



Department of Justice

STATEMENT OF

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CRIMINAL DIVISION**

BEFORE THE

**COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE**

AT A HEARING ENTITLED

**“DANGEROUS PASSAGE: CENTRAL AMERICA IN CRISIS AND
THE EXODUS OF UNACCOMPANIED MINORS”**

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Statement of
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The Senate Committee on Foreign Relations
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Good afternoon, Chairman Menendez, Ranking Member Corker, and Members of the Committee. Thank you for the opportunity to appear before the Committee today to discuss the Department of Justice’s law enforcement efforts to address the humanitarian challenge created by unaccompanied children who lack lawful status that are crossing into the United States through our southern border with Mexico. I also particularly want to thank the Chair for holding this hearing and for his continued leadership on this important issue.

As Attorney General Holder has noted, how we address the issues associated with unaccompanied children goes to the core of who we are as a nation. The Department of Justice is, therefore committed to working with our interagency and international partners to find humane, durable solutions to this pressing problem. My colleagues from the Department of Justice have testified in other hearings regarding the steps that the Department is taking to address this problem from an immigration law perspective. Among other steps, the Department is increasing the number of immigration judges assigned to conduct hearings and prioritizing adjudication of cases that fall into the following four groups: unaccompanied children; families in detention; families released on “alternatives to detention;” and other detained cases.

At today's hearing, however, I will focus on the Justice Department's law enforcement steps we are taking to address this issue. Our actions in this regard fall into two categories: (1) investigation and prosecution of those who are facilitating the illegal entry of unaccompanied children into the United States and those who are preying upon those children; and (2) work with our foreign counterparts to help build their capacity to address the crime and violence that can serve as potential catalysts for the flow of these children to the United States.

Investigations and Prosecutions

The Department of Justice has a long history of investigating and prosecuting human smugglers. Recent cases include that of Joel Mazariegos-Soto, a leader of a human smuggling organization, who was prosecuted in the District of Arizona, and sentenced to 60 months in prison for his role in operating an illegal human smuggling organization. Mazariegos-Soto and his associates utilized multiple stash houses in the Phoenix area, including one -- discovered by agents with the U.S. Immigration and Customs Enforcement Homeland Security Investigations (HSI) in October 2012 -- containing over 27 unauthorized immigrants, and another -- found in January 2013 -- with over 40 unauthorized immigrants.

Similarly, in the Southern District of Texas, an individual named Lenyn Acosta was recently prosecuted and sentenced to 97 months in federal prison for his role in a conspiracy to transport or harbor unauthorized immigrants present in the country. Acosta was the organizer and leader of a conspiracy involving hundreds of undocumented immigrants, including juveniles. He also caused serious bodily injury to a female unauthorized immigrant he harbored by sexually assaulting her, demonstrating the sort of dangers faced by those persons being smuggled into the United States.

The Department of Justice also recently secured the extradition from Morocco of an individual named Habtom Merhay, a national of Eritrea and a citizen of the United Kingdom, who will now stand trial in Washington DC for human smuggling charges related to his alleged role in smuggling primarily Eritrean and Ethiopian undocumented

migrants from the Middle East, through South and Central America and Mexico into the United States.

These cases are just a few examples but are emblematic of the work of federal prosecutors and law enforcement agents who enforce our nation's immigration laws. But we now face a new type of human smuggling. In contrast to the typical smuggling case, there is no effort to hide these children from the U.S. Customs and Border Protection (CBP) officials stationed along the borders. To the contrary, the smugglers of these children essentially have to do nothing more than transport them to the vicinity of the border and instruct them to approach the CBP. Thus, the smuggler need never enter the U.S., thereby limiting the possibility that he or she will be arrested by U.S. authorities. The difficulties in effectively investigating and prosecuting these cases are compounded by their transnational nature. Notably, the majority of the planning and activity associated with these crimes occur in one or more foreign countries—and outside the ordinary investigative reach of U.S. authorities. Moreover, while human smuggling organizations are clearly participating in the movement of families and unaccompanied children to the U.S. border, there are also indications that a significant part of the movement of children and families from Central America may be unstructured, relying on informal contacts and individuals who are opportunistically assisting the migrants in return for payment. This makes the problem of unaccompanied children particularly difficult to attack through investigation and prosecution, because many of the individuals assisting the children may not be part of any large-scale criminal organization.

Nonetheless, the Department of Justice is working collaboratively with the Department of Homeland Security (DHS) to facilitate investigations that may lead to prosecutions of those responsible for the illegal entry of minors into the United States. Among other things, we are working with our foreign counterparts to encourage them to target facilitators operating in their countries.

Additionally, we are encouraging disruption strategies in Central American countries that will make cross-border smuggling—whether of drugs people, or contraband—more difficult, by targeting the cartels that may exploit the children being

smuggled, or who may impose “taxes” on human smugglers who wish to use the cartels’ smuggling routes.

The Drug Enforcement Administration (DEA), for instance, has led disruption efforts in Central America and Mexico, such as *Operation Fronteras Unidas*—an operation designed to detect, disrupt and dismantle drug trafficking organizations (DTOs) involved in the land-based smuggling of illicit substances, precursor chemicals and bulk cash throughout Mexico and Central America. This operation was intended to help strengthen communication and coordination within the region and assist in identifying the key land-based transportation routes and methods utilized by the DTO’s throughout Central America and Mexico and to support on-going investigations and prosecutions in the U.S. and Central American countries.

During May 2014, *Operation Fronteras Unidas* was supported by personnel from Mexico and seven Central American countries. This included 523 host nation personnel who focused resources at 24 checkpoints throughout the region. As a result, *Operation Fronteras Unidas* yielded seizures of 1,512 kilograms of cocaine; 516 pounds of marijuana; 367 grams of crack cocaine; \$334,585 in cash; one assault rifle, one handgun and one grenade; 54 drug-related arrests and five arrests on human smuggling charges during the 10 day action. Such successful initiatives demonstrate that international collaboration against complex transnational issues is possible.

The Department of Justice also continues to prosecute gang-related crimes related to Central America, thus working to address one of the root causes of the instability in these countries that helps drive this crisis. Since 2007, the Justice Department’s Organized Crime and Gang Section (OCGS), in conjunction with our US Attorney Offices (USAOs), in cases investigated by the FBI, ATF, and ICE/HSI, has aggressively pursued transnational violent gangs headquartered in Central America. For example, OCGS, in conjunction with our USAOs, has prosecuted complex racketeering indictments against the national and international leadership of the notorious international street gang La Mara Salvatrucha, or MS-13. OCGS and the USAOs, together with their

law enforcement partners have successfully secured convictions for racketeering offenses, murder, kidnapping, sexual assaults, and narcotics and weapons trafficking, and have secured life sentences and, in one instance, the death penalty, against the worst offenders of the gang in the United States. Significantly, several of these cases have not only targeted regional or national leadership of MS-13, but also have included indictments of the gang's leaders in El Salvador who have orchestrated criminal conduct in the United States from their jail cells in El Salvador.

At the same time, we are continuing to consider alternative investigative and prosecutorial strategies. The Department is redoubling its efforts to work with Mexican and Central American authorities to identify and apprehend smugglers who are aiding unaccompanied children in crossing the United States border. The Deputy Attorney General met last week with the five U.S. Attorneys whose districts lie on our Southern Border to discuss strategies for disrupting and dismantling criminal organizations that smuggle migrants into the United States.

Capacity Building

At the same time that we are using the criminal justice process in the United States to address the problem of unaccompanied children crossing our southern border, we are also committed to helping build the capacity of our foreign counterparts to address the violence—particularly the gang violence—that can serve to encourage migration. This violence can be addressed by a sustained commitment to law enforcement reform by the Central American countries from which these minors are fleeing. Where a country has made such a commitment, the Department of Justice has demonstrated its willingness to assist through exchanges of expertise. The Department of Justice, however, does not receive appropriations for overseas capacity building. Instead, we look primarily to the U.S. Department of State and the U.S. Agency for International Development (USAID), as the lead U.S. government agencies for foreign assistance, for funding for our overseas security sector assistance work. We ask you to support the Administration's full supplemental request.

With regard to capacity building, the Justice Department's main efforts are through our constituent law enforcement agencies —the FBI, DEA, USMS, and ATF— and two offices within the Department solely dedicated to overseas security sector work: the International Criminal Investigative Training Assistance Program (ICITAP) and the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT), both of which are located in the Criminal Division of the U.S. Department of Justice. Both OPDAT and ICITAP are tasked with furthering U.S. government and DOJ interests abroad through programs related to the criminal justice system. With State Department approval and funding, OPDAT and ICITAP can place federal prosecutors, and senior law enforcement officers, as long-term resident advisors in countries seeking to reform their laws as well as their investigative, prosecutorial, and correctional services.

Within the region, the Department currently has OPDAT prosecutorial Resident Legal Advisors (RLAs) in Mexico, El Salvador and Honduras. Mexico is by far our most robust program. There, OPDAT and ICITAP are supporting Mexico's decision to make a transition from an inquisitorial system to an accusatory one, and are working collaboratively with Mexican prosecutors, investigators, and forensic experts, including on specialized programs in the areas of money laundering and asset forfeiture, intellectual property, evidence preservation, and extraditions. OPDAT has also worked closely with the Government of Mexico and the U.S. Marshals Service on Witness Protection issues.

In that regard, the RLA in Honduras has provided technical assistance and mentoring to Honduran police and prosecutors on complex investigations, specifically emphasizing the investigation of human smuggling organizations. He has worked to establish better communication between law enforcement and prosecutors regarding enforcement actions on the border, ensuring cases involving human smugglers are properly handled to ensure successful prosecutions; and is creating a team of human trafficking prosecutors and organized crime prosecutors that can respond when needed anywhere in Honduras on short notice. In addition, the RLA has led efforts to coordinate anti-smuggling efforts among Honduras, El Salvador, and Guatemala. Similarly, in Mexico, the TIP-RLA has worked with counterparts to focus on vulnerable minors, and on cross-border criminal conduct; this, too, provides a basis for enhanced anti-smuggling

efforts. More generally, our ICITAP advisors also provide essential collaborative support that enhances the investigative capabilities of our law enforcement counterparts, including with regard to investigating smuggling organizations. In Mexico, ICITAP provides organizational and capacity building support to the Federal Ministerial Police (PFM or the investigative function of the Attorney General's Office). ICITAP also supports the establishment of a national framework for professional standards and training as well as a nation-wide sustainable training system for crime scene first responders.

In El Salvador, the State Department has charged both OPDAT and ICITAP to assist the Salvadoran government to achieve economic growth by: first, reducing the impact of organized crime on small and medium businesses, whose contribution to growth is key to the economic well-being of El Salvador; second, ensuring El Salvador's labor force is protected from crime while transiting to and from work; and third, ensuring that public transportation service providers serving the labor force are protected from crime. Through such efforts, the Department of Justice helps to address the violence that undercuts economic growth, and spurs immigration.

With Department of State funding, our law enforcement agencies also have helped to increase capacity to address violent crime in the region. The FBI has created Transnational Anti-Gang (TAG) Units to combine the expertise, resources, and jurisdiction of participating agencies involved in investigating and countering transnational criminal gang activity in the U.S. and Central America. These groups—headed by FBI agents who lead vetted teams of national police and prosecutors in El Salvador, Guatemala, and Honduras—coordinate with FBI Legal Attachés assigned to those regions and with the Bureau's International Operations Division.

In the past two years, TAG El Salvador has located and captured two FBI top ten most wanted fugitives, both of whom were gang members. These fugitives are now in the U.S. and are awaiting trial. TAG El Salvador is currently working on multiple MS-13 or 18th Street gang investigations tied to the following FBI Offices: Newark, Boston, Los Angeles, and Washington Field. In addition to gang investigations, TAG Guatemala has located and captured nine U.S. fugitives wanted for charges including murder, sexual

assault, and financial fraud. These fugitives have been extradited, or are awaiting extradition, to the United States for trial.

In addition to combating transnational gangs such as the MS-13 and 18th Street gangs, the TAGs assist domestic FBI and other federal, state, and local law enforcement agencies conducting gang investigations involving Salvadoran, Guatemalan, and Honduran nationals engaged in criminal activity within the United States. The TAGs also provide gang investigation training in the Central American region to the national police forces, as well as prison employees within the host nation. TAG members have also provided gang training in the U.S., as well as in Mexico and other Latin American countries.

Lastly, the TAGs have been extremely successful in investigating, indicting, and prosecuting MS-13 and 18th Street members in each of the host countries who were responsible for conducting extortions and other criminal activity affecting the United States and/or Central American countries.

Similarly, the DEA has formed cooperative partnerships with foreign nations to help them to develop more self-sufficient, effective drug law enforcement programs, and so to reduce violence. Since its inception in 1997, the Drug Enforcement Administration's (DEA) Sensitive Investigative Unit (SIU) program has successfully supported host-nation vetted programs. These programs are implemented with the assistance of the Department of State using operations funding appropriated to DEA. The SIU program selects only the best host-nation law enforcement officers, who receive five weeks of basic investigative training at DEA's training facility in Quantico, Virginia, before being assigned an in-country DEA Special Agent mentor. Once a member of an SIU, host country personnel become part of a select investigative team whose primary focus is to target the highest level criminal drug traffickers, DEA's Consolidated Priority Organization Targets (CPOTs).

The Administration has proposed a supplemental funding request for FY 2014 of \$295 million in Economic Support Funds for State and USAID to address the situation at our Southern border. Of the \$295 million in Economic Support Funds for State and

USAID, \$7 million would be transferred to DOJ to support the wide range of DOJ programs in the region, including vetted units, Regional Legal Advisors, and Senior Law Enforcement Advisors. This funding will allow DOJ to assist Central American countries in combatting transnational crime and the threat posed by criminal gangs. The aim is to address the issues that have been a factor in forcing many migrants to flee Central America for the United States. We ask that you support the Administration's request for the Department of State so that the Administration can continue robust foreign engagement with the region and we hope that, working with the Department of State, we can continue and enhance our effort.

Specifically, the funding for DOJ would provide legal and law enforcement advisors for El Salvador, Guatemala, and Honduras and allow the Department to initiate law enforcement and prosecution training programs in each of the three countries to build capacities to effectively handle ongoing complex investigations, emphasizing the investigation of human smuggling organizations; improve communication between law enforcement and prosecutors regarding enforcement actions on the border, particularly in cases involving human smugglers; and help create teams of human trafficking prosecutors and organized crime prosecutors who could respond when needed on short notice.

Conclusion

I very much appreciate the opportunity to discuss with you the ways in which the Department of Justice is dedicated to addressing the many challenges associated with unaccompanied minors illegally entering the United States. Those challenges, which are shared by the numerous other federal agencies charged with enforcing our nation's immigration laws and securing our borders, can be overcome—but to do so will require the dedication of necessary resources. There are no quick or easy fixes to this problem. The Department of Justice, however, is committed to using the full range of investigative tools and laws available to us to enforce U.S. immigration laws and to investigate and prosecute those engaged in smuggling vulnerable children to this country. In addition, we are prepared to help provide international partners with the means to address human

smuggling and issues related to unaccompanied minors well before those problems have reached the borders of the United States.

Thank you for the opportunity to discuss the Department's work in this area, and I look forward to answering any questions you might have.