



TESTIMONY OF

The Honorable Kevin McAleenan  
Acting Secretary U.S. Department of Homeland Security

BEFORE

U.S. Senate  
Committee on the Judiciary

ON

DHS Legislative Proposals

June 11, 2019  
Washington, DC

Chairman Graham, Ranking Member Feinstein, and distinguished Members of the Committee. Thank you for inviting me to appear before you today.

It is an honor to serve as Acting Secretary and to represent the distinguished men and women of the U.S. Department of Homeland Security (DHS). DHS has one of the most compelling missions in government: to safeguard the American people, our homeland, and our values.

This is no easy mission; every day this Department must monitor and defend more than 7,000 miles of America's shared border with Mexico and Canada, while also facilitating legal trade and travel. Our officers and agents inspect hundreds of tons of cargo for illegal and dangerous substances, process thousands of individuals for admission, and monitor hundreds of miles of remote territory along the border every single day.

With a security and humanitarian crisis on America's Southern Border that is growing worse by the day, DHS cannot properly protect America's territory, enforce its immigration laws, and keep criminals from exploiting our system and taking advantage of American generosity without immediate action from Congress. While we are doing everything we can, the volume and composition of populations arriving at the Southern Border are simply unsustainable. Unless Congress acts, the situation will continue to deteriorate—with grave consequences.

First, I would like to lay out some facts about the crisis we face, and then provide you with targeted solutions that will allow DHS to gain control of our border and to end this crisis.

## **BORDER CRISIS**

This crisis is unlike anything our country has ever faced. It is due in large part to the dramatic demographic shift in the flow of illegal immigration to the United States. Historically the vast majority of arriving aliens were single-adult males from Mexico who could be quickly detained and removed.

Today, the majority are family units and unaccompanied alien children; in fact, 72 percent of all border enforcement actions in May were directed to Unaccompanied Alien Children (UAC) and family units. These populations overwhelm DHS capacity because most cannot be easily cared for, efficiently processed, and expeditiously removed due to outdated laws and misguided court decisions.

Just two weeks ago, U.S. Border Patrol (USBP) agents apprehended the largest group of individuals ever encountered crossing the border unlawfully. Agents took custody of over 1,000 people after they illegally crossed the border in El Paso, Texas. All members of the group were from Guatemala, Honduras, or El Salvador. The group included over 900 family unit members, over 60 unaccompanied alien children, and just under 40 single adults.

These groups contribute to the more than 675,000 aliens apprehended or encountered at ports of entry on the Southwest border so far this fiscal year. In the month of May alone, CBP

apprehended and encountered more than 144,000 inadmissible or removable aliens—almost triple the number compared to last May.

CBP total enforcement actions this May are **623 percent higher** than May 2017 and 206 percent higher than the May average over the past seven years. Any of our men and women on the border can tell you that DHS facilities are overflowing, and that our resources are stretched too thin. Worst of all, the magnitude of arriving and detained aliens has substantially increased the risk of life-threatening incidents and impact to public health.

While we are doing everything we can to manage the crisis, managing the volume of vulnerable populations arriving is simply unsustainable. The facilities, resources, and legal authorities that we have at DHS are not able to address the challenges we are seeing and which we anticipate will continue without abatement absent Congressional action. The increase in numbers along with changes in demographics are directly tied to the vulnerabilities in our legal framework that have become well known to smugglers and migrants.

Simply put, cartels and smugglers are well versed in our laws. They know that, under the status quo, family units and unaccompanied alien children will be released—often with little or no consequences for their illegal entry. Recent legal developments have both codified and broadcast this practice, presenting the cartels with a lucrative business opportunity.

As a result, the numbers at the border have continued to grow, and desperate migrants are paying smugglers thousands of dollars to aid them on their illegal journey. We also know that the drug cartels are using the migrants as human diversions by putting them into large groups and dropping them at a remote location in the middle of the night, forcing our border patrol officers to redirect their coverage to rescue these groups. As part of their business model, smugglers and traffickers are forcing desperate inadmissible or removable aliens into inhumane conditions, demanding extraordinary sums of money, and putting lives in danger.

We have identified almost 4,800 migrants this year presenting as family units that were determined to be fraudulent. We have even uncovered “child recycling rings,” whereby innocent children are being used multiple times to help different adult intending immigrants gain illegal entry and release.

We routinely observe advertisements on the radio, in the local news, on social media, and by flyers and business cards advising that: “if you bring a child, you will not be deported,” and that “free American services and assistance are available.”

A recent Washington Post article from May 31 quoted a Guatemalan man named Juan Vasquez, who is considering migrating with children, as saying, “That’s the thing everyone knows now. If you go, you need to bring a child.”

The article goes on to say:

“Many Guatemalans say they have been told the ability to enter the United States with a child is part of an official U.S. policy that is due to expire in about a year; such rumors are often spread by smugglers trying to drum up business. “It’s something that they say is going to expire,” said Anselmo Torres, 58, also from La Libertad, whose two daughters migrated earlier this year with children of their own.”

Every single day, smugglers and traffickers profit from human misery by exploiting people who are seeking a better life. These smugglers, many with ties to transnational criminal organizations, may deprive aliens of food and water, physically assault them, and place them in dangerous travel conditions, such as locking them in tractor-trailers while outside temperatures reach 115 degrees.

We’ve seen large groups of mostly family units from Guatemala traveling on buses through Mexico to the U.S. border in a much shorter smuggling cycle, making the journey in as little as four to seven days.

Still other migrants are trafficked or used as drug mules. Human traffickers have no regard for the health and safety of the migrants who pay them; as a result, many who make the journey become sick, injured, or traumatized.

The weaknesses in our laws now represent the most significant factors affecting border security and allow this cycle of misery to continue. They include:

- The asylum gap—approximately 80 percent of individuals pass the initial credible fear screening in the asylum process, yet only 10 to 15 percent are found to have valid asylum claims by an Immigration Judge;
- The disparate treatment under the Trafficking Victims Protection Reauthorization Act, which allows for children arriving from Mexico and Canada to be voluntarily repatriated, but denies the ability to return Central American children ;
- The public health risk—family units are released into our communities with unknown vaccination status and without a standard medical examination for communicable diseases of public health concern, as well as a public health risk of disease outbreak at processing facilities; and
- The inability to detain families while working to expeditiously complete their immigration proceedings. Instead, as noted above, crossing with a child is a near guarantee of a speedy release.

These loopholes have created this crisis. Therefore, I am here to implore you to not ignore the situation which has metastasized into both an illegal migration surge and true humanitarian crisis with no end in sight.

## **PROPOSED CHANGES**

I am incredibly thankful to Chairman Graham for introducing legislation aimed at solving this crisis, as well as Chairman Johnson, Senator Cornyn, and Representative Cuellar, who have all

introduced bills to fix the loopholes in our system. I look forward to continuing to work with Chairman Graham on his legislation.

Any legislation will need to address the following:

### **Family Detention**

- We desperately need the authority to keep families together in detention during their immigration proceedings while promoting a uniform standard of care and accommodation of family units, including – but not limited to – medical attention, nutrition, education, activity, and religious services.

### **Safe and Prompt Return of Unaccompanied Alien Children**

- Congress should modify our legal framework to allow DHS to ensure the safe and prompt return of unaccompanied alien children so they can be safely and expeditiously returned home and reunited with their families, regardless of their country of origin.

### **Special Immigrant Juvenile (SIJ) Status**

- I urge Congress to update the laws to require an applicant for SIJ status prove that reunification with both parents is not viable due to abuse, neglect, or abandonment, rather than being able to receive SIJ status despite being able to reunite with one of his or her parents in the United States.

### **End Abuse of the Asylum System**

- I urge Congress to improve the “credible fear of persecution” standard to ensure that only aliens who are more likely than not to succeed on their asylum claim are promptly placed into immigration proceedings while those who are not are expeditiously removed.
- I request that Congress improve the integrity of the asylum system by providing that those who are ineligible for asylum are not found to have a credible fear of removal, but instead are placed into withholding of removal proceedings.
- I am also asking Congress to support a process that would allow certain Central Americans to seek refugee status closer to home or in a bordering country, thus obviating the need for these aliens to make the dangerous journey to the United States—and drastically reducing the opportunity for drug cartels and smugglers to profit off of human suffering.

### **Properly Resource Humanitarian Care and Border Security**

- Support the Administration’s requested funding levels for CBP and ICE included in the FY 2019 Emergency Supplemental Budget Request for Southern Border Humanitarian Needs and the FY 2020 President’s Budget request.

## CONCLUSION

We will continue to take aggressive action—and marshal resources from across DHS—to mitigate the crisis, and protect vulnerable people in our custody by expanding medical care, creating temporary facilities, improving transportation. However, the current state of affairs is not sustainable. Without key fixes and reforms, the American people will spend increasing sums of money on a worsening crisis.

In order for us to solve this crisis and to create lasting change at the border, we *must* address the vulnerabilities in our legal framework. I am asking for narrow and targeted changes to our laws that will restore integrity to our immigration system and remove the incentives for families and children to cross our border illegally. I believe that, once implemented, these changes will represent a huge step forward in addressing this crisis and preventing further abuse of vulnerable populations by criminals.

Thank you for your support of our vital efforts to secure the border, and of the men and women of DHS. I look forward to the Committee's questions.