

The Non-Governmental Organization Perspective on the Southwest Border

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Thank you Chairwoman Sinema, Ranking Member Lankford and the other Members of the Subcommittee for the opportunity to testify today.

I am a Senior Fellow in Border Security at the Texas Public Policy Foundation. My comments and recommendations today are my own and do not necessarily reflect those of the Foundation.

Until December 2020, I was an Assistant U.S. Attorney in the Southern District of California, and I had been a prosecutor in the U.S. Department of Justice for approximately seventeen of the prior eighteen years. For the last twelve of those years, I worked almost exclusively on investigations and prosecutions of transnational criminal organizations in Latin America, first from the Criminal Division of Main Justice and later from the U.S. Attorney's Office in the Southern District of California. In my last 18 months with the Department, I served on the Attorney General's Joint Task Force Vulcan, which coordinated domestic and international investigations into the MS-13 Transnational Criminal Organization. In that capacity, I coordinated task force efforts in Mexico and parts of Central America.

Before migrants reach the southern border of the United States, they endure tremendous hardship. The hope of receiving the tender and accommodating care of the operational NGO industry represented by my fellow witnesses is but one of the many "pull" factors that draw these

migrants to engage in a dangerous odyssey which, in many cases, requires them to become victims of disease, malnutrition, dehydration, rape, and assault.

Today, I want to share with you the political and social climate – the “push” factors, if you will – that exists in Mexico and the Northern Triangle. These “push” factors drive the unprecedented levels of migrants into the welcoming embrace of these NGO’s, whose efforts to care for and subsequently release the migrants into the US interior are so prominent and all the more vital due to the Biden Administration’s policies at the southern border.

While I do not have direct professional experience working for or with an operational non-governmental organization, I have experienced the impacts of increases in illegal immigration and various changes in immigration enforcement policy on a border district. I also have participated in investigations of nearly every major transnational criminal organization in Mexico and the Northern Triangle countries. I am familiar with the impact that these criminal organizations have on migration to the United States from Mexico and the Northern Triangle countries.

I. Criminal Organizations in the Northern Triangle

While Mexican criminal organizations have a limited presence in the Northern Triangle countries, two El Salvadoran transnational gangs—MS-13 and 18th Street—control most of the territory in the Northern Triangle. These gangs, which are transnational in nature and extend into urban and suburban areas throughout the United States, serve as a primary motivating factor in migration to the United States, particularly from Honduras and El Salvador.

As a prosecutor on Joint Task Force Vulcan, I listened to multiple anecdotal accounts of the gangs “taxing” residents and businesses in the territory they control. If the resident or business is unable or unwilling to pay the tax, the gang carried out acts of violence on the resident or business owner. The gangs also “recruit” young males, typically 12-14 years old, by forcing them, on threat of death, to join the gang for life. In these cases, the resident, business owner and/or young male are often left with few options other than making the trek north toward the United States.

The smuggling organizations that arrange for individuals or caravans to be transported into the United States are typically very small groups with transnational criminal organization contacts throughout Guatemala and Mexico. The organizations typically charge \$4,000 to \$10,000 per person. It is unclear how indigent Central Americans can make that payment, although there are anecdotal accounts in open-source media of criminal organizations maintaining contact with immigrants after the immigrants are settled in the United States, and continuing to collect payment. There are other accounts of young migrants becoming victims of sex trafficking or slave labor rings in lieu of payment. I am aware of one young male who was smuggled into the United States from a Northern Triangle country and subsequently arrested while attempting to cross a very large quantity of an illegal drug into the United States. There was some evidence that his drug trafficking activity was performed as a part of his payment to his smugglers and/or the Mexican criminal organization that facilitated his entry into the United States.

II. Criminal Organizations in Mexico

The migrant's trek to the southern border of the United States includes transportation along the common contraband trafficking routes in Mexico. Such routes include "plazas," or cities along transportation routes controlled by Mexico's transnational criminal organizations. The criminal organizations charge a tax for anything, whether migrants, illegal drugs or, in some cases, legal merchandise, that is moved through their territory. It is also along the transportation routes through Guatemala and Mexico that local criminal organizations frequently exploit migrants, at times committing acts of sexual violence against women.

The transnational gangs of the Northern Triangle, MS-13 and 18th Street, have been moving into Mexico in large numbers. The gangs have a significant presence in the Mexican State of Chiapas and other states in southern Mexico, and there is now a separate "program," or operating division, of MS-13 specific to Mexico. MS-13 leaders have also moved from El Salvador, where law enforcement cooperation with the United States has improved in recent years, to Mexico, where U.S. law enforcement does not have a similar cooperative relationship with Mexican law enforcement counterparts. In my time working with the Government of Mexico as part of Joint Task Force Vulcan, it was apparent that, on the federal level, Mexico is ill-prepared to address its growing presence of Northern Triangle gangs. Mexico has thus become a safe haven for MS-13 (and likely 18th Street) gang leadership, with gang leaders ordering acts of violence in the United States from that safe haven.

In the border towns connecting the United States and Mexico, there is a convergence of the Mexican transnational criminal organization controlling the port of entry, the Northern Triangle gang presence that often is directly involved in the smuggling of Central Americans into the United States, and the migrant caravans or individual migrants who have trekked thousands of miles north and are at the mercy of those criminal organizations. Anecdotal stories, some of which I heard through various human sources in my time as a federal prosecutor and some of which are told on open-source media, include accounts of drug traffickers manipulating large caravans to cross into the United States at certain areas of the border to divert the attention of U.S. Customs and Border Protection officers from a drug load they are moving across another section of the border. Other accounts involve Northern Triangle gangs cooperating with drug traffickers, where the criminal organization controlling the port of entry allows gang-sponsored migrants to cross the border if the migrants carry backpacks filled with illegal drugs, called "mochilas," on their journey. After the migrants arrive in the United States, they are told to deliver the backpacks to drug traffickers in the United States.

Other anecdotal accounts exist of migrant smugglers trafficking minors of Northern Triangle origin to the United States, where current policy guarantees entry and placement by the Department of Health and Human Services, often in coordination with non-governmental organizations. At ports of entry, adults will falsely claim to be parents of minors entering the country in order to gain entry themselves. The minors are often then returned to Mexico to be paired with another set of adults falsely claiming to be their parents. In other cases, minors are placed by an overwhelmed Department of Health and Human Services with "families" that are actually sex trafficking rings or forced labor camps.

In summary, the Mexican transnational criminal organizations are much more than drug traffickers. They effectively monopolize the “distribution channels” for all things and persons trafficked between the United States and Mexico, and they will seek to profit off anything moving through those distribution channels. In an immigration crisis, the criminal organizations profit in any way possible from the influx of migrants going through their territory, with the migrants becoming the tragic victims.

III. Recommendations

With regard to the interplay between non-governmental organizations and the Department of Homeland Security (DHS), it is important that such organizations receive training from DHS in identifying victims of human trafficking, gang members, and other signs of ongoing criminal activity perpetrated by the criminal organizations at the border. With DHS overwhelmed by the numbers of migrants crossing the border, both legally and illegally, non-governmental organizations can be force multipliers in detecting the presence of criminal organization activity.

For near-term mitigation of the border crisis, a policy requiring asylum applicants to begin the asylum process at the U.S. embassy or consulate in their home countries should reduce the volume of migrants from the Northern Triangle. Such a measure, however, should be coupled with the provision of increased security and/or safe haven facilities in the home countries for persons facing immediate threat of death from local gang members. Increased levels of security could be provided by private security contractors in coordination with counterpart law enforcement. Safe haven facilities could be provided by non-governmental organizations operating in the Northern Triangle.

Long-term solutions to the recurring border crises involve both investments in the future of the Northern Triangle countries and changes to U.S. asylum policy, improved DHS technology at the border, increase in DHS personnel and Department of Justice personnel assigned to prosecute immigration cases as necessary, and a more aggressive diplomatic approach to the Government of Mexico, particularly in its bilateral relationship with U.S. law enforcement. With regard to economic development in the Northern Triangle, the U.S. government approach must account for systemic corruption and the aforementioned lack of security in the region.

Chairwoman Sinema, Ranking Member Lankford and the other Members of the Subcommittee, thank you again for the opportunity to testify, and I look forward to answering your questions.