison of 300 Americans a day.

Thank you, Mr. Chairman. I yield back.

Chairman GREEN. Thank you. The gentlelady yields.

I now recognize Mr. Garcia for 5 minutes.

Mr. GARCIA. Thank you, Mr. Chairman.

Just want to also, just to be clear, just to review for the hearing, Democrats want to solve drug trafficking, we want to solve human trafficking, and certainly want to solve any sort of arms trafficking, which funds the cartels. What we don't want, and what some on this committee are hell-bent on doing, is we don't want to demonize or scapegoat immigrants, refugees, and people that need the most help. We are interested in real solutions, not going along with Republican attacks and the crusade to launch fake impeachments of Secretary Mayorkas for political gain.

Now, I do want to start with a question. Now, less than a year after the Tree of Life massacre in Pittsburgh, which we know killed 11 worshippers, a terrorist shot up a Walmart in El Paso, killing 23 people. Like the Tree of Life shooter before him, the murderer

in El Paso believed he was fighting in a war to end "Hispanic invasion of Texas".

Mr. Jones, yes or no, is there an invasion of Texas at the Southern Border by immigrants?

Mr. JONES. No, sir. We are now in a new phase. We are a Nation overrun.

Mr. GARCIA. A Nation overrun. No longer an invasion. You don't believe there is an invasion going on?

Mr. JONES. I'm saying we're even beyond an invasion.

Mr. GARCIA. OK. Because you have on Twitter and on numerous occasions said that there is actually an invasion that is being caused by the U.S. Government, similar to the same words that have been said in this horrific shooting. So I just want to know that words actually cause impacts and can be quite dangerous here and across the country.

Our country needs responsible leadership. It needs border security. Of course Democrats agree with that. I also want to note, just to clarify the record, that more than 90 percent of hard drugs such as fentanyl enter the United States through legal crossings at ports of entry, which continues to be forgotten over and over again. Democrats have increased funding for ports of entry in the Government funding package last year, which Republicans, of course, overwhelmingly opposed.

So we keep hearing over and over again solutions that are not serious, which is why we never seem to discuss treatment programs here in this committee. There is no answers to how to improve access to health care or tackle the mental health crisis happening in our country. We just keep having the same Groundhog Day hearing over and over again, blaming migrants for a drug crisis that continues to replay itself hearing after hearing.

I want to just real quickly just go down the list and ask each of you yes or no, yes or no for each of you. Yes or no, solving the fentanyl crisis must involve addressing not only the supply, but also the demand is coming from the United States? Mr. Jones, is that correct?

Mr. JONES. It is. Also we have to remember where the demand is being supplied from.

Mr. GARCIA. Just a yes or no. So yes. Thank you, sir.

Mr. JONES. Well, you have to remember what the cartels have done now is——

Mr. GARCIA. Sir, this is my time. I just asked you for a yes or no. Thank you.

Mr. JONES. Yes.

Mr. GARCIA. Ms. Vaughan, is that correct?

Ms. VAUGHAN. Well, when a teenager ingests fentanyl——

Mr. GARCIA. Do we have to also——

Ms. VAUGHAN [continuing]. That they think is Adderall, I wouldn't call that displaying demand.

Mr. GARCIA. So you would not agree that U.S. demand is not part of the fentanyl crisis?

Ms. VAUGHAN. I think it is part of it.

Mr. GARCIA. Thank you.

Mr. Maltz.

Mr. MALTZ. Absolutely. Demand is a disaster right now.

Mr. GARCIA. Thank you.
Ms. Felbab-Brown.
Ms. FELBAB-BROWN. Yes.
Mr. GARCIA. Thank you.
Second question, just a yes or no, please. Mr. Jones, have you ever received a direct order from the President to stand down or open the border?
Mr. JONES. Have I received a direct order from the President to stand down on the border?
Mr. GARCIA. Yes. Yes.
Mr. JONES. No, sir.
Mr. GARCIA. Thank you.
Mr. Maltz, have you?
Mr. MALTZ. No.
Mr. GARCIA. Ms. Vaughan, are you aware of any such orders that have ever happened?
Ms. VAUGHAN. Am I aware of?
Mr. GARCIA. Of orders directly from the President?
Ms. FELBAB-BROWN. No, I——
Mr. GARCIA. To stand down and open the borders?
Ms. FELBAB-BROWN. I don't have any——
Mr. GARCIA. Ms. Felbab-Brown, have you ever heard of that?
Ms. FELBAB-BROWN. No.
Mr. GARCIA. Thank you very much.
Also want to just real briefly ask you about some of the border policies, though, that have been proposed by some of my friends on this committee and on the other side.
Ms. Felbab-Brown, do you think it would be a good idea to build a water-filled trench with alligators along the border? Would that be helpful in stopping the border crisis?
Ms. FELBAB-BROWN. No.
Mr. GARCIA. No? Interesting. Do you think that if we shot migrants in the legs and stopped them from coming over, do you think that would be helpful?
Ms. FELBAB-BROWN. No.
Mr. GARCIA. So those policies were actually proposed by former President Donald Trump, just to be very clear. Like Members of this committee, I am very concerned that we continue to have this hearing to essentially put down immigrants. I immigrated to this country when I was a young kid. I am proud to be a very proud American that earned and gained my citizenship. I hope that in future committees we could stop demonizing immigrants.
With that, I yield back. Thank you.
Chairman GREEN. The gentleman yields.
I now recognize the Ranking Member for his closing remarks.
Mr. THOMPSON. Thank you very much, Mr. Chairman.
To say the least, it has been a journey the last 3 hours. Mr. Chairman, I remain extremely concerned that the committee continues to focus its attention on a baseless attempt to impeach Secretary Mayorkas to the exclusion of its legitimate legislative and oversight work.
As Representative Magaziner outlined, the Department of Homeland Security, under the leadership of Secretary Mayorkas, has taken unprecedented law enforcement actions to disrupt and dis-

mantle the cartels. The notion that Secretary Mayorkas is working to advance cartel crime in America, as this hearing title suggests, is outrageous. He is working to combat it. This is a monumentous task, one that entirety of the Biden administration is focused on. This committee should be focused on how we can help the administration in those efforts. This should be bipartisan. In the past, it has been bipartisan.

But now we need to look no further than the previous title for this hearing, which accused President Biden and Secretary Mayorkas of being accomplices to crime. To understand the goal of this so-called investigation, I will remind everyone that Chairman Green struck that title from the record because it didn't adhere to House rules. We can also look at the Members who accused Secretary Mayorkas of being derelict in his duties before their so-called investigation has even concluded. That doesn't seem to matter. The investigation has closed before it is even open.

They are explicit about this. In fact, the hearing that launched this investigation was called "Open Borders, Closed Case: Secretary Mayorkas' Dereliction of Duty on the Border". That is right, closed case. This doesn't sound like a good faith investigation. Releasing a report today without any consultation with Democrats isn't a good faith effort at bipartisanship. Nonetheless, I am grateful for the witnesses for appearing here today.

This is America and we have an opportunity to voice our opinions. The greatness of this country is that we can do it without any fear of a cartel or anything doing anything to us. But also the greatness of it is that at some point, as Americans, we can come together. It is a process. But I don't think citing Secretary Mayorkas, who has been here as Secretary 2 years, 6 months, is the way to go.

Democrats are prepared to work with Republicans. We have put our votes where our concerns have been. We actually support comprehensive immigration reform. We support fully funding the men and women who protect us along the border. Our votes reflect that. Our votes will continue to reflect that.

So I thank our witnesses, those who are in law enforcement, for their service. But you know, when you look at the Democrats on this committee and its diversity, it looks a lot like America today. So I hope you understand that that diversity makes us strong, but it also says that our policies have to reflect that diversity. My ancestors came over to this country in the belly of a ship, didn't want to come, but they came. I am an American. I only know this country. I will defend the right for what we do in this country and for others who used to come because we invited them to come because we were the shining star. Now, for whatever reason, we have decided that we don't want anybody else because we have enough. I reject that notion. Sure, comprehensive immigration will get us there. President Reagan knew we had a problem. He solved the problem right off the bat. He said, I am going to let everybody who is here stay here. That backlog, he wiped it out with an Executive Order.

We can do anything we want as Americans. But to demonize people who travel thousands of miles to try to get to our border because what we stand for is not our value system. Our value system

is what everybody else would like to be like. I don't ever want to change it. Comprehensive immigration reform, not impeachment, is the way for us to get there.

I yield back, Mr. Chairman.

Chairman GREEN. The gentleman yields.

I want to thank our witnesses for being here. Deeply appreciate it. I am sure the Ranking Member knows that immigration reform is handled in the Judiciary Committee and not here, but I do appreciate him bringing up the need for it. I will talk to Mr. Jordan and encourage him to take that up.

We heard today from the Ranking Member about how embarrassed he is that this committee has held 9 hearings on the Southwest Border. We have heard from our witnesses, though, that the horrific actions of the cartels are worsening secondarily to the policies of this administration. We all know the process. They allowed instant parole, they stopped detention, they stopped deportation, the catch-and-release policies happened and the migrants called home, millions have come. Make no mistake, there was no change in crime or corruption or economic conditions in Latin America. Actually, since COVID is gone, the economic conditions in Latin America have gotten better. The mass migration is secondary to the policies of this administration, period. There is no legitimate argument to suggest otherwise. Even Merrick Garland agreed that the cartels have taken advantage of these policies and are trafficking large groups to overwhelm the Border Patrol and then pass nefarious individuals the gotaways and drugs around them.

The Attorney General recognizes it. Perhaps if the Minority party owned that current administration is failing, perhaps if the administration addressed the problem, we could move on. But the numbers are not going down. CBP's One app shell game, not releasing the OFO numbers, moving the numbers from crossing over to the ports of entry and then giving automatic parole to those individuals, not decreasing the incentive. They are still coming. The drug cartels will continue to take advantage of it, just like Merrick Garland said. We have allowed automatic parole through this app and those numbers are not being counted. The border is open. The incentive for mass migration remains. As I said, they are coming. The drug cartels are seizing the opportunity.

My Democrat colleagues have said it is a waste of time to look into cartel crime. They said it was a waste of time to address the dead Americans to fentanyl. Nine Committee hearings is too many. They say look at all the policies that this administration has done. Well, they are not working. Fix it and maybe we will stop these hearings. I happen to believe personally, as do many people in this country, that the Southwest Border, the human trafficking, the overdose deaths, the cartel crime, is the greatest threat to this country. So yes, we are going to continue until the border is controlled and the cartels are stopped. When Americans stop dying, then we will stop these hearings.

Open border, drug cartels seizing the day, partnering with gangs that have taken over the criminal activity in many of our cities, that is what is happening. The Dems on this panel don't want to discuss it.

No one has denigrated immigration today. Not a single individual has picked on a particular race of individuals or anything, yet that is what they want to imply. I am offended by that. This is about migration policies that have resulted in the drug cartels taking advantage of them and killing Americans.

I hope the media is paying attention. Americans are dying and the left is saying our committees investigating this as an embarrassment. Sixty-one percent of Americans get it, though. That is the percentage of Americans who say that our border is not controlled by us, yet investigations are an embarrassment.

As for impeachment, my Democrat colleagues keep saying how this is somehow an impeachment effort. I have never used those words, not here in this committee and not at this supposed recording that they keep talking about.

They also say that somehow this discussion is racist. It is not racist to say we have a problem at our Southern Border. It is not racist to say that the cartels are seizing this opportunity of our open border and the automatic parole and the mass waves of people who are coming. It is not racist to say that. The only reason they bring up that it is racist or that we are trying to impeach, or it is some kind of dog-and-pony show is because they can't tell you that Americans aren't dying. They can't say, oh, look, the numbers are going down on Americans dying due to fentanyl, look, the drug cartel crime is going down in America. They can't make a valid argument against those facts and so they say we are racist or imply that we are racist, or that we somehow have some game here, or that it is embarrassing that we have had 9 committee hearings on this. Well, I will tell you when the committee hearings will end. They will end when this administration starts fixing the problem. They will end when the White House recognizes that their Secretary of Homeland Security isn't doing his job. That is called a dereliction of duty. That is when the hearings will end.

It is the job of this committee to get to the bottom of what is going on and we will do it. The Democrats are on record, they think this Homeland Security Committee, its investigation of the border, the oversight of the border is embarrassing. They don't want these hearings because they don't want the light shined on what is going on. The decisions made by this White House and the DHS Secretary.

Well, like I said, we will not stop until we get to the bottom of it and the problem gets fixed, period.

Again, I thank our witnesses for being here.

As I said, this doesn't end these hearings, but it does end this one. The committee is adjourned.

[Whereupon, at 5:11 p.m., the committee was adjourned.]

○

5098

OVERSIGHT OF THE U.S. DEPARTMENT OF HOMELAND SECURITY

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

WEDNESDAY, JULY 26, 2023

Serial No. 118–39

Printed for the use of the Committee on the Judiciary



Available via: *http://judiciary.house.gov*

U.S. GOVERNMENT PUBLISHING OFFICE

53–168 WASHINGTON : 2023

COMMITTEE ON THE JUDICIARY

JIM JORDAN, Ohio, *Chair*

DARRELL ISSA, California
KEN BUCK, Colorado
MATT GAETZ, Florida
MIKE JOHNSON, Louisiana
ANDY BIGGS, Arizona
TOM McCLINTOCK, California
TOM TIFFANY, Wisconsin
THOMAS MASSIE, Kentucky
CHIP ROY, Texas
DAN BISHOP, North Carolina
VICTORIA SPARTZ, Indiana
SCOTT FITZGERALD, Wisconsin
CLIFF BENTZ, Oregon
BEN CLINE, Virginia
LANCE GOODEN, Texas
JEFF VAN DREW, New Jersey
TROY NEHLS, Texas
BARRY MOORE, Alabama
KEVIN KILEY, California
HARRIET HAGEMAN, Wyoming
NATHANIEL MORAN, Texas
LAUREL LEE, Florida
WESLEY HUNT, Texas
RUSSELL FRY, South Carolina

JERROLD NADLER, New York, *Ranking Member*
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
STEVE COHEN, Tennessee
HENRY C. "HANK" JOHNSON, JR., Georgia
ADAM SCHIFF, California
ERIC SWALWELL, California
TED LIEU, California
PRAMILA JAYAPAL, Washington
J. LUIS CORREA, California
MARY GAY SCANLON, Pennsylvania
JOE NEGUSE, Colorado
LUCY McBATH, Georgia
MADELEINE DEAN, Pennsylvania
VERONICA ESCOBAR, Texas
DEBORAH ROSS, North Carolina
CORI BUSH, Missouri
GLENN IVEY, Maryland
BECCA BALINT, Vermont

CHRISTOPHER HIXON, *Majority Staff Director*
AMY RUTKIN, *Minority Staff Director & Chief of Staff*

C O N T E N T S

WEDNESDAY, JULY 26, 2023

OPENING STATEMENTS — Page

The Honorable Jim Jordan, Chair of the Committee on the Judiciary from the State of Ohio 1
The Honorable Jerrold Nadler, Ranking Member of the Committee on the Judiciary from the State of New York 3

WITNESS

The Hon. Alejandro Mayorkas, Secretary, U.S. Department of Homeland Security
Oral Testimony 5
Prepared Testimony 8

LETTERS, STATEMENTS, ETC. SUBMITTED FOR THE HEARING

All materials submitted for the record by the Committee on the Judiciary are listed below 112

Materials submitted by the Honorable Sheila Jackson Lee, a Member of the Committee on the Judiciary from the State of Texas, for the record
- An article entitled, "Texas trooper alleges inhumane treatment of migrants by state officials along the southern border," Jul. 18, 2023, CBS News
- An article entitled, "Southern border 'eerily quiet' after policy shift on asylum seekers," Jul. 12, 2023, The Washington Post
- An article entitled, "Exclusive: Texas troopers told to push children into Rio Grande, deny water to migrants, records say," Jul. 17, 2023, Houston Chronicle

A document from the Hon. Alejandro Mayorkas, Secretary, U.S. Department of Homeland Security, Mar. 29, 2022, submitted by the Honorable Darrell Issa, a Member of the Committee on the Judiciary from the State of California, for the record
- Not provided at time of publication

A fact sheet entitled, "Quick Facts: Fentanyl Trafficking Offenses," United States Sentencing Commission, FY 2018–FY 2022, submitted by the Honorable Henry C. "Hank" Johnson, Jr., a Member of the Committee on the Judiciary from the State of Georgia, for the record

Materials submitted by the Honorable Mike Johnson, a Member of the Committee on the Judiciary from the State of Louisiana, for the record
- An article entitled, "Mayorkas testifies DHS is creating 'Disinformation Governance Board,'" Apr. 27, 2022, Fox News
- A colaborative statement entitled, "Public Statement on the Hunter Biden Emails," Oct. 19, 2020

Materials submitted by the Honorable Pramila Jayapal, a Member of the Committee on the Judiciary from the State of Washington, for the record
- An article entitled, "The migrant crisis that still hasn't arrived," May 23, 2023, Politico
- An article entitled, "Burning Cell Towers, Out of Baseless Fear They Spread the Virus." Apr. 10, 2020, The New York Times

IV

Page

Materials submitted by the Honorable Matt Gaetz, a Member of the Committee on the Judiciary from the State of Florida, for the record
- An article entitled, "U.S. suspends asylum appointments in Texas border city after extortion reports," Jun. 12, 2023, Reuters
- An article entitled, "US halts online asylum appointments at Texas crossing after extortion warnings," Jun. 12, 2023, AP News
- An article entitled, "US halts appointments using migrant phone app at Texas border crossing," Jun. 13, 2023, The Guardian

An article entitled, "Lawyers Say Helping Asylum Seekers in Border Custody Is Nearly Impossible," Jul. 22, 2023, The New York Times, submitted by the Honorable Mary Gay Scanlon, a Member of the Committee on the Judiciary from the State of Pennsylvania, for the record

Materials submitted by the Honorable Cori Bush, a Member of the Committee on the Judiciary from the State of Missouri, for the record
- A document entitled, "(U//FOUO) 0900 CETC SITREP: Violence Across Multiple U.S. Cities," Jun. 2, 2020, U.S. Department of Homeland Security
- An article entitled, "Homeland Security Admits It Tends to Manufacture Fake Terrorism for Trump," Nov. 5, 2022, Gizmodo
- A bulletin entitled, "Summary of Terrorism—Related Threat to the United States," May 24, 2023, National Terrorism Advisory System, U.S. Department of Homeland Security
- A document entitled, "DHS Intelligence Report Cribs Andy Ngo Article," Weekly Dometic OSINT Report, 10DEC2022 to 16DEC2022, Tripwire
- An article entitled, "DHS's Newest Target: Atlanta 'Cop City' Activists," Jun. 13, 2023, Just Security
- A State Warrant and Mittimus, Affidavit, Dec. 15, 2022, Clerk of Superior Court DeKalb County

An article entitled, "Tracking Movement of Illegal Aliens from NGO's to Interior of the USA," Dec. 5, 2022, Heritage Foundation, submitted by the Honorable Troy Nehls, a Member of the Committee on the Judiciary from the State of Texas, for the record

Remarks by President Biden and Vice President Harris in a Meeting on Immigration, Mar. 24, 2021, The White House, submitted by the Honorable Wesley Hunt, a Member of the Committee on the Judiciary from the State of Texas, for the record

APPENDIX

DHS data on U.S. Immigration and Customs Enforcement, submitted by the Honorable Becca Balint, a Member of the Committee on the Judiciary from the State of Vermont, for the record

A graph entitled, "Border Apprehensions, October 2015 through June 2023," American Immigration Council, submitted by the Honorable Veronica Escobar, a Member of the Committee on the Judiciary from the State of Texas, for the record

Statement submitted by the Honorable Sheila Jackson Lee, a Member of the Committee on the Judiciary from the State of Texas, for the record

QUESTIONS AND RESPONSES FOR THE RECORD

Questions to the Hon. Alejandro Mayorkas, Secretary, U.S. Department of Homeland Security, submitted by the Honorable Lance Gooden, a Member of the Committee on the Judiciary from the State of Texas, the Honorable Kevin Kiley, a Member of the Committee on the Judiciary from the State of California, Harriet Hageman, a Member of the Committee on the Judiciary from the State of Wyoming, and the Honorable Cori Bush, a Member of the Committee on the Judiciary from the State of Missouri, for the record
- No response at time of publication

OVERSIGHT OF THE U.S. DEPARTMENT OF HOMELAND SECURITY

Wednesday, July 26, 2023

HOUSE OF REPRESENTATIVES

COMMITTEE ON THE JUDICIARY

Washington, DC

The Committee met, pursuant to notice, at 10:01 a.m., in Room 2141, Rayburn House Office Building, Hon. Jim Jordan [Chair of the Committee] presiding.

Members present: Representatives Jordan, Issa, Buck, Gaetz, Johnson of Louisiana, Biggs, McClintock, Tiffany, Massie, Roy, Bishop, Spartz, Fitzgerald, Bentz, Cline, Gooden, Van Drew, Nehls, Moore, Kiley, Hageman, Moran, Lee, Hunt, Fry, Nadler, Lofgren, Jackson Lee, Cohen, Johnson of Georgia, Schiff, Swalwell, Lieu, Jayapal, Correa, Scanlon, Neguse, McBath, Dean, Escobar, Ross, Bush, Ivey, and Balint.

Chair JORDAN. The Committee will come to order.

Without objection, the Chair is authorized to declare a recess at any time.

We welcome everyone to today's hearing on Oversight of the Department of Homeland Security. We welcome the Secretary here.

The Chair now recognizes the gentleman from Texas to lead us in the pledge.

ALL. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all.

Chair JORDAN. The Chair is now recognized for an opening statement.

After 2½ years of the Biden border crisis, here is what administration officials have to told us:

The Biden Administration's policies have led to more national security threats.

The Biden Administration's policies make it less likely—less likely—that enforcement actions will be taken against criminal aliens.

ICE officers have been reassigned from their duties locating and arresting aliens to simply processing illegal border crossers, if they report to ICE, as they were ordered to when they were released at the border.

ICE officers are attempting to arrest fewer aliens because of the Biden Administration's enforcement priorities memo.

According to the IG, we know that even aliens who illegally cross the border who are on the Terrorist Watchlist can be released into the United States, free to board an airplane, and head to the U.S. city of their choice.

We know that record numbers of illegal aliens, terrorists, and fentanyl have crossed our Southwest border during the 2½ years of this administration.

We know that not only are communities on the Southwest border overwhelmed, so are cities 2,000-plus miles away from the border.

With the current rate of removals and the current number of nondetained aliens who have been ordered removed from the United States at over 1.2 million, it would take 20 years for removal of those individuals.

Criminal aliens who could have been removed under previous administrations are likely not subject to removal today under the Biden Administration.

We know that Border Patrol does not specifically check the home country criminal history of aliens it encounters at the border.

We know that the Biden Administration's open border policies have led directly to the deaths of Noel Rodriguez and Kayla Hamilton, the violent assault of a teenaged girl in Alabama, and the victimization of countless other American citizens.

We know that this administration repeatedly violates the law under the guise of instituting safe, orderly, and humane policies, but nothing about the Biden Administration's policy is safe, orderly, or humane.

In fact, there have been more than 5.6 million illegal alien encounters across the Southwest border since the start of the Biden Administration, and that doesn't include the over 1.5 million gotaways.

Millions of foreign nationals have indebted themselves to the smuggling cartels to get to this country. Millions of foreign nationals have subjected themselves to assault, robbery, or worse, on the way to the border, because they know that, more likely than not, they will be allowed to stay in the United States once they get here.

I know that today Secretary Mayorkas is going to try to paint a rosy picture of this disastrous mismanagement of our border, but the numbers don't lie. As of June, border encounters were down from record highs of 252,000–145,000. Only this administration and my Democrat colleagues would call it a success when monthly encounter numbers are near 150,000.

In fact, from Fiscal Year 2014 to the beginning of the Biden Administration, there were only four months with an apprehension number higher than 100,000. Under the Biden Administration, there have now been 29 straight months—29 months in a row—with more than 100,000 border encounters, illegal encounters on our borders.

DHS was created in the wake of September 11, 2001, after the terrorist attack. It was created to help ensure Americans' safety. Admittedly, this is an enormous task, and it is one in which this Secretary has completely failed.

Instead of building off the previous administration's success, this administration has abandoned any semblance of border security and immigration enforcement. Americans are paying the price and they demand accountability.

With that, I yield to the Ranking Member, the gentleman from New York, for an opening statement.

Mr. NADLER. Thank you, Mr. Chair.

Mr. Chair, we are, once again, far afield from the work this Committee should be doing. The Department of Homeland Security was born in the wake of the September 11th attacks and exists to protect our Nation from new and emerging threats. That work is serious business.

In years past, under the leadership of Chair of both parties, when we welcomed the Secretary of Homeland Security into this hearing room, we took our responsibilities seriously. To be sure, some of the questions we posed in those past hearings were tough. Debate is often heated when we discuss important topics like immigration and the security of the Nation. Our work on both sides of the aisle was grounded in a good-faith effort to advance the mission of the department and to keep our country safe.

How times have changed. A few weeks ago, desperate for votes on the debt ceiling deal, Speaker McCarthy promised the extreme MAGA wing of his party that they could pursue the impeachment of Secretary Mayorkas.

As Representative Marjorie Taylor Greene put it, if she was going to vote for the debt ceiling bill, she wanted some, quote, "dessert." As she so eloquently put it, "Everyone loves dessert and that's impeachment. Someone needs to be impeached."

Like many of her colleagues, she seemed not to care who was impeached, so long as they could engage in the political exercise of impeaching somebody in the Biden Administration. She singled out Secretary Mayorkas as, quote, "the lowest hanging fruit."

Unfortunately, as we have already heard from the Chair, today's hearing will not be about legitimate Congressional oversight or finding out the facts. Instead, the Chair and his colleagues in the majority will use today's hearing as a predicate for a completely baseless attempt to impeach Secretary Mayorkas. They will do so at the behest of the most extreme MAGA Republicans. It will be one more exercise in political theater for the right-wing outrage machine before the August break. Sadly, the outrage will be entirely evidence-free.

Don't just take my word for it. In October 2022, before the Republicans took the majority, and before any investigation had started, Chair Jordan said that Secretary Mayorkas deserves impeachment.

More recently, he said, quote, "It is not a matter of if; it's a matter of when." That's right, who needs high crimes and misdemeanors? Chair Jordan thinks the DHS Secretary should be impeached because he, quote, "deserves it."

To be clear, Republicans have not established any legitimate grounds to impeach Secretary Mayorkas. They have not uncovered evidence of wrongdoing or malfeasance of any kind. They have policy disagreements with the Secretary, and so do we, but policy disagreements and personal grudges are not a basis for impeachment.

Throughout this hearing, you will hear more of the same bogus claims that we have been hearing for the past six months—some of it dangerous; some of it petty; none of it true.

First, Republicans will say that, as a result of, quote, "invasion" of migrants at our Southern border, we no longer have a country.

Second, they will say that Secretary Mayorkas opened our borders deliberately and is willfully violating our immigration laws.

Third, they will say that all migrants are suspect because they are smuggling drugs, especially fentanyl, across our Southern border.

Fourth, they will say, without evidence, that Secretary Mayorkas lied to Congress.

Not one of these claims is true. Let's address each one in turn.

The invasion narrative some Members push in this hearing room is bigoted, fact-free, and dangerous. Next month, we will commemorate the fourth anniversary of the El Paso shooting. In 2019, a domestic terrorist walked into a Walmart in El Paso, Texas and murdered 23 people and injured 22 others. He posted a hateful and racist manifesto online prior to the attack, espousing White nationalist theories, like the great replacement theory, and claiming that there was a, quote, "Hispanic invasion." He told investigators that he was targeting Mexicans.

We can draw a straight line from the hateful rhetoric we hear from some Congressional Republicans to that horrific tragedy. Our words matter. I implore my colleagues to be careful about how we discuss these issues today.

I hope we can stick to the actual facts. Opened our borders? The reality is that Secretary Mayorkas is aggressively enforcing our immigration laws. The administration has issued a new asylum regulation that just yesterday a court determined was too restrictive. The administration has also opened additional legal pathways for migrants to come via refugee processing on a case-by-case parole determination.

No matter what you think of these policies, they appear to be working. As of now, border numbers are at their lowest point since February 2021, with border apprehension numbers down 70 percent—down 70 percent—from they were just 10 weeks ago.

Further, the Biden Administration has deported or expelled over 2.5 million people in the last two years. This is nearly as many people as President Obama deported in his entire eight years in office.

These are not the policies of an open border or an administration not executing our laws. They are the opposite.

As we have discussed, drugs are, in fact, coming into this country. However, as every expert seems to agree, they are coming largely through ports of entry. According to CBP's own data, they are being brought in overwhelmingly by U.S. citizens.

Last, no, the Secretary did not lie to Congress. Nobody believes that Secretary Mayorkas knowingly and willfully misled Congress during last year's testimony, and any assertion to the Congress is flat-out false.

Thank you for being here today, Secretary Mayorkas. I hope the good men and women of the department will not be disheartened by what they hear today. I have confidence that they will not let these baseless attacks deter them from their commitment to the work that is so essential to the safety of our Nation.

With that, I thank the Chair and I yield back.

Chair JORDAN. The gentleman yields back.

Without objection, all other opening statements will be included in the record.

Chair JORDAN. We will now introduce today's witness, the Hon. Alejandro Mayorkas. Mr. Mayorkas is Secretary of the Department of Homeland Security. He was sworn in on February 2, 2021.

We welcome our witness and thank him for appearing here today.

We will begin by swearing you in. Will you please rise and raise your right hand.

Do you swear or affirm under penalty of perjury that the testimony you're about to give is the truth and correct, to the best of your knowledge, information, and belief, so help you God?

Let the record reflect that the witness has answered in the affirmative.

Mr. Mayorkas, you know how this goes. You've done this several times. You get approximately five minutes for an opening statement. We got your written statement last night. I read through it. We'll look forward to your remarks, and then, we'll go right into questioning.

STATEMENT OF THE HON. ALEJANDRO MAYORKAS

Secretary MAYORKAS. Thank you very much, Mr. Chair, Ranking Member Nadler, distinguished Members of this Committee.

I'm immensely proud to be here to discuss the work of the United States Department of Homeland Security. Every day, members of our extraordinary workforce—260,000 selfless, dedicated, and talented public servants across the country and around the world—make sure that travelers reach their destination safely; protect our shores and harbors; keep fentanyl and other deadly drugs from entering our country; help families rebuild after the devastation of a natural disaster; protect our ability to safely and securely turn on our computers, faucets, and lights, and secure our border, despite the broken and outdated immigration system in which we operate.

These heroic men and women are meeting challenges that have grown more complex and dynamic throughout the 20 years since our department was established. As the threats have evolved, so, too, has our department—innovating and advancing, as we secure our homeland and keep the American public safe.

We are leading an unprecedented effort to interdict the flow of fentanyl into our communities, which has escalated for more than five years. We seized nearly two million pounds of narcotics last fiscal year. Operations Blue Lotus and Four Horsemen alone stopped nearly 10,000 pounds of fentanyl from the U.S.; led to 284 arrests and yielded invaluable insights into the transnational criminal organizations wreaking this death and destruction on our communities.

When our department was created after the tragedy of 9/11, foreign terrorists were our primary terrorism-related focus. While that concern certainly persists, the most prominent terrorism-related threat we now confront is from lone offenders and small groups already present here and radicalized to violence, based on ideologies of hate, antigovernment sentiments, false narratives, and personal grievances.

Thanks to support from Congress, we have developed grant programs and distributed more than $50 million in funds to help communities prevent acts of targeted violence and terrorism.

Our approach to managing the border securely and humanely, even within our fundamentally broken immigration system, is working. Unlawful entries between ports of entry along the Southwest border have consistently decreased by more than half compared to the peak before the end of Title 42.

Under President Biden's leadership, we have led the largest expansion of lawful, safe, and orderly pathways for people to seek humanitarian relief under our laws, at the same time imposing tougher consequences on those who, instead, resort to the ruthless smuggling organizations that prey on the most vulnerable.

We secured the first increase in Border Patrol Agent hiring in more than a decade, and our campaign to disrupt and dismantle human smuggling networks has resulted in the arrest of nearly 14,000 smugglers.

We have taken bold and decisive action to counter the cybersecurity threat from Nation-States like the People's Republic of China, Russia, Iran, and North Korea, and from cyber criminals around the world who targeted our critical infrastructure and seek to hold schools, hospitals, police departments, and other institutions vital to our daily lives hostage for ransom.

We have seen the recent devastation that increasingly severe and frequent extreme weather events have brought to Kentucky, Florida, Vermont, Oklahoma, New York, and many other States. Our department, through FEMA, is working with partners across the Federal Government to support communities impacted by unprecedented natural disasters and help them strengthen their long-term recovery and resilience through grant funds, technical assistance, and on-the-ground support. This and so much more.

The DHS workforce does all of this with honor, integrity, and the resolve to safeguard our people, our homeland, and our values. They perform bravely, despite public attacks on their character and service; despite unfair and inadequate pay, and despite, as frontline agents repeatedly tell me, threats made against them and their families.

These public servants deserve better. Supporting the men and women of DHS has been my top priority since taking office. We have expanded departmental efforts to solicit and incorporate feedback from personnel across all components and all levels; worked to ensure that every employee works in a high-quality facility; made new resources available across the department for employee mental health and well-being, and earlier this week, facilitated long-overdue pay fairness for TSA personnel.

Our department and this Congress need to work together as partners to address the threats and challenges America faces. We must fix our broken immigration system; fund the continuing protection of local communities; disrupt and dismantle transnational criminal organizations and implement the latest technologies to advance our mission.

Americans are safer today on the border, in the air, at sea, across the country, and around the world because of the Department of

Homeland Security. Serving with the personnel of DHS is the greatest honor of my life.

I look forward to continuing to work together on their behalf, and I look forward to your questions.

[The prepared statement of the Hon. Mayorkas follows:]

TESTIMONY OF

Alejandro N. Mayorkas
Secretary
U.S. Department of Homeland Security

BEFORE

Committee on the Judiciary
United States House of Representatives

ON

"Oversight of the U.S. Department of Homeland Security"

July 26, 2023
Washington, DC

Introduction

Distinguished Members of this Committee:

I am proud to submit this testimony on behalf of the 260,000 people across our nation and across the world who make up the Department of Homeland Security.

Our workforce makes sure that travelers reach their destinations safely; they protect our shores and harbors; they help families rebuild after the devastation of a natural disaster; they guarantee our ability to safely and securely turn on our computers, faucets, and lights; they keep deadly drugs off of our streets and away from our children; and they work to secure our border, despite the broken and outdated immigration system in which they operate.

The men and women of DHS are our most important and vital resource. Serving alongside them is the greatest honor of my life, and supporting them has been my top priority since taking office. I am immensely proud of our expanded Departmental efforts to solicit and incorporate feedback from personnel across all components and all levels, our focus on ensuring every employee works in a high-quality facility, and our work making new resources available across the Department for employee mental health and well-being. Our collaboration with Congress has been essential for these successes, including our efforts to fully fund TSA's employee pay initiative and ensure each of TSA's 65,000 employees is paid at a level comparable to their counterparts on the General Schedule pay scale.

Together, we are enabling our workforce to effectively prevent, prepare for, and respond to the increasingly diverse and complex threats and challenges facing our country.

The most urgent and lethal of these threats to American communities today is fentanyl. The devastation of fentanyl has been escalating over at least the past five years. Drug deaths nationwide reached a record high last year, driven by transnational trafficking organizations intent on bringing death and destruction to our communities. Through U.S. Customs and Border Protection (CBP), the U.S. Coast Guard (USCG), Immigration and Customs Enforcement (ICE), and the Transportation Security Administration (TSA), we are leading an unprecedented effort against these criminals. We are screening people, cargo, and vehicles at our ports of entry more efficiently and effectively, and we seized nearly two million pounds of narcotics last fiscal year thanks to new technologies and our robust partnerships with federal, state, tribal, and local law enforcement agencies.

Combatting the scourge of fentanyl is just one of twelve priorities I set to advance the wide-ranging mission of our Department. Each priority reflects the evolving threat landscape our country faces, and is yielding real results for the American people.

We are eager to work with Congress to continue innovating and to expand our capabilities to confront the threats and challenges facing our communities. To give one example, Unmanned Aircraft Systems (UAS) can be used to convey narcotics across borders, as well as to violate Secret Service protective operations, disrupt airport operations, and conduct kinetic

attacks. It is vital that Congress act this year to extend and expand the Department's counter-UAS (C-UAS) authorities to protect against this malicious drone activity.

The terrorism-related threat to the United States now predominately comes in the form of lone offenders and small cells, for instance, so DHS has, in response, announced $2 billion in preparedness grant funding for this fiscal year, including $305 million for the National Security Grant Program to support nonprofit organizations' preparedness activities and enhance broader state and local preparedness efforts. DHS has also invested more than $50 million over the past three years to help communities prevent acts of targeted violence and terrorism, and we have done so in a way that respects civil rights and liberties, and privacy protections. We are grateful for Congress's funding of these grant programs.

We must address the flawed foundation on which our immigration system is built: there remains an approximately two million case backlog in our immigration courts; two million Dreamers still lack immigration status and cannot fully contribute to their communities; and our immigration laws provide for just 140,000 immigrant visas each fiscal year for noncitizens to come to the United States for work, despite ten million open jobs in the U.S. labor market.

Within the confines of that broken system, our Department's approach is working. Under President Biden's leadership, we have led the largest expansion of lawful, safe, and orderly pathways for people to come to the United States in decades, and we have, at the same time, imposed tougher consequences on those who choose not to use those pathways – consequences that have resulted in the return, removal, and expulsion of more than 665,000 people in the first half of this fiscal year. We secured the first increase in Border Patrol Agent hiring in more than a decade, adding 300 in FY2023 and asking for 350 in FY2024. We launched an unprecedented campaign to disrupt and dismantle human smuggling networks, resulting in the arrest of nearly 14,000 smugglers. We launched regional advertising campaigns and broadcast our message to would-be immigrants across the Hemisphere: that our borders are not open, and people who cross our border unlawfully and without a legal basis to remain will be promptly processed and removed. America needs an immigration system for the 21st century, and only Congress can provide a sustainable one.

Natural disasters are intensifying. While we cannot eliminate the climate threats we face as a nation, DHS is working with partners across the federal government to support communities impacted by unprecedented extreme weather events and help them strengthen their long-term recovery and resilience.

Urgent and unforeseeable challenges continue to threaten international trade and travel. To ensure we are prepared to respond rapidly when these challenges arise, DHS has established first-of-their-kind Department-wide incident management teams to lead all-of-government responses. The results of this commitment to Departmental cohesion and improved mission execution can be seen in the success of our efforts to vaccinate millions of Americans against COVID-19 and provide protection for fleeing Ukrainian citizens through Uniting for Ukraine.

Finally, as the world has grown exponentially more connected over the last 20 years, so too has the ability of malicious actors to exploit these connections. Nation states like the People's

Republic of China (PRC) and Russia are now capable of threatening any community in the world.

In response, DHS is working collaboratively with our partners across government, at home and abroad, and with industry and academia, to manage these security risks. We are addressing cyber risks through the Cybersecurity and Infrastructure Security Agency's (CISA)'s Joint Cyber Defense Collaborative (JCDC), which was recently expanded to include major energy and financial sector firms. Through the Cyber Safety Review Board (CSRB), experts from the public and private sectors develop actionable recommendations to strengthen our collective security, and our Cybersecurity Performance Goals (CPGs) provide businesses and critical infrastructure owners with a roadmap to protect themselves and the people they serve.

We are looking to the future. I have directed a 90-day Department-wide sprint to assess how threats posed by the PRC will evolve, and how DHS will best position itself to guard against future manifestations of these threats. I have also directed the creation of our Department's first Artificial Intelligence (AI) Task Force, which is driving specific applications of AI to advance our homeland security missions – from deploying AI to more ably screen cargo and identify the importation of goods produced with forced labor, to better detecting fentanyl shipments and interdicting the flow of precursor chemicals.

With our daily work touching each of these priority areas and more, the Department of Homeland Security's mission has never been more vital to the safety and well-being of our nation. Our components are collaborating more closely than ever before. Americans are safe today because of the work – on the border, in the air, at sea, and across the country and around the world – that the Department of Homeland Security performs every day.

Combating Terrorism and Targeted Violence

Since this Department's inception, the threat landscape has evolved dramatically. DHS has remained agile and vigilant to address all terrorism-related threats to the homeland.

Foreign Terrorist Threats

Our assessments indicate that foreign terrorist organizations (FTOs) will continue to maintain a highly visible presence online and prioritize messaging focused on inspiring homegrown violent extremists (HVEs) to conduct attacks in the United States. Media branches of designated FTOs, including the Islamic State of Iraq and ash-Sham (ISIS) and al-Qa'ida, continue to target U.S. and Western-based audiences with their media releases. These releases address a variety of topics, including operational and communication security guidance, such as warning their supporters about the risks of engaging with associates online, and encouraging the use of violence by their supporters. ISIS and its supporters continue to call for attacks in the United States, and supporters often share tactics and techniques for increasing the effectiveness and reducing the likelihood of detection. Additionally, ISIS-Khorasan (ISIS-K) continues to hone its external operations capability – including using social media to contact potential supporters – and continues to represent a threat that requires close coordination and cooperation with our international allies.

We continue to see that Iran, a state sponsor of terrorism, and its partner, Lebanese Hezbollah, pose an enduring threat to the homeland, evidenced by Iran's public statements threatening retaliation in the United States for Islamic Revolutionary Guard Corps Quds Force (IRGC-QF) Commander Qasem Soleimani's death and arrests of IRGC and Hezbollah members plotting operations in the United States. In the past several years, U.S. law enforcement has arrested numerous individuals for spying on Iranian dissidents in the United States and for acting as agents of influence for the Iranian Government. In August 2022, federal prosecutors unsealed charges against an IRGC member for plotting to assassinate a former U.S. official. In January 2023, prosecutors announced charges and a new arrest in connection with an assassination plot directed from Iran. Members of an Eastern European organized crime group are alleged to have plotted to murder a U.S. citizen of Iranian origin in New York City who has publicly opposed Iran's government. Given its capabilities, Iran could advance an attack plot targeted at the United States with little to no warning. DHS continues to work closely with other law enforcement agencies and the Intelligence Community (IC) to remain aware of ongoing threat streams and take preventative actions, as appropriate.

DHS works closely with our law enforcement, national security, and IC partners to continuously improve our ability to identify individuals who pose a national security or public safety threat and who seek to travel to the United States or receive an immigration benefit. In FY 2022, the National Vetting Center (NVC), managed by DHS, expanded support to DHS and the Department of State (DOS) for the vetting of refugee applicants and all non-immigrant visa applicants worldwide. Through technology advancements, the NVC has increased efficiencies in vetting processes, improving our ability to identify potential threats.

We continue to build partnerships with foreign governments that increase our information sharing and vetting capabilities. DHS is constantly striving to increase our ability to engage in biometric comparison with our foreign partners, and recently added a new requirement to the Visa Waiver Program (VWP) to require participating countries to enter into an Enhanced Border Security Partnership (EBSP). Under EBSP, DHS and VWP member countries will be able to conduct biometric checks against each others' biometric data to authenticate the identity of individuals seeking to travel under the VWP, and to receive information with regard to whether nationals of individual VWP countries traveling to the United States or to our VWP partners represent a threat to the security and welfare of the homeland or our partners.

As a key part of the interagency approach to countering all threats, DHS's Office of Intelligence and Analysis (I&A) is uniquely positioned to provide timely and accurate intelligence to the broadest audience at the lowest classification level possible. DHS, the Intelligence Community (IC), and our state, local, tribal, territorial, and campus (SLTTC) partners rely on I&A's contributions and unique authorities to share this information. DHS will continue to leverage our deployed intelligence professionals to ensure the timely sharing of information and intelligence with DHS components and SLTTC partners, in accordance with applicable law and privacy, civil rights, civil liberties, and intelligence oversight policies. These activities, as well as the information that I&A collects around the country about the fentanyl trade, human smuggling, and other serious threats to the homeland, yield unique insights that are invaluable to our DHS and IC partners with related missions.

Violent Extremism and Targeted Violence

The evolving threat to the homeland also includes lone offenders or small groups motivated by a wide range of ideologies and personal grievances, which DHS and the Federal Bureau of Investigation (FBI) assess to be the primary terrorist threat to the homeland. These can include individuals inspired by FTOs and domestic violent extremists (DVEs) based and operating primarily in the United States who seek to further political or social goals wholly or in part through unlawful acts of force or violence without direction or inspiration from an FTO or foreign power. DVEs are motivated by various factors, including biases against racial and religious minorities, grievances towards women, perceived government overreach, and conspiracy theories promoting violence.

In June 2023, DHS and the FBI jointly assessed that a wide range of DVEs continue to pursue attacks against a diverse set of targets, including democratic institutions, government officials, critical infrastructure, and soft targets in pursuit of their social or political goals. DVE reactions to flashpoint events likely will contribute to violence or criminal activity carried out primarily by lone actors – with a potentially heightened threat environment during the 2024 election cycle – and DVEs will use evolving conspiracy theories to justify threats of violence.

Among DVEs, DHS assesses that racially or ethnically motivated violent extremists (RMVEs), such as those who advocate for the superiority of the white race, present the most lethal DVE threat to the homeland. In many cases, prior to their planned attacks, threat actors have spent inordinate amounts of time online viewing violent material and engaging with like-minded individuals. RMVEs often have the most persistent and concerning transnational connections because adherents to this ideology are present throughout the West. They frequently communicate with each other and, at times, have inspired attacks. Such connectivity with overseas violent extremists might lead to a greater risk of U.S.-based RMVEs mobilizing to violence.

DHS has invested more than $50 million over the past three years in communities across the United States to help prevent acts of targeted violence and terrorism through the Targeted Violence and Terrorism Prevention (TVTP) Grant Program. Managed by the DHS Center for Prevention Programs and Partnerships (CP3) and the Federal Emergency Management Agency (FEMA), this program provides funding for SLTTC governments, nonprofits, and institutions of higher education to establish or enhance capabilities to prevent targeted violence and terrorism. Last September, DHS announced 43 TVTP grant awards to entities in 20 states, totaling $20 million for FY 2022. These awards fulfill the grant program's focus on prioritizing the prevention of domestic violent extremist acts, while respecting individuals' privacy, civil rights, and civil liberties.

DHS also provides security funding to support facility hardening and other operational and physical security enhancements for nonprofit organizations, including religious institutions, at risk of terrorist attacks through the Nonprofit Security Grant Program (NSGP). The Department is grateful that Congress supported this critically important program by providing $305 million in the FY 2023 Consolidated Omnibus Appropriations Act, an increase of $55 million from FY 2022 levels. The President's FY 2024 Budget proposes a further increase to

$360 million. These funds are in addition to the resources provided by DHS to our state and local partners through the Homeland Security Grant Program (HSGP), in which DHS designated Combating Domestic Violent Extremism as a "National Priority Area" for both FY 2021 and FY 2022. As a result of this designation, between FY 2021 and FY 2022, states and local governments across our nation spent over $111 million in grant funding on capabilities to detect and protect against these threats.

Through the Presidential Threat Protection Act of 2000, Congress formally authorized the U.S. Secret Service (USSS) to establish the National Threat Assessment Center (NTAC) to conduct research, training, and consultation on threat assessment and the prevention of targeted violence. NTAC leads the field of targeted violence prevention by producing world-class research examining all forms of domestic terrorism, targeted violence, mass casualty attacks, and attacks against K-12 schools.

NTAC's experts provide training and guidance for professionals from a wide range of agencies and institutions on establishing threat assessment frameworks and targeted violence prevention programs unique to their organization's missions and needs. In FY 2022, NTAC delivered over 280 trainings and briefings to over 28,000 participants, including state and local law enforcement, government officials, educators, mental health professionals, faith-based leaders, and workplace security managers. The number of events and participants reached by NTAC in FY 2022 represents the highest total in the Center's history.

On January 25, 2023, NTAC released its most comprehensive analysis of mass attacks to date, titled *Mass Attacks in Public Spaces: 2016 – 2020*. This study analyzes 173 attacks perpetrated from 2016 through 2020 in public and semi-public locations in the United States, including businesses, restaurants, retail outlets, schools, houses of worship, open spaces, and other public locations. On the day of the release, NTAC hosted a virtual training event to highlight the report's findings. Over 21,000 public safety officials from across community sectors registered for the event, representing all 50 states and over 80 foreign countries.

The Department continues to see threats to federal employees and the targeting of federal facilities. The Federal Protective Service (FPS), a law enforcement agency within the Department, leads our efforts to provide integrated law enforcement and security services to protect more than 9,000 federal facilities across the nation, safeguarding the more than 1.4 million federal employees and visitors to these facilities. FPS works closely with federal, state, and local law enforcement across the country to investigate these threats and respond to incidents at federal facilities.

To prepare for this threat, the Department has embraced a community-based approach to preventing terrorism and targeted violence by building trust, partnerships, and collaboration across every level of government, the private sector, non-governmental organizations, and the communities we serve, while respecting First Amendment protections. We must make it harder to carry out an attack and reduce the potential for loss of life; one important way we do that is by helping to prevent mobilization to violence.

CP3 uses a public health-informed approach to targeted violence and terrorism prevention. Our efforts focus on creating evidence-based prevention resources and helping prevention providers build strengths, such as social cohesion, trust, and awareness at the individual, family, and community levels to decrease the risk of terrorism and targeted violence, such as school or workplace violence, premeditated hate-fueled violence, and terrorism. The focus of a public health-informed approach is on the health, safety, and well-being of entire populations. This approach employs strategies that have been used in other forms of violence prevention for decades, backed by program evaluations and research in areas like public health, psychology, and criminology. CP3 partners with independent research organizations to collect data, evaluate programming, and gather lessons learned from across the United States to continually improve the evidence base for terrorism and targeted violence prevention. CP3 holds privacy, civil rights, civil liberties, and the First Amendment as pillars of its prevention mission. CP3 routinely engages with DHS's Privacy Office and Office for Civil Rights and Civil Liberties to ensure all public-facing prevention resources, grants, and training materials respect Americans' privacy, civil rights, and civil liberties.

Weapons of Mass Destruction

Although terrorist capabilities to conduct large-scale attacks have been degraded by U.S. counterterrorism operations and policies, terrorists remain interested in acquiring and using weapons of mass destruction (WMD) in attacks against U.S. interests and the homeland. DHS will continue its efforts to secure the homeland from the enduring threat of terrorist use and proliferation of WMD, which poses profound and, in some cases, existential dangers to the United States. This threat continues to evolve due to advances in science and technology and as dual-use knowledge, goods, materials, and technology applicable to WMD continue to proliferate. We cannot rule out the risk of unsecured or vulnerable fissile and other source materials in the United States. DHS will help maintain a multi-layered defensive domestic network for detecting nuclear and radiological material out of regulatory control in order to disrupt WMD terrorism threats and prevent nuclear terrorism from occurring within the United States. DHS will continue developing, acquiring, and providing equipment and training to federal, state, and local partners to prevent, detect, and mitigate the impacts of these threats.

Cyber Threats

Our interconnectedness and the technology that enables it—the cyber ecosystem—expose us to a dynamic and evolving threat environment, one that is not contained by borders or limited to centralized actors, and one that impacts governments, the private sector, civil society, and every individual. As a result, cyber threats from foreign governments and transnational criminals remain among the most prominent threats facing our nation. Hostile nations like Russia, China, Iran, and North Korea, as well as cybercriminals around the world, continually grow more sophisticated and create more adverse consequences.

Within the past three years, we have seen numerous cybersecurity incidents impacting organizations of all sizes and disrupting critical services, from the SolarWinds supply chain compromise to the widespread vulnerabilities generated by open source software like Log4j. Further, ransomware incidents—like those affecting JBS Foods, Kaseya, a major pipeline

company, the Common Spirit hospital system, and the recent exploitation of the managed file transfer solution, MOVEit Transfer—continue to increase. We continue to believe there is significant under-reporting of ransomware incidents, and we assess that ransomware attacks targeting U.S. networks will increase in the near and long term. Cybercriminals have developed effective business models to increase their financial gain, likelihood of success, and anonymity.

The Department is committed to keeping Americans safe from the devastating effects of cybercrimes. Cyber criminals' primary motivation is financial gain, and criminals show little regard for whom they target. Cybercrime investigators at the USSS and HSI are dedicated to seizing and returning stolen funds to the victims and arresting those responsible. Cybercrimes are often transnational, with the criminal actors, their infrastructure, and their victims spread across the globe. The USSS was recognized by the Attorney General for its contributions to the dismantling of the Hive ransomware infrastructure used to communicate with other criminals and disrupting the group's ability to attack victims. USSS and HSI continue to partner with federal and SLTT law enforcement and with international and foreign law enforcement in combating cybercrimes.

The Department plays an important role in helping to protect our nation's critical infrastructure from these attacks. The private sector, which owns and operates most of the nation's critical infrastructure, plays a vital role in working with CISA and other Sector Risk Management Agencies (SRMAs), such as TSA and USCG, to ensure that we are aware of new attack campaigns and intrusions. That awareness in turn helps CISA advise other potential victims—increasing the nation's collective cyber defenses through our collaborative efforts.

In March 2022, President Biden signed the Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCIA) into law. CIRCIA marks an important milestone in improving America's cybersecurity. The increased number of incident reports that will be received from our private sector partners as a result of this new law will enable CISA, in partnership with other federal agencies, to build a common understanding of how our adversaries are targeting U.S. networks and critical infrastructure. This information will fill critical information gaps and allow us to rapidly deploy resources and render assistance to victims suffering cyber intrusions where appropriate, analyze incoming reporting across sectors to spot trends, and quickly share that information with network defenders to warn other potential victims. We are grateful to Congress for passing this historic bipartisan legislation, marking a critical step forward in the collective cybersecurity of our nation.

Cyber Threat Mitigation and Resilience

To respond to evolving cyber threats and increase our nation's cybersecurity and resilience, DHS has established several vehicles, including:

- The Joint Cyber Defense Collaborative (JCDC) develops and executes joint cyber defense planning with partners at all levels of government and the private sector to prevent and reduce the impacts of cyber intrusions and to ensure a unified response when they occur.

- The Cyber Safety Review Board (CSRB) is a groundbreaking public-private advisory board dedicated to after-action review of significant cyber incidents. The CSRB published its first report last summer addressing the risk posed by vulnerabilities in the widely used "Log4j" open-source software library. Its second review of the recent intrusions associated with Lapsus$, a global extortion-focused hacker group, is nearing completion. We are asking Congress to strengthen the ability of DHS to carry out comprehensive reviews of significant cyber incidents in ways that will allow us to learn from past experience and strengthen our response to future threats.
- The Cybersecurity Performance Goals (CPGs) are voluntary practices that outline the highest-priority baseline measures businesses and critical infrastructure owners and operators of all sizes can take to protect themselves against cyber threats. In March 2023, based on a rigorous process involving stakeholders from all critical sectors and our government partners, CISA published an initial update to the CPGs. The CPGs are now categorized around the NIST Cybersecurity Framework (CSF) functions to help organizations more easily prioritize investments as part of a broader cybersecurity program built around the CSF. They include updated goals regarding multifactor authentication and recovery from cyber incidents. By clearly outlining measurable goals based on easily understandable criteria such as cost, complexity, and impact, the CPGs are designed to apply to organizations of all sizes.
- The Cyber Incident Reporting Council (CIRC), which includes 33 Federal departments and agencies, is working to coordinate, deconflict, and harmonize Federal cyber incident reporting requirements, including those issued through regulation.
- Security Directives and Emergency Amendments issued by TSA to surface transportation owners and operators and certain TSA-regulated aircraft operators and airports require the implementation of critically important and urgently needed cybersecurity measures to address persistent cybersecurity threats against these sectors.

Emerging Technology Threats

Unmanned Aircraft System (UAS) Threats

UASs, or drones, offer tremendous benefits to our economy and society, but their misuse poses real security challenges. The rapid proliferation of drones and their expanded use by hobbyists, professionals, and threat actors have required DHS to shift its response efforts to mitigate smaller, more agile, and less attributable dangers across all mission areas while still supporting the lawful use of these advanced technologies within our nation. Drones around the world have conducted kinetic attacks with payloads of explosives or firearms, caused dangerous interference with manned aviation, disrupted airport operations (causing significant economic harm), and disrupted and damaged critical infrastructure. Nearly every day, transnational criminal organizations (TCOs) attempt to use drones to convey illicit narcotics and other contraband. TCOs also use drones to conduct hostile surveillance of law enforcement and guide human smuggling across the border.

I thank Congress for extending existing law that provides DHS's C-UAS authority through September 30, 2023. Ensuring that the existing authorities did not lapse was vital to our mission, including protecting the President and Vice President, patrolling the Southwest border,

securing certain federal facilities and assets, and safeguarding the public. DHS has exercised its current C-UAS authority by successfully executing C-UAS operations at mass gatherings, Special Event Assessment Rating (SEAR) events, and National Special Security Events (NSSEs), including the 2022 World Series, the Indianapolis 500, the United Nations General Assembly, the Democratic and Republican National Conventions, the State of the Union address, the MLB All Star Game, the New York City Marathon, and the Boston Marathon. At all times, DHS engages in these activities consistent with applicable law and in a manner that protects individuals' privacy, civil rights, and civil liberties.

To ensure the Department can continue its C-UAS activities, including protecting the 2026 World Cup events, both the Department and the Administration remain committed to a multi-year extension as well as an expansion of existing authorities. Any lapse in DHS's current C-UAS authority would entail serious risks for homeland security, as DHS would have to cease or curtail existing C-UAS operations that protect the homeland. Additionally, the Department and the Administration look forward to working with Congress, including this Committee, to expand C-UAS authority to address critical gaps in the current law, such as a lack of protection for U.S. airports and the inability of DHS to partner on C-UAS activities with SLTT enforcement officials or critical infrastructure owners or operators. To further close the gap with our SLTT law enforcement partners, we have requested, on a pilot basis, authority for a limited number of SLTT partners to detect, identify, and under appropriate federal oversight and training – including privacy, civil rights, and civil liberties protections – to mitigate drones posing a credible threat to their jurisdictions or at their facilities, respectively.

Congressional action is required, as DHS's authority to detect and counter drone threats will expire on September 30, 2023. A lapse in this authority and failing to close known vulnerabilities by expanding C-UAS authority could have catastrophic implications for homeland security.

Cryptocurrency

While most cryptocurrency is used legitimately, cryptocurrency has attributes that have already been exploited by criminals, terrorists, and other adversaries to facilitate their operations. Most notably, as it has become easier to access and more widely used in general commerce, many transnational ransomware operations are using the cryptocurrency ecosystem to obfuscate illicit requests and to facilitate the receipt of ransoms.

Many components within DHS are focused on the rising illicit use of digital assets, developing and providing training, investigating, and collaborating with interagency partners. Pursuant to the President's Executive Order 14067, *Ensuring Responsible Development of Digital Assets*, the Department contributed to the whole-of-government effort to address concerns with respect to digital assets.

For example, with domestic and international law enforcement partners, the USSS has achieved notable successes in combating cyber-enabled financial crimes, including dismantling two centralized virtual currency providers that supported extensive criminal activity, and the

successful investigation of a Russia-based criminal scheme attempting to defraud cryptocurrency exchange customers of $16.8 million.

HSI has offices in over 50 countries and works to combat cybercrimes, including by providing training to international partners and analytical assistance in tracing digital assets. HSI investigations related to virtual assets have risen from one criminal investigation in 2011 to over 530 criminal investigations in FY 2022—seizing over $4 billion in virtual assets this last fiscal year. HSI has also trained law enforcement partners in more than 20 countries on dark web and cryptocurrency investigations, and regularly works with victims to remediate vulnerabilities before they are exploited.

Artificial Intelligence (AI)

AI will drastically alter the threat landscape and augment the arsenal of tools we possess to succeed in the face of these threats. DHS will lead in the responsible use of AI to secure the homeland and in defending against the malicious use of this transformational technology. As we do this, we will ensure that our use of AI is rigorously tested to avoid bias and disparate impact and is clearly explainable to the people we serve.

Malicious actors are increasingly using more advanced AI, powered by more data, more accessible computing resources, and more advanced machine learning algorithms. To counter these threats, DHS's use of trustworthy AI can help us more effectively and efficiently accomplish our mission to secure the homeland. DHS has taken several steps, including:

- Establishing the Department's first AI Task Force to drive specific applications of AI to advance our critical homeland security missions. The Task Force is working to enhance the integrity of our supply chains and the broader trade environment by deploying AI to more ably screen cargo, identify the importation of goods produced with forced labor, and manage risk. It is also charged with using AI to better detect fentanyl shipments, identify and interdict the flow of precursor chemicals around the world, and target for disruption key nodes in criminal networks.
- Tasking our Homeland Security Advisory Council to study the intersection of AI and homeland security and deliver findings that will help guide our use of it and defense against it.
- Working with other responsible partners—domestically and internationally—to share best practices and develop standards.
- In response to requirements from the 2023 National Defense Authorization Act (NDAA) and Executive Order 13960, DHS is finalizing policies and procedures for trustworthy AI acquisition and use with due consideration of risks and impacts associated with AI. This includes the evaluation of privacy, civil rights, and civil liberties impacts and misuse, degradation, and non-operability risks.
- Convening leading experts, academics, advocates, and others to understand evolving adversary AI capabilities that could be used to exploit or overcome security measures at our physical borders, in cyberspace, in election systems, and beyond.

Counternarcotics

DHS employs a multi-layered approach to mitigating and countering narcotics trafficking and threats of all types using our extensive liaison networks, domestic and foreign partnerships, personnel, and technology deployments such as Non-Intrusive Inspection (NII) capabilities. The increased production and trafficking of synthetic opioids from Mexico have prompted the interagency to implement a whole-of-government approach, including a number of DHS components and efforts, to combat these threats.

With the support of Congress, CBP continues to make significant investments and improvements in drug detection and interdiction technology to detect the presence of illicit drugs, including illicit opioids, in all operating environments, while CBP's National Targeting Center uses advanced analytics and targeting capabilities to identify critical logistics, financial, and communication nodes, and exploit areas of weakness in opioid trafficking networks. Leveraging these investments, CBP seized 11,200 pounds of fentanyl in FY 2021 and 14,700 pounds in FY 2022, as compared to 2,804 pounds in FY 2019. Thus far in FY 2023, CBP has seized 19,821 pounds of fentanyl by applying these same investments.

CBP seeks to prevent drug trafficking through POEs, which is where most synthetic drugs enter the United States. Recent DHS Office of Intelligence and Analysis reporting indicates that Mexico-based drug traffickers involved in both drug and human smuggling rarely exploit migrants to smuggle fentanyl into the United States. Analysts continue to assess that the vast majority of fentanyl that enters the United States moves through U.S. POEs, and CBP data indicates that U.S. citizens were responsible for transporting the fentanyl seized in 77 percent of seizures in FY 2023 to date. Personal vehicles remain, by volume, the primary method of conveyance for illicit drugs entering the country over land, with notable increases within commercial truck conveyances for methamphetamine. The NII Systems Program provides technologies to inspect and screen cars, trucks, railcars, sea containers, as well as personal luggage, packages, parcels, and flat mail through either X-ray or gamma-ray imaging systems. CBP officers use NII systems to effectively and efficiently detect anomalies in an effort to prevent contraband, including drugs, unreported currency, guns, ammunition, and other illegal merchandise, as well as inadmissible persons, from being smuggled into the United States, while having a minimal impact on the flow of legitimate travel and commerce.

CBP also robustly enforces the Synthetics Trafficking and Overdose Prevention (STOP) Act to prevent trafficking by mail. CBP operates within major international mail facilities to inspect international mail and parcels arriving from more than 180 countries. CBP and the U.S. Postal Service are working to increase the amount of advance electronic data received on international mail. This advance information enables HSI and other agencies to identify networks of foreign suppliers and domestic importers that are responsible for smuggling fentanyl into the United States, enhancing our investigative capabilities.

HSI plays a critical role in countering narcotics trafficking by exchanging information, coordinating investigations, and facilitating enforcement actions with law enforcement partners abroad to deter the ability of TCOs to smuggle drugs, people, and contraband into and out of the United States. FY 2022 statistics reveal HSI conducted 11,535 narcotics-related criminal arrests

and seized roughly 1.87 million pounds of narcotics, which included 20,981 pounds of fentanyl. Additionally, HSI Special Agents seized more than $210 million in total currency and assets through their narcotics enforcement efforts.

One of HSI's most significant tools to combat TCOs engaged in fentanyl trafficking domestically are the Border Enforcement Security Task Forces (BESTs). BESTs eliminate the barriers between federal and local investigations and close the gap with international partners in multinational criminal investigations. BESTs continue to be a primary vehicle used to carry out HSI's comprehensive, multi-layered strategy to address the national opioid epidemic. For example, in response to the exploitation of international shipping routes to transport illicit drugs and dual use chemicals, HSI increased the number of BEST units at international mail facilities (IMFs), express consignment hubs (ECC), and international airports that act as IMFs.

Recognizing the unprecedented epidemic of deaths from illicit opioids, HSI recently developed and began implementation of its *Strategy for Combating Illicit Opioids*. The *Strategy* builds upon many of HSI's core investigative authorities and capabilities in combating TCOs and focuses efforts on four core goals, all of which align with the National Drug Control Strategy. They are 1) reduce the international supply of illicit opioids; 2) reduce the domestic supply of illicit opioids; 3) attack the enablers of illicit opioid trafficking: illicit finance, cybercrime, and weapons smuggling; and 4) conduct outreach with private industry. Through this strategy, HSI aims to make important strides in reducing the harm illicit opioids have on U.S. communities.

One of HSI's primary international tactics in the fight against fentanyl is the Transnational Criminal Investigative Unit (TCIU) program. The TCIU Program was created to help facilitate the exchange of information between the United States and its foreign partners. This enhances the host country's ability to investigate and prosecute individuals involved in transnational criminal activities, threatening the stability and national security of the region and posing continuing threats to the homeland security of the United States. HSI TCIUs are comprised of foreign law enforcement officials, customs officers, immigration officers, and prosecutors who undergo a strict vetting process conducted by HSI to ensure that shared information and operational activities are not compromised. These units work to identify targets, collect evidence, share information, and facilitate the prosecution of TCOs both in-country, among other foreign partner nations, and through the U.S. judicial system. HSI TCIUs prioritize criminal investigations related to weapons trafficking and counter-proliferation, money laundering and bulk cash smuggling, human smuggling, human trafficking, illegal drug trafficking, intellectual property rights violations and other customs fraud, child exploitation, cybercrime, and other violations of law within HSI's investigative purview. The current HSI TCIU footprint consists of over 500 personnel assigned to 12 TCIUs and two International Task Forces in 14 countries around the world. HSI expanded the program to one additional country in FY 2023 and anticipates expanding the program further in FY 2024. Colombia and Guatemala are the two largest international TCIUs, with more than 150 vetted individuals. HSI's Strategy aims to increase training of TCIU members, focused on the methodologies surrounding chemical and pill press machinery acquisition.

HSI has also launched targeted enforcement campaigns to combat illicit narcotics, particularly fentanyl. From March 13, 2023 to May 9, 2023, CBP and HSI launched Operation

Blue Lotus to facilitate and increase fentanyl interdictions primarily at POEs and develop criminal cases along the Southwest border. Focusing operations at the ports of San Ysidro, CA, Otay Mesa, CA, and Nogales, AZ, Operation Blue Lotus aimed to curtail the flow of illicit fentanyl smuggled into the United States from Mexico, while simultaneously illuminating the TCO networks. Upon its conclusion, Operation Blue Lotus, which spanned 60 days, resulted in the seizure of more than 4,700 pounds of fentanyl, more than 4,600 pounds of methamphetamine, more than 1,050 pounds of cocaine, and more than 72 pounds of heroin, in addition to over 250 arrests by CBP and HSI.

On June 5, 2023, CBP launched Operation Artemis, the next phase in CBP's counter-synthetics strategy, leveraging intelligence derived from Operation Blue Lotus for targeted operations to counter the emerging fentanyl epidemic. The focus of Operation Artemis is to further disrupt and degrade the flow and supply chains that feed the production of fentanyl and other synthetic drugs through coordinated enforcement, investigative, interdiction and scientific identification efforts. The operation's end goal is to stem the flow of fentanyl, its precursors, and enabling paraphernalia such as pill presses and dies through strategic enforcement actions not only at the Southwest land border, but with expansion to the express consignment, IMFs, air and sea cargo environments. This six-week operation is an integrated law enforcement enterprise that utilizes personnel with specialized skill sets: CBP Officers, CBP Import Specialists, Intelligence Analysts, Chemist and Forensic Scientists from the CBP Laboratories and Scientific Services, and HSI Special Agents.

Additionally, on June 12, 2023, HSI launched Operation Blue Lotus 2.0 to build on the success from the first phase of Operation Blue Lotus by strategically leveraging its administrative, civil, and criminal law enforcement authorities. Operation Blue Lotus 2.0 will deploy 65 Special Agents and smaller numbers of support staff, such as Criminal Analysts, via temporary duty assignments to support fentanyl suppression efforts.

The United States Coast Guard (USCG) leads maritime interdictions of narcotics in the Western Hemisphere. The USCG disrupts illicit trafficking where it is most vulnerable – at sea in the transit zone, often far from U.S. shores – before bulk quantities reach the shore and are divided into small, hard-to-detect loads. The USCG is continuing to enhance cooperation with partner nations in South and Central America to combat the flow of narcotics before they reach U.S. shores. USCG intelligence personnel and Coast Guard Investigative Service Special Agents are fully integrated across the Department and at the Joint Interagency Task Force (JIATF) South, allowing for maximum counterdrug coordination across the hemisphere. These efforts directly enable target identification and development that prioritize law enforcement investigations—perpetuating the interdiction continuum, the removal of multi-ton quantities of drugs from the supply chain, and the collection of critical evidence for the prosecution of TCO members. In FY 2022, the USCG removed approximately 152 metric tons of cocaine, 60,000 pounds of marijuana, and 7.7 metric tons of other narcotics, including methamphetamines, heroin, and hashish. In addition to these drug removals, a USCG-led multi-agency effort in FY 2022 tied their maritime law enforcement operations to the indictment and extradition of a consolidated priority organizational target to Puerto Rico for prosecution.

The Department appreciates Congress extending for two years the statutory authority to establish and operate Joint Task Forces (JTFs) in the FY 2023 NDAA. JTFs provide a direct operational coordination layer to enhance the multi-faceted challenges facing DHS. Today, JTF-East is responsible for ensuring Departmental unity of effort in the southern maritime approach to the United States and demonstrates the tangible, positive impacts that JTFs can have on enhancing DHS-coordinated operations for national security, public health, and protecting the homeland.

Border Security and Immigration

Securing the Border

Through the Southwest Border Coordination Center, established in February 2022, DHS led a comprehensive whole-of-government planning effort for more than 18 months to prepare for the termination of the Title 42 public health Order. This effort included record deployments of personnel, infrastructure, and resources to support our frontline personnel, as well as the development of a series of policy measures intended to disincentivize unlawful entries at the land border while incentivizing migrants to use safe, orderly, and lawful processes and pathways to come to the United States. In the weeks since May 12, 2023, DHS has continued to lead a successful whole-of-government effort to ensure the safe, orderly, and humane management of our nation's borders and the continued enforcement of U.S. immigration laws.

The end of the Title 42 Order allowed DHS to fully return to processing all noncitizens under its longstanding Title 8 immigration authorities. Consequently, DHS has been able to impose significant consequences for those who are apprehended crossing the border without prior authorization, who are now subject to the Circumvention of Lawful Pathways rule on asylum eligibility. Under this rule, migrants who do not use the expanded lawful pathways and processes to come to the United States in a safe and orderly manner are subject to a rebuttable presumption of asylum ineligibility unless they meet an exception or are able to rebut the presumption.

These measures build on our broader efforts to secure and manage our borders while building a safe, orderly, and humane immigration system. In April 2022, I issued the DHS Plan for Southwest Border Security and Preparedness, laying out a six-pillar plan to manage an increase in encounters once the Title 42 public health Order was no longer in effect. DHS updated this comprehensive plan in December 2022 and continues to build upon the impact DHS has seen as a result of these efforts. Under this plan, DHS:

- Surged personnel to reinforce the more than 24,000 USBP and Office of Field Operations (OFO) personnel at the border, with approximately 1,000 law enforcement officers from across the DHS network and other federal agencies, thousands of contract personnel, 1,500 active-duty military personnel, and hundreds of volunteers from across DHS and the interagency.
- Enhanced surveillance capacity by adding 81 new autonomous surveillance towers since the start of FY 2022, for a current total of 223.

- Expanded CBP temporary holding capacity at the border by nearly 50 percent, from 13,230 in January 2021 to over 19,000 today.
- Made available several thousand detention beds in the ICE network by updating guidelines to reflect the latest Centers for Disease Control and Prevention guidance regarding congregate settings in detention facilities.
- Increased contracted medical personnel by 75 percent since the start of FY 2022.
- Arrested nearly 14,000 smugglers and disrupted thousands of human smuggling operations, such as raiding smuggler stash houses, impounding tractor trailers that are used to smuggle migrants, and confiscating smugglers' information technology.
- The President's FY 2024 budget also requests more than $500 million in border security technology.

We are also supporting local governments, nongovernmental organizations (NGOs), and faith-based organizations in border and interior cities that are receiving noncitizens in their communities. In June 2023, FEMA and CBP stood up the new Shelter and Services Program, awarding more than $290 million to 34 non-federal entities for temporary shelter and other eligible expenditures for migrants who have been processed and provisionally released from DHS custody while awaiting the outcome of their immigration proceedings. An additional $73 million will be made available later this summer. Since passage of the Consolidated Appropriations Act of 2023, DHS has allocated more than $400 million to support communities receiving migrants across the country, including $332.5 million in May 2023 and $75 million in December 2022 under the Emergency Food and Shelter Program – Humanitarian (EFSP-H).

As a result of the Department's preparations, unlawful entries between POEs along our Southwest border have decreased by more than 50 percent compared to the peak of 10,800 prior to the lifting of Title 42. We are cognizant, however, that conditions driving unprecedented numbers of people to leave their homes and make the dangerous journey to other countries, including towards our Southwest border, are still present. Furthermore, we understand that TCOs and human smugglers will continue to spread disinformation in order to prey on the desperation of these migrants. We will not get complacent. DHS will continue to fulfill our duty to secure America's borders to the best of our ability, making adjustments to ongoing efforts as needed.

Expanding Lawful Pathways

DHS has taken innovative policy steps that seek to change the calculus for intending migrants. These measures impose consequences on certain individuals who cross the border without prior authorization, while significantly expanding the availability of safe, orderly, and lawful pathways to come to the United States, to incentivize noncitizens to use such pathways without having to put their lives in the hands of smugglers. As part of these efforts, we have overseen the largest expansion of lawful pathways in decades even as we have set records for repatriations.

In order to combat sharp increases in the encounters of Venezuelan nationals from FY 2021 to FY 2022, in October 2022 DHS developed—in close coordination with the Government of Mexico—an innovative approach that provided Venezuelans with a safe, orderly way to come to the United States and imposed new consequences on those who crossed without

authorization. Through this new process, eligible individuals are able to receive advance authorization to travel to an interior POE to seek a discretionary grant of parole for a period of up to two years, on a case-by-case basis. Venezuelans who did not use this new process and were encountered at the Southwest land border could be returned to Mexico.

Building on the success of this process, in January of this year, DHS announced and implemented a similar process for Cubans, Haitians, and Nicaraguans (collectively, the CHNV processes). Nationals of these countries who do not avail themselves of this pathway and attempt to enter the United States without authorization will generally be returned to Mexico. As a result of this new process, encounters between POEs of nationals from Cuba, Haiti, and Nicaragua have declined from a daily average of 952 per day the week ending January 5, 2023—when the new process was announced—to a daily average of 25 per day the week ending July 11.

While encounters between POEs at the Southwest border have plummeted, thousands of nationals from these countries have successfully followed the process for lawful entry. The processes described above have allowed more than 155,000 individuals who have U.S.-based supporters and have passed the requisite national security and public safety vetting to travel directly to the United States. The successful use of these parole processes and the significant decrease in illegal crossing attempts clearly demonstrate that noncitizens prefer to utilize a safe, lawful, and orderly pathway to the United States if one is available, rather than putting their lives and livelihoods in the hands of ruthless smugglers. Combining accessible lawful pathways with consequences for those who fail to use those pathways works.

When it comes to expanding additional lawful pathways, we have:

- Significantly expanded the number of temporary work visas available for migrants in the region, especially in the Northern Central American (NCA) countries of El Salvador, Guatemala, and Honduras, through the H-2A and H-2B programs. As of June 23, 2023, 19,005 H-2B visas were issued to nationals of El Salvador, Guatemala, Honduras, and Haiti. This is a 300 percent increase compared to the entire FY 2019.
- Dramatically expanded refugee resettlement in the Western Hemisphere, working in conjunction with the Department of State. We resettled 2,485 individuals in FY 2022, a 521 percent increase over FY 2021 and an eight-year high for the region. As of April 30, 2023, we have already resettled 3,443 refugees from the Western Hemisphere—a nearly 40 percent increase over the entire FY 2022, with five months left in the fiscal year. With the establishment of Safe Mobility Offices in South and Central America, we will significantly increase the number of individuals processed for refugee resettlement in the coming months and years.
- Significantly expanded capacity to process noncitizens at land POEs on the Southwest border. In particular, the CBP One mobile app, which is available for free download to a mobile device, allows individuals of any nationality in Central or Northern Mexico to schedule an appointment to present at a POE along the Southwest border in a safe and orderly manner. The advance biographic and biometric information captured by the app allows CBP to significantly streamline its processing of noncitizens once they arrive at a POE, which, in turn, has contributed to CBP's ability to increase its capacity to process inadmissible individuals at land border POEs compared to its 2014-2019 pre-pandemic

average. On June 30, CBP expanded the number of available daily appointments to 1,450 per day—almost four times the number of noncitizens processed at POEs prior to the pandemic. These individuals have presented in a safe and orderly manner at a POE each day during their scheduled appointment time. As of June 30, more than 144,000 appointments have been processed thus far at POEs along the Southwest border. This app, available in English, Spanish, and Haitian Creole, effectively cuts out the smugglers, decreases migrant exploitation, and improves safety and security in addition to making the process more efficient.

The United States cannot and should not do this work alone; hemispheric challenges require hemispheric solutions. Twenty-one countries endorsed the Los Angeles Declaration on Migration and Protection in June of last year, affirming that it is our collective responsibility to address the factors causing irregular migration throughout our hemisphere. DHS is working closely with the Department of State and partner countries—including Mexico, Guatemala, Costa Rica, Colombia, Ecuador, and Panama—to expand efforts to humanely secure borders and remove individuals without a lawful basis to remain, counter human smuggling organizations, increase labor mobility, and expand protection and lawful pathways for intending migrants.

We are strengthening our relationships with partners in Mexico and Central and South America to ensure a holistic response to this challenge, including the following actions:

- In October 2022, DHS announced joint actions with Mexico, reinforcing our coordinated enforcement operations to target human smuggling organizations and bring them to justice. That campaign includes new migration checkpoints, additional resources and personnel, joint targeting of human smuggling organizations, and expanded information sharing related to transit nodes, hotels, stash houses, and staging locations.
- DHS officials have traveled throughout the region to strengthen partnerships with our counterparts. As Secretary, I have traveled to Mexico four times, including most recently with the President for the North American Leaders' Summit in January to discuss regional cooperation on migration, security, and other vital issues. I have visited Honduras, Guatemala, Panama, Ecuador, Colombia, and Costa Rica to advance our bilateral and regional partnerships and forge strengthened cooperation on migration management.
- We are also working with regional partners to implement the U.S. Strategy for Addressing the Root Causes of Migration and the hemispheric Los Angeles Declaration on Migration and Protection with historic U.S. Government investments, totaling nearly $1 billion in assistance, according to the Department of State. We have also concluded bilateral arrangements with Costa Rica and Panama, agreeing to humane border security measures, support with counter-smuggling, and repatriation assistance. The United States is planning to offer additional assistance to support regional partners to address the migration challenges in the Darién.
- DHS and the Department of State are continuing to deliver on our commitments by establishing Safe Mobility Offices (SMOs) in South and Central America. In Guatemala and Costa Rica, processing through SMOs began on June 12, 2023, and shortly after on June 28, 2023, processing began in Colombia. SMOs enable eligible individuals to begin

the process of accessing protection and other lawful pathways to the United States or other partner countries, including Canada and Spain.

Enforcing Our Immigration Laws

Under our immigration laws, noncitizens present in the United States can request asylum and other humanitarian protection and, if they qualify, may be granted such protection. Individuals who are not eligible for protection or other relief from removal generally are ordered removed. On May 12, 2023, after a robust regulatory process that included responding to more than 50,000 comments from the public, DHS and the Department of Justice (DOJ) began implementing the Circumvention of Lawful Pathways rule, which is designed to build on the success of the CHNV processes.

The rule is designed to cut out of the process the TCOs that prey on migrants, making migration safer and more orderly. Its provisions incentivize migrants to use the new and existing lawful processes that DHS has established and disincentivize dangerous border crossings by placing a commonsense condition on asylum eligibility for those individuals who fail to do so, and who do not otherwise qualify for an exception.

Under the rule, individuals who circumvent the expanded lawful, safe, and orderly pathways into the United States—including the CHNV processes, the significant expansion of refugee processing and temporary work visas, and the use of the CBP One mobile app to schedule a time and place to arrive at a POE—and also fail to seek protection in a country through which they traveled on their way to the United States, are subject to a rebuttable presumption of asylum ineligibility in the United States unless they meet specified exceptions. Individuals who cannot establish a valid claim to protection under the standards set out in the rule are subject to prompt removal under Title 8 authorities, which carries at least a five-year bar to admission to the United States and the potential to be criminally prosecuted for repeated unlawful entry.

DHS has made clear through these efforts that there are consequences for entering without authorization. From May 12 to July 2, 2023, DHS repatriated over 72,000 noncitizens under Title 8 authorities, including single adults and families, to more than 110 countries.

When it comes to our enforcement priorities, in September 2021 I issued guidance to focus immigration apprehension and removal on the greatest threats to the homeland, which yielded positive results. For example, while the guidance was in place and before it was vacated by a federal court, ICE arrested an average of 855 aggravated felons per month, compared to a monthly average of 687 during the four years of the prior Administration. We applaud the Supreme Court's recent ruling on immigration enforcement and DHS looks forward to reinstituting the September 2021 guidelines.

Humanitarian Protection

Finally, we have also responded to humanitarian crises around the world and at the same time returned to the administration of our immigration laws in a manner keeping with our nation's values by:

- Implementing a historic effort across the federal government to support vulnerable Afghans, including those who worked alongside us in Afghanistan for the past two decades, first through Operation Allies Welcome (OAW) and now continuing such support through Enduring Welcome. Afghan nationals paroled under OAW underwent an interagency screening and vetting process that began overseas and was supported by intelligence, law enforcement, and counterterrorism professionals from DHS, DOS, FBI, NCTC, and additional U.S. Government partners. The federal government is leveraging every tool available to ensure that no individuals who pose a threat to public safety or national security are permitted to enter the United States. The continuous screening and vetting process is ongoing to ensure the continued protection of public safety and national security.
- Creating Uniting for Ukraine (U4U), a lawful and orderly process to enable certain eligible Ukrainians and their immediate family members fleeing Russia's unprovoked war of aggression to apply for advance authorization to travel to the United States to seek parole for a period of up to two years. As of the end of June, over 175,000 Ukrainians have been authorized to travel to the United States through this process, which includes interagency screening and vetting both prior to authorizing travel to the United States and upon arrival at a POE. Through available lawful pathways, to include immigrant and nonimmigrant processes, over 349,000 Ukrainians have arrived in the United States since the conflict began.
- Providing Temporary Protected Status (TPS) benefits to nationals of 16 countries, including new designations, redesignations, or extensions for Afghanistan, Burma, Cameroon, Ethiopia, Haiti, Somalia, South Sudan, Sudan, Syria, Ukraine, Venezuela, and Yemen. We rescinded the prior Administration's termination of TPS designations for four additional countries (El Salvador, Honduras, Nepal, and Nicaragua) and extended those designations for 18 months. In addition, President Biden announced Deferred Enforced Departure (DED) for certain Liberian nationals and Hong Kong residents.
- Restoring the historical understanding of a "public charge" ground of inadmissibility that had been in place for decades, so as not to penalize individuals for using the health benefits and supplemental government services available to them.
- Preserving and fortifying the Deferred Action for Childhood Arrivals (DACA) policy through issuance of a final rule codifying the policy, working with DOJ to defend it against legal challenges, and effectively addressing significant processing backlogs inherited from the prior Administration. Despite our efforts, the program remains under threat and hundreds of thousands of Dreamers continue to live their lives from one court decision to the next, with great uncertainty.

We have also sought to ensure just outcomes through the Interagency Task Force on the Reunification of Families, which I proudly chair and which has reunited more than 745 children separated from their families at the Southwest border under the Trump Administration's Zero Tolerance policy. We also initiated the Immigrant Military Members and Veterans Initiative, improving support for noncitizen military members, including returning to the United States previously removed veterans who honorably served our nation so they can return to their families and lives here and access certain Veterans Affairs benefits to which they are entitled as a result of their service.

Human Trafficking and Child Sexual Exploitation and Abuse

Combating the abhorrent crimes of human trafficking and child sexual exploitation and abuse (CSEA) are top priorities for the Department. These crimes target the most vulnerable among us, offend our most basic values, and threaten our national security and public safety.

According to the United Nations' International Labor Organization, human traffickers victimize an estimated 28 million people worldwide, with 80 percent subjected to forced labor and 20 percent in sex trafficking. The United States is no exception. Many trafficking cases in the United States involve workers in agriculture, landscaping, construction, factories, in homes as nannies or other domestic workers, restaurants, elder care, and more — essentially in jobs with low pay and few legal protections in the underground economy and the service industry.

Almost every office and agency in the Department plays a role in our counter-human trafficking mission. The DHS Center for Countering Human Trafficking (CCHT), which was codified by the Countering Human Trafficking Act of 2021, coordinates the counter-trafficking efforts of 16 DHS agencies and offices, reflecting our commitment to combat this heinous crime from every angle: investigations and enforcement, intelligence, public education and prevention, policy innovation, victim protection and support, and more.

HSI and CBP are the primary DHS law enforcement entities that ensure perpetrators are held accountable. HSI leads criminal investigations into sex trafficking and forced labor, making 3,655 human trafficking-related arrests during FY 2022, an increase of more than 50 percent over the previous fiscal year. Our human trafficking investigations led to 638 convictions, an increase of more than 80 percent over the previous year.

CBP is charged with rooting out forced labor-made goods from U.S. supply chains by preventing the importation of such illicit merchandise into the United States. CBP carries out this mission by investigating allegations of forced labor in supply chains and, where allegations are corroborated, issuing Withhold Release Orders (WROs) and forced labor findings pursuant to section 307 of the Tariff Act of 1930. CBP issued six WROs, two findings, and one WRO modification in FY 2022. In June 2022, CBP also began enforcing the landmark Uyghur Forced Labor Prevention Act (UFLPA), enacted by Congress in December 2021.[1] Together with the DHS Office of Strategy, Policy, and Plans, which chairs the interagency Forced Labor Enforcement Task Force (FLETF), and other interagency members including the Departments of Labor, State, Justice, Treasury, Commerce, and the United States Trade Representative, CBP led the UFLPA's successful implementation and is committed to fully enforcing this law to prevent the importation of goods produced, wholly or in part, with forced labor in the Xinjiang Uyghur Autonomous Region in the PRC.

DHS employs a victim-centered approach across all missions, including the Department's programs and operations to counter human trafficking and CSEA. This approach seeks to

[1] UFLPA established a rebuttable presumption that the importation of any goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region of the People's Republic of China, or produced by certain entities, is prohibited by Section 307 of the Tariff Act of 1930 and that such goods, wares, articles, and merchandise are not entitled to entry to the United States.

minimize additional trauma, mitigate undue penalization, and provide needed stability and support to victims. This approach is not only critical to helping survivors begin to repair their lives. It also enables law enforcement to better detect, investigate, and prosecute perpetrators. For this reason, in FY 2022, DHS expanded the HSI Victim Assistance Program (VAP), increasing the number of victim assistance personnel, including victim assistance specialists (VASs) and forensic interview specialists (FISs), by 40 percent. In FY 2023, HSI will grow the program by another 60 percent. These investments have led to increases in the identification of victims of human trafficking, referrals for social services in local communities, and forensic interviews using trauma-informed, victim-centered methods to elicit accurate and complete information while minimizing distress. The VAP assisted 3,326 victims worldwide in FY 2022, including 1,138 victims of child exploitation and 765 human trafficking victims.

Public education is also a critical component of our counter-trafficking work. To name just a few of our achievements in this mission in FY 2022, the DHS Blue Campaign, the Department's national human trafficking public awareness initiative, trained more than 215,000 federal government, NGO, law enforcement, industry, and public participants on how to recognize the indicators of human trafficking. Our Federal Law Enforcement Training Centers trained more than 3,300 law enforcement officers, representing over 90 federal law enforcement agencies, on how to recognize and respond to potential trafficking cases.

The Department is also redoubling efforts to combat online CSEA, which has increased dramatically in scope and severity in recent years. New forms of CSEA have also emerged and grown exponentially, including the live streaming of child sexual abuse and sophisticated sextortion and grooming schemes. The National Center for Missing and Exploited Children (NCMEC), the nation's clearinghouse for child sexual abuse material (CSAM), received over 32 million cyber tips in 2022, corresponding to more than 88 million images and videos of child sexual abuse—a roughly 75 percent increase in just five years. What is worse, these numbers represent only CSAM on the open web; they do not include the massive amount of child sexual abuse content produced and shared on the dark web.

In response, we are strengthening our HSI Cyber Crimes Center (C3), including the Child Exploitation Investigations Unit (CEIU), a global leader in counter-CSEA law enforcement operations. The CEIU Victim Identification Program (VIP) utilizes state-of-the-art technologies combined with traditional investigative techniques to identify and rescue child victims throughout the world. Since its establishment in 2011, the VIP has identified and/or rescued more than 11,000 child victims of sexual exploitation. The CEIU also detects and apprehends producers and distributors of CSAM and perpetrators of transnational child sexual abuse, employing the latest technology to collect evidence and track the activities of individuals and organized groups who sexually exploit children via websites, chat rooms, peer-to-peer trading, and other internet-based platforms. CEIU's Operation Predator targets child sexual predators on both the open web and dark web, and in FY 2022 led to the arrest of 4,459 perpetrators for crimes involving child sexual abuse. During this same period, the CEIU Angel Watch Center issued 4,527 notifications regarding international travel by convicted child sex offenders, resulting in more than 1,073 denials of entry by foreign nations.

The DHS Science & Technology Directorate also develops and deploys leading-edge forensic tools and technologies that enable CEIU agents and other national and international law enforcement partners to identify and locate child victims of online sexual exploitation. These tools include livestream capabilities, advanced facial recognition technologies, and speech and language technologies.

We are also expanding our policy, public education, and strategic engagement infrastructure to elevate and enhance the Department's counter-CSEA capabilities. DHS remains steadfast in advancing and leveraging our full breadth of authorities and resources to end these heinous crimes, and we urge you to support our efforts to expand this critical work to fight the rapidly escalating crisis of online child sexual exploitation and abuse.

Conclusion

I am grateful to this Committee for your continued support of DHS, both from a resource perspective and for the provision of key authorities that allow the Department to adapt to an ever-changing threat landscape. I look forward to our continued work together and to answering your questions.

Chair JORDAN. Thank you, Mr. Secretary.

The Chair now yields to the gentleman from California, Mr. McClintock.

Mr. MCCLINTOCK. Mr. Secretary, what is the maximum number of illegal migrants you believe we should admit into this country?

Secretary MAYORKAS. Congressman, it is our responsibility to enforce the laws that Congress has passed, and that is, indeed, what we are doing. Individuals who do not have—

Mr. MCCLINTOCK. So, is there a limit? Yes or no?

Secretary MAYORKAS. Congressman, individuals who make a claim for relief under our laws and who do not succeed—

Mr. MCCLINTOCK. Well, you've already released more than 2.1 million illegal immigrants into this country since you took office. That's a population the size of the State of Nebraska. While the Border Patrol has been consumed by taking names and changing diapers at the border, 1.5 million known gotaways have illegally entered the country as well. That's an additional illegal population the size of the State of Hawaii.

So, once again, I would ask you, what is the limit? Or is there one?

Secretary MAYORKAS. Congressman, last year, we expelled or removed approximately 1.4 million people who did not have a legal basis to remain in the United States, the largest number in recent history.

Mr. MCCLINTOCK. Well, actually, you testified that 72,000 illegal migrants were removed in 2022. In 2019, there were 267,000 removals. So, removals are down under your administration by more than 75 percent.

Meanwhile, in 2019, there were 458,000 border encounters. Yet, under your policies, we're now up to 2.3 million encounters. That's five times as many.

So, while encounters were up five times, removals are down by 75 percent. How do you account for this?

Secretary MAYORKAS. Congressman, a few points.

(1) Our approach of expanding lawful pathways for people to reach the border and delivering consequences for those who arrive at our border irregularly is working. The number has dropped.

You'll also recall, Congressman, that last year Title 42—

Mr. MCCLINTOCK. Well, whoa, whoa.

Secretary MAYORKAS. —the public health authority was in place. Under that authority, we could not remove individuals or expel them.

Mr. MCCLINTOCK. Well, again, I'm short on time.

You announced the CBP One app this year. It allows migrants to bypass the Southern border and enter directly into the United States at ports of entry. This program began with up to a thousand illegal migrants a day. It's been amped up to as many as 1,500 a day. That's more than 540,000. That's the population equivalent of adding a new State of Wyoming every single year.

That's why the numbers are dropping. Instead of them coming in through the Southern border, you're bringing them directly into ports of entry. So, please don't, don't dissemble.

Now, I've got a very important concern for the people of my region. In January, a family of six people were executed in the rural

town of Goshen. That's not far from my district. According to the Tulare County Sheriff, it was a cartel hit. The victims ranged from age 72 down to a 10-month-old who was shot in his mother's arms.

Two weeks ago, the FBI Director warned us in this Committee that the open border is a "huge driver" of cartel presence in the United States. Those were his words—"huge driver."

The Jalisco, a new generation of cartels, now established hubs in Los Angeles, Denver, Phoenix, and Chicago. Millions have fled from Mexico to escape these conditions, and the cartels have followed them into the United States.

So, how long before we can expect the same kind of gun battles here as have become routine in Mexico?

Secretary MAYORKAS. Congressman, we are taking it to the transnational criminal organizations, the cartels, that peddle in death and destruction, to an unprecedented degree. We have—

Mr. MCCLINTOCK. They're following the mass migration into this country. That's what the FBI Director told us.

Secretary MAYORKAS. We have a number of lawful investigative actions and operations that are disrupting and dismantling those transnational criminal organizations.

Mr. MCCLINTOCK. Director Wray also testified that we have no idea how many terrorists are among the 1.5 million known gotaways that have entered under your policies, but that there's been a significant increase in terrorists apprehended at the border.

When your administration abandoned Afghanistan, it released 5,000 terrorists that were being held at Bagram. Ten days later, one of them killed 13 U.S. servicemembers at Kabul Airport. Wray said we don't know where the other 5,000 are. It's clear to me that we're in growing danger of a coordinated terrorist attack because of your policies.

Have you given any thought to how you're going to explain yourself when that happens?

Secretary MAYORKAS. Congressman, the safety and security of the American people is our highest priority. That is what is the genesis of the creation of the Department of Homeland Security.

Mr. MCCLINTOCK. Well, obviously, it is not your highest priority. The numbers speak for themselves.

Secretary MAYORKAS. It most certainly is, Congressman.

Mr. MCCLINTOCK. I yield back.

Chair JORDAN. The gentleman yields back.

The Chair recognizes the Ranking Member, Mr. Nadler.

Mr. NADLER. Mr. Secretary, I want to address some of the outlandish claims my colleagues have made and put them to rest at the outset of this hearing.

My Republican colleagues claim that the border is open. Is the border open, Mr. Secretary?

Secretary MAYORKAS. No, it is not.

Mr. NADLER. Thank you, Mr. Secretary.

The border is not open, and to say so is not only false, but it is really an insult to the brave men and women of the Border Patrol who work every day to keep us safe.

Next, Mr. Secretary, my colleagues on the other side of the aisle have been extremely focused on an exchange you had with Mr. Roy the last time you appeared before this Committee. They claim that

you liked to the Committee about whether we have operational control of the border. The Homeland Security Committee even wrote about it in Phase 1 of their investigation into potentially impeachment.

It is my understanding that DHS and its components use different definitions the term "operational control." For example, the U.S. Border Patrol previously defined "operational control" as "the ability to detect and interdict illegal activity."

CBP, in their 2020 U.S. Border Patrol Strategy, defined "operational control" as, quote,

> The ability to perceive and comprehend the operating environment; mobilize assets, infrastructure, and barriers to prevent criminal activity, and respond to and resolve any illicit cross-border incursions.

Furthermore, in May 2023, a transcribed interview, Chief Patrol Agent Aaron Heitke of the San Diego Sector affirmed that, quote,

> Border Patrol has operated under different definitions of operational control than what is listed in the Secure Fence Act.

So, can you describe what happened in that exchange last year?

Secretary MAYORKAS. Ranking Member Nadler, the Congressman did not allow me to complete my answer. The Secure Fence Act, specifically, the statute, defines "operational control" as "not having one individual cross the border illegally." Under that statutory definition, no administration has achieved operational control.

Last year, we had approximately 1.7 million different individuals cross the border, the Southwest border. So, under that definition, no administration, under the Secure Fence Act, no administration has achieved operational control. We have provided data with respect to the number of encounters experienced at the Southwest border every month to Congress.

Mr. NADLER. Last, my Republican colleagues claim you are abusing your authority. However, Congress gave the executive branch wide latitude over immigration laws, including writing a provision in the Immigration and Nationality Act that allows for individuals to be paroled into the United States for urgent humanitarian or public benefit purposes.

For more than 70 years, administrations of both parties have used parole for categories of people. Some of my colleagues have criticized these programs, as well as the ones recently implemented by the Biden Administration for Haitians, Venezuelans, Cubans, and Nicaraguans, alleging that parole is not being granted on a case-by-case basis. Is that particular criticism accurate, Mr. Secretary?

Secretary MAYORKAS. Congressman, I very well know in my 22 years of Federal service, including 12 years as a Federal prosecutor, that we are a Nation of laws, and I take our obligation to follow the law scrupulously. I adhere to it strictly.

Our parole authority is being used consistent with the law. It is a discretionary authority that the statute provides. We exercise it on a case-by-case basis, and our parole program has at least three significant benefits.

(1) It has driven down the number of encounters at the Southwest border.

(2) It allows us to screen and vet individuals before they arrive at the Southwest border.

(3) Very importantly, we are cutting out the smuggling organizations that wreak such tragedy and trauma on the lives of vulnerable individuals.

Mr. NADLER. It appears to me that the administration is merely saying certain categories of people are eligible to be considered for parole. Is that correct?

Secretary MAYORKAS. Yes. We evaluate parole on a case-by-case basis.

Mr. NADLER. Our adjudicators still conduct a case-by-case determination to see if to grant parole is appropriate. You just said that. This is very much in line with historical use of parole by administrations of both parties?

Secretary MAYORKAS. To my knowledge, yes, Congressman.

Mr. NADLER. Thank you. I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from California is recognized, Mr. Issa.

Mr. ISSA. Mr. Secretary, we've known each other for a long time, including your time as a U.S. Attorney. I'm going to ask you some tough questions and they go back all the way to that time and before.

Was the immigration system—well, you said it in your opening statement; "it was broken." Was the immigration system broken when you were a U.S. Attorney?

Secretary MAYORKAS. Congressman, it is broken. It has been broken for as long as I can remember.

Mr. ISSA. Does broken include the fact that there's virtually no penalty for being a coyote or for entering this country illegally; that, for all practical purposes, it's a slap on the hand and that U.S. Attorneys, historically, have a difficult time justifying their time, when, in fact, it's a revolving door for people who come into this country illegally and the coyotes who bring them? Isn't that one of the challenges you face?

Secretary MAYORKAS. Congressman, if you are referring to my time as a Federal prosecutor—

Mr. ISSA. No, I'm not referring to you personally. I'm referring to the broken, the broken immigration law. You said it was broken; I agree it was broken. I agree that it's broken today. I just want to make sure that, for the record, we get into what's broken.

I asked you a specific question. You might remember that dismissal of Carol Lam, when she said that it just wasn't worth prosecuting coyotes who weren't carrying weapons because they were going to be back out in weeks. So, isn't one of the problems that there is no real penalty for human trafficking, and there certainly is virtually no penalty for coming here illegally?

Secretary MAYORKAS. There are penalties for immigration violations. Title 8 of the United States Code, Section 1324, deals with smuggling of individuals—

Mr. ISSA. Right, and isn't it true, isn't it true that, within a matter—if you come here illegally, you're going to, essentially, be sent back out of the country in a very short period of time? If you traffic without weapons or drugs, you're going to be removed again.

Let me go on to something else. A broken immigration system. Isn't one of the biggest parts of the broken immigration system the part that we've all been talking about, at least on this side of the dais; the fact that, if you present yourself at the border and make

a claim—one, often, that has been taught to you by your smugglers, taught to you by NGO's—if you make a claim, more than nine out of ten of those claims are false? You will get into the country, and you will be here for an extended period time.

Isn't, in fact, a system that allows the vast majority of people making a claim to be lying, to be knowingly giving you a false story, one that, after adjudication, is proven to be false, isn't letting them in the country inherently part of our broken system?

Secretary MAYORKAS. Congressman, let me—

Mr. ISSA. That was a yes or no.

Secretary MAYORKAS. No, let me, let me—

Mr. ISSA. Give me a yes or no, and then, give me the rest.

Secretary MAYORKAS. Congressman, I respectfully disagree with your data, the statistic you cited. One of the problems in our broken immigration system is the length of time it takes between the time of the encounter—

Mr. ISSA. I understand the length of time. Isn't it true that most countries do not simply admit and release people, waiting, and tell them to come back when they adjudicate them? Aren't we an exception, for the most part, around the world?

Secretary MAYORKAS. Congressman, we are not alone in some of the infirmities of the immigration system that we have.

Mr. ISSA. So, today, as the Chief Security Officer for the United States, would you say that it is reasonable to release people for months or years rather than adjudicating them immediately at the border? Isn't it true that, if we were doing our job in Congress, and you were able to do your job, people would be adjudicated before they came into the United States? Those found to be credible would be admitted; those not found to be credible would be discarded back to the countries they came from, as appropriate?

Secretary MAYORKAS. Congressman, in the absence of Congressional action, we have actually issued a regulation, the first of its kind, that has reduced the time between encounter at the border and the final adjudication of an asylum claim.

Mr. ISSA. OK. For the record, there has been, in fiscal year, let's say, 2020, you had three at the Southwest border encounters with people on the Terrorist Watchlist. So far this year, it's 140. Can you give us the whereabouts of those 140? Are they all incarcerated? Have they all been removed? Or is it a mixture of incarceration, removal, and release?

Secretary MAYORKAS. Congressman, let me say this: The safety and security of the American people is our highest priority—

Mr. ISSA. So, prove it to me. What is the status of those 140?

Secretary MAYORKAS. Individuals who present a national security or public safety threat are detained and are priority removed—

Mr. ISSA. By definition, Mr. Secretary, if you're on the Terrorist Watchlist, you represent a threat. So, 140 people on the Terrorist Watchlist so far this year. For the record, would you please give us the status of each of those individuals, so we know what you did with people who were on a Terrorist Watchlist, who were apprehended—many got away—but were apprehended, where they are today? So that Congress can know.

Secretary MAYORKAS. Congressman, I would be pleased to provide you with that information with respect to the individuals encountered at the service women.

Mr. ISSA. Thank you.

I yield back.

Chair JORDAN. The gentleman yields back, but could the Secretary answer that question? What is the status of those 140?

Secretary MAYORKAS. Mr. Chair, I communicated—

Ms. JAYAPAL. Mr. Chair, what is the—

Mr. ISSA. Point of order.

Ms. JAYAPAL. By what authority—or point of order.

Chair JORDAN. The gentlelady will State her point of order.

Ms. JAYAPAL. Mr. Chair, under what authority are you speaking right now? Whose time? Whose time is it? Are you being recognized for five minutes?

Chair JORDAN. I was just asking what I thought would be a question—

Ms. JAYAPAL. Mr. Chair, it's not, it's—

Chairman JORDAN. —every single Member of Congress would want to know.

I'll do it on my time or some other time.

Ms. JAYAPAL. Thank you. I appreciate that. Thank you.

Mr. ISSA. Point, point of, point of—Mr.—

Chair JORDAN. He had asked the question and there wasn't an answer to the status of the 140 people apprehended—

Ms. JAYAPAL. Mr. Chair, he did—

Chair JORDAN. —on the Terrorist Watchlist—

Ms. JAYAPAL. The witness provided an answer. If you want to use your five minutes—

Chair JORDAN. I don't think he did, but I'll do it on my time.

Ms. JAYAPAL. I think that's great. Thank you.

Chair JORDAN. That's fine.

We recognize the gentlelady from California.

Ms. JAYAPAL. Thank you, Mr. Chair.

Ms. LOFGREN. Thank you, Secretary Mayorkas, for being here today and for your service to our country, first, as a U.S. Attorney and now as Secretary of Homeland Security.

We all know that Congress has not acted in many, many years to update our immigration laws. In fact, it's been, really, if you want to take a look at it, we're still operating under the outlines of the 1965 Act, which no wonder it doesn't work that well for the United States of America in 2023.

So, I'd like to ask, first, do you agree that it would be better to have a legal framework wherein people could actually enter the United States with visas, and the like, instead of a mishmash of asylum claims, and the like, at the border?

Secretary MAYORKAS. Congresswoman, I do. I see other countries with systems that are more advanced than ours that actually can match the need for labor with the supply for labor. In fact, Canada is one of those countries immediately to the North.

Ms. LOFGREN. I would just note that the Canadian government has now opened-up an official government effort to poach the most educated and the most talented postdocs and doctors in the tech-

nology field in Silicon Valley. Ten thousand of the best and the brightest applied on the first day. So, that is a loss to our country.

I'd just like to note that we have a bill, bipartisan bill, called the Farm Workforce Modernization Act, that would streamline the H–2A program and regularize the status as an agricultural worker visa for farm workers, half of whom are here without their papers.

Do you think that would help regularize our situation at the border?

Secretary MAYORKAS. I do. I do, Congresswoman. There are approximately, I believe, 10 million open jobs in need of workers. I hear from executives across this country about the need for labor. It is proven that lawful labor pathways cause a reduction in the number of irregular arrivals at our border.

Ms. LOFGREN. I'd like to just touch again—the Ranking Member has mentioned the use of parole. It's one of the few tools that you have under the existing Immigration and Nationality Act. I note that it's been used by Presidents of both parties over many, many years.

President Eisenhower oversaw parole of over 30,000 Hungarian refugees escaping communism. President Ford and President Carter oversaw the parole of hundreds of thousands of Vietnamese fleeing the communists. We have used parole for people fleeing communism in Cuba, in fleeing communism in Nicaragua, and now, fleeing communism in Venezuela.

Would you say that the use of parole today by category, but then, case by case, is any different than what prior administrations have done?

Secretary MAYORKAS. Congresswoman, we have used our parole authority consistent with the law and consistent with past practices of different administrations.

Ms. LOFGREN. I'd just like to note that the idea that we should cutoff this way to rescue to people who are trying to escape from communism today is completely wrong and contrary to our history as a country. We have always welcomed those who are fleeing from communist oppression, going back many decades. I will strongly object if we turn our back on those refugees from communism today. That would be very wrong.

I just want to talk briefly about the refugee process. As we know, in the last administration, basically, the refugee program was destroyed. How are we doing in rebuilding the refugee processing, as well as the processing centers in the United States and the nonprofits who are helping refugees come into the United States? Can you tell us how we're rebuilding the refugee process?

Secretary MAYORKAS. Congresswoman, we, under the President's leadership, have recommitted ourselves to the refugee process. It is a process that benefited my family in fleeing the communist takeover of Cuba, and it's what drove me, quite frankly, to public service, the opportunities that this country provided for my parents, my sister, and me.

Ms. LOFGREN. I yield back, Mr. Chair. My time is expired.

Chair JORDAN. The gentlelady yields back.

The gentleman from Colorado is recognized.

Mr. BUCK. Thank you, Mr. Chair.

Secretary Mayorkas, last time you were here, I told you that my constituents consider you a traitor. Today, I'd like to explain why they believe this and ask you a few questions.

I'd like to introduce, first, my constituent Stephanie Granados. She lives in Loveland, Colorado with her mother Monica and younger brother Axel. She is 24 years old, bilingual in English and Spanish, a Christian woman who works as a restaurant server, and is a loyal friend to those around her.

Unfortunately, Mr. Secretary, that's only what I wish I could tell you about Stephanie. Stephanie is dead. A year ago, this young woman was poisoned. She never made it to age 24. Her mother's only glimpse of her now is in old photographs, and her brother misses his older sister.

Stories like that are normal conversations in Colorado. Stories like this begin with fentanyl. Where does fentanyl begin? Many times, it starts among chemical manufacturing firms in China—companies like the recently indicted Hebei Sinaloa Trading Company from the Hebei Province in China.

It manufactures and advertises the drug's ingredients to buyers in Mexico, using common mail and import fraud tools, like forged customs documents and falsely labeled packages. Firms ship the product, on purchase, to drug dens in cities like Guadalajara.

After preparation, these facilities finish the product and smuggle it by truck, by car, and by humans across our Southern border—chopped into counterfeit pills that are pressed to look exactly like legitimate pharmaceuticals, are mixed with cocaine or other substances. Americans buy those drugs, and it's like a walking mine field. These illegal drugs are, then, used to kill American citizens.

According to the CDC, over 150 people are dying every day because of synthetic opioids like fentanyl. The CDC's National Center for Health Statistics reported 79,770 opioid-involved overdose fatalities in 2022, and over 80 percent of opioid deaths are attributed to fentanyl.

In my home State of Colorado, fentanyl deaths remain near record levels. According to *The Denver Post*, more Coloradans have died of ingesting the drug in 2022 than overdosed on all drugs in 2016.

According to the Department of Justice's latest report on the subject, 64 percent of Federal arrests involve noncitizens committing crimes, despite them comprising only seven percent of the population.

Secretary Mayorkas, I'm going to ask a couple of questions and answer them for you before I give you a chance to respond.

Is China responsible—oh, I'm sorry. Recently, you spoke at the Aspen Security Forum and stated that China bears responsibility for this.

Is China responsible for keeping the Southern border open to smugglers? No.

Is China responsible for the Mexican cartels' emboldened attitude in the American drug trade? No.

Is China responsible for the impunity of more and more illegal aliens committing crimes in America? No.

Is China responsible for the record high 98 aliens on the Terrorist Watchlist crossing the Southwest border in 2022? No.

Is China responsible for the 856 illegal aliens who died while crossing the Southwest border last year? No. That's more than 300 deaths, by the way, in 2021, and more than three times as many in 2020.

Is China responsible for the 9,200 aliens with criminal convictions crossing the border illegally just this year to date? No.

Is China responsible for the estimated 1.5 million illegal alien gotaways that crossed the border undetected under your watch? No.

Is China responsible for the 1.2 million removable aliens who have been told by a judge that they must leave the U.S., but insist on staying?

Secretary Mayorkas, it is your responsibility to secure our border against fentanyl trafficking. The fentanyl killing thousands of Americans every year is a direct result of your dereliction. When people die of fentanyl poisoning, it is your fault.

What would you say to Stephanie Granados' family if they were here right now?

Secretary MAYORKAS. Congressman, we grieve the loss of any life as a result of the toxicity, the devastation of fentanyl. The challenge of fentanyl is not new. It has been escalating for more than five years. I believe there were more than 50,000 overdose deaths from fentanyl in 2020.

This is a scourge that all of us have to work together to combat. We in the Department of Homeland Security, with our Federal partners, are taking it to the traffickers to an unprecedented degree through innovative operations targeting criminals.

I stand by my statement at Aspen that China does bear responsibility, because many of the precursor chemicals and the pill press equipment that are used to manufacture fentanyl does originate from there.

This is a complex problem. We are taking it to the criminals, and I look forward to working with you, Congressman, to address this challenge, which has been only building over many years in this country.

Mr. BUCK. I yield back, Mr. Chair.

Chair JORDAN. The gentleman yields back.

The gentlelady from Texas is recognized.

Ms. JACKSON LEE. Good morning, Mr. Secretary.

You have repeatedly been before us and indicated your humble beginnings and the passion and commitment in which you serve America and take very seriously your job here as Secretary of Homeland Security.

On that basis, I have a number of quick questions, and I'm going to ask for a sense of urgency in wrapping this, so that I can assure that all have been answered.

First, I want to make clear that this is an oversight hearing, not an impeachment hearing. This is a hearing to address the questions of the work that has been done.

So, to that end, just as a factual basis, there's been a lot of hollering about the entry on the border, operational control. I'm asking for—a brief question: We know that the Federal Government ended Title 42. Have crossings gone down?

Secretary MAYORKAS. Yes, they have. The approach that we have taken, Congresswoman, of expanding lawful pathways, safe, orderly, and lawful pathways for individuals, and at the same time delivering consequences to those who do not take advantage of those lawful pathways has been working.

Ms. JACKSON LEE. Part of that—

Secretary MAYORKAS. The challenge, of course, remains.

Ms. JACKSON LEE. My numbers suggest 70 percent that they've gone down. It also suggests that the Biden Administration has put in stricter requirements for asylum, is that correct?

Secretary MAYORKAS. We did. We are delivering consequences for those who do not take advantage of the lawful pathways.

Ms. JACKSON LEE. You still believe in the humane infrastructure of America that started with the Statue of Liberty, and realizing people flee persecution, political dynasties, if you will, that cause violence and the forcing of leaving. Is that, is that part of our thinking here in the country?

Secretary MAYORKAS. Congresswoman, our laws, our refugee laws, our asylum laws, are one of our proudest traditions as a country of refuge.

Ms. JACKSON LEE. So, would you say, having been asked this over and over again, that the United States, the President of the United States, the Secretary of Homeland Security, and all the hardworking men and women at the border have operational control or have a form of presence that they are aware of what's going on at the border, and that they're working to secure the border every single day?

Secretary MAYORKAS. As we define that term, Congresswoman, we do.

Ms. JACKSON LEE. CISA has been called all things, maybe even not American. Is it an important element of securing elections, as it did in the 2020 election and 2022?

Secretary MAYORKAS. The security of elections, our election system is a component of our country's critical infrastructure. To protect the safety, security, and integrity of the election process is a significant priority of this government. The Cybersecurity and Infrastructure Security Agency works very closely with election officials in State and local jurisdictions to ensure the safety and security of the election system.

Ms. JACKSON LEE. I have two more questions, and I must quickly move forward.

The ADL has indicated that there have been 3,697 antisemitic incidents, a 36 percent increase, from 2021. What is your Department doing to protect the Jewish community, and within the New U.S. National Strategy to Counter Antisemitism, what kind of commitments have you made?

I have another question, but I think this is extremely important.

Secretary MAYORKAS. Congresswoman, there has been a rise in antisemitism in this country, the rise in other ideologies of hate. Our responsibility, as the Department of Homeland Security, is when there is a connectivity between an ideology, whatever that ideology might be, and violence. It is the prevention of violence that really prompts our engagement with local communities around the country.

Ms. JACKSON LEE. Thank you. I want to keep in touch on those issues. We all face communities who are, certainly, targets of that kind of violence.

I want to suggest that immigration is a national and Federal authorized responsibility. We see States like Texas and Florida that have spent billions in Texas; that have bused individuals to the Vice President's home and to other places.

Can you tell me how detrimental and questioning States getting involved in immigration issues, and how confident you feel that you are protecting the American people?

Incidents like that, including incidents at the border—which I'll put in the record, "Texas Trooper Alleges Inhumane Treatment of Migrants by State Officials along the Southern Border."

How are you responding to that responsibility that you have?

Secretary MAYORKAS. Congresswoman, the safety and security of the American people is our highest priority. Law enforcement is most effective when it is executed collaboratively in cooperation.

Chair JORDAN. The time of the gentle—

Ms. JACKSON LEE. Wait. I'd like to ask unanimous consent, Mr. Chair, to place into the record the *CBS News*, July 18, "Texas Trooper Alleges Inhumane Treatment of Migrants by State Officials along the Southern Border."

Chair JORDAN. Without objection.

Ms. JACKSON LEE. *The Washington Post*, "Southern Border Eerily Quiet after Policy Shift on Asylum Seekers." I ask unanimous consent to place that into the record.

Chair JORDAN. Without objection.

Chair JORDAN. The Chair now recognizes the gentleman from Florida for five minutes.

Mr. GAETZ. Two million encounters and releases under your watch. So, not including the Title 42 expulsions, not including violent criminals, of those two-million-plus that you've encountered and released, how many have you told to go home?

Secretary MAYORKAS. Congressman, individuals who are released are placed in immigration enforcement proceedings under the law, where they can make their claim for relief. If their claim for relief is not satisfied, they are subject to removal from the United States—

Mr. GAETZ. Right. "Subject to removal" sounds very different than actually removed. So, I'm not interested in the process. I'm not interested in what people are subject to. Two million people encountered and released—not the expulsions under Title 42, not the criminals—how many of those people have you deported?

Secretary MAYORKAS. So, Congressman, a few points. No. 1—

Mr. GAETZ. Just how many of the people? I just want to know how many. Just a number.

Secretary MAYORKAS. Congressman, we are dealing with a completely broken immigration system.

Mr. GAETZ. I get it. No, no, Mr. Secretary, I'm not going to let you burn my five minutes.

Do you know the answer? Do you know the number of people, out of that two million, that you've removed that aren't criminals?

Secretary MAYORKAS. I do know that we have removed more aggravated felons than—

Mr. GAETZ. Right. I'm not asking about them. I've caveated that away.

Because here's what I'm sort of getting and what your non-responsiveness is demonstrating. The Mayorkas doctrine is this: If you show up at the border and get released into the country, if you don't commit a specific aggravated felony—which, by the way, doesn't include a lot of assault and battery; doesn't include a lot of bad domestic violence—but if you're not one of the people who commit those crimes, you get to stay forever. Is that a fair characterization of your doctrine?

Secretary MAYORKAS. No, that is false.

Mr. GAETZ. Then, tell me how many you're sending home.

Secretary MAYORKAS. No, that is false.

Mr. GAETZ. OK, well, but you don't know the number of how many you've sent home.

Here's another number: 1.2 million people today have been through your entire process, right? They've been through what you call a removal proceeding. It's just an amnesty dance. Because after the 1.2 million people get an order from the judge saying that they don't have a basis to be here, you still don't remove them. Like what's your plan to remove those people?

Secretary MAYORKAS. Congressman, that is false.

Mr. GAETZ. OK. Well, how many of them then? Just give me the number.

Secretary MAYORKAS. Congressman, in this country—in this country—there are between 11–12 million undocumented—

Mr. GAETZ. Right, but I'm asking about a subset that you won't send home. The reason you're smirking about it, and the reason you won't answer my question, is because everybody gets the joke. The sad thing is it's not just us here. It's the cartels who get the joke, too.

So now, what you've done to execute this Mayorkas doctrine—where so long as you don't commit a crime, you get to stay here and burden our hospitals, burden our schools, burden our social services, burden our jails—you've sent the message to the cartels, and then, you've taken this app and you've digitized illegal immigration and you've scaled it to the moon.

Like this app that you've got everybody downloading is like the Disney FastPass into the country, never to be subject to actual removal; just removal proceedings, as you call them. That app doesn't do any search of their criminal history in their home country, does it?

Secretary MAYORKAS. Congressman, I disagree with everything you have said.

Mr. GAETZ. Well, I'm sure, but just answer the question: Does the app that you are out there promoting do any search of people's criminal history in their home country?

Secretary MAYORKAS. Congressman, Customs and Border Protection screens and vets individuals whom they encounter early—

Mr. GAETZ. Your app, it either has the functionality to test their criminal history in their home country or it doesn't. By the way, if it did, you would have already told me. It doesn't.

Then, the other epic failure of this that's empowered the cartels is that, in these processing centers you've set up in other coun-

tries—so, just wave them all in at a rapid pace—you've had to shut them down in Nuevo Laredo because the cartels were standing outside extorting people. Isn't that right?

Secretary MAYORKAS. Congressman, that is false.

Mr. GAETZ. Oh, really? So, why did you shut down that facility in Nuevo Laredo?

Secretary MAYORKAS. Understand that the point of safe, orderly, and lawful pathways is to reduce the number of encounters at our Southwest border—

Mr. GAETZ. Wait a second. You've just shifted those encounters. Because, right now, for the first time in modern history, more people are showing up at the ports of entry than running through some bush in Yuma, Arizona. The reason they're showing up at the ports of entry is because you've got the turnstile open—where, so long as they've gone and downloaded this app, you just let them in.

I've got one final question for you, and it's an important one. Is Mexico an ally in this fight against illegal immigration?

Secretary MAYORKAS. Yes, it is.

Mr. GAETZ. So, it's hilarious and somewhat troubling that you say that, because, like, I'm looking at the El Chapo trial, where President Nieto took a $100 million bride from the Sinaloa cartel. Do you think that the subsequent Presidents following Nieto weren't offered a bribe by the cartel, or didn't take the bribe?

Secretary MAYORKAS. Congressman, I disagree with everything you have said.

Mr. GAETZ. Right, but—

Secretary MAYORKAS. I have worked—

Mr. GAETZ. You can disagree all you want, but what you won't provide is any number. When you sit there and just kind of ostensibly disagree without any facts, it shows people what the real gig is.

The Mexican government is captive to the cartels. They are doing the bidding of the cartels, and based on your response today, so are you.

Mr. COHEN. Thank you, Mr. Chair.

Welcome, Mr. Ambassador. Appreciate your service and appreciate your testifying today.

Last week Director Wray sat in the hot seat. By the way, is it still warm or did you bring some potholders?

Secretary MAYORKAS. I am prepared to answer the questions of this Committee—

Mr. COHEN. Thank you, sir.

Secretary MAYORKAS. —Congressman.

Mr. COHEN. Director Wray testified that a lot of the animus that has been conjured up against government, in this Congress particularly, but around the country, have given White supremacists of the belief that their actions may be justified, and it has hurt morale at his agency, and it has jeopardized the lives of some of his agents. A situation in Cincinnati where a man went out and—he didn't kill anybody, but he tried to; was going to go to the Cincinnati base. There have been others. Has your division of government, Homeland Security, been affected, the employees' morale been affected by these White supremacist threats and statements

and have you been the—any of your agents and sites been the victim of violence?

Secretary MAYORKAS. Congressman, it is the antigovernment sentiments and their connectivity to violence that is the subject of my discussions with many of our front line personnels—personnel and the threats that they have encountered as a result.

Mr. COHEN. Has there been any violence directed at any of your sites?

Secretary MAYORKAS. There has. We have an agency within the Department of Homeland Security, the Federal Protective Service; remarkable men and women in uniform who protect Federal facilities and the personnel who work in them.

Mr. COHEN. There was a court ruling yesterday, and I didn't get into depth, but I believe it suspended a program that the President; and that includes you, tried to have for border entry and who could come to this country and seek asylum and limit it to some extent. It was stayed I believe by a court. Is that correct?

Secretary MAYORKAS. Yes, Congressman. It's the Circumvention of Lawful Pathways Regulation that we promulgated as part of our process to expand lawful pathways for individuals and at the same time deliver consequences for those who do not use those pathways.

Mr. COHEN. Were there similarities to the program that President Biden and you had stayed that President Trump had also tried to implement, or did implement?

Secretary MAYORKAS. It is a different program than the one that President Trump implemented, Congressman.

Mr. COHEN. OK. Did it have any parts of it?

Secretary MAYORKAS. No, the—and I will not speak much about this, Congressman, because the matter is the subject of litigation, but President Trump issued a transit ban on individuals, and our regulation is not a ban. It shifts the evidentiary burden. It raises it and creates a rebuttable presumption, which is quite distinct from a ban.

Mr. COHEN. Could you say that was a middle ground between what President Trump had and what the Court maybe wanted because the Court stayed it and didn't allow it to occur?

Secretary MAYORKAS. Congressman, I'm able to comment any further given the fact that it's a matter of pending litigation.

Mr. COHEN. Thank you, sir. I have had a problem which is more local in nature, I guess, constituents who have complained that the opportunity to get certified by the Global Entry Program in Memphis, Tennessee has been thwarted, that they have been told they need to go to Jackson, Tennessee. Memphis is a city of over a million people. Jackson is a city of about 100,000. Why our folks would have to go to Jackson to get their global entry form is hard for me to comprehend. They said they had to travel there.

We tried to get in touch with the people at Global Entry. I think we got a phone call Friday. We found it very difficult to get in touch. The phone number that we were given by some people with TSA as a kind of speedy number, the number we need to get action. My staff said that they—the phone was hardly ever answered. They mostly stayed on hold.

Could you ask the folks, because they come under you, at Global Entry to look into why citizens in Memphis have to go to Jackson?

They were told it was because some of their people have to work to help FedEx. Everybody should help FedEx. Besides that, they need to help the citizens of Memphis get their global entries as well. So, can you look into that for me?

Secretary MAYORKAS. I will, Congressman. The Global Entry Program is one of two trusted traveler programs. Global Entry is under U.S. Customs and Border Protection and PreCheck is under the Transportation Security Administration. Those are two very successful trusted traveler programs that enhance the security of travel in the United States, as well as facilitate that travel. I'd be pleased to look into that issue.

Mr. COHEN. Thank you, sir. Are you from Miami?

Secretary MAYORKAS. No, I was born in Cuba and fled the communist takeover of Cuba to the United States.

Mr. COHEN. You didn't come to Miami at all?

Secretary MAYORKAS. I did. We lived in Miami for a couple years before my father found work elsewhere.

Mr. COHEN. Thank you. Well, I am in the same status except I didn't go to Cuba first. I did go to Miami and then my father found better employment elsewhere. Thank you and appreciate your work. Yield back.

Mr. ISSA. Mr. Chair, I would ask unanimous consent that the regs of the Secretary's agency dated March 29, 2022, be placed in the record in which a quote contained says,

> Full 83 percent of the people who were subject to removal between 2014–2019 were referred to an immigration judge and in fact were not found to have a credible fear.

So, when the Secretary said that I was wrong about the majority, he was wrong. It is 83 percent according to his own documents in the period 2014–2019. Perhaps it is improved, but I doubt it. Yield back.

Chair JORDAN. Without objection.

Chair JORDAN. The Chair now recognizes the gentleman from Louisiana.

Mr. JOHNSON of Louisiana. Secretary Mayorkas, we have the frustrating responsibility on this Committee of providing oversight of your agency, but I have to be honest and tell you I am not sure exactly what you do at the Department of Homeland Security other than great harm.

On your watch the data is pretty clear. We have had record levels of illegal immigration, a rapid decline in deportations, skyrocketing fentanyl deaths across our country. The Secret Service, which is a DHS component, can't determine who left cocaine at the White House.

In the middle of all this you created the Cybersecurity and Infrastructure Security Agency, CISA, which is a division of your—of DHS. It is one of the Biden Administration agencies that colluded with and coerced the social media companies to censor Americans' protected free speech online. That is specifically detailed in a 155-page Court Opinion that came out of the Federal court in Louisiana in the landmark litigation of *Missouri* v. *Biden*.

Have you read that Court Opinion?

Secretary MAYORKAS. Congressman, I have not. The Cybersecurity and Infrastructure Security Agency does not censor speech.

Mr. JOHNSON of Louisiana. OK. Well, the court found otherwise. It is really curious to me—actually it is quite alarming that you haven't read the opinion because your agency is listed in this opinion. The Federal court looked at volumes of evidence over months of litigation and they determined, among other things, that if the allegations made the plaintiffs, the States in this case, are true—and hold on. The preliminary injunction was granted against your agency, sir, and other Biden Administration agencies, including the DOJ and FBI. The court said it involves the most massive attack against free speech in United States history. You are telling me this opinion issued July 4th has not reached your desk? No one has briefed you on it?

Secretary MAYORKAS. I have been briefed on the *Missouri* litigation.

Mr. JOHNSON of Louisiana. OK. You haven't taken the time to read it yet?

Secretary MAYORKAS. Congressman—

Mr. JOHNSON of Louisiana. No, hold on. Have you read it or not?

Secretary MAYORKAS. I have read parts of it, Congressman.

Mr. JOHNSON of Louisiana. Oh, parts of it? Did you read the parts where it said that this is Orwellian and dystopian and that your agency is involved in a massive coverup of specifically conservatives' free speech online?

Secretary MAYORKAS. Congressman, the Cybersecurity and Infrastructure Security Agency is not involved in such conduct.

Mr. JOHNSON of Louisiana. OK. Well, the court found otherwise. You stand here under oath and you give us these answers that we know are not true, because this is demonstrably untrue. I am suggesting to you that you are saying things to us under oath that are proven by the record to be untrue.

Let me ask you about this specifically: CISA was created to—we call it the Misinformation and Disinformation Subcommittee of CISA. Are you familiar with that?

Secretary MAYORKAS. Congressman—

Mr. JOHNSON of Louisiana. MDM. The MDM Subcommittee. You are familiar with that?

Secretary MAYORKAS. Congressman, I am very well aware of the threat of disinformation emanating from adverse Nation States.

Mr. JOHNSON of Louisiana. Are you familiar with the Subcommittee? Just answer the question.

Secretary MAYORKAS. I am.

Mr. JOHNSON of Louisiana. OK. Does it still exist?

Secretary MAYORKAS. Congressman, are you speaking of the—

Mr. JOHNSON of Louisiana. Does the MDM Subcommittee still exist?

Secretary MAYORKAS. I would have to get back to you on that.

Mr. JOHNSON of Louisiana. OK. All right. Kind of a big deal in your agency. I am kind of shocked that you don't know the answer to that.

Can you define what misinformation is?

Secretary MAYORKAS. Congressman, misinformation is false information that is disseminated to—

Mr. JOHNSON of Louisiana. Excellent. Who determines what is false?

Secretary MAYORKAS. Congressman, our focus—

Mr. JOHNSON of Louisiana. No, who determines what is false in your agency?

Secretary MAYORKAS. Congressman—

Mr. JOHNSON of Louisiana. If you are going to pull something off the internet and collude with a social media platform to make sure Americans don't see it, who determines what is false?

Secretary MAYORKAS. Congressman, we don't do that.

Mr. JOHNSON of Louisiana. That is not true. That is not true. That is not what the court has found. This is not a Republican talking point. This is what the documents show. We have had people testify under oath that say—and you just defined the term. You are telling me that you don't know who determines what is false?

Secretary MAYORKAS. Congressman, what we do at CISA, the Cybersecurity and Infrastructure Security Agency, is identify the tactics that adverse Nation States use to weaponize disinformation—

Mr. JOHNSON of Louisiana. OK. What is disinformation? What is disinformation?

Secretary MAYORKAS. Disinformation is inaccurate information—

Mr. JOHNSON of Louisiana. Who determines what is inaccurate? Who determines what is false? You understand the problem here? The reason the Framers of our Constitution did not a create an exception for, quote, "false information" from the First Amendment is because they didn't trust the government to determine what it is. You have whole committees of people in your agency trying to determine what they determine, they define as false or misinformation.

Secretary MAYORKAS. That is not true.

Mr. JOHNSON of Louisiana. Well then what is true?

Secretary MAYORKAS. What we do—

Mr. JOHNSON of Louisiana. Please enlighten us.

Secretary MAYORKAS. —is what we do is we disclose the tactics that adverse Nation States are utilizing to weaponize disinformation.

Mr. JOHNSON of Louisiana. No, sir. No, sir. The court found specifically—it is a finding of fact that is not disputed by the government defendants: The Biden Administration, your agency, the FBI, or DHS. Not in the litigation. They determined you made—you and all your cohorts made no distinction between domestic speech and foreign speech. So, don't stand there and tell me under oath that you only focused on adverse adversaries around the world.

Secretary MAYORKAS. Congressman—

Mr. JOHNSON of Louisiana. Foreign actors. That is not true.

Secretary MAYORKAS. Congressman, the *Missouri* case, the litigation to which you refer, is the subject of continuing litigation.

Mr. JOHNSON of Louisiana. The facts were not disputed. I so, so regret that I am out of time. I hope I get some more yielded. I yield back.

Chair JORDAN. The gentleman yields back.

The Chair recognizes the gentleman from Georgia.

Mr. JOHNSON of Georgia. Thank you, Mr. Chair.

I don't trust the government of Florida to tell teachers how to teach history, particularly Black history, wanting to put a revisionist idea that somehow slaves benefited from being slaves. I

don't think that that is the truth, but I will tell you my friend Donald Trump will have his folks thinking that that is the truth.

At any rate, MAGA Republican extremists want to sell us on an apocalyptic fantasy. They want the American people to believe that the border is out of control, that drugs are flowing in freely, that September 11th-style terrorists are infiltrating with impunity, and that Latino immigrants are coming to rape, rob, and murder our families. In reality the greatest threat facing our homeland is White nationalist ideology that lies beneath such rhetoric.

Experts agree that dangerous speech from elected officials creates a climate that foments violence and threatens public safety. Republicans in the 118th Congress have amplified the White nationalist invasion conspiracy theory over 80 times in their official capacity. Eleven Members of this very Committee pedaled this dangerous anti-Semitic, racist conspiracy theory.

Dr. Heidi Beirich, co-founder of the Global Project Against Hate and Extremism, has said, quote,

> When migrants are described as invaders, that leads to violence because how else does one stop an invasion.

Mr. Secretary, as the Ranking Member mentioned, next month is the anniversary of the El Paso shooting. The shooter was inspired by White nationalist theories like the great replacement theory and claimed that there was a Hispanic, quote, "invasion." He drove hundreds of miles to, as he admitted, target Hispanics and to murder 23 people. He is far from the only person inspired to kill as a result of these theories.

In October 2018, a domestic terrorist infiltrated the Tree of Life Synagogue in Pittsburgh, Pennsylvania and murdered 11 congregants during Shabbat services. That man targeted Jewish—he targeted a Jewish community because he believed in the great replacement theory. Unfortunately, this has become a repeated pattern which includes the attack in Poway and Buffalo. Regardless of political views we should all stand for the principle that hate is unacceptable.

Mr. Secretary, what kind of impact does this White nationalist rhetoric of invasion or replacement have on minority communities?

Secretary MAYORKAS. Congressman, when an act of hate occurs, it's not just the community that is impacted. The adverse impact is felt across this Nation. One of the most prominent terrorism-related threats that we face in the homeland is what we term domestic violent extremism. It is—

Mr. JOHNSON of Georgia. It is White nationalist extremism, is it not?

Secretary MAYORKAS. Congressman, there are diverse ideologies that underlie the acts of violence. White nationalism is one of them. We do not focus on the ideology itself. We focus on its connectivity to violence and our effort to prevent that violence. We see a diverse range of ideologies of hate. Antigovernment sentiment, personal grievances, false narratives fuel acts of violence in this country. It is the connectivity to violence.

Mr. JOHNSON of Georgia. Well, when elected officials repeat great replacement rhetoric, including the language of invasion, are they putting a target on the backs of immigrants and people of color?

Secretary MAYORKAS. It certainly fuels the threat landscape that we encounter in the—

Mr. JOHNSON of Georgia. What kind of dangers does this rhetoric impose on law enforcement?

Secretary MAYORKAS. We have seen the number of ambushes of law enforcement officers increase year over year recently. I could provide that data to you.

Mr. JOHNSON of Georgia. Thank you. My time is about to expire, and I will yield it back.

Chair JORDAN. The gentleman yields back.

The gentleman from Arizona is recognized.

Mr. BIGGS. Thank you, Mr. Chair.

Secretary, who must take responsibility for the creation of the Disinformation Governance Board, you as the Secretary of Homeland Security or President Biden?

Secretary MAYORKAS. Congressman, the Disinformation Governance Board, which has been mischaracterized—

Mr. BIGGS. So, did President Biden tell you to do it or did you guys decided to do it? Did you take responsibility for creating that?

Secretary MAYORKAS. Congressman, it is my responsibility, and I will share with that—

Mr. BIGGS. Very good. So, the last four days 5,300 people have been encountered in the Tucson sector. Last four days. Fifty-three hundred. In the last week over 9,000 in the Tucson sector. That is not my made-up numbers. That is from Sector Chief Modlin. Who must bear responsibility for that? You or President Biden?

Secretary MAYORKAS. Congressman, our approach—

Mr. BIGGS. Is it you or President Biden? Who made the policies that—let's get there. Did President Biden tell you to open-up the border or did you?

Secretary MAYORKAS. The border is not open, Congressman.

Mr. BIGGS. Oh, so that is why there is 5,300 in the last four days that illegally tried to enter the country?

Secretary MAYORKAS. Congressman—

Mr. BIGGS. That doesn't include the got-aways in that sector, which is the No. 1 sector three to one. You are saying it is somebody else's fault. It is not open.

Well, let's talk about this then: Recently retired CBP Chief Raul Ortiz has testified under oath that the U.S. does not have operational control of the border as required. Is it your responsibility or President Biden's responsibility to make sure there is operational control?

Secretary MAYORKAS. Congressman—

Mr. BIGGS. These are not hard questions. It is either your responsibility or President Biden's. Whose is it?

Secretary MAYORKAS. Congressman, the men and women of the Department of Homeland Security work tirelessly—

Mr. BIGGS. So, look, I am going to tell you I get down to the border. I love the CBP agents. You know what they keep saying? We just want to enforce the law. So, who is preventing from enforcing the law? Is it you or President Biden? It is that simple. Because your policies are allowing millions of people to get through, across this border. So, since January 20, 2021, millions of illegal aliens have cross the Southern border and have been released by DHS

into the interior of the U.S. Did you implement this catch and release program or was it President Biden?

Secretary MAYORKAS. Congressman, individuals who pose a public security—

Mr. BIGGS. So, look, you and I have had this song and dance before. You never want to answer the question. You never want to answer the question. Look, there is a whole side over there. They want to feed you pablum so you can say whatever you want, but I think the American people know it is either you or President Biden. I want to know is President Biden giving the directions on the implementation of these policies or are you the one that is creating this?

So, let's go to some of this stuff that you have written. September 30, 2021, you issued guidance that we had a Senior DHS official come and tell this Committee that your guidance from September 30, 2021, led to ICE officers not submitting, quote, "through their chain of command as many cases as they would have submitted previously." It was under your name. Did President Biden tell you to write that memo or is that your policy?

Secretary MAYORKAS. Congressman, the memo that you refer to is the Enforcement Priorities Memo.

Mr. BIGGS. Did you—

Secretary MAYORKAS. Priorities that—

Mr. BIGGS. Is that your policy then or is that President Biden's?

Secretary MAYORKAS. The priorities that we established in that memo—

Mr. BIGGS. I will take it that it must be yours I guess that is all we can take then.

OK. So, since we have been sitting here, since 10, that is the number of drug overdoses due to fentanyl in the country. So, my question for you is who is responsible? Is it Joe Biden as President of the United States or is it you as Secretary of Homeland Security for the open border where fentanyl is coming across and we have American citizens dying? That is since 10 a.m., Eastern Time.

Secretary MAYORKAS. Congressman, the border is not open. The challenge of fentanyl is one that has been escalating for more than five years.

Mr. BIGGS. Look, let's just—you cited a figure that was 50,000. Since you came in it has been more than double every year. Who is responsible for that? Is it you and your policies or is it President Biden? It is a simple thing. You don't want to answer it because you know it is you. You know it is your policies. You are driving it. On October 27, 2021, you issued guidance that restricted the ability of ICE officers to arrest aliens in protected areas such as courthouses where they knew aliens to be. That has made it more difficult and dangerous for ICE officers to go and enforce the law. These are people had already had—generally, many of them had already had their day in court. Did President Biden order you to issue that guidance?

Secretary MAYORKAS. Congressman, our policies are driven to protect the American people, safeguard—

Mr. BIGGS. Who issued that policy? Was it the President? Were you following the President, or did you create the policy?

Secretary MAYORKAS. Congressman—

Mr. BIGGS. Or will you ever give us an answer?

Secretary MAYORKAS. —that is a policy—

Mr. BIGGS. Yield back. Disgusting.

Mr. JOHNSON of Georgia. Mr. Chair—

Chair JORDAN. The gentleman from—

Mr. JOHNSON of Georgia. —I have a unanimous consent to enter into the record.

Chair JORDAN. The gentleman is recognized.

Mr. JOHNSON of Georgia. Thank you. Data from the U.S. Sentencing Commission which shows that 88 percent of the people conflicted for fentanyl trafficking crimes are United States citizens, not immigrants crossing the border.

Charm JORDAN. Without objection.

The Chair now recognizes the gentleman from California.

Mr. SCHIFF. Mr. Secretary, welcome to the Committee. It is wonderful to see you. You and I served together in the U.S. Attorney's Office in Los Angeles now some 30 years ago. I had great admiration and respect for your integrity and your work ethic then and I do today. I am grateful for you taking on what may be the most difficult job in the U.S. Government today. So, thank you for being here. My colleagues have a lot of questions for you, but they don't seem to want to give you the time to answer them.

I would like to ask you about the Cyber Information—Cybersecurity and Infrastructure Security Agency. In 2016, the Russians intervened heavily in our election to try to elect Donald Trump. They intervened with a massive social media campaign run out of St. Petersburg. They intervened by hacking the Democratic Party and its emails and releasing them through cut-outs.

In 2020, the Cybersecurity Agency, having learned from the experience of 2016, I think did an admirable job in protecting our elections infrastructure. Its primary sin, although the Republicans won't say it, is that its then Director asserted after the election that it was the most secure election in our history. That was the sin of the agency, doing its job and doing it well.

As we look forward to the next Presidential election, I want to ask you about what you see as the threats to our elections infrastructure or the threats of misinformation/disinformation from whatever source.

I am particularly concerned about YouTube's recent decision—I think the Republican badgering has had an effect and this is part of the effect. YouTube recently decided to, quote,

> Stop removing content that advances false claims that widespread fraud, errors, or glitches occurred in the 2020 and other past U.S. Presidential elections.

YouTube has not decided it is not going to remove content it knows to be false. Other social media platforms like Twitter have decided to fire those that would be in the business of security or looking for misinformation/disinformation campaigns from whatever sources.

So, in light of that changed environment what do you see as the principal threats to our elections in 2024?

Secretary MAYORKAS. Congressman, I would identify at least three threat streams:

(1) The threat of disinformation propagated by the Nation states of Russia, China, North Korea, and Iran.

(2) Would be the cybersecurity threat, something that we are always vigilant in guarding against. It is because of that threat that we seek to build redundancies in our election systems to best protect them.

(3) Third is something that we saw manifested last year, and that is the threat of physical intimidation of individuals at the voting booth.

Those are three threat streams that I can identify right off the bat. We are very focused on each of them. Of course, the physical security is not something that we ourselves provide but work in collaboration with local jurisdictions and give them advice as to how they can best secure the facility and the integrity of the voting process.

Mr. SCHIFF. Today you may have seen it was reported that Rudy Giuliani has acknowledged in a court filing that the statements he was making about these Georgia election workers were just patently false. Those election workers' lives were put at great risk. Some of your own personnel, their lives have been put at great risk by those who would attack our elections or attack efforts to prevent misinformation and disinformation.

What efforts can you make to protect election workers and your own staff from these relentless falsehoods advanced to facilitate the campaigns of some of my colleagues' Presidential hopeful?

Secretary MAYORKAS. Some of the things that we do, Congressman, is we provide information to State, local, Tribal, territorial, and campus law enforcement with respect to the threat streams that we are observing. We also have protective security advisors in each State that give advice to local communities about how best to secure facilities and make them safe areas for people to vote. Those are two examples of the work that we perform.

Mr. SCHIFF. I appreciate what you do, Mr. Secretary, and I hope that these constant and unfounded attacks on you, on your agency, on the Cybersecurity and Infrastructure Security Agency don't make your work that much more difficult. We are grateful to you. With that, I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from Wisconsin is recognized.

Mr. TIFFANY. Mr. Chair, I want to issue a quick correction here. As we started it was mentioned earlier that Congress has not acted in decades to security the border. This House of Representatives in this session of Congress did act. We passed H.R. 2 to secure the border.

How many Afghans, Mr. Secretary, have been admitted to the United States through parole since the fall of Kabul two years ago?

Secretary MAYORKAS. Congressman, I would be pleased to provide you with that data. I don't have it—

Mr. TIFFANY. There were 70,192 Afghans that were brought into the United States. They were brought here on parole for two years. Will you be reviewing each individual status on a case-by-case basis as this expiration happens?

Secretary MAYORKAS. Congressman, you're referring to what we termed Operation Allies Welcome, a program that we are very proud of that we instituted to provide refuge for individuals, many of whom—

Mr. TIFFANY. Will you be reviewing those—they came in on parole. Will you be reviewing them on a case-by-case basis?

Secretary MAYORKAS. We reviewed them on a case-by-case basis. When those parole periods are subject to renewal, we will do so again.

Mr. TIFFANY. The commander down at Fort McCoy in my State, when I interviewed him two years ago, he said they were not interviewed on a case-by-case basis. In fact, in the terror hotbed of the world, Afghanistan, which should have a special immigrant visa process—the previous administration used that to make sure to fully vet—not one of those people that came in from Afghanistan were sent through the special immigrant visa process. They were simply given parole.

Do you know how much damage was done to Fort McCoy during that period when those 12,000-plus Afghans came in?

Secretary MAYORKAS. Congressman, the individuals who benefited from Operation Allies Welcome were indeed screened and vetted by government personnel.

Mr. TIFFANY. They were brought in categorical parole, Mr. Chair.

There was $145.6 million of damage that was done to Fort McCoy. Did you realize that?

Secretary MAYORKAS. Congressman, we're very—

Mr. TIFFANY. The place was virtually destroyed.

I want to move on. The poster behind me. We are seeing all sorts of very serious, very serious criminal threats that come from across the border. That was two weeks ago from FBI Director Wray, in other words saying the border is out of control. You say it is under control. Who is lying, you or FBI Director Wray?

Secretary MAYORKAS. Congressman, we are very proud of our efforts to secure the border. We are relentless in our efforts to strengthen—

Mr. TIFFANY. FBI Director Wray said it is becoming more and more of a priority for us, under oath, just two weeks ago. Who is lying to us, Director Wray or you?

Secretary MAYORKAS. Congressman, we work very closely with the FBI to ensure the safety and security of the American people. That is your highest priority.

[Video plays.]

Mr. TIFFANY. Cartels are the winners. Sheriff Mark Dannels under questioning here a few months ago before this Committee, Cochise County down on the border of Arizona, he said the open border has led to a significant increase in the amount of fentanyl coming into this country. Do you agree with his assessment?

Secretary MAYORKAS. Congressman, we have taken it to the cartels—

Mr. TIFFANY. Do you agree with his assessment? He said the amount of fentanyl has gone up significantly as a result of the open borders policy implemented by this administration January 20, 2021. Is he lying to us? Did Sheriff Dannels lie to us?

Secretary MAYORKAS. Congressman, I respectfully disagree with Sheriff Dannels, whom I know well. I can say—

Mr. TIFFANY. So, Sheriff Dannels is lying to us?

Secretary MAYORKAS. That is not what I said, Congressman, and let me share with you—

Mr. TIFFANY. Someone is not telling the truth here, Mr. Secretary. Someone is not telling the truth. It is either Dannels or it is you.

Secretary MAYORKAS. Congressman, we have interdicted more fentanyl at the ports of entry than in the prior administration.

Mr. TIFFANY. Mr. Chair, I will go to close here.

The most urgent lethal threat in America was in this man's testimony. There is one person in America who can reduce the number of fentanyl deaths in America. By the way, the term fentanyl overdoses are used. That is not the case anymore, is it? It is fentanyl poisonings. We have had them here. The Rachwal family from my State of Wisconsin.

When you hear of fentanyl poisonings here in America, there is one person that can do something about it, and he sits right before us today.

You, sir, are responsible for reducing fentanyl deaths in America. Will you ever do anything about it. I yield back.

Chair JORDAN. The gentleman yields back.

Mr. JOHNSON of Louisiana. Mr. Chair, I have got a unanimous consent request quickly.

Chair JORDAN. The gentleman from Louisiana.

Mr. JOHNSON of Louisiana. Two things actually: I wanted to enter into the record a report, a *Fox News* report, April 27, 2022, which details the testimony of Mr. Mayorkas that created the Disinformation Governance Board within DHS to combat alleged disinformation and misinformation, terms that he is not able to explain here.

The second document is the public statement on the Hunter Biden emails with the 51 former intel agents. That has now been debunked, but they also refer to misinformation. So, it is an important term. Enter those into the record.

Chair JORDAN. Without objection.

The Chair now recognizes the gentleman from California.

Mr. LIEU. Thank you, Chair Jordan.

The House Judiciary Committee is responsible with helping to ensure the rule of law. Unfortunately, the Chair of this Committee ignored a bipartisan Congressional subpoena. The actions of the Chair have undermined the credibility of all Congressional Committees in seeking information from witnesses and damaged the rule of law.

Secretary Mayorkas, thank you for your public service. I would like to discuss with you the history of the Southern border. In September 1969, a few years before Watergate consumed this Presidential Administration, the President launched Operation Intercept which basically shut down the Southern border. Less than three weeks later that operation was stopped because it largely failed to address the issues at the border.

Secretary Mayorkas, who was the Republican President in 1969?

Secretary MAYORKAS. Congressman, I have to think back sequentially in reverse chronology, but I'm sure you know the answer—

Mr. LIEU. He resigned.

Secretary MAYORKAS. —immediately.

Mr. LIEU. I will give you a hint: This Republican President resigned.

Secretary MAYORKAS. Congressman, I know the President, President Nixon.

Mr. LIEU. Thank you. After Nixon resigned in 1974, his Vice President became President, but the issues at the border continued, and in 1976 the President stated, quote, "80–90 percent of the heroin that comes into the United States today comes across from our Southern border."

Secretary Mayorkas, who was the Republican President in 1976? The Vice President to Nixon.

Secretary MAYORKAS. I'm sorry?

Mr. LIEU. He was the Vice President to Richard Nixon.

Secretary MAYORKAS. Gerald Ford are you speaking of?

Mr. LIEU. Yes, that is correct.

Secretary MAYORKAS. Yes, I'd—

Mr. LIEU. Then—

Secretary MAYORKAS. Congressman, I'd prefer not to answer questions of history right now. My focus is on the—

Mr. LIEU. Right. I am going to help you with it.

Secretary MAYORKAS. —work of the Department of Homeland Security.

Mr. LIEU. I am going to help you with this. In the 1980s the Republican President had promised morning in America again, but the issues at the Southern border continued prompting him to offer a partial shutdown of the border in 1985. This operation aptly named Operation Intercept II was stopped after only a few days because it also failed to address the issues at the border. This was a President that knew about these issues because he was a former of Governor of California.

Secretary Mayorkas, who was the Republican President in 1985?

Secretary MAYORKAS. Ronald Reagan, Congressman.

Mr. LIEU. Thank you. The border issues continued into this century. In 2006, the President, who was also familiar with the border because he was a former Governor of Texas, declared that, quote, "for decades the United States has not been in complete control of its borders."

Secretary Mayorkas, who was the Republican President in 2006?

Secretary MAYORKAS. President Bush, Congressman.

Mr. LIEU. OK. In the prior administration the Republican President tried to solve the issues at the border and he failed. I would now like to show a video of what was actually happening during the prior administration in 2018.

[Video plays.]

Mr. LIEU. In May 2019, the situation got even worse. *Politico* published an article on June 5, 2019 that was titled, "Border Arrests Rose to Nearly 130,000 in May as the Border Surge Continues."

Secretary Mayorkas, who was the Republican President in 2018 and 2019?

Secretary MAYORKAS. President Trump, Congressman.

Mr. LIEU. Now we are here in 2023. Secretary Mayorkas, last month in June border crossings declined to the lowest level in over two years, correct?

Secretary MAYORKAS. I'm sorry. Can you repeat the—