

## Hearing Transcript

### House Judiciary Subcommittee on Immigration and Border Security Hearing on Illegal Immigrants Along the Southwest Border

February 4, 2016

GOWDY:

Good morning. This is the Subcommittee on Immigration and Border Security's hearing on another surge of illegal immigrants along the southwest border, today's date, Wednesday, February 4, 2016. The subcommittee will come to order, without objection. The chair is authorized to declare recesses of the committee at any time.

We welcome everyone to today's hearing. I would also just let everyone know kind of upfront that the witnesses deserve to be heard and the members deserve to ask their questions, and I don't anticipate any outburst or disorderly conduct, but my patience with that is zero. So this will be the one and only warning in that regard.

I will recognize myself for an opening. I will then recognize the ranking member. I want to let all of our witnesses know how grateful I am that you are here. I will need to leave to go next door for another hearing, but you will be in much more capable hands when I leave that you are currently. So it is no reflection on any of the witnesses. I will come back when I am able to do so.

Once again, we are witnessing the crisis at our southwest border as thousands of unaccompanied minors and adults are coming to the United States. In 2014, we witnessed a massive wave of illegal immigration when over 68,000 unaccompanied minors and an equal number of family units crossed our southwest border.

In the past few months, the number of unaccompanied alien minors unlawfully entering the U.S. soared to 17,000 and the number family units increased the 21,000. If these trends continue, it is projected there will be a 30 percent increase in the record high numbers we witnessed in 2014, and those numbers in 2014 alone were alarming and concerning.

Secretary Johnson testified before the Appropriations Committee. The message we are sending the people crossing the border is you will be sent home. Either that message has not been communicated or it has not been received because the border cross -- the unlawful border crossings continue.

This administration claims these aliens are flooding our border to flee violence and poverty in their native countries and our government can't do anything to stop it. However, based on their own intelligence reports, this administration's policy of non-enforcement is in fact sparking the surge in the first instance. Based on the report, nearly 60 percent said it was the administration's immigration policies that influenced their decision to come to the United States, but these are the

same reasons provided by aliens who entered in 2014 and the vast majority of these aliens remain in the country today.

In other words, no adequate steps have been taken to halt the surge or discourage aliens from attempting to enter the United States. We must, at some point, send a clear message to potential unlawful immigrants that discourage entry in our country. That would be in the best interest, frankly, of everyone.

Border patrol agents are currently prevented from initiating removal proceedings against aliens who were unlawfully present, simply because there is not enough attention space to hold them. Lack of space is especially problematic when entire family units cross the border unlawfully. Ninety eight percent of aliens in removal proceedings or not detained nor are they removed.

Additionally, in order to place aliens in removal proceedings, agents are required to observe aliens physically crossing the border. Oftentimes, upon being approached by border agent, aliens will claim to been in the United States since January 2014 despite the high improbability of such a claim. This not only threatens our national security and public safety. It also endangers those unaccompanied minors risking their lives to travel to the United States.

In the hopes their children will arrive safely from Central America, current unlawful aliens residing in the United States are paying thousands of dollars to criminal organizations to transport the children across the board. These human smugglers have histories of alliance and allegiance with Mexican drug cartels and gangs. These children's lives are at risk during their journey to the United States.

But it does not stop there. They also face dangerous situations upon arrival to the United States. A recent Senate report found the administration failed to properly conduct background checks on all persons with whom minors are placed, resulting in children being placed in the hands of abusive and exploitative sponsors. One account even found these children working as slaves on a farm.

In the words of U.S. Customs and Border Patrol commissioner, we could very well be seeing the new normal. And let me add this, new normal is not acceptable at any level. A sovereign country is entitled to control who gains access to this country, how that access is gained, and in what capacity that access is gained, and the duration of such access.

Legal immigration is a privilege. This country conveys upon the terms and conditions that it sets. Illegal immigration is just that. It illegal and the motivations for such unlawful acts do not mitigate criminality or diminish our responsibility to take care that the laws be faithfully executed. Actions have consequences. Actions send messages. Inaction has consequences as well. And the message seems to be, if you can get here, no matter the method, you can stay. And that is wrong for everyone involved, and most significantly the fellow citizens we take an oath to serve.

Certain border states refused to wait for action by an unwilling administration. The Texas legislature, for example, is appropriated \$800 million over two years to combat the proliferation of smuggling and trafficking of aliens and drugs through Texas' southwest border. So I'll look forward to hearing from our witnesses from Texas to expand on that state's efforts to handle the

surge. However, we should not leave the states to employ their own regulations. Securing the border and ensuring the safety of our citizens is a federal responsibility.

So I thank the witnesses for their appearance today. I look forward to hearing from each one of you. And with that, I would recognize the gentlelady from California.

LOFGREN:

Thank you, Mr. Chairman. We're in the midst of a global refugee crisis including in our own hemisphere. Women and children from the Central America's Northern Triangle countries of El Salvador, Honduras and Guatemala are coming to our borders seeking safe haven. And contrary to the ranking member's description of this as illegal immigration, in fact, our immigration laws provides for the possibility of asylum if you are of fleeing violence safe haven in the United States.

Violence in these countries is paralyzing communities, preventing children from attending school, adults with learning -- earning a living, and even making public transportation a life-threatening endeavor. According to the Washington Office on Latin America, El Salvador's 2015 murder rate reached a level of violence not seen since the end of the country's Civil War, 6650 homicides in 2015 in a country of 6.3 million people. It was approximately a 70 percent increase over 2014, making it the most violent country in the hemisphere. El Salvador has the second highest murder rate in the world just behind Syria. It is literally an epidemic by the World Health Organization's definition. And Honduras and Guatemala are not far behind. Honduras' murder rate is the top five -- is in the top five in the world, 10 times the world's average and Guatemala's is in the top 20.

A 2015 report by the United Nations High Commission for Refugees, UNHCR, found that women, in particular, face a startling degree of violence in the Northern Triangle, including rape, assault, extortion and threats by armed criminal groups. One study estimated that over 80 individuals who came to the United States and we returned El Salvador, Guatemala, and Honduras have been murdered since January of last year. Violence pervades every facet of life in the vast areas of these countries.

According to data shared by the Department of Homeland Security, 85 percent of Central American families who arrive since summer of 2014 and have been detained establish threshold eligibility for refugee protection. The continued surge of Central American mothers and children at our southwest border is a humanitarian refugee issue and not at any legal immigration phenomena.

Some would have us believe that desperate women and children arriving and giving themselves up to border patrol officers show that we are in a porous or uncontrolled border situation. But what is actually uncontrolled is the violence in these countries, not our borders. Very few, if any, of these women and children are eluding the border patrol in making their way to the interior of the country, rather they are immediately apprehended at our border, detained and removal proceedings are initiated.

Yet our strategy of family detention, Spanish language communication campaigns in Central America, urging people not to come to the United States and financial assistance to Mexico to

deter arrest return those fleeing violence has proven to be ineffective and I'm afraid that my colleagues want more of what hasn't worked, more deterrence, more border enforcement, more detention, more deportation. But until the situation in Central America is successfully addressed, desperate Central American mothers and children are going to continue to flee to the United States and seek protection.

The refugee crisis in our hemisphere will only be resolved when the United States joins with other nations in the western hemisphere in a comprehensive regional solution. This should include refugee screening and resettlement, use of safe havens in appropriate third countries not only the United States, temporary protected status for those individuals in the U.S., the use of priority refugee processing and other humanitarian remedies. It is critical that this approach include cooperation with other countries in the western hemisphere.

The violence in the Northern Triangle of Central America and the resulting refugee flow affects our entire region and the United States solution should include a regional refugee resettlement program as well as increased capacity building of asylum systems in neighboring countries, not just the U.S.

For these reasons, I am pleased with the administration's recently announced recognition that many Central Americans qualify as refugees under international law and that we will be partnering with UNHCR to resettle refugees from El Salvador, Honduras and Guatemala. I am cautiously optimistic that the use of third country temporary processing centers will provide protection for those who are unable to remain in their home country during the refugee processing period. These are important and constructive steps towards a comprehensive regional refugee solution to address violence in the Central American region.

However, this new Central American refugee resettlement program must not be used as a justification to deny or deter refugees from seeking asylum protection under our immigration laws here in the U.S. The U.S. will continue to be a beacon of safety and refuge for those seeking protection from persecution. This new Central American refugee program should be an expansion of our efforts to provide refuge, not a substitute for existing asylum processes.

The women and children fleeing violence are a vulnerable population, and they should be treated with heightened sensitivity, awareness and comprehensive access to counsel. We have a moral as well as domestic and international legal obligation to ensure that no mother or child is sent back to a country where they face torture or death. Every effort must be made to ensure that this vulnerable population has access to counsel and full due process protections prior to deportation. I think it's well past time to start working toward a solution that provides a practical and humane response to the mother and children from Central America fleeing for their lives and seeking safety and protection.

I would just close by noting that so many of the members of this committee have declared themselves to be pro-life and I think this is an instance where those representations about being for life should be brought to the forefront. If we care about babies, we should care about 10-year-olds who are facing death if returned home. And I hope that this hearing will help enlighten us as to that issue. And I yield back, Mr. Chairman, the balance of my time.

GOWDY:

The gentlelady yields back. The chair will now recognize the gentleman from Virginia, the chairman of the full committee, Mr. Goodlatte.

GOODLATTE:

Thank you, Mr. Chairman. Record numbers of unaccompanied alien minors and adults traveling with minors are again surging across our southern border overwhelming federal and state resources creating a border security nightmare and ensuring record profits for the criminal organizations that control the drug and human smuggling and trafficking business along the border.

More than 152,000 unaccompanied minors and families are projected to illegally cross our southwest border this year. Some estimates project the number the top 177,000, a population of Fort Lauderdale, Florida. This would surpass the previous high mark in 2014 by nearly 30 percent.

These minors, more than two-thirds of whom are between the ages of 15 to 17, travel thousands of miles from Central America through dangerous desert areas controlled by Mexican drug cartels and arrive at our southern border with tried and tested instructions from the smugglers leading them, find the first border patrol agent and claim asylum. This narrative is repeated thousands of times over and there is little doubt that with every successful entry and reunification it encourages thousands more to illegally enter and further degrade our border security.

We saw a similar surge of mass illegal immigration by unaccompanied minors and adults from Central America in 2014. Tragically, many were killed, assaulted, kidnapped and extorted during their journey by the criminal elements that operate with impunity south of our border. This surge will undoubtedly produce similar victims.

Despite these tragic consequences of non-enforcement, there are no lessons learned by this administration. A leaked DHS intelligence report shows the Obama administration's lax immigration policies are fueling this current surge. During July through September 2015, Customs and Border Protection agents interviewed 345 family units apprehended at the border. Nearly 70 percent said they had heard that if they came to the United States they would be released or received some sort of immigration relief such as asylum. Additionally, nearly 60 percent said it was the U.S. immigration policies that influence their decision to come here.

The unresponsiveness by President Obama to this clearly foreseeable crisis is truly shocking. His instructions to federal law enforcement agencies -- stand down. In some border patrol sectors, agents report that they are not allowed to initiate removal proceedings against criminal aliens who do not have a felony conviction, aliens convicted of misdemeanors and those who have pending felony charges get a free pass.

Agents also report that they are not authorized to initiate removal proceedings against adult aliens after apprehension at the border if no detention spaces available. This is outrageous. Such aliens are supposedly the Obama administration number one priority for removal. And such a policy is a

beacon call for foreign nationals to cross our border undetected, including those who would do us harm.

There is no doubt that terrorists from ISIS-controlled countries are taking note of the lack of border enforcement. They have publicly announced they will infiltrate this country posing as refugees rather than taking even minimal steps to stem the flood of illegal immigration by simply allowing federal and state law enforcement agencies to do what they do best to enforce the law. The administration sent the commissioner of Customs and Border Protection to the Southwest border to survey the calamity. His response, "We could very well be seeing the new normal," quote/unquote.

Americans do not want our government to throw up its hands and capitulate to the masses of foreign nationals illegally surging across our borders as though it is inevitable. They want us to address the problem head-on and solve it. It is not complicated. The president simply must have the will to secure our border.

But the grave consequences of the president's failed immigration policies extend beyond the debacle at the southwest border. They continue into the homeland. The custody and care of unaccompanied minors is entrusted to the Department of Health and Human Services, which places minors in the custody of qualified sponsors. Troubling reports indicated that HHS failed this most basic responsibility to place minors in a safe and secure environment. It did not properly screen prospective sponsors in several cases resulting in minors being placed in the hands of human traffickers who exploited, threatened, and forced the minors to work.

More concerning is the fact that HHS systematically failed to conduct adequate background checks on the household. And even if a background check revealed a felony conviction for a sponsor, it would not preclude the placement of the minor. No crime is a per se bar to placement. This is deplorable and unacceptable. These failures highlight the irony of the administration's misguided immigration policies. They encourage waves of illegal immigration by Central American minors who are victimized by criminal organizations along the way, only to arrive in the United States and suffer further harm because of the failure of this administration to ensure their proper care.

I look forward to hearing from the witnesses today on these important issues and I thank them for appearing before the subcommittee. Mr. Chairman, I yield back.

GOWDY:

The chairman yields back. The chair would now recognize the gentleman from Michigan, the ranking member of the full committee, Mr. Conyers.

CONYERS:

Thank you, Mr. Chairman, and the top of the morning to all my colleagues. This morning, we're here to discuss the plight of thousands of refugees fleeing violence and persecution in Central America, the vast majority of whom are mothers and children.

These desperate individuals are arriving at our southern border, seeking refuge and humanitarian assistance in an effort to escape gang violence, violence toward children, domestic violence and widespread political corruption. Unless we take immediate action to address these root causes of humanitarian crisis, refugee mothers and children from Central America will continue to suffer and seek refuge on our shores.

Among the measures we should undertake are the following, we must -- to begin with, we must first recognize that this crisis is humanitarian in nature and not just a border security problem. It's a crisis that commands a regional response. Secondly, this response should ensure that Central American mothers and children are able to live free from an endless cycle of violence and persecution. And third, we should partner with other nations in the hemisphere to provide durable resettlement solutions.

The new program just announced last month by the State Department with the support of the United Nations High Commissioner for Refugees is a very encouraging step. This program will provide resettlement options for families within Central America and in other countries in our hemisphere. Addressing the crisis in the region will help desperate mothers and children avoid the dangerous journey through Mexico to the United States as the principal means of escape.

In addition, we must address the root causes of the humanitarian crisis. Resettlement solutions, whether in the United States or with the regional partners, are only a Band-Aid to an ongoing crisis of violence with Honduras, Guatemala, El Salvador generally referred to as the North -- Northern Triangle.

Human rights organizations and federal agencies agree that life, particularly for women and children in the Northern Triangle is perilous. Murder rates in this region have the unwelcome distinction of being the highest in the world, but we should not lose hope. This crisis, while intractable, is not irreversible. We must assist the Northern Triangle in tackling the root causes of this violence and help it create safe and economically stable societies, such as through targeted foreign assistance and capacity building. Only then will the humanitarian crisis in our border truly subside.

And finally, we must recognize that even if fully (ph) developed regional solution will not prevent all Central American refugee mothers and children from arriving at our southern border. We have a moral as well as legal obligation to provide asylum seekers the opportunity to apply for humanitarian protection. Mothers and children requesting protection in the United States are not engaging in an illegal act. Rather, they are following our well-established asylum laws.

Legislative proposals with this committee has considered this Congress are not the answer because they would only result in mass deportation of vulnerable refugees. Deporting Central American refugee mothers and children to region struggling with a major humanitarian crisis is in my view simply un-American. It reminds me of deportations to Haiti at the height of the post-earthquake cholera epidemic.

Let's not repeat the mistakes of the past. And so, I thank the witnesses for their presence and participation today. I thank the chairman, and I yield back the balance of my time.

GOWDY:

Thank you. We will -- we have a very distinguished panel today. I will begin by swearing our witnesses before introducing them. If you please all rise. Do you swear that the testimony you are about to give us the whole truth -- the truth, the whole truth and nothing but the truth so help you God? Let the record show that the witnesses have answered in the affirmative. Thank you all. Please be seated.

First, I want to introduce Mr. Brandon Judd. Mr. Judd is a border patrol agent and serves as president of the National Border Patrol Council, representing more than 16,500 border patrol line agents. He brings with him nearly 20 years of experience as border patrol agent, fluency in Spanish, and a thorough understanding of the policies affecting border security. Judd started his career as a field agent in 1997. Thanks for being here today.

Next, we have mister Steven McCraw. Mr. McCraw is the director of Texas Department of public safety. He began his law enforcement career with BPS in 1977 as a trooper in the Texas highway patrol and later as a BPS narcotics agent until 1983 when he became a special agent with the FBI. He served in Dallas, Pittsburgh, Los Angeles, Tucson, San Antonio and Washington, D.C. In 2004, McCraw retired from the FBI to become the Texas Homeland Security director in the Office of the Governor where he served for five years. Thanks for being here.

Next is Ms. Jessica Vaughn. Ms. Vaughn currently serves as a director of policy studies for the Center for Immigration Studies. She has been with the center since 1992 where her expertise as an immigration policy and operations topics such as visa programs, immigration benefits and immigration law enforcement. In addition, Ms. Vaughn is an instructor for senior law enforcement officer training seminars at Northwestern University Center for Public safety in Illinois. Ms. Vaughn has a masters degree from Georgetown University and earned her bachelor's degree in international studies at Washington College in Maryland.

And last but not least is Wendy -- Ms. Wendy Young. Ms. Wendy Young is president of Kids in Need of Defense, KIND. She has spent more than two decades advocated -- advocating for strong U.S. immigration and refugee laws, policies and practices. Prior to joining KIND, Ms. Young worked for Senator Edward M. Kennedy as his chief counsel on immigration policy for the Senate Committee on the Judiciary. Ms. Young is a graduate of Williams College and holds JD and MA degrees from the American University.

Each of the witnesses' written statements will be entered into the record in its entirety. I asked that each witness summarize his or cut her testimony in five minutes or less. To help you stay within that time, there is a tiny light in front of you as you all are I think pretty much aware of it, and the light will switch from green to yellow indicating that you have one minute to conclude your testimony. When the light turns red, it indicates that the witnesses' five minutes have expired.

And I recognize all of you to give your testimony. Mr. Judd? Microphone -- I'm not sure your microphone is on.

JUDD:

OK. Sorry. As I was in church this past Sunday, my mind was preoccupied about this hearing and my testimony. I was thinking about what I could say to shed light on this current situation when one of the basic tenants my religion's base came to mind.

We believe in being subject to kings, presidents, rulers and magistrates in obeying, honoring and sustaining the law. All religions that I am aware of believe in rules to tenants and commandments. It is no different with the laws of the United States. When persons, whether citizens or not, follow the laws of this great nation peace and prosperity abound. However, when those laws are broken on a large-scale, chaos is the byproduct, and make no mistake chaos defines parts of our southwest border today.

Human and narcotic smugglers are constantly evolving to maintain or grow their profits. Unlike the border patrol, these criminal cartels operate without bureaucratic red tape. Cartels do not have to coordinate their efforts with the U.S. attorney's office, the enforcement and removal office, Health and Human Services, or the Office of Civil Rights and Civil Liberties. Instead, the cartels see a problem and change their operations almost immediately.

At the border patrol, it can take over a year to adapt. There are several examples of how cartels break policies that I've given my written statement, but I am gonna skip those today.

Today, our largest trouble area is in Texas. Criminal cartels are once again proving adept at understanding and working around her policies. Late in the year of 2013 and throughout all of the -- all of 2014, an unprecedented number of unaccompanied minors enter our country illegally through the Rio Grande Valley sector of operations. Instead of presenting themselves legally at ports of entry and asking for asylum, the unaccompanied minors were forced by the cartels to enter illegally at dangerous points along the border.

In most cases, these minors were not trying to escape or evade apprehensions. They were simply crossing the border illegally and giving themselves up. The cartels understood unaccompanied minors would force the border patrol to deploy agents to these crossing areas in order to take minors into custody, thereby, creating large holes in the border. The creating of holes in the border in border patrol operations was only one benefit of -- to the cartels by the unaccompanied minor surge. The other was the exploitation of our catch and release policy.

As the surge became too much to handle, the border patrol and the enforcement and removal office began releasing nearly everyone we arrested. I believe this release was -- I believe this release allow the cartels to increase their smuggling profits. With catch and release, the cartels could credibly say to potential customers that they would be able to remain in the United States without fear of deportation as long as they asked for asylum upon being apprehended.

Although the problem began with unaccompanied minors as word quickly spread of everyone being released, we started to see more crossings of complete family units leading to a bigger problem than what we had in 2014. And once again, we are playing catch-up to a problem that in part we created through policy.

All individuals that were released during this period of time were given an official document that ordered them to appear before an immigration judge at some future date. These orders are called Notices to Appear. The only problem, however, is that these official orders are usually ignored, so much so that border patrol agents have dubbed them Notices to Disappear.

The latest data that I have seen shows that approximately 40 percent of the individuals being issued in NTA do not show up for the court proceedings. The willful failure to show up for court appearances by persons that were arrested and released by the border patrol has become an extreme embarrassment for the Department of Homeland Security. It has been so embarrassing that DHS and the U.S. attorney's office has come up with a new policy.

Simply put, the new policy makes mandatory the release without an NTA of any person arrested by the border patrol for being in the country illegally as long as they do not have a previous felony arrest, conviction, and as long as they claim to have been continuously in the United States since January 2014.

The operative word in this policy is claim. The policy does not require the person to prove they have been here, which is the same burden placed on them during deportation proceedings. Instead, it simply requires them to claim to have been here since January 2014. Not only do we release these individuals that by law are subject to removal proceedings, we do it without any means of tracking their whereabouts. In essence, we pull these persons out of the shadows and into the light just to release them right back to those same shadows from whence they came.

Immigration laws today appear to be mere suggestions. There are little to no consequences for breaking the laws and that fact is well known in other countries. If government agencies like DHS or CBP are allowed to bypass Congress by legislating through policy, we might as well abolish our immigration laws altogether.

I believe it is all our hope that people choose to govern themselves by honoring and sustaining the laws without compulsion. However, if they do not, there must be a consequence and an enforcement mechanism that oversees compliance. In the absence of consequences and enforceable laws, innocent people are hurt; criminals are rewarded; chaos abounds; and cartels reap huge financial benefits.

I look forward to answering any of your questions. Thank you.

GOWDY:

Mr. Judd -- Mr. McCraw?

MCCRAW:

Mr. Chairman and honorable members, thank you for the opportunity to be here today. My name is Steve McCraw. I'm the executive director for public safety and currently also the homeland security adviser Governor Greg Abbott.

Congressman Smith, it's great to see you, a friendly face from Texas, and I know you've been down there meeting with border patrol sector chief, Manny Padilla and Raul Ortiz, here later on and I know they're looking forward to seeing you and update you. You'll get a great brief from border patrol. They do a great job down there in Rio Grande Valley force.

In an ever changing threat environment, clearly, we've seen as it relates to crime it is increasingly transitory. It's organized, even more violent, and also discreet and networked. And at the same time, we've seen terrorism be more disaggregated, and that's very concerning. I know it's concerning for the governor. It's concerning for members of the Texas State legislature because the result is consequences that weren't intended and some things that you don't even talk about today.

And I would go agree entirely that there are victims coming across. Those children when they show up, they are victims. And as the agent just said next to me, when they get turned back over to the cartels, they're victims. They're commodity.

And if you look at the sex trafficking alone of children that were induced to come to Texas from Central America and Mexico and sit on those wiretaps, work those cases you realized in terms of consequences that un-secure border is significant. And the governor and the legislatures has made it clear for the Department of Public Safety standpoint is that when it's un-secure, Texas is unsecured and the nation is unsecured.

If you have a drug epidemic in the northeast related to heroin, you got a cartel and an unsecured border problem. If you have MS-13 in your neighborhood who are plundering and raping, you got a border problem as it relates to transnational crime (ph). That is the bottom line. Religion is not that is the bottom line in terms of you relate to it. It didn't -- it doesn't just stop at the border.

And who would have thought that Texas border sheriffs and chiefs of police would have to invent new categories of crime, stash house extortions, for example, which is an elaborate splashdowns, pseudo-cop stops, home invasions. And in the ending, recruitment of our children and criminal element in the area by plus (ph) bosses to support their criminal operations on both sides of the border.

So these things are happening. Yet, it's not what (ph) we talk about. But clearly, you know, Texas understands that impact, so much so that the governor -- and as mentioned before by the chairman, the governor and the state legislature dedicated \$800 million dollars directly to support border patrol operations -- as a border operations because they are truly our partners. And as they go, so does the security of our nation.

And from the Texas standpoint, you invest in border patrol, you invest in national security, invest in public safety, and we're lined up with them, and we've tasked since June 23rd to conduct around-the-clock operations with them with our local partners to coordinate air, marine, and ground operations, tactical operations. We put troopers into the side (ph) border patrol units right now, 30 units around the clock. We have tactical operations with Texas Ranger recon operations and SWAT (inaudible).

There's a sense of urgency because we realized you have the height in June 2014, the height of the unaccompanied children coming across. And as devastating that was and impactful, it clearly was a cartel packet. They did make money on both sides and they overwhelmed border patrol, just 17 percent of the apprehensions were children and family units. That's it, 17 percent.

And our directive is to focus on cartels, cartel operatives, transnational gangs like MS-13 that are now overwhelmed parts of Texas like Houston, and also focus on the drugs that they're engaging, heroin, as I mentioned before in terms of the epidemic across the nation right now. Cocaine, methamphetamine, they the methamphetamine market, and sex trafficking and human trafficking, and that's what we face. And as the borders remain unsecured, which clearly are, there's no doubt about that, and so does public safety vulnerabilities and national security vulnerabilities. Our mandate has been very clear. We've been operational.

When I say operational, it doesn't mean anything to anybody, you know, probably here, but it does when you got troopers and agents and Texas Rangers have been deployed around the clock. They move down every week. They do seven hours -- seven days straight operations with no breaks and they work 12 to 14 hours a day on the river, in the air, and on the ground with our border patrol partners because it's too important and -- to the state security and everyday we see victims.

So as a result of that, you know, our operations have been married (ph) up like I said before with the -- with border patrol. We will continue to be doing this and we've received great support obviously from our local partners and from border patrol. And I guess there's one thing that I would like to stress if I haven't said, border patrol or not is that they need to be resourced, bottom line is.

And also, it is -- you'll find in my testimony when you cut back on aviation assets to the border patrol, that means National Guards when they have UH-72s that are taken offline and you cut it by 50 percent, that's a problem that directly affects officer safety -- and oh, by the way, officers get shot at from Mexico, and you haven't heard about that. No one comes to the border patrol's defense when that happens. I think my time is up, so I'll shut up.

GOWDY:

Thank you. Ms. Vaughn?

VAUGHN:

Thank you for the opportunity to testify this morning. The Obama administration's handling the border surge has been a colossal disaster.

GOWDY:

Just a second. I think Mr. McCraw your mic (inaudible).

VAUGHN:

In the face of this surge of illegal migration, the administration has simply suspended enforcement of the law in favor of charade of deportation proceedings that are routinely manipulated, ignored and defied by the new arrivals and their advocates. The administration and its allies, including the network of social and legal services contractors that receive hundreds of millions of dollars of public funding to process and advocate for more and more new arrivals have tried to characterize this migration as a refugee crisis.

But according to what the migrants told the border patrol, journalists, and my own colleagues doing field research, most of the illegal migrants are not refugees displaced by war nor fleeing persecution. Instead, they are driven north by the widely publicized Obama administration policies that they've heard will allow them to stay in the U.S. for an indefinite period of time. They understand that they will be able to join family members or friends and that they will be able to work and that even if they skip out on immigration hearings nothing will happen to them. And from Mr. Judd's testimony, it appears that the administration is no longer going through even the pretense of enforcement for those who arrived illegally at the border these days.

This policy may make some people feel good and certainly many contractors are earning a good living off of this phenomenon, but the influx is imposing an enormous fiscal and public safety strain on some communities. Even worse, the administration, see no evil approaches resulted in shockingly negligent federal policies on the placement of unaccompanied minors.

As we discussed, it was revealed last week by Senate investigation that the Department of HHS and its multi-million-dollar network of contractors delivered an unknown number of kids right into the hands of traffickers, abusers and other criminals. This occurred because HHS doesn't verify the identity or relationship claims made by sponsors who take custody of these kids or vet most of the adults who sponsor juveniles or other adults in the household. Even if they did a background check, criminal convictions would not disqualify a sponsor.

HHS and its contractors sometimes do not even lay eyes on the people they are placing the kids with or the place they'll be living. Home studies were conducted in only 4 percent of the cases last year or in the last three years. While the social welfare contractors are making out very well, the communities where they place these new arrivals are not doing nearly so well. The outlays for schooling are enormous on the order of \$500 million to \$700 million a year nationally for -- which is paid by the local taxpayers.

Local school systems cannot pull this money out of thin air or depend on state assistance. They have to cut other things to pay for the new teachers, counselors, aids and others to help support these kids. The city of Lynn, Massachusetts near me had to come up with an additional \$8 million last year to cover school expenses for the unaccompanied juveniles. And in another town near where I live, it was \$0.5 million in one year for about 20 new illegal arrivals.

I realized the sum is a drop in the bucket for some of the multi- million-dollar contractors, but it is a lot of money for local taxpayers, and health services are also an expense. All of these are essentially an unfunded mandate of the president's policies that fall unto local and state governments who have no say in the process of the policy.

And finally, I want to touch on one problem that is reappeared and worsened apparently as a result of these open-door policies. Violent transnational gangs such as MS 13, which are based in Central America, have taken full advantage of the Obama administration's careless catch and release policies in order to swell the ranks here, recruiting -- and also to recruit and smuggle in new members. This has contributed to a spike of new violence here as they try to expand their territory in this volatile new recruits try to prove their mettle by committing brutal acts.

One of the places where this is happening is Frederick County, Maryland, just north of Montgomery County. Gang violence and fighting is now rampant into the county high schools. MS-13 has one floor, 18th Street has another. In the last -- just in the last several weeks, six juveniles who came as unaccompanied juveniles have been arrested and jailed for violent crimes, including attempted murder, assault, armed robbery, weapons charges, an unprovoked vicious attack on a deputy and more. All are documented MS-13 members.

Gang investigators believe that they were recruited from El Salvador by two older illegal alien MS-13 shot callers who been residing in the area for a longer time. One of these older gang members was approved for the president's deferred action for childhood arrivals and one was employed as a custodian in a middle school. There are similar stories out of Boston, at least three murders attributed to unaccompanied minors just in September near where I live. Virginia has problems, Long Island and even here in Washington DC.

The answer is not just to get used to the surge in illegal immigration as a new normal, but to reverse the controversial policies and interpretations of the law that end up rewarding the illegal crossers and traffickers and smugglers.

GOWDY:

Thank you very much. Ms. Young?

YOUNG:

On behalf of KIND, thank you, Mr. Chairman and members of the subcommittee, for the opportunity to appear before you to share our views on surge of Central Americans to the U.S.

KIND was founded to ensure that unaccompanied immigrant and refugee children are provided protection through pro bono legal representation, assistance to children returning to their countries of origin, and guidance to children applying for resettlement to the U.S. We have assisted more than 8,500 children and trained 11,000 volunteer attorneys in our seven years of operation. This work gives us a comprehensive understanding of the urgent protection needs of children on the move throughout the region.

KIND is deeply concerned about the increasing emphasis on the law enforcement approach toward addressing the surge of unaccompanied refugee children and families from Central America that jeopardizes the protection of vulnerable individuals from the rampant violence that characterizes their home countries. While the recently announced U.S. resettlement program is a step in the right

direction, it is a limited response that must be accompanied by full and fair access to U.S. asylum system for those Central American families and children who reach our borders seeking safety.

It must be underscored that it is not illegal to seek asylum in the U.S. El Salvador, Honduras and Guatemala rank among the top six countries with the highest murder rates in the world. Sadly, children have been specifically targeted by the gangs and criminal rings that terrorize large parts of the Northern Triangle.

The gangs attempt to forcibly recruit children, especially those in their early teens but sometimes as young as kindergarten age. Girls are forced to become girlfriends of gang members, which in fact are non-consensual relationships that results in rape by gang members. Children effectively have no one to turn to protect them due to the weak governance and corruption that characterizes the region.

According to the U.N. refugee agency, at least 58 percent of children arriving at the U.S. border had been forcibly displaced and are potentially in need of international protection. Moreover, the U.S. is not the only country receiving asylum seekers. UNHCR has documented in over 1000 percent increase in asylum applications from the Northern Triangle filed in Belize, Costa Rica, Mexico, Nicaragua, and Panama.

In the absence of serious efforts to control this violence and provide meaningful opportunities for children to remain home safely and sustainably, actions to deter unaccompanied children and families from coming to the U.S. will not work. Raids (ph) on families in addition to being ineffective are egregiously harmful to communities, particularly children. The threat of deportation will not stop people from coming when their lives and those of their families are at stake.

While the numbers of children coming alone dropped in January, it is not at all clear that the raids (ph) prompted this decline. A child referred to KIND explained to us that he faced a difficult choice to flee or die. We have heard this sentiment repeatedly among the thousands of children with whom we work.

Approximately half of these children do not have attorneys to help them make the case for U.S. protection. It is fundamentally unfair for any child to face removal proceedings without legal representation. Our staff has witnessed children as young as 3 years old appear in court without an attorney. This contradicts U.S. principle of due process and the values upon which this great nation has been built.

Some proposals before Congress, including the Child Protection Act, would in fact undermine the protection of unaccompanied children by subjecting them to cursory border screenings, prolonging the detention with CBP and fast tracking the adjudication of their asylum claims. In a similar fashion, the Asylum Reform and Border Protection Act would rollback critical protections for children under the Trafficking Victims Protection Reauthorization Act, expand the inappropriate use of immigration detention for children, limit access to due process protections available to children under both asylum and special immigrant juvenile status program, and fail to provide for the safe and sustainable repatriation of children.

A robust asylum process that ensures due process and fundamental fairness is the most critical component in addressing the refugee crisis. Resettlement programs can be used strategically to support this response, but must not be viewed as a substitute for U.S. asylum obligations.

In closing, Congress has a critical role in the response to the increased number of unaccompanied children seeking protection in U.S. Strong oversight of and provision of resources to the agencies charged with the care of unaccompanied children is essential to ensure that these children are housed in safe facilities and conditions while they are in federal custody.

Children's immigration proceedings must be fully and fairly adjudicated and children must be represented by pro bono counsel when they cannot afford counsel themselves. Congress should ensure that children are safely and quickly released to the families during the pendency of their immigration proceedings, utilizing procedures and ensure that such releases are in the best interests of the child and protect the safety and well-being.

Ultimately, the solution to the Central American refugee crisis lies in addressing the root causes of the flow. We must remain steadfast in our commitment to protecting vulnerable refugees and remember that unaccompanied children are children first and foremost.

KIND looks forward to working with Congress to improve the responses of her immigration asylum and refugee systems to the protection of unaccompanied children. Thank you again for the opportunity to appear before you.

GOWDY:

Thank you very much. We will now proceed on a five- minute rule with questions. I will begin by recognizing myself for five minutes.

This committee is well aware that the 2014 surge along the southwest border caught the Department of Homeland Security by surprise. It was almost completely unprepared. The Ligon (ph) response and the resulting executive actions have proved disastrous in the year since.

Current immigration law and enforcement have taken a clear back seat to policy and political gain. I have heard some -- the same trope here today. It is not illegal to seek asylum in the United States. We all know that. It is not illegal to seek asylum. But the reason you seek asylum is because you are here illegally in the United States. Asylum is a defense to be in the United States illegally. So that is totally meaningless, and I have heard that three times already today.

Current immigration law and enforcement have taken a clear back seat. It has become all too apparent that the administration's own actions have largely contributed to this surge and I am truly offended that this crisis on our border could be labeled as the new normal or to be actually accepted as something that is normal. As we now face the start of another possible surge, I look forward to working with the committee to continue this discussion beyond today's hearing to create a viable solution to our crisis.

Mr. Judd, what is the percentage of people who appear in court after an NTA?

JUDD:

There's been several -- there's been several hearings on this topic and it has been much at 80 percent according to Senator Johnson and as little as 40 percent according to other statistics. The actual number is not completely known, but it is somewhere in the between that.

GOWDY:

Between 40 and 80 percent, is that what you're saying?

JUDD:

I'm sorry?

GOWDY:

Between 40 and 80 percent?

JUDD:

Yes, sir.

GOWDY:

Based on the communication with border patrol agents along the southwest border, do you believe that we're at the beginning of a surge similar or worse than what we witnessed in 2014?

JUDD:

We're actually seeing a lot more at this point than what we did in 2014.

GOWDY:

Do you believe that the border patrol currently has the resources, including manpower, to adequately respond to the growing surge?

JUDD:

No, we don't.

GOWDY:

Your written testimony gives those very clear examples of the flagrant disregard for immigration laws. You referred to it as mere suggestions that carry little or no consequences. How would border

patrol be better equipped if agents were not required to complying with priority enforcement program directives or policies mandating release?

JUDD:

At a minimum, we would -- we would set up deportation proceedings on these individuals that we arrest. But unfortunately, right now, as long as they claim to have been here before January 2014, we just let them go. We don't even set them up for...

GOWDY:

And they don't even have to prove it as you said in your testimony. They just have to claim it.

JUDD:

They just have to tell us that they've been.

GOWDY:

And an attorney could suggest to them that all they have to do is claim it because they're not -- right?

JUDD:

We actually -- a lot of agents will actually ask them where they heard and they'll tell the agents, "Well, I wasn't supposed to tell you."

GOWDY:

OK. And you say a lot of agents say that they were told to tell them. So when they come to you, do they add -- do they tell you that they are leaving those countries because of the violence for the most part?

JUDD:

There are two separate individuals that we have to look at. The juveniles, when we first arrested them starting in 2014, they were told that all they have to do is ask for asylum. They -- and right now the border patrol has actually told us that we can no longer ask them that questions, why are they coming anymore. We can't even ask that question. There are places we still do, but we're being told that you can't even ask why they're coming here.

GOWDY:

What do you think are the consequences for agents who are unwilling to comply with these limiting policies?

JUDD:

They will be terminated.

GOWDY:

So for wanting to enforce the law that is in the books, they were going to be terminated from their jobs.

JUDD:

Absolutely, if they do not comply with the policies that are given.

GOWDY:

Have you had any experience of any agent being terminated?

JUDD:

No. Our agents comply with the policies that we're given.

GOWDY:

What can this committee and this Congress do to assist the border patrol in its mission and in order to respond to a growing surge?

JUDD:

Well, the first thing is we have to understand that the laws are the laws. Policies should not trump the laws. We shouldn't be able to bypass Congress and set policies to trump the laws and as long as we're enforcing the laws. Again, if these juveniles or family units would come through the ports of entry, that's legal. That's perfectly fine if they would come through the ports of entry and ask asylum. But to cross the border, that is illegal, and therefore, we must support the consequence for that.

GOWDY:

Thank you. Mr. McCraw, what would happen -- you have vast experience with law enforcement. So I'm going to ask the question not about immigration. What was your area of expertise when you were in the FBI?

MCCRAW:

Organized crime.

GOWDY:

Organized crime.

MCCRAW:

Yeah. Mexican drug trafficking organizations, Colombians and...

(CROSSTALK)

GOWDY:

So I would have sent the message to the organized crime community in your area that, "Hey, it's illegal to do X, but we're just not really going to enforce it." What would happen organized crime in that area?

MCCRAW:

They were going to exploit the scenes. As Agent Judd appropriately noted that they were very flexible, adaptable, and networked, and they were going to exploit all opportunities, including recruitment of the children.

GOWDY:

Thank you. My time has expired. And I now recognized Ms. Lofgren.

LOFGREN:

Thank you, Mr. Chairman. Before my questions, I would like to ask unanimous consent place in the record statements from 13 primarily religious groups along with a letter regarding temporary protected status from a number of groups.

GOWDY:

Without objection, it will be entered into the record.

LOFGREN:

Thank you. I thank all the witnesses for being here today. And obviously when you take a look at a complex situation, there's never just one thing going on. Obviously, there are smugglers taking advantage of the situation, but I'm mindful that we have -- I got these statistics in the border patrol just yesterday in terms of unaccompanied minor children apprehensions, from Belize, there was one child; from Costa Rica, there were two children; from Nicaragua, there were 52 children; from Panama, none; from El Salvador 5,000 some odd (ph); Guatemala 6,000; Honduras 2,800. Something is going on in those three countries and that is not going on elsewhere in the region.

And so, I think it is important -- none of us wants to see thousands of children showing up at the borders. They've been exploited on the way -- on the journey. It is not -- it's not a good situation.

But the question is how to deal with this, what is causing this situation? And I know, Ms. Young, first, what a great name for an organization, KIND. Nobody thinks little children should have to fend for themselves without any representation. Your organization has represented thousands of kids. Can you give us some examples of the kinds of stories that you are hearing when you really get into it with these kids and what's going on, why did they come, what happened to them? So we can get a flavor for what's really driving the situation.

YOUNG:

(OFF-MIKE)

LOFGREN:

Your mic is not...

GOWDY:

Your mic is not on.

YOUNG:

Thank you. First, I'd like to say it should be an immediate red flag when you see a child who is under age 18 migrating across this world alone, leaving their homes, leaving their communities, crossing international borders. That is not normal for child. So something is going wrong at home that's causing them, driving them out. And in fact, in this situation, it is the violence in three countries, Guatemala, El Salvador, and Honduras. About 97 percent of our case load at KIND currently is from those three countries. Conditions in countries like Panama are not that way. These are countries that are much more stable, so children are not fleeing, simply put.

To share one story, Claudia, 14-year-old girl who eventually won asylum when we matched her with a private-sector lawyer. She was abducted from her home by gangs. She was held in captivity. She was gang raped by those gangs for four days. Her family, during this period, sought the assistance of the police in the community who said they can -- they told the family, "We cannot help you." Claudia eventually escapes. She went home.

Her family relocated to another part of the country. The gangs found her there and began to threaten her again. Again, the family turned to the local police and asks for assistance. And the police said, "We can't help you." Claudia's family did the only thing they could. They sent her out of the country in search of protection. These are not young people who can line up and apply for visa at a U.S. Embassy. They are running for their lives.

To share another story documented by a board member of KIND, an 8-year-old child's body, her corpse, was found on the streets of Honduras. Her throat slit and her panties stuffed in the wound. These families are doing the only thing they can. These children are doing. The only thing they can. They are running for their lives because they will be murdered if they remain home.

LOFGREN:

Let me ask you. In terms of the violence that's going on in the Central American -- these three countries, the United Nations is now -- were engaged with the U.S. and other countries in the western hemisphere to provide some kind of refugee processing in those countries and hopefully safe haven in a third country, not necessarily the U.S., and it could be Costa Rica or Chile, we don't know.

Have you been in touch with that process and do you know where that process is at this point?

YOUNG:

We have been engaged in the first stage of the Refugee Resettlement Program which is the so-called CAN (ph) program where children can present themselves. Well, it's still in their home country and apply for resettlement. We are very gratified by the decision of the administration to work with the UNHCR to expand this processing into third country so that people are able to be safe in a country such as Mexico or Belize, somewhere in the neighborhood while they go through the reseller process.

I should note, however, that resettlement is a limited response. They are targeting roughly 4,000 individuals for resettlement to the United States and resettlement takes a very long time. So while it is -- will be a critical option for some, it is not the full solution to the crisis.

LOFGREN:

I'll just close. I agree. I mean we have probably more refugees in the world today since World War II. I mean, you take a look at what is going on in Europe. I mean, in Central America, it's huge. But the answer isn't just resettlement. It's peace, so that people don't have to flee.

And I was talking to Chairman Gowdy before he left about what had been going on in Colombia and we're no longer seeing refugees in Colombia because with the help of the United States and other nations in the western hemisphere in the Colombian people themselves they got control of their situation. And they -- it is not a perfect situation. There are problems, but we don't have a complete failed state in Colombia anymore. And I -- it's clear that we have to work with others so that these three countries can be stabilized and have the rule of law so that people do not have to flee for their lives.

And with that, Mr. Chairman, I yield back.

GOWDY:

Thank you. And I now recognize the gentleman from Texas, Mr. Smith.

SMITH:

Thank you, Mr. Chairman. Let me address my first question to Mr. Judd, Director McCraw and Ms. Vaughn, and it is this. Do you feel that the majority of individuals trying to enter the United States illegally from those three primary Central American countries are motivated by the president's policies that they feel will allow them to stay in America? Mr. Judd?

JUDD:

We no longer ask individuals what the motivation is, but in in early 2014, yes, when we asked what motivation was it was -- it was based on policies (ph).

SMITH:

Right. And did the Department of Homeland Security report said around 70 percent I believe. Mr. McCraw?

MCCRAW:

I don't have enough information to comment on that, Congressman.

SMITH:

OK. Ms. Vaughn?

VAUGHN:

Yes, I would agree with that. Based on what we've seen from intelligence reports from the border patrol and ICE and based on what the migrants themselves tell journalists and also a team of researchers we sent down to the area interview people. The vast majority are coming because they understood that they would be allowed to stay and that the smugglers are telling them and advertising in the news media in their home countries that if they get to the border and that they will be released and allowed to stay for an indefinite period of time.

I don't doubt that there are a few, you know, very compelling cases of people who would benefit from our protection, but the majority of them are simply here to join family, friends or because they heard they could get away with it.

SMITH:

Right. Mr. Judd, was that a directive from the administration that said do not asked that question any longer?

JUDD:

No, sir. It was not. That came from our management.

SMITH:

OK. Form the management as well. Maybe they didn't like the result they were getting. I don't know. The other point I think to make is we sometimes hear about the violence in those three Central American countries. Crime rates were actually going down in two of the three of those countries and the crime rates themselves are still less in the crime rates in several American cities.

Unfortunately, I think there's a lot of biased media coverage and we seldom see the media acknowledge that the primary motivation of the president's policies and the expectation of amnesty when they arrive.

Ms. Vaughn, let me -- and Mr. Judd too and Director McCraw -- I'd like to get some figures just to have a better idea of the extent of the problem. And let me ask you all if you have information in regard to last year, 2015, as to how many individuals were -- how many individuals entered the United States illegally or came in on visas and overstayed and are in illegal capacity now? Do we have a figure -- rough estimated figure for those number people who contributed to the illegal population? Ms. Vaughn?

VAUGHN:

The number -- according to the border patrol statistics, there are about a quarter of a million Central American juvenile...

SMITH:

I'm not talking about Central America. I'm talking about overall, any country.

VAUGHN:

I don't have the number off the top of my head of the total number of people who've come illegally. We don't know because they don't know who evaded the border patrol.

SMITH:

Right.

VAUGHN:

As far as overstayers, it's about half a million people in 2015 who did not depart when their visa...

SMITH:

Just the visa overstayers or...

(CROSSTALK)

VAUGHN:

Not all of them are still here. I think just over 400,000 -- that's just the visitor visas. That doesn't count the guest worker visas...

SMITH:

OK.

VAUGHN:

... or the exchange.

SMITH:

I had no idea the problem was that great. To me, that's a huge change from what I have heard before. A change to the hundreds of thousands of more people in the country illegally that we might have imagined. Mr. Judd, do you have any estimates as to the number of people who come in to the United States each year that are not -- we just heard about the visa overstayers. People coming across our southern border, what's the estimate as to how many coming in illegally?

JUDD:

I don't have the -- I'm not privy (ph) to the agency's statistics, but I can give you from the border patrol agents what they tell you. Just to give a real quick story, Chairman Chaffetz was down on the border and he was allowed to patrol the border with border patrol agents. He had every single resource available to him. You name it, he had it. He had helicopter. He had ATVs. He had horse patrol. He had every single resource available to him.

There were seven drug smugglers that crossed the border while he was there that he got to chase. Of those seven drug smugglers the got chased with every single one of those resources, they caught zero. That's just -- when he was talking to the patrol agents in charge of the border patrol station, he asked, "What do you -- what would you estimate the percentage of those that crossed the border illegally? What would you estimate the percentages that you did --you actually arrest?"

And the patrol in charge, the highest ranking member of that -- of the station of about 350 agents, he told him that if they get a sensor we arrest probably 50 percent. If they don't hit a sensor, it's well below 50 percent of what we arrest.

SMITH:

Right. What's your estimate as to the number of individuals -- just estimate -- as to the number of individuals or maybe I should say the fraction of individuals who are apprehended versus the -- versus who get in to the -- successfully get into the United States illegally?

JUDD:

A safe estimate from the board patrol agents would be that we arrest about 40% of what actually crosses. So if you got the official numbers from the agency of what we arrest, that's about 40 percent of what's...

SMITH:

So if we arrested 400,000 and 600,000 would be coming in illegally...

JUDD:

Correct.

SMITH:

... something like that. When I talked to border patrol agents in South Texas the estimates have been anywhere from we only apprehend one out of two to one out of five and that's about -- I think what you're saying.

MCCRAW:

The challenge we have is you don't know what you don't know, Congressman. Until you have sufficient detection capability in place, you can't really tell how many did you detect and apprehend or didn't. And I can tell you from a Texas standpoint the border region, you know, as of -- in fiscal year 2014, these are unofficial border patrol statistics, 341,132 apprehensions. And I can also say the trending as we talked about Central America and the three countries and it is also trending -- this training -- it isn't just children. It also trends across in terms of all OTMs. It parallels about 75 percent of the apprehensions at the Rio Grande Valley which is the center of gravity for drug and human smuggling right now are OTMS primary...

(CROSSTALK)

SMITH:

As you pointed out, I'm going to be there tomorrow. My time has expired. Let me just say that don't think we've ever had a president United States less willing to enforce immigration laws and implement policies that I think encourage illegal immigration. I thank you all for your testimony.

GOWDY:

The gentleman's time has expired. I recognize Mr. Conyers.

CONYERS:

Thank you. Attorney Young, you got a great organization, KIND. I think many people would be surprised to learn that children are expected to appear before an immigration judge and a trained

government attorney without legal representation. What do you think can be done to increase the number of lawyers for the unaccompanied children?

YOUNG:

Thank you, Congressman Conyers. That's a very good question. Bottom line, our experience has been that the private sector actually is very willing to step forward to represent these children on a pro bono basis. It's really been extraordinary response from our over 300 major law firm, corporate legal department, law school, and bar association partners. And at the height of the crisis in 2014, we had companies like Disney call us and say, "We want to help you. What can we do?" And 70 of their attorneys appeared in the training two weeks later.

So that is one part of the response that I think it would be very wise to capitalize on. And with groups like KIND behind those attorneys, what we see is that they provide very high quality representation to the children. And in fact, the children that we work with, over 90 percent of them are granted some form of relief under our immigration laws, asylum or otherwise.

In addition, however, there are some cases that are not appropriate for placement with private sector attorneys who tend not to be immigration lawyers. These are corporate lawyers, tax lawyers, whatever else, and those cases can be very well handled by the NGO community that has expertise in children's immigration law.

I'd also just like to point out that on our experiences that the court system runs much more efficiently when children are represented by counsel. Immigration judges find it very difficult to proceed a case when they have a 3-year-old standing in front of them with no lawyer. How do you question that child?

I, in fact, saw a five-year-old in court one day clutching a doll. The immigration judge asked her a series of questions. She couldn't answer about why she was in the United States, where she was living. That child just looked at him barely -- head barely above the microphone, cannot answer a single question, until he finally asked her what the name of your doll. And she said in Spanish, Baby baby doll, and that was the only question was answered during that hearing.

CONYERS:

Why is legal representation so critical in solving the crisis at our southwest border?

YOUNG:

Again, our experience is that most of these child when -- children when provided the opportunity to present their case before an immigration judge when they're provided a full and fair hearing are in fact eligible for protection. Legal counsel is critical to assist the child through that process.

Some of the -- my co-panelists mentioned border patrol questioning children. I would suggest to you that a border patrol agent, who is in a chaotic border patrol station wearing a uniform, armed, is not going to elicit information from a child about why they are here. These kids are terrified.

They are tired. They're traumatized. They need time to recover. They need an adult who is advocating for them to elicit the kind of information that can form the basis for a claim for immigration really.

CONYERS:

Thank you. You know, many have suggested that the journey for Central American children is dangerous and we should do everything we can to prevent these children from leaving their homes in order to protect them from harm. How do you respond to that kind of view?

YOUNG:

I would just quote one family who I think said it best, "I'd rather see my child die on the way to the United States than on my own doorstep." I'm not going to defend smugglers. This is a large illicit business that smugglers are very abusive to these children. But when these kids are facing the kind of dangerous they are in their home countries, they'd rather take that risk and hope that they'll find safety in the United States than stay home.

CONYERS:

Many suggested good violence, particularly gang violence, is prevalent in many of our United States cities and the situation in the Northern Triangle is no different. Would you agree with that finding?

YOUNG:

Two points. First, the rates of violence in Central America are much higher than cities across the United States such as Detroit. Secondly, I would also say the big difference is in the United States there are functioning police forces. There is a functioning judicial system that can address crime in this country. What you see in Central America is these countries are too weak and too corrupt. Crimes are not -- law enforcement does not follow through to pick these criminals up. The judicial system fails to prosecute individual. So these crimes are committed with complete impunity in these three countries.

CONYERS:

Let me squeeze in this last observation.

GOWDY:

Without objection.

CONYERS:

Thank you, Mr. Chairman. Do you think it is appropriate to use the term during to describe the kinds of organized crime and violence in these three countries?

YOUNG:

What we see increasingly are organized transnational criminal cartels and the same cartels that are involved in creating the violence in the home countries are the same cartels that are then preying on children and families as they migrate in conducting the human smuggling and human trafficking operations. So this is highly organized across the region.

CONYERS:

Thank you very much. I thank the chair.

GOWDY:

Thank you. The gentleman's time has expired. And I recognize the gentleman from Illinois.

GUTIERREZ:

Thank you very much. It's a pleasure to be here this morning with all of my distinguished colleagues. Once again, it's always good to see a labor union that the Republicans actually invite to come and give testimony. It's the only one. You're very, very -- it just shows that I was an exception to the rule even when it comes to labor unions and I wonder why they love you so much, Mr. Chairman (ph).

(CROSSTALK)

GOWDY:

Yes. Labor unions and Obamacare as well, but that's all right.

GUTIERREZ:

Yes. But Mr. Chairman, you can't interrupt when I'm speaking. It's my time. That's unfair. You'll get your time later on, right? I want my 10 second back.

But having said that, it's always interesting. And I was really fascinated by Mr. Judd because he said that Mr. Chaffetz went down there and they had ATVs and they had helicopters and that the seven people that crossed the border, the drug smugglers that crossed the border, none of them were apprehended. It's always amazing to me how seven people can cross the border, but we know that they were drug smugglers. We didn't catch them. We didn't interview them, but they were drug smugglers.

Because that kind of fits, right? Let's always talk about anybody that crosses the border as a drug smuggler and not anything coming to the United States because crime and immigration always seemed to rhyme very well with the majority's perspective when it comes to immigration in this

country. So I'd like to interview those seven too to see if it's really too. It's amazing your -- just how you can see just what it is that brought them here to this country.

So I'd like to speak a little bit about the situation that's going on because it just seems to me that - I said yesterday -- I gave a speech on the House floor and I said, "Watch tomorrow. Judiciary Committee is going to have a hearing. They're going to do a couple of things. They're going to equate immigration as a crime and they're going to say that it's all Obama's problem." Well, I guess I did it. I pat myself on the back because that's exactly what's happening here.

It doesn't resolve the problem because even if we build the best greatest wall between Mexico and the United States there was still, as the testimony, by those offered by the majority here today, they would still be hundreds of thousands of people coming to the United States in staying illegally in the United States once their visas expire. That is the testimony that we've been given here. But all we want to do is focus on building a wall or a fence. It was paid for by Mexico. Yet by the very testimony of the people here, the tens of thousands or just the thousands of people didn't come from Mexico. Yet, that's where we're going to build the wall, which speaks to the fantasy about what we're doing.

What we should do is we should create a system that allows people to come, not through (inaudible), not through drug smugglers, not through (inaudible), but with a plane ticket, with a visa, a legal way to come to the United States of America so that we can have an organized fashion in which we have our immigration policy set forth. That's what we should be doing. Instead, we continue to have a system that allows the drug smugglers to exploit the children.

I would like to thank the gentelady from California by addressing the issue and I just want to read. They're not coming from Belize. They're not coming from Costa Rica. They're not -- Nicaragua is the poorest country in Central America. They are not coming from Nicaragua. They are coming and flee, the drug cartels, in three Central American country and I get offended that members of this judiciary committee say that they are coming here illegally. It is not legal to come to the border of the United States of America and to ask political asylum in the United States to ask for refugee status in the United States. That is not illegal. That is a law and a statue of the United States of America. So we always put -- but we always have to equate them, right? Illegal, criminal, even children applying (ph).

Now -- as you can tell, I'm not going to ask any questions because I have a few things that I wanted to respond. Here is one of the things and it's in the testimony by Mrs. Vaughn, but then nobody talks about it. Nobody talks about it. In addition to a large new flow of illegal Cuban immigrants into Texas -- a large flow? A large flow? 8,000? There are more people seeking refugee status from Cuba coming through the border. Yes, the Texas border between Mexico and the United States than any other single country that's been testified to here.

As a matter of fact, in the last year, 43,000 people, the immense majority of them coming through ports of entry to the United States of America, but nobody ever talks about them. And they get automatic -- what do they get? Automatic because you don't even ask them, right? As soon as they say, "I'm from Cuba," refugee status. And here is your Green Card and American citizenship three

years later, and by the way, why don't you have the food stamps and get on SSI and every other government ability to government service. But nobody has ever talked about that.

And I think it's a shame that were talking about the border and we don't talk about people seeking children -- as Mrs. Young is -- children fleeing drug cartels, fleeing murderers, rapist, drug traffickers, fleeing them for their very lives. And yet, we have 43,000 people coming from Cuba. They are automatically given asylum in the United States with one -- not one question asked. All they have to do is say where they come and they come through those ports of entry. And I think we all know why. We all know why, because it's politics when it comes to a certain group of people and politics when it comes to another group of people, and I think that's shameful.

Thank you very much, Mr. Chairman.

GOWDY:

The gentleman's time has expired. This concludes today's hearing.

LOFGREN:

Mr. Chairman, may I ask unanimous consent to put into the record the data from the border patrol that I referred to.

GOWDY:

Without objection.

LOFGREN:

Thank you.

GOWDY:

It will be entered into the record. Anything else? This concludes today's hearing. Thanks to all of our witnesses.

Just in enclosing, I agree that if somebody is coming here to seek asylum they should be allowed to seek asylum. I think every one of the witnesses agrees with that. I just don't think that you should be coming here with the border surge and use the excuse of asylum. I think...

MCCRAW:

Chairman, I want to say one thing. Often someone that rescues those children on those cartels and transnational gangs are the border patrol agents, a trooper, or a deputy sheriff. If they stay in the custody of -- when they go between ports of entry, they're enslaved and I can give you numerous cases that will just rip your heart out in terms of what happens to children when they stay in the hands of Mexican cartels that aren't rescued by border patrol or deputy or trooper.

GOWDY:

Without objection, all members will have five legislative days -- all members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record.

And the hearing is now adjourned.