



JULY 9, 2014

CHALLENGES AT THE BORDER: EXAMINING THE CAUSES, CONSEQUENCES, AND RESPONSES TO THE RISE IN APPREHENSIONS AT THE SOUTHERN BORDER

U.S. SENATE, COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

ONE HUNDRED THIRTEENTH CONGRESS, SECOND SESSION

HEARING CONTENTS:

Opening Statements

- **Rep. Thomas R. Carper (R-DE)** [\[View PDF\]](#)
Chairman, Committee on Homeland Security and Governmental Affairs
- **Rep. Tom Coburn (R-OK)** [\[View PDF\]](#)
Ranking Member, Committee on Homeland Security and Governmental Affairs

Witnesses

- **Honorable W. Craig Fugate** [\[View PDF\]](#)
Administrator,
Federal Emergency Management Agency
Department of Homeland Security
- **Honorable R. Gil Kerlikowske** [\[View PDF\]](#)
Commissioner,
U.S. Customs and Border Protection
Department of Homeland Security
- **Thomas S. Winkowski** [\[View PDF\]](#)
Principal Deputy Assistant Secretary,
U.S. Immigration and Customs Enforcement
Department of Homeland Security
- **Mark H. Greenberg** [\[View PDF\]](#)
Acting Assistant Secretary,
Administration for Children and Families
Department of Health and Human Services
- **Francisco Palmieri** [\[View PDF\]](#)
Deputy Assistant Secretary for the Caribbean and Central America,
Bureau of Western Hemisphere Affairs

- Department of State
- **Juan P. Osuna** [\[View PDF\]](#)
Director,
Executive Office of Immigration Review
Department of Justice
-

AVAILABLE WEBCAST(S):*

- [Full Committee Hearing](#)

COMPILED FROM:

- <http://www.hsgac.senate.gov/hearings/challenges-at-the-border-examining-the-causes-consequences-and-responses-to-the-rise-in-apprehensions-at-the-southern-border>

** Please note: Any external links included in this compilation were functional at its creation but are not maintained thereafter.*

Opening Statement of Chairman Thomas R. Carper
“Challenges at the Border: Examining the Causes, Consequences, and Responses to the Rise in
Apprehensions at the Southern Border”
July 9, 2014

As prepared for delivery:

Let me begin by thanking our witnesses for joining us today to discuss the current humanitarian challenge that is playing out on our southern border with Mexico, with unaccompanied children as young as 4 years-old arriving in record numbers every day. Before we discuss the Administration’s robust response to the current situation, however, I believe it’s important to put things into context.

Over the past decade, we have made significant progress in securing our borders. Since 2003, for example, we have spent \$223 billion dollars to enforce our immigration laws, more than doubling the size of the Border Patrol along the way. We have also built 670 miles of fencing and have deployed force multipliers such as high-tech cameras, radars, and drones up and down the border. In 2006—just eight years ago—the Border Patrol apprehended more than a million people at the border. Last year, we stopped just over 420,000. Some got through. Most did not. While the most recent recession played a role, in this drop, I think it’s clear that the investments we’ve made in recent years have paid off.

Although overall migration is still at historic lows, we now face a large surge in undocumented immigration from Central America—including unprecedented numbers of unaccompanied children and families showing up at the border. Some are saying that the current situation shows that our borders are not secure. I believe this couldn’t be further from the truth. Let me be clear: these children and families are not slipping past our borders undetected. They are being apprehended in large numbers by the Border Patrol almost as soon as they touch U.S. soil, often turning themselves in voluntarily.

People from Central America, unlike Mexico, must be flown back to their countries. This is a costly process that can take months or even years. This process is even more complicated for unaccompanied children and families, because our laws appropriately require different treatment for these groups. Children must be handed over to the Department of Health and Human Services, and families must be detained in special facilities that include educational opportunities for the children.

Our border security system has been overwhelmed by the sheer numbers of these children and families. The Administration and Secretary Johnson have responded to this situation with an “all hands on deck” approach. The Federal Emergency Management Administration is coordinating the DHS-wide response to the problem. The Department of Defense has provided space on some of its military installations to house unaccompanied minors until Health and Human Services can find a placement for them. And we have surged Border Patrol agents, immigration judges, and other personnel to the border to help process these individuals.

Finally, just yesterday the Administration proposed \$3.7 billion dollars in emergency funding to deal with this situation. DHS will receive \$1.5 billion dollars to detain and deport more families, build temporary detention facilities for the Border Patrol, and enhance investigations into human smuggling networks. These resources are urgently needed. I am concerned, however, that while we continue to focus a great deal of attention on the symptoms of problems, we continue to focus too little attention on addressing the underlying causes.

As I mentioned earlier, we have spent nearly a quarter trillion dollars (\$223 billion) securing our border since 2003. At the same time, only a small fraction of this amount has been invested in addressing the root causes in Central America that are encouraging young children and their families to risk life and limb and make the long and dangerous trek to South Texas.

Seeking a better life in the United States is nothing new. Most of us are here today because someone in our families a generation or more ago decided to come here to take advantage of what America has to offer. But for some of these Central Americans—especially the children and the parents who often send them on their journeys—the decision can be a desperate one. Life in parts of Guatemala, El Salvador, and Honduras is more than difficult today. It can be deadly. I have seen it firsthand. Violence has been steadily increasing in the region, with homicide rates in all three countries among the highest in the entire world. Kidnapping and extortion are endemic. Meanwhile, these countries have stagnant economies that create too few jobs and opportunities for their citizens. Faced with this violence and lack of hope at home, people from the region are voting with their feet—and risking their lives on the nearly 1,500 mile journey to the United States.

I believe that the U.S.—along with Mexico, Colombia, and others—need to do a better job of helping Central American countries help themselves. How? In large part by helping them create a more nurturing environment for job creation. Restore the rule of law. Lower energy costs. Improve workforce skills and access to capital. And improve the prospects for their young people so that more of them are willing—even eager—to stay home and help build their countries up. I am dismayed to hear some of our colleagues suggest the answer is to cut off funding for these countries. While I am a strong advocate of tough love, that strikes me as an extremely short-sighted step to take—and one that will likely do more harm than good in the long run. If we had taken that approach with Colombia 20 years ago, it would be a failed nation today instead of one with a vibrant economy that is a strong ally of ours.

Do our neighbors and their leaders in Central America need to do more to provide a brighter future for their own citizens? You bet they do! But this is not the time to abandon them. Do we really think that making things worse in these countries is going to somehow improve the situation on our border? I don't think so.

I am encouraged that the Administration has included \$300 million in its emergency supplemental request for the State Department, some of which will be used to deal with the root causes of Central American migration. But these funds should be seen as a down-payment. This cannot be one and done. If we are serious about improving conditions in the region, we will need to do more—and frankly, so will others. Plan Colombia took more than a decade to bear fruit. I think we need a similar commitment here. And in making that commitment, we'll not only prove ourselves good neighbors but ensure that we won't continue to face an expensive humanitarian crisis at our borders a decade from now.

Addressing the factors that are pushing people out of Central America is important, but we also need to address the factors that are pulling them here in the first place. Some are saying that the current surge in migration from Central America is somehow tied to the actions that President Obama has taken to help undocumented immigrants who were brought here as children years ago come out of the shadows and live without fear. Many of those making this argument are the same people who oppose immigration reform and have rejected our bipartisan Senate efforts to update the outdated immigration laws that often drive people to try and enter our country illegally.

From what I have seen and heard, the biggest factor that pulls people to come here is a desire to have a better life,

and a job, in the United States. But our broken immigration system doesn't do enough to provide legal avenues for the workers we want and need – nor does it provide the most effective tools to ensure that employers don't exploit undocumented workers.

The Senate passed a comprehensive immigration reform bill more than a year ago. This bill is not perfect. Parts of it must be changed. But it would tackle some of the root causes that are pulling these migrants to come here to live and to work by providing legal avenues for them to do so and then return to their own countries. It would also further increase the security of our borders and enhance our ability to enforce our immigration and workplace laws in the interior of the country. Lastly, the Congressional Budget Office concluded that the bill would increase our country's GDP by 3 to 5 percent, and decrease our budget deficit by almost a trillion dollars over 20 years.

And yet, just last week we learned that our friends in the House of Representatives have decided not to even debate immigration reform this year. I believe that this is irresponsible, and I truly hope that they will reconsider this decision.

###

Opening Statement
Sen. Tom Coburn, Ranking Member
July 9, 2014

Good morning, I thank the witnesses for being here today.

The surge in unaccompanied alien children was a foreseeable crisis that the Administration should have anticipated and addressed.

Since 2008, there has been a steady increase in the number of Unaccompanied Alien Children being apprehended at our Southern Border. In 2009, nearly 20,000 children were apprehended. In 2012, the number grew to 25,000. Last year, nearly 40,000 were apprehended.

And now the administration is projecting more than 60,000 UACs will be apprehended this year, and as many as 120,000 children will arrive next year if nothing changes.

These children now depend on the United States government for food, shelter, safety, and medical care. And the United States government has effectively been forced to be the guardian of each of these kids.

As Americans, we know the right thing to do is to keep these children safe and in good care while they are here and until we can return them home. But we also need to ask why this problem was allowed to grow, and what needs to change in order to fix it.

The Administration's failure is putting thousands of children at risk and putting our government agencies in a difficult position.

We know that some children are dying or suffering serious violence during the dangerous journey from Central America to our southern border. There is a significant increased risk that many of the children attempting to make this journey could be trafficked or otherwise exploited during the trip.

And this crisis is putting federal agencies, and the workers we depend on to secure our borders and protect us from national security threats, in a very challenging position.

We are asking our Border Patrol to be caregivers for these children, and that has dramatically impacted their other duties.

Allowing this problem to grow is making our already unsecure border less secure today, and our adversaries, like the drug trafficking organizations, may be exploiting this opportunity.

There are many factors that contribute to the problem of increasing unaccompanied alien children coming to our borders, but our lax immigration enforcement policies play a key part.

Life is hard in Central America, and many people wish to come to the United States to have an opportunity for a better life. I sympathize with those who face violence, crime and poverty at home, and that they are willing to risk their lives to take the dangerous journey to the United States.

But we also know that our lax immigration enforcement policies are a key factor in the decision to make the trip. If it were clear to families living in Central America that the United States is a nation that enforces the rule of law—and that if you break our immigration laws you will be rewarded with a return trip home—I can guarantee that less would take the risk to make this dangerous journey.

But it is all too clear that we are not effectively securing the border, and that those who come here illegally have a very good chance of staying. Until this changes, we should expect this humanitarian crisis to grow, while thousands of children will continue be put at risk.

The Administration has now requested \$3.7 billion in supplemental spending to pay for a crisis that it should have anticipated and prevented. I am open to hearing from our witnesses today about the challenges your front line personnel face, and what resources they may need, particularly to address the immediate need to care for these children.

But I am concerned that the Administration's proposal will not solve the root problem of this crisis. Specifically, the proposal does not include any requests for new authorities to strengthen our policies – such as immediate removal of children coming from Central America – to deter future waves of illegal immigrants.

Given the track record of poor border security and lax interior enforcement, I am concerned that you will be requesting another \$3.7 billion next year, and we will face the same problem with tens of thousands of children arriving at our border.

So I would like to hear from the agencies represented today—what are we doing to fix this problem?

From Mr. Winkowski of Immigration and Customs Enforcement (ICE), we need to hear how your agency plans to enforce our immigration laws and to deter people from making the trip and trying to break our laws.

From Mr. Osuna, I want to learn from you why we do not have swift processing times to adjudicate these cases and ensure expeditious removal of people who come here illegally and what needs to change.

From Mr. Kerlikowske of Customs and Border Protection (CBP), I need to hear how your agency is being affected by this crisis and what it means for border security.

From Mr. Palmieri of the State Department, I want to know why it is not clear to people in Central America that they will be returned if they break our immigration laws, and what the State Department plans to do about it.

And to all of our witnesses, I want to know – when did you first know about this problem and why have we allowed it to get so out of hand?

As you know, I provided you with many of my questions before this hearing to encourage a constructive dialogue.

The Administration needs to take responsibility and not allow this crisis to escalate. Like the recent problems with the Veterans Administration, we know that the general problem of illegal immigration and securing the southern border did not begin on President Obama's watch.

And our purpose today is not to politicize the issue of illegal immigration. But together, we need to take responsibility. And that begins by getting answers to some basic questions of why this problem continues to grow and what we plan to do to fix it.

I look forward to your testimony and answers to our questions.



STATEMENT
OF

CRAIG FUGATE
Administrator
Federal Emergency Management Agency
U.S. Department of Homeland Security

And

R. GIL KERLIKOWSKE
Commissioner
U.S. Customs and Border Protection
U.S. Department of Homeland Security

And

THOMAS S. WINKOWSKI
Principal Deputy Assistant Secretary
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

FOR A HEARING ON
“Challenges at the Border: Examining the Causes, Consequences, and Responses to the Rise in
Apprehensions and the Southern Border”

BEFORE THE
U.S. SENATE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

July 9, 2014

Chairman Carper, Ranking Member Coburn, and Members of the Committee:

Thank you for the opportunity to testify today about our efforts to address the recent rise of unaccompanied children and others crossing our border in the Rio Grande Valley (RGV). As you know, Secretary Johnson testified on June 24th before the House Committee on Homeland Security about this situation. Our testimony today echoes and reaffirms his comments.

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

As Secretary Johnson said on June 24th, this is a humanitarian issue as much as it is a matter of border security. We are talking about large numbers of children, without their parents, who have arrived at our border—hungry, thirsty, exhausted, scared and vulnerable. How we treat the children, in particular, is a reflection of our laws and our values.

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

So, here is what we are doing:

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

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

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

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

Fourth, DHS and HHS are increasing Spanish-speaking case management staff, increasing staff handling incoming calls from parents or guardians, raising awareness of the Parent Hotline (provided by FEMA and operated by HHS), surging staff to manage the intake of CBP referrals to track shelter bed capacity, and facilitate shelter designations. We are developing ways to expedite background checks for sponsors of children, integrate CBP and HHS information sharing systems, and increase capacity to transport and place children. (As Secretary Johnson noted on June 24th, and we reaffirm today, the Border Patrol and other CBP personnel, as well as personnel from ICE, FEMA, the Coast Guard, and HHS, are doing a remarkable job in difficult circumstances. Not-for-profit groups like the HHS-grantee BCFS¹ also have stepped in quickly and are doing a remarkable job sheltering the unaccompanied children at Lackland, identifying and then placing them consistent with HHS' legal obligations. All of these dedicated men and women deserve our recognition, support and gratitude.)

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

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

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

¹ BCFS—not an acronym—was formerly known as Baptist Child Family Services.

individuals will be treated with dignity and respect, and any instances of mistreatment reported to us will be investigated.

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

Ninth, to stem the tide of children seeking to enter the United States, we have also been in contact with senior government officials of Guatemala, El Salvador, Honduras, and Mexico to address our shared border security interests, the underlying conditions in Central America that are promoting the mass exodus, and how we can work together to assure faster, secure removal and repatriation. Last month, President Obama spoke with Mexican President Peña Nieto about the situation, as has Secretary Kerry. On June 20th, Vice President Biden also visited Guatemala to meet with regional leaders to address the influx of unaccompanied children and families from Central America and the underlying security and economic issues that are causing this migration. The Vice President announced that the U.S. will be providing a range of new assistance to the region, including \$9.6 million in additional funding for Central American governments to receive and reintegrate their repatriated citizens, and a new \$40 million U.S. Agency for International Development program in Guatemala over 5 years to improve citizen security. An additional \$161.5 million will be provided this year under the Central American Regional Security Initiative to further enable Central American countries to respond to the region's most pressing security and governance challenges. Secretary Johnson is in Guatemala as we speak. The government of El Salvador has sent additional personnel from its consulate in the U.S. to South Texas to help expedite repatriation to its country.

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

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

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

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

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

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

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



STATEMENT
OF

CRAIG FUGATE
Administrator
Federal Emergency Management Agency
U.S. Department of Homeland Security

And

R. GIL KERLIKOWSKE
Commissioner
U.S. Customs and Border Protection
U.S. Department of Homeland Security

And

THOMAS S. WINKOWSKI
Principal Deputy Assistant Secretary
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

FOR A HEARING ON
“Challenges at the Border: Examining the Causes, Consequences, and Responses to the Rise in
Apprehensions and the Southern Border”

BEFORE THE
U.S. SENATE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

July 9, 2014

Chairman Carper, Ranking Member Coburn, and Members of the Committee:

Thank you for the opportunity to testify today about our efforts to address the recent rise of unaccompanied children and others crossing our border in the Rio Grande Valley (RGV). As you know, Secretary Johnson testified on June 24th before the House Committee on Homeland Security about this situation. Our testimony today echoes and reaffirms his comments.

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

As Secretary Johnson said on June 24th, this is a humanitarian issue as much as it is a matter of border security. We are talking about large numbers of children, without their parents, who have arrived at our border—hungry, thirsty, exhausted, scared and vulnerable. How we treat the children, in particular, is a reflection of our laws and our values.

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

So, here is what we are doing:

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

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

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

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

Fourth, DHS and HHS are increasing Spanish-speaking case management staff, increasing staff handling incoming calls from parents or guardians, raising awareness of the Parent Hotline (provided by FEMA and operated by HHS), surging staff to manage the intake of CBP referrals to track shelter bed capacity, and facilitate shelter designations. We are developing ways to expedite background checks for sponsors of children, integrate CBP and HHS information sharing systems, and increase capacity to transport and place children. (As Secretary Johnson noted on June 24th, and we reaffirm today, the Border Patrol and other CBP personnel, as well as personnel from ICE, FEMA, the Coast Guard, and HHS, are doing a remarkable job in difficult circumstances. Not-for-profit groups like the HHS-grantee BCFS¹ also have stepped in quickly and are doing a remarkable job sheltering the unaccompanied children at Lackland, identifying and then placing them consistent with HHS' legal obligations. All of these dedicated men and women deserve our recognition, support and gratitude.)

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

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

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

¹ BCFS—not an acronym—was formerly known as Baptist Child Family Services.

individuals will be treated with dignity and respect, and any instances of mistreatment reported to us will be investigated.

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

Ninth, to stem the tide of children seeking to enter the United States, we have also been in contact with senior government officials of Guatemala, El Salvador, Honduras, and Mexico to address our shared border security interests, the underlying conditions in Central America that are promoting the mass exodus, and how we can work together to assure faster, secure removal and repatriation. Last month, President Obama spoke with Mexican President Peña Nieto about the situation, as has Secretary Kerry. On June 20th, Vice President Biden also visited Guatemala to meet with regional leaders to address the influx of unaccompanied children and families from Central America and the underlying security and economic issues that are causing this migration. The Vice President announced that the U.S. will be providing a range of new assistance to the region, including \$9.6 million in additional funding for Central American governments to receive and reintegrate their repatriated citizens, and a new \$40 million U.S. Agency for International Development program in Guatemala over 5 years to improve citizen security. An additional \$161.5 million will be provided this year under the Central American Regional Security Initiative to further enable Central American countries to respond to the region's most pressing security and governance challenges. Secretary Johnson is in Guatemala as we speak. The government of El Salvador has sent additional personnel from its consulate in the U.S. to South Texas to help expedite repatriation to its country.

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

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

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

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

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

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

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



STATEMENT
OF

CRAIG FUGATE
Administrator
Federal Emergency Management Agency
U.S. Department of Homeland Security

And

R. GIL KERLIKOWSKE
Commissioner
U.S. Customs and Border Protection
U.S. Department of Homeland Security

And

THOMAS S. WINKOWSKI
Principal Deputy Assistant Secretary
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

FOR A HEARING ON
“Challenges at the Border: Examining the Causes, Consequences, and Responses to the Rise in
Apprehensions and the Southern Border”

BEFORE THE
U.S. SENATE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

July 9, 2014

Chairman Carper, Ranking Member Coburn, and Members of the Committee:

Thank you for the opportunity to testify today about our efforts to address the recent rise of unaccompanied children and others crossing our border in the Rio Grande Valley (RGV). As you know, Secretary Johnson testified on June 24th before the House Committee on Homeland Security about this situation. Our testimony today echoes and reaffirms his comments.

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

As Secretary Johnson said on June 24th, this is a humanitarian issue as much as it is a matter of border security. We are talking about large numbers of children, without their parents, who have arrived at our border—hungry, thirsty, exhausted, scared and vulnerable. How we treat the children, in particular, is a reflection of our laws and our values.

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

So, here is what we are doing:

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

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

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

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

Fourth, DHS and HHS are increasing Spanish-speaking case management staff, increasing staff handling incoming calls from parents or guardians, raising awareness of the Parent Hotline (provided by FEMA and operated by HHS), surging staff to manage the intake of CBP referrals to track shelter bed capacity, and facilitate shelter designations. We are developing ways to expedite background checks for sponsors of children, integrate CBP and HHS information sharing systems, and increase capacity to transport and place children. (As Secretary Johnson noted on June 24th, and we reaffirm today, the Border Patrol and other CBP personnel, as well as personnel from ICE, FEMA, the Coast Guard, and HHS, are doing a remarkable job in difficult circumstances. Not-for-profit groups like the HHS-grantee BCFS¹ also have stepped in quickly and are doing a remarkable job sheltering the unaccompanied children at Lackland, identifying and then placing them consistent with HHS' legal obligations. All of these dedicated men and women deserve our recognition, support and gratitude.)

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

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

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

¹ BCFS—not an acronym—was formerly known as Baptist Child Family Services.

individuals will be treated with dignity and respect, and any instances of mistreatment reported to us will be investigated.

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

Ninth, to stem the tide of children seeking to enter the United States, we have also been in contact with senior government officials of Guatemala, El Salvador, Honduras, and Mexico to address our shared border security interests, the underlying conditions in Central America that are promoting the mass exodus, and how we can work together to assure faster, secure removal and repatriation. Last month, President Obama spoke with Mexican President Peña Nieto about the situation, as has Secretary Kerry. On June 20th, Vice President Biden also visited Guatemala to meet with regional leaders to address the influx of unaccompanied children and families from Central America and the underlying security and economic issues that are causing this migration. The Vice President announced that the U.S. will be providing a range of new assistance to the region, including \$9.6 million in additional funding for Central American governments to receive and reintegrate their repatriated citizens, and a new \$40 million U.S. Agency for International Development program in Guatemala over 5 years to improve citizen security. An additional \$161.5 million will be provided this year under the Central American Regional Security Initiative to further enable Central American countries to respond to the region's most pressing security and governance challenges. Secretary Johnson is in Guatemala as we speak. The government of El Salvador has sent additional personnel from its consulate in the U.S. to South Texas to help expedite repatriation to its country.

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

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

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

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

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

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

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



Statement by

**Mark Greenberg
Acting Assistant Secretary
Administration for Children and Families
U.S. Department of Health and Human Services**

Before the

**Committee on Homeland Security and
Governmental Affairs
United States Senate**

July 9, 2014

Chairman Carper, Ranking Member Coburn, and members of the Committee, thank you for inviting me to discuss the Department of Health and Human Services' (HHS) responsibilities in relation to unaccompanied children. I very much appreciate the opportunity to provide information about our program and the children we serve.

Today, I would like to share with you the steps HHS takes to care for these children once they are referred to HHS' custody, HHS' responsibilities to identify appropriate sponsors with which children can live while awaiting immigration removal proceedings, and the challenges we face as a result of the increased numbers of unaccompanied children.

Services for Children

Pursuant to law, unaccompanied children, i.e., children under the age of 18 who have no legal immigration status in the United States and who either do not have a parent or legal guardian in the United States or who do not have a parent or legal guardian in the United States that is available to provide care and physical custody of the child, come into HHS' care once they are referred to us by the Department of Homeland Security (DHS). Under existing law, DHS must notify HHS within 48 hours of determining an alien is an unaccompanied child and transfer such child to us within 72 hours of such determination, absent exceptional circumstances. Most of the children referred to HHS are from Guatemala, Honduras, and El Salvador. Historically, the majority of children arriving were males over the age of 12. This continues to be true. However, during the past year, the Administration for Children and Families (ACF) experienced an increase in the population of females and children under the age of 12. The number of children in our care varies from day to day as children are released to sponsors or returned to their home

country, and newly arrived children are placed with us. Currently, HHS has approximately 9,000 children in its care across the nation. These children are cared for in our permanent and emergency capacity shelters.

HHS funds shelters through grants to non-profit organizations, many of which are faith-based service providers, and several of which are state and local governments. Upon their arrival into one of the HHS' shelters, the children are provided with a complete medical examination within 48 hours. This examination includes a general physical exam or medical screening and is conducted by either a doctor or nurse practitioner. All children receive age appropriate care including vaccinations as well as screening for tuberculosis.

Soon after the children come to us, trained provider staff conduct an initial interview of each child. This interview is used as a first round of HHS screening to determine whether the child may be a victim of abuse, a victim of a crime, or a trafficking victim. The screening also tells us if the child has any immediate mental health needs. If a mental health concern is detected during this screening, additional screenings are completed by specially-trained mental health clinical staff or case managers with clinical experience. These screenings determine whether the child requires specialized services, a home study conducted by a grantee case worker, typically a social worker, prior to his or her release to a sponsor (if a sponsor is available), and whether the child is a potential victim of trafficking and therefore eligible for the additional services and legal assistance available to foreign trafficking victims in the United States.

Pursuant to federal law and the *Flores* Settlement Agreement, while children are in our care, each child receives: medical, dental, and mental health services; education services; recreational opportunities; a legal rights presentation and access to legal services; access to religious services; case management services which include services to identify a parent, relative, or other appropriate sponsor; and clinical counseling on a weekly basis.

The Trafficking Victim's Protection Reauthorization Act (TVPRA) requires that we seek to place children in the least restrictive setting that is in the best interest of the child. Generally, such a setting is with a sponsor. This may be a parent, relative, or other appropriate sponsor.

Most children who are placed in our shelters have parents or other relatives already living in the U.S. To date in fiscal year 2014, approximately 95 percent of children released were released to a parent, relative, or non-relative sponsor. Of the remaining five percent of children not released to a sponsor, some are remanded to the DHS' custody because they reach 18 years of age. Others are repatriated to their country of origin and a very small number may become eligible for the Unaccompanied Refugee Minor program.

HHS has a strong process for ensuring a potential sponsor is an appropriate care provider. In accordance with the TVPRA, we require verification of a sponsor's identity and relationship, if any, to a child before placing a child with a sponsor. To meet this requirement, we require care provider staff to complete and document a thorough assessment of the child's past and present family relationships and relationships to non-relative potential sponsors. HHS care provider staff evaluate the nature and extent of the sponsor's motivation for wanting to care for the child. If

the child is not being released to a parent or legal guardian, the care provider staff consider the child's parent or legal guardian's perspective on a child's potential release to a particular sponsor. This process is accomplished through interviews, careful review of submitted documentation, and outside confirmation of a sponsor's identity. This process, along with any information the child provides to care provider staff, allows us to verify a sponsor's identity and relationship to the child.

In addition, the potential sponsor is required to undergo background checks and complete an assessment process that identifies risk factors and other serious concerns. The background check consists of a public records check of the sponsor for criminal history, self-reporting by the sponsor of criminal history or domestic violence, interviews with the child to uncover any criminal or domestic violence concerns about the sponsor, and a written assessment of the child and the sponsor completed by case managers and clinicians. A fingerprint background check is required if any concerns are raised, including if there is concern for the child's safety, or if the sponsor is not the child's parent or legal guardian. The fingerprints are then verified with FBI and DHS databases.

An additional safety measure is in our performance of home studies on potential sponsors.

Home studies are required, under the TVPRA of 2008, for the following conditions:

- 1) The child is a victim of a severe form of trafficking;
- 2) The child is a special needs child with a disability as defined in section 3 of the Americans with Disability Act of 1990;

- 3) The child has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened; or,
- 4) A child's proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking based on all available objective evidence.

As part of the placement process, HHS notifies potential sponsors of their responsibility for ensuring the child appears at all appointments and court proceedings related to his or her immigration case. HHS also informs sponsors of their responsibility to notify DHS and the U.S. Department of Justice Executive Office for Immigration Review (EOIR) of address changes, within ten days of any such change. HHS provides notification to DHS of the name, address, telephone number, and relationship to the child of the sponsor 24 hours prior to release to the sponsor. Additionally, HHS coordinates with EOIR and informs EOIR of the reunification status and current address of the sponsor at the time of release. It is important to note that HHS does not decide a child's immigration status and is not a party to the child's immigration case.

Once a child has been placed with a parent, relative, or other sponsor, the care and well-being of the child becomes the responsibility of that individual. HHS may require that the sponsor and child receive post-release services. In the event that post-release service case workers find the home unsafe they are required under state and local laws to report those conditions to state or local child protective services.

Currently, between 10 and 13 percent of children receive home studies prior to their release, and post-release services must be performed for all cases in which a home study was conducted. The

purpose of post-release services is to help link the child and the sponsor with community services or other on-going assistance.

In those cases where a sponsor is not identified to care for a child, the child will remain in our care until he or she reaches the age of 18 or until the child obtains a lawful immigration status.

In those cases where a lawful immigration status is obtained, or the child receives a letter of eligibility from HHS as a victim of trafficking, the child may be eligible to apply for placement into the HHS Unaccompanied Refugee Minor (URM) foster care program. HHS provides grants to 15 states which serve approximately 1,400 URM children and youth in foster care. The URM program traditionally has served unaccompanied refugee children who are identified in countries of first asylum as requiring foster care upon their arrival in this country. HHS works with two national voluntary agencies, the United States Conference of Catholic Bishops and the Lutheran Immigration and Refugee Service, to identify placement in affiliated agencies under contract with state refugee coordinator offices. While most children in the URM program are placed in licensed foster homes, other licensed care settings are utilized according to children's individual needs, such as therapeutic foster care, group homes, independent living, or residential treatment centers.

Challenges

In HHS' responsibilities for unaccompanied children, our immediate challenge concerns the current unprecedented growth in the number of unaccompanied children arriving at the Southwest border. In recent months, the number of children arriving has greatly exceeded the number of available places for children in HHS' shelters, negatively impacting our ability to

timely accept custody of these children from DHS. We are actively working with DHS, the Department of Defense, and other federal agencies through the coordination efforts of FEMA to both expand our facilities and to identify additional efficiencies to shorten the amount of time that children are with us, without jeopardizing child safety. Thus in order to reduce the time children spend in DHS custody, we are seeking to reduce the length of time that children remain in our care before being placed with a sponsor who can care for them safely and appropriately while their immigration case is processed, and second working to increase our shelter capacity.

The average length of time that a child is in HHS' custody has been reduced from 72 days to 34 days over the past three years. During this time, HHS focused on identifying and implementing procedures that could streamline the process of identifying and placing the child with an appropriate sponsor without increasing risks to child safety or well-being. In implementing these procedures, HHS was able to reduce the per capita cost of providing services to an unaccompanied child by over 50 percent. The procedures to accomplish this included:

- Shortening the timeframe for initial identification of parents, relatives, or other sponsors;
- Developing a streamlined set of procedures;
- Reducing the amount of time it takes sponsors to submit a completed sponsor application packet;
- Reducing the timeframe from approval of release to actual discharge;
- Developing training for care provider staff on streamlined procedures.

Despite the progress we have made in reducing the average length of stay in our care, it remains a challenge to balance the need to quickly release the children from our care while continuing to

ensure that children are released to safe and appropriate sponsors. We have consulted with clinical staff, child welfare experts, and attorneys in creating assessment policies, procedures, and forms for both the children and potential sponsors and are confident they are comprehensive in determining the existence of risk and the safety of a release.

Second as we work with federal partners to develop additional facilities, HHS faces challenges in seeking to expand facilities to new locations, in part because of misconceptions about the impact of HHS shelters on local communities. Some community members are concerned about whether these children present safety risks to a community where the shelter is located. However, the overwhelming majority of these children have no criminal record, have not participated in gang activities, and manifest no behavioral problems while in our care. In many cases, the children report that they are fleeing gang violence and forced recruitment into criminal gangs as well as generalized violence in their home country. In addition, many of the children seek to reunite with family members already in the United States. HHS would not release into the community any child who is a danger to himself or others in the community. For the small number of children who do pose a threat, those children remain in our secure detention facilities until they are returned to their country of origin or remanded to the care of DHS upon reaching the age of 18. Of the approximately 9,000 unaccompanied children in the custody of HHS at any one time, only between 25 and 45 are in our secure detention facilities, less than one-quarter of a percent.

Community members may also have questions concerning whether having a shelter in a community presents health risks to area residents. As I previously stated, these children all receive medical screenings and receive age-appropriate vaccinations. Further, we take great

precautions to ensure the public's health should we identify a child with a communicable disease. Children who have serious physical and mental health issues or have had exposure to a communicable disease are normally not transferred or moved until they have been cleared by a medical provider. Medical clearance documentation includes the results of all laboratory tests and any other diagnostic testing.

Conclusion

This is a very complex situation with a number of challenges. We would welcome working with this Committee and Congress in efforts to address it. Again, thank you for the opportunity to discuss this critical issue with you. I would be happy to answer any questions.

“Challenges at the Border: Examining the Causes, Consequences, and Responses to the Rise in Apprehensions at the Southern Border”

Testimony before the United States Senate Committee on Homeland Security and Government Affairs

**Francisco L. Palmieri
Deputy Assistant Secretary**

Bureau of Western Hemisphere Affairs

U.S. Department of State

Washington, DC

July 9, 2014

Mr. Chairman, Mr. Ranking Member, Members of the Committee, I am pleased to be here to discuss the Department of State’s response to the sharp rise in the number of unaccompanied children and family units arriving at our southwest border, the direct link between this activity and dire conditions in the region and the influence of smuggling networks, and what we are doing to further the national security interests of the United States. I appreciate your attention to this important issue and look forward to working with you on this issue.

The Administration is deeply concerned by the substantial increase in the number of children and family units from Central America who are leaving their countries of origin and attempting unauthorized immigration to the United States.

The Department of State is implementing a five-part strategy:

1. We are working on a common understanding of the problem with the source countries of El Salvador, Guatemala, and Honduras, and with Mexico in its role as a transit country.
2. We have launched updated public messaging campaign with El Salvador, Guatemala, Honduras, and Mexico to discourage families from sending their sons and daughters on this dangerous journey.
3. We are helping El Salvador, Guatemala, and Honduras expand their repatriation and reintegration efforts.
4. We are working with Mexico to stop migrants at Mexico's southern border and interrupt the well-known smuggling routes used in southern Mexico.
5. We are leading a new whole-of-government effort to address the underlying causes of this migration, especially the security concerns and lack of economic opportunity in the source countries.

We know that these unaccompanied children and families are primarily arriving from El Salvador, Guatemala, and Honduras. Central America faces daunting economic, governance, and security challenges, which impact the citizens of the region and the choices they make. It is in the best interests of the United States for the countries of Central America to be prosperous, democratic, and secure.

Our vision for the countries of Central America is a secure, well-governed region that creates opportunities for each nation's people within their respective sovereign borders. This is one key part of the strategy to diminish the factors driving high emigration flows. Stronger economic performance in Central America will also create jobs in the region and benefit the U.S. economy.

The political, economic, and social conditions in El Salvador, Guatemala, and Honduras are challenging, with extreme violence from transnational criminal organizations and street gangs, endemic poverty, declining rural and farm incomes, and often ineffective public institutions – all combining to create an environment that many people want to abandon.

Aggressive criminal smugglers seek to exploit this situation. Smugglers prey on the hopes and dreams of the poor, spreading misinformation about immigration benefits available in the United States. They would be less able to do so if those societies offered more economic prosperity, better educational opportunities, and a safer environment for children.

My colleagues from the Departments of Homeland Security and Health and Human Services have described the scope of the enormous challenge they face in processing and placing or detaining, as appropriate, unaccompanied children, adults with children, and adults arriving at the border. They are working tirelessly to protect our borders, enforce our laws, and meet the pressing humanitarian needs of migrants, especially the children. These efforts not only serve to enforce U.S. laws, but they are also the right thing to do to help these vulnerable individuals. As we work with our partners in Mexico and Central America, the safety and well-being of these individuals, especially the children, remains among our top concerns.

Our diplomatic engagement in support of this effort has been sustained and intense. Last month, Vice President Biden traveled to Guatemala to meet with the Presidents of El Salvador and Guatemala and representatives from Honduras and Mexico and established that we all must take steps to stem the flow of undocumented migrants. We continue daily, senior-level contact with those governments to deploy short-term efforts to stem the flow of migrants and to develop long-term solutions to address the root causes of migration.

In Panama on July 1, Secretary Kerry obtained agreement on greater collaboration from the Governments of El Salvador, Guatemala, and Honduras. All three nations' foreign ministers traveled to Washington July 3 to meet with nine different U.S. government entities at the Department of State. All three foreign ministers agreed to work with us on a coordinated response to this migration challenge.

At our request, El Salvador, Guatemala, and Honduras increased consulate staffing levels on the U.S.-Mexico border to expedite processing of unaccompanied children, ensuring they are moved from law enforcement facilities to Health and Human Services custody as quickly as possible and then for eventual return to their home countries following humanitarian screenings and immigration court proceedings.

The President spoke to his Mexican counterpart, Enrique Peña Nieto, in June about Mexican efforts to interrupt well-known smuggling routes. We are working with Mexico to accelerate its Southern Border Strategy announced on Monday that will increase Mexican inspection and interdiction capacities and reduce drug and human smuggling across Mexico's border with Guatemala and Belize.

As part of a broader inter-agency effort, we are working to increase immediately the migrant repatriation capacity for El Salvador, Guatemala, and Honduras, so that these governments can accept more migrants returned from the United States each week. To this end, the Department allocated \$9.6 million to help with repatriation and reintegration efforts.

We are also focused on the role human smuggling organizations are playing in this urgent humanitarian situation. They have spread rumors – and let me emphasize that these rumors are absolutely false – that promise immigration benefits to these children and family units once they are in the United States.

To this end, we are deploying public messaging campaigns in El Salvador, Guatemala, Honduras, and Mexico to underscore that children and family units who reach the United States will not enjoy special status. Each government in the

region is developing and deploying its own public messages that will complement U.S. efforts as well as dedicating more law enforcement resources to taking down these smugglers.

In addition, the Department continues to focus on a longer-term approach to address the systemic issues Central American countries face and that are creating the push factors behind this phenomenon: weak governing institutions, lack of economic, educational, and employment opportunities, and high levels of violence and insecurity. The Department of State is applying a more balanced regional approach to prioritize and integrate prosperity, security, and governance – thereby addressing the root causes that are driving migrants, including these vulnerable children, to the United States.

We are dedicating existing resources to manage the near-term surge in unaccompanied children and family units and to implement programs to address the long-term challenges that constitute the complex and systematic factors driving migration.

However, we must be realistic. In order to achieve the substantial, transformative change in Central America that will truly stem migration flows, all the governments, including greater collaboration with international partners, must demonstrate the political will and necessary commitment. We will continue to work closely with Congress on developing a comprehensive, whole-of-government approach that provides the necessary resources to meet this migration challenge.

Thank you. I look forward to answering your questions.



Department of Justice

STATEMENT OF

**JUAN P. OSUNA
DIRECTOR**

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES DEPARTMENT OF JUSTICE**

BEFORE THE

**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

FOR A HEARING ENTITLED

**“CHALLENGES AT THE BORDER: EXAMINING THE CAUSES, CONSEQUENCES, AND
RESPONSES TO THE RISE IN APPREHENSIONS AT THE SOUTHERN BORDER”**

PRESENTED ON

JULY 9, 2014

**Statement of Director Juan P. Osuna
Executive Office for Immigration Review
Before the Senate Committee on
Homeland Security and Governmental Affairs
July 9, 2014**

Introduction

Mr. Chairman, Senator Coburn, and other distinguished Members of the Committee, thank you for the opportunity to speak with you today about the Department of Justice's Executive Office for Immigration Review (EOIR), and our contributions to the Government-wide response to the humanitarian situation in the Rio Grande Valley areas of our Nation's Southwest border.

EOIR administers the Nation's immigration court system, composed of both trial and appellate tribunals. Removal proceedings before EOIR begin when the Department of Homeland Security (DHS) formally charges an alien with being removable from the United States. EOIR's immigration judges decide whether the alien is removable based on the facts and the DHS charges and, if removable, whether the alien is eligible for and merits relief or protection from removal. EOIR is responsible only for civil immigration proceedings, and EOIR's adjudicators have no role in state or federal criminal proceedings. EOIR's immigration judges, for example, do not determine the guilt or innocence of aliens charged with criminal wrongdoing at the border or in the interior of the country.

Overall there are now 243 immigration judges in 59 courts around the country. Many of our courts are located near or along the southern border, including in San Diego, California; El Paso, Texas; and Harlingen, Texas. Some courts are located within DHS detention centers, including the border locations of East Mesa, California; Eloy, Arizona; and Port Isabel, Texas.

The appellate level of EOIR is the Board of Immigration Appeals (BIA), which sits in Falls Church, Virginia. The BIA consists of 15 Board Members, supported by a staff of attorney advisors, and is headed by a Chairman. The BIA has nationwide jurisdiction and hears appeals of immigration judge decisions. When appropriate, the BIA issues binding precedent decisions interpreting complex areas of immigration law and procedure. Either an alien or DHS may file an appeal with the BIA.

At the end of FY 2013, EOIR's immigration courts had 350,330 cases pending, marking an increase of approximately 23,000 cases pending over the end of FY 2012. In the first three quarters of FY 2014, that pending caseload grew by approximately 25,000 cases, reaching 375,373 cases pending, our highest caseload to date. The pending caseload is directly tied to

both the number of cases that DHS files in the immigration courts and EOIR's ability to complete those cases with available resources.

Each immigration court's caseload is tied directly to DHS enforcement activities. DHS determines both detention space allocations and the filing of charging documents. As such, EOIR is in regular and continuing contact with DHS to anticipate and respond to caseload trends. Through this close coordination, our two departments are able to explore additional ways of handling the removal adjudication process more efficiently and focus resources on the highest priority cases.

Immigration Court Process

DHS initiates removal proceedings when it serves an individual with a charging document, called a Notice to Appear (NTA), and files that NTA with one of EOIR's immigration courts. This is the same process currently being followed for the large numbers of unaccompanied minors and adults with children that have been crossing the border in recent weeks.

When the immigration court receives the NTA from DHS, the court schedules a removal hearing before an immigration judge. There may be one or multiple hearings, depending on the nature of the case. Removal proceedings begin with a "master calendar" hearing, during which the immigration judge ensures that the individual understands the alleged immigration law violations. The judge also provides information on available free or low cost legal representation resources in the area. Then, generally, the immigration judge will schedule an "individual" hearing at which both parties will present the merits of the case to the immigration judge.

The outcome of many removal proceedings depends on whether the individual is eligible for relief or protection from removal. Immigration law provides relief or protection from removal to individuals who meet specific criteria. In most removal proceedings, individuals admit that they are removable based on the charge contained in the NTA, but apply for one or more forms of relief such as cancellation of removal, adjustment of status, asylum, or other remedies provided by immigration law. For cases involving adults with children, DHS will issue an NTA to each family member, although the individual members may, if appropriate, appear together in consolidated proceedings before the immigration court.

Unaccompanied minors are placed in immigration proceedings when DHS files an NTA with the immigration court after the child is placed with an appropriate sponsor or in the long-term care of HHS' Office of Refugee Resettlement (ORR), thereby allowing the child's case to begin in the court location where the child will be residing and can avoid delays due to changes in venue. Cases involving children are placed on the court's juvenile docket. All immigration

courts have arranged for specialized juvenile dockets, which consolidate children's cases for master calendar hearings. Twenty-six immigration courts are actively hearing such cases on these dockets. The cases generally proceed under the laws that apply to adults, but judges employ their training to take into consideration the special vulnerabilities and needs of children. We provide specialized training to immigration judges who are expected to hear cases involving juveniles. In addition, the Office of the Chief Immigration Judge has issued an Operating Policies and Procedures Memorandum that deals exclusively with the handling of cases involving unaccompanied children.

Asylum and Protection Under the Convention Against Torture

All EOIR staff members understand the importance of asylum claims and claims for protection and of the need to decide these life-changing cases expeditiously while taking appropriate time to consider all of the relevant facts and applicable law. While we take seriously our responsibility to decide cases in an expeditious manner, the utmost priority for every type of case is ensuring that every respondent is treated fairly and that the facts and arguments presented by the parties are considered in accordance with U.S. immigration law.

There are two types of asylum processes – defensive and affirmative. The defensive asylum process generally applies to aliens who are in removal proceedings before EOIR and who request asylum before an immigration judge. The process is called “defensive” because it can provide aliens with relief (a “defense”) from removal from the United States. The affirmative asylum process generally applies to aliens who have not been placed into removal proceedings and who initially file asylum applications with DHS's U.S. Citizenship and Immigration Services (USCIS). Affirmative asylum applicants whom USCIS does not find to be eligible for asylum and are not in lawful status are referred to immigration court, where immigration judges conduct a *de novo* hearing of their asylum cases.

Generally, a person in removal proceedings would express a desire to file an asylum application at a master calendar hearing. The immigration judge would then schedule the person's case for an individual hearing on the merits of the asylum claim. Asylum claims asserted by UAC are always initially heard by USCIS, and their immigration court cases may be administratively closed pending a USCIS interview and decision on the asylum application. The immigration judge will consider the asylum application if it is not granted by USCIS.

Legal Representation for Children

Children are not guaranteed representation in immigration court proceedings, and the need for legal services far exceeds available pro bono resources. The removal cases of unaccompanied alien children are often continued multiple times in order to allow a child the

opportunity to seek legal representation. The Department of Justice is taking action to encourage legal access and, in some cases, direct representation to children.

DOJ recently launched "justice AmeriCorps," a grant program that will enroll approximately 100 lawyers and paralegals as AmeriCorps members to provide legal services to the most vulnerable of these children. This program, a partnership with the Corporation for National and Community Service, responds to Congress' direction to EOIR "to explore ways to better serve vulnerable populations such as children and improve court efficiency through pilot efforts aimed at improving their legal representation." In addition, DOJ believes the AmeriCorps members will help identify unaccompanied children who have been victims of human trafficking or abuse to assist in the investigation and prosecution of those who perpetrate such crimes on those children.

Adjudication Priorities

EOIR has been working closely with its federal partners in order to respond to the recent increase in migrants along the southwest border. As a result of this coordination, EOIR will be refocusing its resources to prioritize cases involving migrants who crossed the southwest border in recent weeks and are placed into removal proceedings by DHS. EOIR will now prioritize the adjudication of cases involving unaccompanied children, adults with children in detention, adults with children released through "alternatives to detention," and other individuals in detention. To realign our resources with these priorities, EOIR will reassign immigration judges in immigration courts around the country from their regular dockets to hear the cases of individuals falling in these four groups. Lower priority cases will be rescheduled to accommodate higher priority cases.

In addition, as DHS builds additional detention capacity, including for family units, EOIR will assign additional judges to handle the cases of those individuals who are detained and placed in removal proceedings. These judges will help adjudicate new cases as quickly as possible consistent with fairness and due process and all existing legal and procedural standards, including those for asylum applicants.

Because some immigration judges will be reassigned to immigration courts along the southwest border, the recent migrant influx is likely to impact the dockets of immigration court locations nationwide. Therefore, EOIR will also focus its attention on hiring new immigration judges to adjudicate cases in immigration courts around the country. EOIR also plans to expand its legal access programs in order to improve access to legal information and counseling for those facing removal proceedings. EOIR this week sent to the Federal Register a rule to provide for the appointment of temporary immigration judges to assist with the situation.

Although adjudication priorities are changing, all cases will be adjudicated consistent with all substantive and procedural rights and safeguards applicable to immigration proceedings. EOIR remains committed to working with our federal partners to help address this urgent border situation as it continues to evolve.

Budget and Resource Impact

EOIR must maintain the ability to properly staff our immigration courts with the immigration judges and support staff needed to most efficiently and fairly process cases. In 2010, the Department and EOIR placed a great emphasis on the hiring of new immigration judges in order to address the rapidly rising caseloads. The effort met with significant success, increasing our immigration judge corps and adding more law clerks to assist the judges.

Unfortunately, funding constraints that resulted in a hiring freeze beginning in January 2011 had a negative and worsening impact upon EOIR's core mission, and increased the number of cases pending adjudication and extending court dockets further into the future. And more than 100 immigration judges – more than one third of the immigration judge force – are eligible to retire in FY 2014 alone.

In February 2014, the FY2014 appropriations act included funds enabling the Department to lift the hiring freeze and EOIR began a hiring initiative to backfill more than 200 vacant positions, including at least 30 immigration judges.

The Department continues to seek the resources necessary to hire additional immigration judges, BIA attorneys, and other staff; to provide them with sufficient training and tools, and to continue pursuing other improvements that will benefit the immigration court system and the parties who appear before EOIR.

On March 4, 2014, the President presented his FY 2015 Budget request to Congress. EOIR's request includes \$347.2 million in discretionary budget authority, which is approximately 11% above the FY 2014 enacted level. The resources the President's Budget requests for EOIR for FY 2015 are essential to our ongoing efforts to recruit, train, and equip top-quality immigration judges and court staff.

Conclusion

Mr. Chairman, Senator Coburn, and distinguished Committee Members, despite the caseload challenges that it faces, EOIR continues to make great strides. Our adjudicators and staff are dedicated professionals who work every day to ensure efficient and fair immigration court proceedings, both at the trial and appellate levels. EOIR faces the demands of a large and

increasing caseload, but, with Congress's continued support, we are confident that EOIR will effectively meet that challenge.

Thank you for your interest and for the opportunity to speak with you today. I am pleased to answer any questions you might have.