



TESTIMONY OF

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ON

“Unaccompanied Children at the Border: Federal Response and the Way Forward”

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Chairwoman Barragán, Ranking Member Higgins, and Members of the Subcommittee, it is my honor to appear before you today to testify about the care U.S. Customs and Border Protection (CBP) provides for unaccompanied children (UCs) in our temporary custody.

I am proud to be here representing the men and women of CBP, who serve the American people 24 hours a day, seven days a week. CBP is absolutely committed to balancing the need for border security, protecting U.S. economic interests, safeguarding the health of the American people and our workforce, and providing appropriate safety, security, and care for those in our temporary custody. Many of CBP's agents and officers are parents themselves, and I can assure you that, as compassionate human beings, they are committed to providing the best possible care for children who are temporarily in our custody.

Part of CBP's mission is to enforce immigration laws, inspecting and processing those individuals who either present themselves at ports of entry (POEs) with or without appropriate travel documents or enter the United States without authorization between the POEs. Following such an encounter, CBP makes every effort to promptly process, transfer, transport, release, or repatriate individuals to minimize the amount of time spent in our temporary custody.

CBP facilities have always been intended as temporary holding for individuals in our custody. As you are aware, CBP facilities were historically constructed with holding facilities designed for short-term temporary custody of single adults. Our legacy facilities certainly were not designed for the social distancing as recommended for safety during the COVID-19 pandemic.

Surges in migration are not new for CBP, yet each one we have faced in the past has its own unique set of challenges based on the changing demographics and the migration trends. CBP has built upon the knowledge and experience we gained from each of the migration surges we have encountered.

Every surge we have faced has taught us a lot. We learned there was a need to be able to quickly expand our holding capacity through a standardized acquisition strategy. We learned to modify our operations to accommodate the special needs of children and to accommodate large numbers of children. Since then, we have established mechanisms for self-accountability, employing a proactive approach that prioritizes care for children in our temporary custody.

We continue to expel most single adults and many families to their last country of transit or country of origin – primarily Mexico – under the Title 42 authority of the Centers for Disease Control and Prevention (CDC) *Order Suspending the Right to Introduce Persons from Certain Countries Where a Quarantinable Communicable Disease Exists*. However, UCs encountered in the United States are no longer being expelled. As quickly as possible, the Department of Homeland Security (DHS) transfers custody of UCs to the U.S. Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR), as required under the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) and noncitizen single adults and families to U.S. Immigration and Customs Enforcement (ICE).

Background

COVID-19 has presented unique challenges to CBP's operations. Despite the restrictions CBP must adhere to under COVID-19 precautions, we continue to advocate for the swift and efficient processing of UCs in our temporary custody to ensure they transfer as quickly as possible into HHS care. However, in order for this system to work seamlessly, we rely on a trusted partnership with our interagency counterparts – like ICE and HHS – by having them at the table. This has been one of our greatest improvements in efficiency since the Fiscal Year (FY) 2019 migration surge.

Back then, the surge primarily consisted of large groups of families and UCs, and in FY 2020, the flow of individuals arriving at our borders slowed in part due to the COVID-19 pandemic. However, we have seen a substantial rise again in FY 2021 and, with it, an increase in UCs. U.S. Border Patrol (USBP) encounters along the Southwest border this fiscal year have increased significantly over the total for FY 2020; specifically, the number of UCs, to date, has increased over 110 percent. March saw a 102-percent increase over February 2021 – with 18,733 total UCs in March alone.¹ Fewer than 11 percent of encounters in March were UCs, but by the end of March, UCs accounted for almost half of all people in CBP temporary custody. By the end of March, the number of UCs entering USBP custody far exceeded ORR's capacity, precluding timely transfer in accordance with the provisions of the TVPRA, which requires DHS to transfer UCs to ORR care within 72 hours of determining that the child is a UC, unless there are exceptional circumstances. In conjunction with Federal Emergency Management Agency (FEMA), HHS began rapid expansion of ORR's housing and placement capacity through Emergency Intake Sites (EISs).

Thanks to the funding support provided by Congress through both the Coronavirus Response and Relief Supplemental Appropriations (CARES) Act, 2021 and our FY 2021 enactment, CBP, to date, has been able to address emergent requirements at the Southwest border. We have put the lessons learned in the past to good use in the current fiscal year. Through the use of standardized contracts and a blanket purchase agreement, we have vastly improved our capabilities for and efficiencies in standing up soft-sided facilities (SSFs) and have strongly augmented our medical capabilities to ensure appropriate medical care is available when needed. Congress also gave us the funding to establish new positions to be able to expand our ability to quickly process undocumented noncitizens arriving at the U.S. border.

The Flores Settlement Agreement

The 1997 *Flores* Settlement Agreement established a national policy for the detention, release, and treatment of children in our temporary custody. Under this agreement, children must be held in safe and sanitary facilities, with access to toilets and sinks, drinking water and food, adequate temperature control and ventilation, and appropriate medical assistance. Children must be appropriately supervised and provided contact with family members with whom they were apprehended.

¹ CBP Announces March 2021 Operational Update, April 8, 2021, <https://www.cbp.gov/newsroom/national-media-release/cbp-announces-march-2021-operational-update> (May 26, 2021)

Children require different types of care than do single adults. For example, children have different nutritional needs and require specialized medical care and screenings.

Juvenile Coordinator's Office

In 2017, the court appointed the CBP Chief Accountability Officer as the CBP Juvenile Coordinator (JC) to oversee CBP's compliance with the *Flores* Settlement Agreement. The JC collaborates with multiple components across CBP to monitor ongoing compliance. He maintains situational awareness and tracks progress on critical and emerging issues related to children in our temporary custody.

In 2019, the JC established the Juvenile Coordinator's Office (JCO) to assist him in monitoring and reporting on CBP's compliance with the *Flores* Settlement Agreement and related CBP policies. The JC and JCO conduct announced and unannounced site visits across the Southwest border to assess CBP's custodial data, medical capabilities, contract services, and holding conditions, such as temperature and safe and sanitary conditions, and conduct interviews with children and/or their parent(s) who wish to be interviewed regarding their experience in CBP temporary custody. These reviews are conducted utilizing robust protocols based on criteria from the *Flores* Settlement Agreement and CBP policy. In addition, they deliver comprehensive reports that describe monitoring activities, provide CBP statistics on children in temporary CBP custody, and/or update the court as per the requirements of the court orders. Furthermore, the JC and JCO leverage the collective expertise of multiple CBP offices to provide actionable and operationally informed recommendations to enhance our processes and policies.

FY 2021 Accomplishments

In addition to what we have implemented as lessons learned from the FY 2019 surge, we have put mechanisms in place that allow us to meet the challenges of a migration surge expeditiously and efficiently.

Soft-Sided Facilities

To accommodate the growing numbers of families and children in temporary CBP custody this fiscal year, CBP rapidly mobilized six SSFs at four locations: Yuma and Tucson, Arizona; and Eagle Pass and Donna, Texas. These SSFs have a typical capacity of up to 500 people each. They are air-conditioned and include mini pods (units) separated with clear vinyl to promote social distancing during the pandemic and to configure the space as needed to accommodate families and UCs. Designated intake and processing areas are separate from the general holding space. They include outdoor and indoor recreation and play areas with games, toys, and equipment, age-appropriate food, and televisions for entertainment. They are staffed by bilingual caregivers who provide personal care and basic hygiene. CBP also ensures there are dual-language signage and messaging for communications and directions.

It should be noted that these facilities are currently operating at a 50-percent reduced capacity to accommodate the recommended COVID-19 social-distancing precautions. To assist with SSF operations and processing, CBP deployed about 425 Border Patrol agents from across the nation to provide additional support to Southwest border sectors. Another 32 CBP officers were deployed to assist with processing in the SSFs in Del Rio, Texas, and Yuma and Tucson,

Arizona. DHS activated the DHS Volunteer Force on March 8, 2021, giving CBP additional personnel to assist at the SSFs.

Acquisition Tools and Strategy

Another area of improvement that was identified following the FY 2019 surge is associated with our acquisition strategy for responses to rapid increases in migration. We developed a suite of acquisition tools to enable us to quickly meet our material solution needs. We created contracts with standardized scopes of work, tiered and scalable options, and available capacity across the Southwest border, enabling us to be able to design, plan, deploy, operate, and maintain the SSFs we mobilized. Prior to 2021, CBP had awarded a blanket purchase agreement for SSFs and associated wrap-around services, which we used to quickly stand up SSFs in four of CBP's Southwest border sectors during the current migration increase.

Advocating for Children in Our Temporary Custody

CBP spearheaded the development of the interagency Movement Coordination Cell (MCC), bringing together colleagues from FEMA, ORR, ICE, and CBP, all of whom share a common operating picture that focuses on the rapid transfer of UCs to either HHS licensed facilities or HHS EISs. CBP has built a robust relationship with HHS to facilitate the ongoing and rapid transfer of UCs into ORR care. This unprecedented interagency approach has successfully reduced the average time in custody (TIC) that UCs spend in CBP facilities, and reflects the progress made through the whole-of-government approach that did not exist in prior migration surges.

The MCC has worked diligently to greatly improve the situation on the Southwest border and enhance CBP's operational mission capability. This interagency coordination has increased information and idea exchanges, and we have improved efficiency by connecting competencies across our various components. We co-locate key personnel from our respective agencies and outline clear roles and responsibilities for MCC members, while encouraging constant communication and collaboration. This approach enables the MCC, as a whole, to identify process deficiencies and mitigate bottlenecks to ensure UCs move as quickly as possible out of temporary CBP custody and into ORR care.

In the month of April, the MCC developed initiatives to coordinate the movements of UCs and drive down the overall TIC for UCs in CBP temporary custody significantly to under 72 hours. From quickly working to coordinate the transfer of UCs to HHS care to standing up and executing targeted initiatives like the Top 15 TIC, which is aimed at focusing resources and efforts to move the UCs with the highest TIC out of CBP custody and into HHS care, each member of the MCC has played an important role in the collective achievements.

Because this interagency cooperation and focus supported ORR in expanding its capacity, in May the average number of children in temporary CBP custody decreased to 640 from 4,109 in March. On the morning of June 8, the number of children in temporary CBP custody was 575. In March, UCs spent an average of 115 hours in temporary CBP custody while in June so far they were held for an average of just 21 hours.

As mentioned earlier in this testimony, CBP could not have achieved any of this success without the trusted partnership and close coordination with our ICE and HHS counterparts. We depend on each other. I can personally attest that this is the first year we have felt that CBP is not alone in facing these challenges. While each agency has a unique and distinct role in the process, we have come together to coordinate and collaborate through a unified, collective approach.

Medical Support

To ensure we could continue meeting the special medical needs of families and children in temporary CBP custody, but particularly in Border Patrol custody where the majority of UCs are held, we focused on medical support as a critical line of effort for surge response planning and coordination. For example, as we planned to stand up additional SSFs, we included critical medical support coverage planning, services, and screenings, with a particular focus on pediatric care. As we have done for several years prior to FY 2021, we have continued to expand the scope and scale of CBP medical support services.

The CBP medical support construct was carefully crafted over several years with extensive internal and external subject-matter expert consultation and input to tailor it to CBP's unique mission and law enforcement role. Our medical construct relies on contract medical personnel for initial assessment, basic acute care, and referral to local health systems for complex, urgent, or emergent health care and urgent or emergent mental health care needs. We provide public health and infectious disease support – including COVID-19, and medical summaries upon transfer or release from temporary CBP custody. Currently CBP's medical contract allows for up to 800 medical personnel, with close to 300 personnel providing medical support along the Southwest border on any given day at more than 70 facilities.

Children brought into temporary CBP custody receive health intake interviews, including COVID-19 considerations and temperature checks, as well as medical assessments, including trauma-informed behavioral health considerations, to identify issues requiring further attention. Our contract medical providers are trained, licensed, and credentialed to care for children, and we have developed additional training for CBP medical providers regarding trauma-informed care and psychological triage/psychological first aid for children in our temporary custody.

We continue to incorporate trauma-informed behavioral health care considerations into our medical support efforts. The CBP chief medical officer (CMO) has worked with the DHS CMO and the *Flores* Medical Monitor to review and assess CBP trauma-informed care efforts and identify additional enhancements. CBP contract medical providers are trained, licensed, and credentialed to identify trauma-informed behavioral health concerns in children in custody and conduct psychological triage, psychological first aid, coordinate referral for further care, and prioritize children for transfer out of CBP custody.

CBP continues to refine and enhance its trauma-informed care efforts, in coordination with internal and external expert stakeholders, including the DHS CMO and the *Flores* Medical Monitor. The CBP approach is increasingly emphasizing three core elements: awareness and training; trauma-informed medical support; and trauma-informed holding processes. CBP has implemented a layered approach to behavioral health support to ensure that no single point of

failure exists. Agents and officers who identify urgent or emergent behavioral health issues refer or transfer children to local health systems as appropriate. CBP has added caregivers similar to daycare personnel at high-volume UC facilities to provide support to children in custody, CBP medical personnel conduct assessments, psychological triage, psychological first aid, and referral for behavioral health issues, and we have implemented the use of licensed, trained, and credentialed behavioral health advisors to provide expert consultation, reach-back, and behavioral health program support.

Conclusion

Much has changed in the way CBP cares for children in our temporary custody in recent years. In addition to the duties of safeguarding national security and facilitating lawful trade and travel, the men and women of CBP do their best to ensure children temporarily in our custody receive appropriate care. Implementing the lessons learned from the FY 2019 migration surge and establishing process efficiencies and a trusted partnership with fellow federal agencies has allowed CBP to embody the advocacy mentality each of our agents, officers, and interagency partners possesses to be able to streamline the processing of UCs in our temporary custody.

We will continue to assess and reassess our performance, processes, and procedures to find areas where we can further improve. We have made great strides in moving UCs out of our temporary custody and into ORR care. We will continue to refine our whole-of-government approach as trusted partners across federal agencies.

Based on my personal experiences over 36 years, I can attest to the humanity and compassion of the CBP workforce, and I can assure you, there is no shortage of kindness for those children, even if it is just a few moments of individual attention. I am extremely proud to be here today to represent the men and women of CBP.

Thank you for the opportunity to testify. I look forward to your questions.