



U.S. Immigration and Customs Enforcement

STATEMENT

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REGARDING

*“THE EXPLOITATION OF MIGRANTS THROUGH SMUGGLING,
TRAFFICKING, AND INVOLUNTARY SERVITUDE”*

BEFORE THE

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

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INTRODUCTION

Chairman Johnson, Ranking Member Peters, and distinguished members of the Committee.

Thank you for the opportunity to appear before you today to provide an update on the ongoing situation along our Southern Border and to discuss the support provided by U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) in the investigation of human smuggling and the protection of victims, especially children.

As the largest investigative agency within the U.S. Department of Homeland Security (DHS), ICE's HSI investigates and enforces more than 400 federal criminal statutes, including the *Immigration and Nationality Act* under Title 8 United States Code, U.S. customs laws under Title 19 United States Code, and general federal crimes under Title 18 United States Code, as well as many others. HSI Special Agents use this unique and broad statutory authority to investigate all types of cross-border criminal activity and work in close coordination with U.S. Customs and Border Protection (CBP) and our state, local, tribal, and international partners in a unified effort to target transnational criminal organizations (TCOs) that prey on individuals who wittingly, or unwittingly, place their trust in nefarious actors to transport them illegally into the United States.

As the Assistant Director of HSI's Investigative Programs, I lead approximately 350 employees and 16 investigative units, including human smuggling, human trafficking, financial crimes, narcotics, worksite enforcement, document and benefit fraud, criminal gangs, undercover operations, asset forfeiture, and the victim assistance program. Additionally, I oversee several operations centers responsible for criminal targeting, counter-network development, and the fusion of intelligence and law enforcement information to assist investigative and enforcement efforts against transnational organized crime.

Throughout my nearly three decades of working for both HSI and the former Immigration and Naturalization Service, I have witnessed firsthand the perils individuals are willing to endure to seek a better life in the United States. There was no better illustration of this than in June 1994 when, while conducting a maritime inspection of a vessel in South Boston, Massachusetts, I encountered 11 Romanian stowaways hidden in a container on the vessel. The stowaways spent nearly two weeks in the container with little to no food or water and only a small hole cut in the side for them to breathe. As a young officer, this incident put into perspective and molded the way in which I approached every future encounter with a person who was seeking to enter this country.

HSI's Efforts to Combat Human Smuggling

HSI is charged with protecting national security and public safety by enforcing the nation's immigration and customs laws, and combating human smuggling is an HSI core mission priority. Human smuggling is often accompanied by other collateral crimes such as document and benefit fraud, illicit financial activity, and human trafficking.

Human smuggling and human trafficking are often conflated as being one and the same type of crime. I would like to take a few moments to explain the key differences between them.

Human smuggling involves the provision of a service—typically, transportation or fraudulent documents—to an individual who voluntarily seeks to enter a foreign country illegally. In Fiscal Year (FY) 2018, HSI initiated 1,671 cases and made 4,081 criminal and 2,987 administrative arrests related to human smuggling.

Human trafficking, however, is a crime involving the exploitation of someone for the purposes of compelled labor or a commercial sex act, either of a minor or through the use of force, fraud, or coercion. Immigration status or country of citizenship is not an element of human trafficking, nor is movement across an international border. Often, a venture to the United States starts off as a human smuggling event where the person is complicit to the act but turns quickly into a human trafficking event when the person is compelled to either labor or engage in commercial sex. This is distinct from extortion and hostage taking during human smuggling. Human trafficking often occurs after the person(s) have made it into the interior of the United States, which is why it is difficult to detect if someone crossing the border is a trafficking victim. In FY 2018, HSI initiated 849 cases, made 1,588 criminal arrests, and rescued 308 victims of human trafficking.

Based on the collection of intelligence and investigatory evidence, we observe that human smuggling enterprises and the drug cartels maintain a symbiotic relationship with each other. Certain members of these criminal enterprises control the major U.S. and foreign drug markets and others control the “smuggling flow,” otherwise known as the “illicit pathways.” Some human smugglers are required to pay taxes and fees to cartels for access to smuggling routes through specific geographic areas and are often subject to physical violence, extortion, and/or death if proper coordination and compensation are not rendered for these services. In addition, failed coordination between the cartels and human smuggling enterprises greatly increases the risk of unwanted law enforcement attention and investigative efforts, which is bad for business.

These human smuggling ventures often lead to extremely dangerous circumstances that pose both a threat to public safety as well as create humanitarian concerns. HSI has encountered smuggled aliens that have been kidnapped, taken hostage, beaten, sexually assaulted, threatened with murder, or have died as a result of the often-dangerous conditions encountered during their passage.

Our intelligence indicates desperate migrants pay smugglers upwards of \$8,000 in U.S. dollars (USD) to be smuggled from Northern Triangle countries and over \$70,000 USD from the Eastern Hemisphere to aid them on their illegal journey. As part of their business model, smugglers and traffickers often force the migrants into inhumane conditions, and upon arrival to the United States, these aliens and their family members are frequently extorted for additional and extraordinary sums of money, kept in decrepit stash houses, and prevented from joining family members until demands are met.

We also know that the drug cartels are using the migrants as human diversions by putting them into large groups and dropping them at remote locations in the middle of the night, forcing U.S. Border Patrol (USBP) officers to redirect their coverage to rescue these groups. These diversions often lead to resources being stretched so thin that groups of smuggled aliens and incidents of smuggled narcotics and other dangerous contraband are unavoidably missed by authorities at the southern border.

In order to identify high risk subjects who attempt to utilize these illicit pathways to enter the United States, HSI has collaborated with CBP, the U.S. Department of State, and the U.S. Department of Defense (DOD) in the Biometric Identification Transnational Migration Alert Program (BITMAP). Under this program, HSI trains and equips foreign counterparts to tactically collect biometric and biographic data on criminals, gang members, and other persons of interest as identified by the host country. Foreign partners share this data with HSI to populate and enhance U.S. government databases. In FY 2018, BITMAP enrolled over 41,000 encounters of persons of interest, including 31 biometric enrollments of Known and Suspected Terrorists (KST) and 81 enrollments resulting in a biometric enhancement to a KST record. BITMAP matched nearly 190 persons to the DOD Biometrically Enabled Watchlist (BEWL) and added 200 new identities to the BEWL. Since inception in FY 2011, BITMAP has enrolled over 94,000 encounters of persons of interest, including over 450 enrollments of KSTs. BITMAP has matched over 230 persons to the DOD BEWL and added 1,500 new identities to the DOD BEWL.

HSI's Efforts to Identify Fraudulent Families

Human smugglers are currently capitalizing on the trend of fraudulent families crossing the border to enter the United States. The cartels and human smugglers are well versed in our inability to detain family units for the length of time necessary for their cases to be decided, in large part due to the *Flores* Settlement Agreement and judicial decisions that interpret it. Family units and unaccompanied children are often released with little or no consequences for their illegal entry.

An unprecedented number of migrants from Guatemala, Honduras, and El Salvador have been arriving at the Southern Border of the United States. These migrants, including those falsely claiming to be family units, are currently inundating the Southern Border and are further stretching limited DHS resources. By falsely claiming to be a legal family unit, migrants avoid detention and/or prosecution and are subsequently released after being processed in an expedited fashion.

In response to this crisis, since April 2019, ICE has dedicated over 400 HSI personnel to assist in combating this issue. HSI deployed teams of special agents, intelligence analysts, forensic interview specialists, and document fraud examiners to the southern border. Teams have been tasked with interviewing groups suspected of fraudulently claiming familial relationships in order to facilitate human smuggling activity. As a result, between mid-April and June 21, 2019, HSI identified 316 fraudulent family units, 599 fraudulent documents, and presented 629 individuals for criminal violations.

I would like to discuss for a few moments two current HSI national operations that have been created to address this issue.

Operation Double Helix: Rapid DNA Testing

From May 6 to 10, 2019, HSI initiated a rapid DNA pilot called *Operation Double Helix* in El Paso and in McAllen, Texas. Both sites were selected for this initiative because they are considered the sectors with the highest family unit apprehensions along the southern border.

Selection of family units for Rapid DNA testing was based on factors such as key

observations obtained during interviewing, intelligence gathering, documentary evidence, and any investigative information developed during immigration removal processing. No DNA information from these tests has been stored as this was a presumptive test to validate a claimed familial relationship. During this operation, written consent was documented for DNA collection and testing, and each alleged parent was served with a privacy notice clarifying that testing was voluntary. HSI coordinated with the DHS Office for Civil Rights and Civil Liberties (CRCL) prior to the pilot to ensure appropriate CRCL protections and concerns were mitigated prior to the operation.

HSI Special Agents sought to gather intelligence and evidence to initiate robust investigations to identify the TCOs perpetuating the exploitation of these children, the production of fraudulent identity documents, and other criminal activity associated with human smuggling efforts. The goal of this operation was to remove children from these dangerous and potentially exploitive situations.

During this operation, a total of 84 family units were DNA tested after providing consent. Sixteen family units were found to be fraudulent during the testing. About half of the confirmed fraudulent family units were identified prior to DNA testing when the adult alien recanted their claim of a familial relationship when asked to consent to a DNA test. The teams were also advised by USBP agents that other subjects within the processing facilities not selected for testing voluntarily came forward and admitted they were part of a fraudulent family, as they heard/witnessed that DNA testing was being conducted. Based on the success of this operation, a second pilot of DNA testing—Operation Double Helix 2.0—is scheduled to begin on or about July 1, 2019.

One case I would like to highlight involves a 51-year-old Honduran male encountered by HSI agents in McAllen, Texas. The subject was with an infant child that he initially claimed was his son. While he was being interviewed for DNA testing, the subject confessed that he presented a fraudulent Honduran birth certificate for the infant child, who was not related to him in any fashion. The subject purchased the infant shortly after birth from the birth-mother for the equivalent of approximately \$84 USD. The subject did not present any documents to validate either a legal adoption of the infant or documents from the birth-mother indicating her consent to legally transfer custody of the infant to the subject. When interviewed, the subject admitted the infant was purchased solely as a means for him to enter the United States. Investigation revealed the subject was previously removed from the United States on two occasions in 2006 and 2013. The subject was charged in the Southern District of Texas with violations of Title 8 US Code §1324(a)(1)(A)(ii), alien smuggling, and Title 8 US Code § 1325, illegal entry.

Operation Noble Guardian

In early May 2019, HSI's Human Smuggling Unit (HSU), in coordination with CBP's National Targeting Center's (NTC) Counter Network Division, initiated *Operation Noble Guardian*. As previously mentioned, some migrants are exploiting our immigration laws, fraudulently claiming to be family units, avoiding detention and/or prosecution, and subsequently released after being processed in an expedited fashion.

The NTC assisted HSI in identifying adult migrants and accompanying alien children that entered the United States as alleged family units, and then the children subsequently departed the

United States via commercial airlines to Northern Triangle countries. As of June 21, 2019, 85 migrant children who were processed as part of a family unit have departed the United States. HSI is currently investigating these incidents to determine if these children are being used and recycled by adult migrants for the purpose of defrauding the United States.

As of June 21, 2019, HSU has developed 65 Investigative Referrals (IRs) that resulted in dozens of HSI interviews and other investigative activities, both domestically and internationally with assistance being provided in Guatemala by HSI's Transnational Criminal Investigative Unit (TCIU). These efforts have resulted in the development of two significant investigations based out of HSI Tampa and HSI Miami. Both investigations are being supported by the U.S. Attorney's Offices for the Middle (Tampa) and Southern (Miami) Districts of Florida.

A second line of effort under *Operation Noble Guardian* is to identify and locate these adults after the children have departed the United States. Many of these adults involved in fraudulent family units since their entry into the United States have been identified as absconders from ICE's Enforcement and Removal Operations and are now being targeted for arrest and deportation.

CONCLUSION

Thank you again for the opportunity to appear before you today and for your continued support of HSI and its law enforcement mission. HSI is committed to augmenting CBP's resources at our southern border to assist them with this unprecedented humanitarian and security crisis. However, without Congressional support, we will not be able to sustain this effort. We remain committed to working with all of our counterparts to utilize our unique authorities and resources to ensure the safety of children and to prevent them from being utilized by criminal enterprises to exploit our immigration system.

I appreciate your interest in this important issue and look forward to your questions.