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CRISIS AT THE BORDER: REPORTS FROM THE FRONTLINE

INSIGHTS FROM BORDER PATROL SECTOR CHIEFS AT THE SOUTHWEST BORDER

STAFF REPORT

COMMITTEE ON HOMELAND SECURITY | MAJORITY

COMMITTEE ON OVERSIGHT & ACCOUNTABILITY | MAJORITY

“The Border Patrol is very different than almost any other law enforcement organization that you're going to talk to. The reason why is our adversary is not generally petty criminals. They are cartels and smuggling organizations that have a vast capability and zero scruples. We ask these men and women to work in some of the most austere conditions in the country, if not on the planet. Very remote. Very extreme conditions. Very extreme temperatures. When they go out on patrol, a lot of the time, their backup may not know exactly where they are, and if they do, they may be several minutes away. Whenever they go out on an encounter, a lot of times, they are vastly outnumbered. And people that they encounter are a mix of good people simply coming and looking for a better way of life or bad actors that would do them or the communities harm. And they have to exercise judgment and treat everybody accordingly in a split-second notice. It's hard to find any other organization that replicates those conditions.

[...]

When you go home and you hug your kid because you had a bad day, you still wake up, you put this uniform on, and you go back out there and do that job again. That's what it means to be a Border Patrol agent, and I don't think that's something that gets captured or thought about enough.”

– Chief Patrol Agent Jason Owens, May 5, 2023, (Currently Chief of the U.S. Border Patrol)

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Introduction

The surge of illegal entries into the United States under the Biden Administration is unprecedented. The southwest border is and has been the primary source of illegal immigration into the United States for decades.¹ Since the formation of the Department of Homeland Security after the September 11, 2001 terrorist attacks,² periodic surges in illegal migration have occurred at the southwest border.³ Those surges, however, were lower in number relative to encounters under the Biden Administration; from Fiscal Year (FY) 2000 to FY 2019, encounters of inadmissible aliens at the southwest border surpassed one million five times—the highest being FY 2020 with 1,643,679 encounters.⁴ Under President Biden’s tenure, there were 2,378,944 encounters in FY 2022, and 2,475,669 in FY 2023.⁵ It has been reported that there were over 302,000 encounters of inadmissible aliens on the southwest border just in the month of December 2023.⁶

This ongoing, historic surge of illegal crossings demands Congressional oversight. Therefore, the House Committees on Oversight and Accountability and Homeland Security sought insights from those leading the fight on the front lines—Border Patrol agents of the southwest border sectors. Testimony at a congressional hearing first demonstrated the need for this fact-finding mission as each of the nine sectors at the southwest border is unique. One witness emphasized: “if you’ve seen one Border Patrol Sector, you have only seen one Border Patrol Sector.”⁷ Another testified that Border Patrol agents have valuable information and experience to guide lawmakers in search of legislative solutions, stating:

I think that, as we continue to move forward, I always ask, whenever Congress is ready to put that team together, look at Border Patrol agents that come in and advise you because I think there’s many of them out there already with experience that know how to help out in building that path forward because I think it’s time. If not, otherwise, if we don’t have the right policies or consequences, the world is watching us, and we’re going to continue to see these large migration flows from around the world entering here at our southern border.⁸

Consistent with that testimony, the Committees conducted transcribed interviews of the U.S. Border Patrol Chief Patrol Agents of the nine southwest land border sectors.⁹ The nine agents interviewed have over 225 combined years of law enforcement experience within the Border Patrol. This report highlights the expert views of the agents interviewed on key border policy issues facing Congress.

Highlights

- *“I think optimally, other than the rare occasion where you have someone with a crazy medical condition, everyone should be detained. And that, to me, is the most obvious way to not encourage illegal migration, is everyone's held until they have a hearing.”¹⁰ —See page 7.*
- *“Again, the belief that they are going to be released with no consequence is certainly something that many migrants tell our agents.”¹¹ —See page 9.*
- *“When we, the Border Patrol, would talk about wall, it was everything that came with that. That was the infrastructure. That was the better communications, the better detection capability. All those things, as I’ve said before, are force multipliers to my men and women that are out on patrol, and not having them is not helpful to us.”¹² —See page 13.*
- *“So it is a combination of all those things, but the border wall system certainly works.”¹³ —See page 14.*
- *“So, by virtue of the fact that I don't have as many agents out on patrol because they're addressing that flow, then it can provoke the gotaway numbers to be higher because we're not out there. If we were out there, it stands reason we might be able to apprehend more of them.”¹⁴ —See page 19.*
- *“So I think gotaways are a public safety concern, but, as we discussed, I believe we discussed earlier also potentially a national security concern as well.”¹⁵ —See page 20.*
- *“We have seen a rise in the number of [Terrorist Screening Data Set] hits, which is individuals that have a record of potential terrorist ties. And in the last 2 years we've continued to see significantly more.”¹⁶ —See page 26.*
- *“So our Sector Intelligence Unit estimates that the weekly revenue for illicit human smuggling in our sector alone, the Del Rio Sector alone, is in excess of \$30 million a week.”¹⁷ —See page 29.*
- *“So what's interesting about the border certainly that has changed significantly, when I started -- you know, when I started in '95, people could just get to the border and cross on their own. You know, now nobody crosses without paying the cartels. So the cartels, you know, determine when people cross, you know, how many people cross at a time, all of that. It's all -- it's all controlled by them.”¹⁸ —See page 30.*

U.S. Border Patrol is a component of Customs and Border Protection (CBP), a Department of Homeland Security (DHS) agency. The mission of Border Patrol is to “detect and prevent the illegal entry of individuals into the United States” and secure borders of the U.S. in-between ports of entry.¹⁹ The Border Patrol administratively divides its areas of responsibilities for guarding the U.S. land border with Mexico—from San Diego, California to Cameron County, Texas—into nine sectors. Border Patrol operations in each sector are managed by a Chief Patrol Agent. The Committees interviewed the following nine agents:

➤ **Jason Owens – Chief Patrol Agent, Del Rio Sector** *[Now-Chief of U.S. Border Patrol]*

Jason Owens served as Chief Patrol Agent of the Del Rio Sector from November of 2021²⁰ until he was promoted to U.S. Border Patrol Chief, overseeing all sectors across the country, on June 9, 2023.²¹ He began his career with Border Patrol in 1996.²²

➤ **Aaron Heitke – Chief Patrol Agent, San Diego Sector** *[Retired in Summer 2023]*

Aaron Heitke was the Chief Patrol Agent for the San Diego Sector before his retirement in the summer of 2023.²³ He joined Border Patrol in 1998 after attending law school.²⁴ Chief Heitke explained how the high flow of illegal border crossers has affected his agents: “[w]hen we have enormous amounts of people that we’re dealing with, it limits the ability to perform that function. So we are dealing with large groups of people and losing more people that get away. That has a negative impact on agents.”²⁵

➤ **Gregory Bovino – Chief Patrol Agent, El Centro Sector**

Gregory Bovino began his career with Border Patrol in November of 1996 after working as a police officer.²⁶ He has been Chief Patrol Agent for the El Centro Sector since November of 2021.²⁷ Chief Bovino observed that the ongoing surge has hindered Border Patrol’s primary mission: “Any time there is a surge of individuals processing . . . of those individuals takes Border Patrol agents away from their primary job of preventing bad people and bad things from coming across the border.”²⁸

➤ **Dustin Caudle – Deputy Chief Patrol Agent, Yuma Sector**

Dustin Caudle began his career with Border Patrol in 2000 at the Yuma Sector and served with the Border Patrol Tactical Unit.²⁹ He is the current Deputy Chief Patrol Agent at the Yuma Sector.³⁰ According to Caudle, “the southwest border is unified in a wholistic approach. I always tell people nothing on my uniform says Yuma. It says United States.”³¹ He also commended his agents: “I’m super proud of the work that the men and women in Yuma Sector do each and every day. They’ve overcome just some insurmountable challenges.”³²

➤ **John Modlin – Chief Patrol Agent, Tucson Sector**

John Modlin began his career in 1995 with Border Patrol in the San Diego Sector.³³ He worked his way up to supervisory roles on the northern border, before becoming Chief Patrol Agent for the Tucson Sector in November of 2021.³⁴ Chief Modlin has seen many facets of Border Patrol operations nationwide: “I don't believe there's another chief in the Border Patrol that has been a chief on the southwest border--or at least has been assigned permanently to the southwest border, the northern border, the coastal border, and our headquarters.”³⁵

➤ **Anthony Good – Chief Patrol Agent, El Paso Sector**

Anthony Good began his career as a Border Patrol agent in February of 2001³⁶ after serving in the U.S. Army.³⁷ He has served as Chief Patrol Agent for the El Paso Sector since March of 2023.³⁸ Chief Good described the risk that agents face on the job: “It is absolutely inherently dangerous for the men and women of the Border Patrol and multiple other law enforcement organizations that work in both extreme environments and with the threat of the transnational criminal organizations with malintent to the United States.”³⁹

➤ **Sean McGoffin – Chief Patrol Agent, Big Bend Sector**

Sean McGoffin has served as the Chief Patrol Agent for the Big Bend Sector since December of 2020.⁴⁰ He joined Border Patrol in 1996 after service in the U.S Marine Corps.⁴¹ Chief McGoffin expressed enthusiasm when discussing the dedication of his agents under despite a rise of encounters: “To be fair and . . . succinct, I love talking about the work . . . being done in Big Bend Sector, especially about the men and women who are getting the job done.”⁴²

➤ **Joel Martinez – Chief Patrol Agent, Laredo Sector**

Joel Martinez joined Border Patrol in 1992 and previously served as Deputy Chief Patrol Agent in the Rio Grande Valley.⁴³ Chief Martinez has also served as the Director of the Alliance to Combat Transnational Threats.⁴⁴ Chief Martinez described why he wanted to become an agent: “I've always looked up to them. I'm a first-generation American on my mom's side, and . . . we always looked at them with a lot of respect. And they always looked sharp in uniform . . . it's something I looked forward to doing when I grew up.”⁴⁵

➤ **Gloria Chavez – Chief Patrol Agent, Rio Grande Valley (RGV) Sector**

Gloria Chavez began her career in 1995 with Border Patrol after serving as a police officer.⁴⁶ Before becoming Chief Patrol Agent for the Rio Grande Valley Sector in 2022, she served as Chief Patrol Agent for the El Paso Sector and, before that, the El Centro Sector.⁴⁷ Chief Chavez championed her agents: “Our agents constantly are risking their own lives to save other human lives . . . I'm very, very proud of the actions that they do every day.”⁴⁸

Chief Patrol Agents describe adequate consequences for illegal entry as a primary component of any effective deterrent strategy.

“So what I will tell you is this: I think that if there is no consequence for an action, there's no deterrence for a person to not commit that action.”⁴⁹ – Chief Patrol Agent Jason Owens

Several Chief Patrol Agents cited strong consequences for illegal entry into the United States as necessary to deter individuals from illegally crossing the southern border. Since President Biden took office through the end of Fiscal Year 2023, there were over 6.2 million encounters of illegal border crossers apprehended by Border Patrol and the Office of Field Operations at the southwest border.⁵⁰ In comparison, there were 2,372,204 encounters at the southwest border from Fiscal Year 2017 through Fiscal Year 2020.⁵¹ According to data received by the Committee on the Judiciary and public information showing the number of illegal aliens released by Border Patrol via a Notice to Appear (NTA) in immigration court on the alien's own recognizance (OR), over 2.5 million apprehended individuals were ultimately released from CBP custody into the United States from January 20, 2021 through the end of Fiscal Year 2023.⁵²

Chief Patrol Agents testified that the likelihood that an illegal border crosser will be released into the country encourages more individuals to illegally cross the southwest border with the expectation that they too will be released. They emphasized that delivering consequences for illegal entry into the United States is imperative to deterring individuals from entering illegally. Several agents noted that detention through removal or other final administrative decision is the most effective consequence at deterring illegal entry. This is contrasted with the less adequate consequence of release on recognizance after issuing an NTA: “when you line up those consequences, the NTA/OR is not as high as a removal out of a country, right?”⁵³ “[M]ost agents would express that detention is the better solution.”⁵⁴

John Modlin, Chief Patrol Agent, Tucson Sector (July 26, 2023)

Q Do you consider release into the interior to be a pull factor?

*A So I think, most importantly, what I would say, because, again, I think there's a lot of pull factors, **I think optimally, other than the rare occasion where you have someone with a crazy medical condition, everyone should be detained. And that, to me, is the most obvious way to not encourage illegal migration, is everyone's held until they have a hearing.** And I think sometimes people misconstrue a little bit about the Border Patrol. But we don't grant benefits. We don't deny benefits. It's not part of what we do. We have this very tiny piece in the beginning of someone's entire spectrum of immigration, which might last 10 years. If they are held until there is a hearing, then a decision can be made, and then they're not in the interior of the United States without authorization to work and all those things. And if they do have – if they are found to be amenable to some award, then they have that and then they can work. And if not, they're*

returned. And then I think that's the answer to this, is you need to detain people until a hearing.⁵⁵

[...]

Q Have agents expressed to you that they feel that release into the United States is an inadequate consequence?

A Yes.

Q Can you provide some examples of that?

A So I see it meeting with agents. Sometimes they do express that. They do express that they get frustrated with releases.

Q Do they express an alternative that they think would be better?

A So most agents would express that detention is the better solution.⁵⁶

Dustin Caudle, Deputy Chief Patrol Agent, Yuma Sector (September 28, 2023)

Q And so would you agree that periodic surges or spikes are not unprecedented at the southern border?

A Certainly not unprecedented to see a surge or spike. The volume that we're seeing recently, in my opinion, in my career when I've seen is what I would consider unprecedented.⁵⁷

[...]

Q Do you know since January -- well, if you know, since January 2021, how many people have been released from Border Patrol custody from the Yuma Sector?

A I don't have an accurate number to be able to give you.

Q Do you know from your time in Yuma?

A Somewhere between 65 to 70 percent.

Q Of encounters?

A Yes, ma'am.⁵⁸

[...]

Q Do you know -- what are the reasons or most prevalent reasons that people are

giving to agents in Yuma Sector about why they've come to the United States?

*A So a wide variety, obviously. Some of the more common ones are better pay, better opportunities for the family, to raise a family. **Again, the belief that they are going to be released with no consequence is certainly something that many migrants tell our agents.***⁵⁹

[...]

Q In terms of the consequence, the processing pathways that you and your agents have available, what would you consider to be those that have the most deterrent effect and those that have the least deterrent effect?

*A **Always with detention and removal has the most deterrent effect.***

Q Do your agents ever express or did they ever express frustration when the majority were NTAs and released to the interior that that was an inadequate consequence?

A So I have heard frustration, yes, you know, when we in a position to release a large majority of encounters. Yes. Agents were frustrated.

Q Can you provide us an example of that?

A So, again, a lot of them, particularly that had been in a significant amount of time, again, they've seen different border environments situations. Surges are nothing new for us. We've seen that; however, typically, they had a fairly short time span. This recent surge has continued for much longer than most have anticipated and so, again, they do get frustrated when they're not able to do their primary function as a Border Patrol agent. You[] know, we're out there to patrol the line, detain people, to make narcotics interdictions, and then when that duty shifts into a more humanitarian focus-type mission, it is frustrating.

Q Shifting to more processing as opposed to being out in the field?

A Correct.

[...]

A Yes. Fiscal Year '22 is the highest ever recorded apprehension data for Yuma Sector.

Q And in this fiscal year, 2023, it's still above what was the general trend for Yuma pre-2021?

*A Second highest year of encounters in U.S. history.*⁶⁰

Chief Caudle noted that his sector “began processing all single adults as expedited removal” and “began utilizing ICE [Immigration and Customs Enforcement] ERO [Enforcement and Removal Operations] . . . to transfer migrants from [Border Patrol] custody into ERO facilities custody” instead of releasing illegal border crossers.⁶¹ The fact that these consequences were occurring in Yuma spread:

A So all of this was being done in Yuma, and word travels very quickly, that Yuma suddenly became a location where it was not conducive to cross, you know, with a quick release assured to an NGO or out of Border Patrol custody. So that word spread very quickly, and I believe my -- what I believe has happened is a lot of that flow, a lot of that traffic that was coming to Yuma Sector has now been displaced to other surrounding sectors, and so it just became an undesirable crossing location because of the consequence impacts that we had leveraged.

Q So consequences work?

*A Yes, ma'am.*⁶²

Jason Owens, Chief Patrol Agent, Del Rio Sector (May 5, 2023)

Q My question is, have you seen the number of people released as fiscal 2022 through fiscal 2023?

A And under the circumstances that exist right now, which are different than any other that I've encountered, there are more people probably that are being released on their own recognizance to await their immigration hearing than I have seen in my career.

Q And what about people released on parole without NTAs?

A Compared to other years?

Q Yes.

*A More this year than -- or more last year than in any other year, yes.*⁶³

Anthony Good, Chief Patrol Agent, El Paso Sector (June 29, 2023)

Q Does the likelihood of release into the interior of the United States increase the likelihood that individuals will attempt to illegally enter the United States?

*A It increases the likelihood.*⁶⁴

Gloria Chavez, Chief Patrol Agent, Rio Grande Valley Sector (September 26, 2023)

A So, for us, I mean, we look at the pathways, right? So the pathways that are available for us to identify, classify people, process them through. The disposition at times for us is out of our control. It is a disposition that's obviously the only option available. So, whether it's an NTA/OR or whether it's a voluntary withdrawal or removal out of the country, that is a disposition that's -- that's identified for that individual. So, when a person is, to your question, clarifying that it's an NTA/OR, in our experience -- in my experience, many times, obviously, when you line up those consequences, the NTA/OR is not as high as a removal out of a country, right?⁶⁵

Gregory Bovino, Chief Patrol Agent, El Centro Sector (July 12, 2023)

A A myriad of things. I know one of the last times I was in the field, recently one of the agents had expressed concern over the new [pursuit] policy. So policies that inhibit their ability to arrest bad people and bad things are always a concern to Border Patrol agents. Even when morale's high, that's always a concern. So, you know, high morale, I've always found that idle hands do the devil's work, but when they're doing meaningful work, prudently and thoughtfully, along that border, morale's always higher. When they're providing a consequence to someone, they see the fruits of their labor, morale is higher.

Q Have your agents expressed to you in the past few years that they feel they have not been able to effectuate [...] a consequence?

A Yes.

Q Do you have any examples of that?

*A I address a lot of musters. A muster is when agents come together at the beginning of a shift. It's called a muster, and they receive directions or intelligence reports and things like that. So I use those opportunities oftentimes to talk with agents. **And they do express concern to me about the throughput and decompression efforts that are underway across the southwest border and at times in the El Centro Sector.**⁶⁶*

Chief Patrol Agents say the border barrier system (wall) works and is a “force multiplier.”

“In many of those areas now, where there is border wall, we see very little vehicular incursions across the desert between the ports of entry, and a decrease in pedestrian crossings at the border, especially where the 33-foot wall exists. So because of my experience in seeing both that area in El Centro without and now with the border wall, I believe that the border wall gives the agents a tool -- a tool -- and an advantage when working with the border in El Centro Sector.”⁶⁷ – Chief Patrol Agent Gregory Bovino

On his first day as President on January 20, 2021, President Biden issued the “Proclamation on the Termination Of Emergency With Respect To The Southern Border Of The United States And Redirection Of Funds Diverted To Border Wall Construction.”⁶⁸ The proclamation terminated the national emergency declared by former President Donald Trump under Proclamation 9844⁶⁹ and ceased the use of authorities “to construct a wall at the southern border” under the January 25, 2017, “Executive Order: Border Security and Immigration Enforcement Improvements.”⁷⁰ Biden’s proclamation described the wall or border barrier system as “not a serious policy solution.”⁷¹ Biden reiterated that belief during a recent meeting⁷² with his national security team in response to questions surrounding the Administration building additional barriers in Texas,⁷³ stating, “The border wall—the money was appropriated for the border wall. I tried to get them to . . . redirect that money . . . I can’t stop that.”⁷⁴ When asked “[d]o you believe the border wall works?” The President replied “no.”⁷⁵

Chief Patrol Agents offered a different view in transcribed interviews and hearing testimony with congressional investigators. In these interviews and testimonies, Chiefs explained that the border barrier system, as well as other technologies, are helpful tools that aid agents in their border security mission. They explained that border barrier systems include more than a wall alone. A “wall system” would include “the barrier,” “road[s],” “fiber optic cable” that could detect movement, and other technologies.⁷⁶ The “border wall system,” as a whole “works.”⁷⁷ Multiple agents stated that additional construction of border barrier systems is needed. U.S. Border Patrol Chief Jason Owens described the border barrier system as a “force multiplier.”⁷⁸ Chief Patrol Agent Bovino explained that the wall in his sector decreased “vehicular” incursions and “pedestrian” crossings.⁷⁹ When gaps were filled in the Yuma Sector, the additions “almost completely eliminated the cross-border traffic in [the] area.”⁸⁰

Chief Patrol Agents provided the Committees with their expertise on the function and value of border barrier systems in securing the southern border.

Jason Owens, Chief Patrol Agent, Del Rio Sector (May 5, 2023)

Q I have a quick follow-up on the border barrier. So the contracts that were in place that were stopped January 19th, 2021, that also included not just a wall but also infrastructure to go along with the wall, correct?

A Yes.

Q *Would that infrastructure also have been helpful to you?*

A *So I think that's a great point. When we, the Border Patrol, would talk about wall, it was everything that came with that. That was the infrastructure. That was the better communications, the better detection capability. All those things, as I've said before, are force multipliers to my men and women that are out on patrol, and not having them is not helpful to us.*

Q *And those projects were also stopped, the infrastructure projects were stopped in January 2021, right?*

A Yes.⁸¹

Aaron Heitke, Chief Patrol Agent, San Diego Sector (May 9, 2023)

Q *You mentioned before that the San Diego Sector has more coverage from the border barrier system than other sectors. How does the border barrier system assist your agents in securing the border in the San Diego Sector?*

A *It slows down the people as they come across, and so we have more time to respond and actually make an apprehension. It also moves people – it's more difficult to cross through the barriers, and so they move to other areas where the barrier isn't where we can focus resources. Part of the barriers as well is all-weather roads, so we have better and faster access to those areas.*

Q *Are there areas of the San Diego Sector where the border barrier system would be beneficial to install for your agents?*

A Yes.⁸²

Joel Martinez, Chief Patrol Agent, Laredo Sector (June 1, 2023)

Q *Was there a border barrier system in RGV [Rio Grande Valley] when you were stationed there?*

A Yes.

Q *Was it helpful to Border Patrol agents in achieving their mission of border security?*

A *It helped.*⁸³

Gregory Bovino, Chief Patrol Agent, El Centro Sector (July 12, 2023)

A The El Centro Sector has border wall in the El Centro Sector.

Q Do you know approximately how many miles of border wall you have in sector?

A The El Centro Sector has approximately 60 miles of border wall.

Q So there's some areas where there is no border wall?

A Yes.

Q Are there areas where you think it would be beneficial to install border wall where there is not currently border wall?

A Yes.

Q What benefits does the border wall give to agents in the field?

*A When I started in the El Centro Sector in 1996, there was no border wall. **In many of those areas now, where there is border wall, we see very little vehicular incursions across the desert between the ports of entry, and a decrease in pedestrian crossings at the border, especially where the 33-foot wall exists. So because of my experience in seeing both that area in El Centro without and now with the border wall, I believe that the border wall gives the agents a tool – a tool – and an advantage when working with the border in El Centro Sector.***⁸⁴

John Modlin, Chief Patrol Agent, Tucson Sector (July 26, 2023)

Q You mentioned you have a barrier system in Tucson, correct?

A We do.

Q Do you believe that it's a helpful resource for Border Patrol?

*A So I do believe that. My belief is that very strongly that what I've seen in my career is that we always need that combination of things. You've probably heard me talk quite a bit about technology, infrastructure, and personnel. And so nothing by itself works. The personnel by itself, there will never be enough of us to do this. A border wall system by itself won't work. The technology, you have to have hands – somebody put hands on somebody. **So it is a combination of all those things, but the border wall system certainly works.***

Q So is it accurate to say, as chief, that you would prefer the Tucson Sector to have

the border barrier system rather than not to have it?

A Yes. Where we've designated that we needed it, absolutely.

Q And does a border wall barrier system help deter aliens from crossing between ports of entry?

A So the deterrence is, I think, difficult to measure. I don't know that I could say that definitively. But what I can say is that it certainly gives us the advantage by having a system. It certainly impedes people. It can be used to canalize people to certain areas, to get them to areas where it's easier for us to deal with them – or keep them, more importantly probably, keep them away from areas that are more difficult for us to deal with them. So it's just hard to know what deters somebody because if we haven't arrested them, I wouldn't know.

Q So ultimately you believe the system is effective and it should remain?

A Yes.⁸⁵

Anthony Good, Chief Patrol Agent, El Paso Sector (June 29, 2023)

Q Do you have border barrier system in the El Paso Sector?

A Yes.

Q And does the presence of border barrier system in certain areas in the El Paso Sector enhance your ability to achieve your border security mission?

A Yes.

Q Are there areas without border barrier system where you think it would be beneficial to install in the El Paso Sector?

A Yes.⁸⁶

Deputy Chief Patrol Agent Dustin Caudle testified that, despite “the entire border barrier project being stopped”⁸⁷ under the Biden Administration, some gaps in the Yuma Sector have been filled recently at the direction of Secretary Mayorkas.

Dustin Caudle, Deputy Chief Patrol Agent, Yuma Sector (September 28, 2023)

Q In 2022, Secretary Mayorkas said that the gaps in the border wall in Yuma would be filled. Do you know if the gaps that were left in the wall have been filled?

A So not all of them. So, again, to, I think, further clarify, with 140 miles of barrier, right at a hundred miles of that is primary and then 40 miles of that is secondary.

You know, again, in those very populous areas, there is a primary and there is a secondary barrier. Out of all of that, there are 14 gaps that we have in Yuma and those are exploited almost daily, you know, as a vulnerability in our infrastructure. I will say that we are very happy that Secretary Mayorkas did approve several of the gaps to be filled in Yuma Sector. Morales Dam, I know is a very common area that people know about. There's been multiple visits down in that area. There's four gaps associated with Morales Dam. All four of those gaps have been filled and completed as of two weeks ago.

Q How did you filling those gaps impact patrol operations?

A So it almost completely eliminated the cross-border traffic in that area. The Morales Dam, right as I was arriving as the acting deputy in the Yuma Sector, the Morales Dam was one of the hottest or highest volume crossing places in the entire sector. Now that those gaps have been filled, it's virtually zero, is what we're seeing there every day. Occasionally, you will still a group that crosses that, again, they just wait on the other side of the barrier until agents are able to come and interview them and take them into the processing center, but it virtually has shifted all of the flow in that area to another gap.⁸⁸

[...]

Q In a broader sense, if all of these gaps were filled, what kind of impact would that have on patrol operations?

A So it allows me to concentrate the manpower on a daily assignment more accurately, and that is the whole intent of the border wall system. So it's not just the infrastructure. It's a combination of that infrastructure, that technology that allows me to put manpower in areas where there's more activity, something that we commonly refer to as vanishing time. When you're in a very urban area, vanishing time is very low, seconds to sometimes minutes. The further out you go into, some of the remote desert areas, vanishing time could be hours to even days, and that allows more time for agents to respond and resolve whatever kind of activity was detected out in those areas, but any time you have – if all of the gaps were completely filled, we would be able to – again, be able to move manpower and resources and assets much more easily than just having a known vulnerability. If the door is open, it's typically utilized.

Q I know that you weren't in Yuma when it happened, but do you know if any of the border barrier projects that have been started under the last administrative in Yuma were stopped under this administration?

A So, I mean, other than the entire border barrier project being stopped –

Q Right, but were there projects occurring in Yuma at the time of the stop of the –

*A Yes. There's various stages, you know, for, like I said, not only the actual infrastructure, but the lighting system, the Linear Ground Detection system, the Pelco camera system. **All of those things were meant to be part of the border wall system and all of those projects were stopped and are in various stages of completion even today.***

Q As far as you know, are any of those projects scheduled to be resumed?

A Not that I'm aware of. Again, the only projects that I'm personally aware of, again, is the Andrade fence replacement that's happening, the Monument 198 Yuma Hill gap fill and then, of course Morales Dam project, filling those four areas as well.⁸⁹

Chief Patrol Agents observe that the “high flow” at southwest border has contributed to an increase in “known gotaways.”

So, by virtue of the fact that I don't have as many agents out on patrol because they're addressing that flow, then it can provoke the gotaway numbers to be higher because we're not out there. If we were out there, it stands reason we might be able to apprehend more of them. At the same time, because we're not out there and as great a number, we might be missing some of the gotaways and not know as many as are actually getting away.⁹⁰ – Chief Patrol Agent Jason Owens

In recent years, the flow of illegal border crossers has increased to record highs.⁹¹ The Biden Administration’s policy of releasing inadmissible aliens into the interior of the country has incentivized a high flow of illegal border crossers at the southwest border. The increased flow of illegal aliens has overwhelmed agents, hindering their ability to patrol the southwest border and prevent gotaways. A gotaway is “an unlawful border crosser who . . . is directly or indirectly observed making an unlawful entry into the United States; is not apprehended; and is not a turn back.”⁹² Gotaways evade apprehension entirely and are present within the United States without having been processed by CBP.

In Fiscal Year 2019, there were 150,090 gotaways along the southwest border.⁹³ That number rose by 159 percent to 389,155 in Fiscal Year 2021 and then to over 600,000 in Fiscal Year 2022.⁹⁴ It is estimated that over 1.5 million gotaways have entered the United States as of May 16, 2023 under the Biden Administration.⁹⁵

Chief Patrol Agents noted that the “high flow”⁹⁶ in recent years at the southwest border has hindered Border Patrol’s ability to prevent known gotaways. Chief Patrol Agents confirmed that gotaway numbers are not merely estimates but based on sensor, camera, or other alerts and are therefore “fairly accurate,” but Chief Patrol Agent Owens noted that the estimates could just be the “tip of the iceberg” of aliens who are not even encountered (and counted) by Border Patrol.⁹⁷ Chief Patrol Agents explained that gotaways present a “public safety” and “national security” concern.⁹⁸

Sean McGoffin, Chief Patrol Agent, Big Bend Sector (April 25, 2023)

Q What is the methodology by which your agents measure got-aways in Big Bend Sector?

A Either they were detected through technology and that did not come to a successful resolution, or there are -- like we can do sign cutting, we do things of that nature where we can go out and find the actual footprints along the ground if we can't resolve that. Those are the ones that we know across our AOR in our ability to have operational awareness that we did not resolve.

Q So these known got-aways are not general estimates, they're based on intelligence collected in the field or based on sensors technology and other information?

A Exactly.

Q Do you believe that the estimates of known got-aways reported from Big Bend Sector are fairly accurate?

A I do. I believe so.⁹⁹

Jason Owens, Chief Patrol Agent, Del Rio Sector (May 5, 2023)

Q Can the gotaway numbers be attributed to the increased flow at the Southwest border?

A So, by virtue of the fact that I don't have as many agents out on patrol because they're addressing that flow, then it can provoke the gotaway numbers to be higher because we're not out there. If we were out there, it stands reason we might be able to apprehend more of them. At the same time, because we're not out there and as great a number, we might be missing some of the gotaways and not know as many as are actually getting away.¹⁰⁰

Aaron Heitke, Chief Patrol Agent, San Diego Sector (May 9, 2023)

Q In the San Diego Sector, do you have statistics on your known got-aways for this current fiscal year?

A Current fiscal year? Our year to date, just under 66,000.

Q 66,000 got-aways since October of last year?

A Correct.

Q Do you know how the got-away trends in San Diego have fluctuated since you first came on board?

A They've continued to rise.

Q And what factors do you attribute that rise to?

A Increased traffic on the border itself.¹⁰¹

[...]

Q You mentioned that increased encounter numbers affect agents' ability to police the border and to capture those who seek to evade apprehension entirely -- gotaways -- correct?

A Yes.

Q Have gotaways increased in the past 2 years?

A Yes.

Q Are gotaways potentially dangerous from a public safety standpoint?

A Yes.¹⁰²

Jason Owens, Chief Patrol Agent, Del Rio Sector (May 5, 2023)

A So we talked about the detection capabilities. So any time we are able to detect an illicit crossing and we are not able to respond to and interdict that same crossing, that's what we term to be a got-away. And, again, it's important to remember that's what we know about. That's the ones that we know, because we have either seen or detected, either through our camera technology, our sensor technology, or good old-fashioned sign cutting, following tracks that our agents still do today. If they're not able to bring that to a disposition where they're able to either verify the person was taken into custody or they turned back and went back to Mexico, that would be a got-away.

Q Do you believe those known got-away estimates are fairly accurate, given the detection capabilities of U.S. Border Patrol agents in the Del Rio Sector?

A For what we know, yes. But it is the tip of the iceberg theory. There's what we don't know, and that's -- I always get asked to guesstimate that, and it would just be that. I don't know what I don't know.

Q Does the high flow that the Del Rio Sector is currently experiencing have an impact on Border Patrol's ability to reduce the number of known got-aways coming into the sector?

A Absolutely.¹⁰³

John Modlin, Chief Patrol Agent, Tucson Sector (July 26, 2023)

Q Are gotaways a public safety concern?

A So I think gotaways are a public safety concern, but, as we discussed, I believe we discussed earlier also potentially a national security concern as well.¹⁰⁴

TCOs use “mass coordinated events” to overwhelm agents.¹⁰⁵

Dustin Caudle, Deputy Chief Patrol Agent, Yuma Sector (September 28, 2023)

A Their smuggling routes are well defined. They're passed down from generation to generation, and then we also have what's known as mass coordinated entries, typically, in the San Luis area which is really right next to the San Luis port of entry. That is a location where they will typically use just overwhelming numbers against Border Patrol agents. Again, one agent, you can typically arrest one, maybe two people, and then the rest, you know, if they're intent on getting away from you, there's really not much you can do to stop that and then, of course, with the proximity of the city there, there's no known stash houses. There's a lot of know hiding locations. There's vehicle that are pre-coordinated. So it's very difficult to round up anyone who get through, but some of those mass coordinated events can be as many as two or three hundred people at one time coming over the border walls, overwhelming agents.

Q These mass coordinated events and the coordination of load vehicles and other smuggling activity in the sector, is that being coordinated by transnational criminal organizations in Mexico?

A Yes.¹⁰⁶

Chief Patrol Agents are “concerned” with increase of illegal border crossers from “nontraditional” countries and with increase of encounters of illegal border crossers “that have a record of potential terrorist ties.”

*We have seen a rise in the number of TSDS hits, which is individuals that have a record of potential terrorist ties. And in the last 2 years we've continued to see significantly more.*¹⁰⁷ – Chief Patrol Agent Aaron Heitke

The final report of The National Commission on Terrorist Attacks Upon the United States (9/11 Commission report) noted that before the September 11, 2001 terrorists attacks “border security . . . was not seen as a national security matter” and that “the routine operations of our immigration laws . . . inevitably shaped al Qaeda’s planning and opportunities.”¹⁰⁸ Routine operations under the current Administration are marked by chaos as the flow of migrants has increased to unprecedented, unmanageable levels due to the Biden Administration’s predilection for release into the country over effective consequences such as detention and removal. The overwhelming flow is and has been more easily exploited by those who wish to harm America and the American People.

According to DHS data, the number of aliens encountered with derogatory information in the Terrorist Screening Database (TSDB)¹⁰⁹ has risen rapidly since President Biden took office. In Fiscal Year 2023, Border Patrol encountered 169 individuals with derogatory information in the TSDB on the southwest border, in addition to the 98 individuals encountered in Fiscal Year 2022, and 15 encountered in Fiscal Year 2021.¹¹⁰ Compare those to only three such aliens apprehended in Fiscal Year 2020, 0 in Fiscal Year 2019, 6 in Fiscal Year 2018, and 2 in Fiscal Year 2017.¹¹¹ These figures only represent aliens apprehended by Border Patrol.

Under this Administration, there has also been a significant increase in encounters of “special interest aliens”—“a non-U.S. person who, based on an analysis of travel patterns, potentially poses a national security risk to the United States or its interests”—and known or suspected terrorists.¹¹² Reports show that “thousands of special interest aliens . . . have been arrested by Border Patrol . . . over the last two years.”¹¹³

The data show that from October of 2021 to October of 2023, Border Patrol encountered 6,386 Afghanistan nationals, 3,153 Egyptian nationals, 659 Iranian nationals, 538 Syrian nationals, 13,624 Uzbekistani nationals, 30,830 Turkish nationals, 1,613 Pakistani nationals, 164 Lebanese nationals, 185 Jordanian nationals, 139 Yemeni nationals, 123 Iraqi nationals, and 15,594 Mauritanian nationals.¹¹⁴ In FY2022, illegal aliens from roughly 170 countries were encountered at the southern border.¹¹⁵ Chief Patrol agents also noted an increase in illegal aliens from other nontraditional countries, such as the People’s Republic of China, India, and Senegal at the southwest border.

Chief Patrol Agents expressed concern with the increases of aliens encountered with derogatory information in TSDB and of special interest aliens and the historic level of gotaways in recent years, which may include such individuals.

Aaron Heitke, Chief Patrol Agent, San Diego Sector (May 9, 2023)

Q You testified earlier that there were approximately 66,000 known got-aways since October 1st of this previous calendar year. Is that correct?

A Correct.

Q Are you concerned that the got-away population in San Diego could also include individuals who have derogatory information related to terrorism?

A Yes.¹¹⁶

Gloria Chavez, Chief Patrol Agent, Rio Grande Valley Sector (September 26, 2023)

Q And do you encounter individuals who are found to have derogatory information in terrorist screening databases?

A We do.

Q In RGV Sector?

A In RGV, uh-huh.

Q Given that you encounter individuals with prior criminal histories, prior removal histories, potential terrorist concerns, does the gotaway population concern you from a national security standpoint?

A Of course. I think it concerns every Border Patrol agent. Our focus and our mission is to secure the border between those ports of entry. So, for any Border Patrol agent, it is a concern.¹¹⁷

John Modlin, Chief Patrol Agent, Tucson Sector (July 26, 2023)

Q So just in your Tucson Sector currently, YTD FY '23, there has been nearly 20,000 Indian nationals apprehended versus just over 1,100 in all of FY '22. Does that sound correct to you?

A That does sound correct.

Q Does that concern you?

A So, yes. And what concerns me is the change in the demographics. We talked earlier about -- and it was probably what I was referring to in the February hearing, is that Tucson was very unique because it was predominantly single adult Mexican males. Now we're in these large -- especially in these large groups that we're seeing, we're seeing people from nontraditional countries. So we're

seeing quite an uptick in Mauritians. We're seeing Senegal a lot, in recent days a lot of people from Senegal. India, absolutely. So there's a lot of, again, so nontraditional migrants that we're not used to dealing with in that area.

Q Speaking about the Indian nationals specifically, do you have an idea of what may have caused this increase?

A No, I do not.

Q So not so much in comparison to the Indian aliens, but China nationals have also increased in the Tucson Sector. Does that concern you as well?

A So, yes, just like all those populations, for a lot of reasons. Yeah, it absolutely concerns me.¹¹⁸

Jason Owens, Chief Patrol Agent, Del Rio Sector (May 5, 2023)

Q We did notice, too, that the number of Chinese nationals, while small comparatively in number, have increased by 220 percent from last year. Do you have any understanding as to why that might be?

A I don't. I know that the Rio Grande Valley has been the one that's experienced the greatest number of Chinese nationals crossing through their AOR [Area of Responsibility]. We have seen some, but it's not significant compared to what the Rio Grande Valley has seen.

Q Well, the percentage increase is relatively significant, but I understand the number itself is not. Does it cause you any concern -- does that increase cause any concern?

A Even without the increase, people coming from the PRC [People's Republic of China] would be of concern to me. That's always going to be a group that we look at more closely and work with our partners, with FBI, to make sure they don't pose a threat. So, even without an increase, that particular population is always going to be of concern.¹¹⁹

Joel Martinez, Chief Patrol Agent, Laredo Sector (June 1, 2023)

Q So you mentioned that it's largely Mexicans that travel through Laredo. The data also shows it's a lot of Northern Triangle makes up almost the rest of the encounters. And while the number is relative -- is small in relative numbers, the number of Chinese nationals crossing through Laredo increased over a thousand percent since fiscal '22, I think from about 1 to 42 or something in that range. Why do you think that that has happened?

A I don't know. I don't know why that's happening, except for maybe they're trying to get away from China. But we saw that trend in RGV as well. I don't remember the numbers in RGV, but we saw a significant increase in Chinese nationals.

Q Are those Chinese nationals evading arrest or giving themselves up?

A In RGV, they were giving themselves up. Laredo, I can't speak to that. I'm not sure if they were caught in smuggling vehicles or if they gave themselves up on the river.

Q Do you know whether in both Laredo and RGV it was largely single adults or family units?

A I believe it was mostly single adults.

Q Does that cause you any concern for national security reasons?

A Every apprehension worries me about national security reasons.

Q Why is that?

A Because we never know, you know, who we'll run into. One minute we're dealing with a child and the next minute we're dealing with an adult. We don't know what their intentions are.¹²⁰

Aaron Heitke, Chief Patrol Agent, San Diego Sector (May 9, 2023)

Q While relatively small in number, the number of Chinese nationals encountered in San Diego in fiscal '23 year to date has increased over 1,600 percent since fiscal year '21 and 40 percent since fiscal '22. Do you have any insight as to why that might be?

A I do not know the specific drivers. We have kept a very close eye on it because, yes, we have seen significant increases.

Q And those are largely single adults. Does that cause you concern?

A That specific demographic doesn't cause me concern. The overall situation, yes. But not whether it's single adults versus families.

Q Are the Chinese nationals largely giving themselves up, or are they evading arrest?

A We have seen both. So it's been -- I don't know the exact percentage-wise, but I think we're seeing probably close to even numbers as far as those that are in the groups that are giving up and those that are trying to evade.¹²¹

[...]

Q Do entries from these countries cause you any sort of concern regarding national security?

A We have seen a rise in the number of TSDS hits, which is individuals that have a record of potential terrorist ties. And in the last 2 years we've continued to see significantly more.

Q And is that about the same timeframe that you've seen an increase in these other demographics?

A Yes.¹²²

Jason Owens, Chief Patrol Agent, Del Rio Sector (May 5, 2023)

Q Do your agents ever encounter individuals who are later found to have derogatory information related to terrorism?

A It has happened, yes.

Q Are you concerned that the getaway population in the Del Rio Sector could include serious criminals or individuals who might be terrorists?

A So that's the concern of just the gotaways in general. As I said before, you don't know who they are, where they come from, what their intent is, what they're bringing with them. And it could range from very minimal to very severe. We just don't know. And so, because of that, of course it's a concern.¹²³

Joel Martinez, Chief Patrol Agent, Laredo Sector (June 1, 2023)

Q Are you concerned that the got-away population could potentially include serious criminals or people with ties to terrorism?

A Yes.¹²⁴

Dustin Caudle, Deputy Chief Patrol Agent, Yuma Sector (September 28, 2023)

A So, again, these are for Yuma Sector history highs from Fiscal Year '22 into Fiscal Year '23 and so, again, other countries that we're seeing that we haven't typically seen -- we've encountered people from 113 different countries just in Yuma Sector, and so that's something that most agents weren't typically prepared for. Most people have, again, the idea that you come in and we're going to track people that are trying to illegally from Mexico, evade arrest, you know, make some drug arrests, occasionally have a violent encounter that may require

*a use of force incident, but that's your day-to-day expectation. This is not what any -- certainly not in my career what I would consider normal.*¹²⁵

Anthony Good, Chief Patrol Agent, El Paso Sector (June 29, 2023)

Q Given the migrant surges that have been experienced in recent years, does that have an impact on Border Patrol's ability to reduce the number of known got-aways in the El Paso Sector in terms of diverting resources or some other factor?

A As we're spread thin doing other functions and have less agents available to make interdictions, that increases the likelihood of got-aways.

Q Are you concerned that individuals who are more likely to evade apprehension, then turn themselves in to Border Patrol, may have a criminal history or some other derogatory information that could lead to a public safety risk?

A Yes.

Q Has Border Patrol in the El Paso Sector, do they routinely encounter individuals with prior criminal histories?

A Yes.

Q Do these criminal histories relate to crimes involving public safety concerns?

A Yes.

Q Do your agents in the El Paso Sector encounter individuals who have derogatory information related to terrorism?

*A Yes.*¹²⁶

Gregory Bovino, Chief Patrol Agent, El Centro Sector (July 12, 2023)

Q During your tenure in the El Centro Sector, have your agents encountered individuals who were found to have derogatory information related to terrorism?

A Yes.

Q Does that concern you from a national security perspective that illegal aliens with terrorism concerns are attempting to enter the United States?

*A It concerns me that any illegal alien attempts to enter the United States or becomes successful in entering the United States, terrorist or otherwise, given what I'd already talked about and the reasons why.*¹²⁷

Chief Patrol Agents describe violent Transnational Criminal Organizations as facilitating and benefiting from the increased flow of illegal border crossers.

*So what's interesting about the border certainly that has changed significantly, when I started -- you know, when I started in '95, people could just get to the border and cross on their own. You know, now nobody crosses without paying the cartels. So the cartels, you know, determine when people cross, you know, how many people cross at a time, all of that. It's all -- it's all controlled by them.*¹²⁸ – Chief Patrol Agent John Modlin

Unprecedented levels of illegal crossings—combined with the sophistication and power of Transnational Criminal Organizations (TCOs)—have led to chaos, misery, and death on the southwest border. These cartels’ human smuggling and trafficking operations are booming as the Biden Administration’s policies have increased demand for passage across the cartels’ smuggling routes into the United States.

Then-Chief Patrol Agent Jason Owens estimated that TCOs are earning over \$30 million from their human smuggling and trafficking operations in the Del Rio Sector alone.¹²⁹ Reporting indicates that illegal aliens pay an average of \$8,600 in fees for the cartels to smuggle them across the southern border.¹³⁰ Chief Patrol Agents explained that the cost varies depending on the means of transport, national origin, and criminal history of the alien. TCOs charge premiums to individuals who seek to evade apprehension entirely. That some individuals pay premiums to better enable themselves to evade apprehension is concerning as it is more likely that such individuals present a national security threat or public safety risk.

TCOs control the illegal smuggling routes into the United States at the southwest border, using violence and intimidation to maintain control. Migrants who attempt to cross the southern border and encounter the cartels that control the routes are often kidnapped, held for ransom,¹³¹ or face sexual assault and abuse.¹³² TCOs kidnap migrants, torture them, and hold them hostage to extort their families.¹³³ If the ransoms are not paid, the migrants are sometimes killed.¹³⁴

Chief Patrol Agents described the violent means that cartels employ to maintain their control of the pathways into the United States, and discussed cartel operations in light of the increased flow of illegal border crossers.

Joel Martinez, Chief Patrol Agent, Laredo Sector (June 1, 2023)

Q Do you know what the range would be for an individual, how much it would cost to cross with the assistance of the human smugglers?

A For a Mexican from there locally, it could be anything from a thousand to maybe [\$]3,000. But for somebody from China, we've heard it go up to at least -- we've heard it go up to [\$]60,000 a person.

Q [\$]60,000?

A *Yeah.*

Q *So the cost would vary based on nationality, where people are coming from, other logistics?*

A *Yes.*

Q *Does the cost vary based on whether an individual seeks to evade apprehension versus whether they intend to turn themselves in to Border Patrol agents?*

A *Yes, it does.*

Q *It would be higher if they seek to evade apprehension?*

A *Yes.*¹³⁵

Dustin Caudle, Deputy Chief Patrol Agent, Yuma Sector (September 28, 2023)

Q *Do you know how much an individual would pay a smuggler to bring them across the border illegally into the Yuma Sector?*

A *So it varies from demographic to demographic. There's different guarantee packages, is what we commonly see during interviews. **I have seen everything from as low as two to three thousand dollars all the way upwards of \$50,000 for someone that's, say, from a very far away country or, you know, wants to be able to guarantee entry into the U.S.***

Q *When you say guarantee entry, do you mean that an individual would pay a premium to be crossing the United States with the intention of evading Border Patrol agents to make it into the United States?*

A *So evasion is always possible, but some of the ones that we've interviewed and have claimed to have paid up 40, 50 thousand dollars were seeking to turn themselves in to claim fear or to claim asylum, or to seek some kind of refuge in the U.S. So it not necessarily to evade arrest.*¹³⁶

Jason Owens, Chief Patrol Agent, Del Rio Sector (May 5, 2023)

A *So our Sector Intelligence Unit estimates that the weekly revenue for illicit human smuggling in our sector alone, the Del Rio Sector alone, is in excess of \$30 million a week.*¹³⁷

Aaron Heitke, Chief Patrol Agent, San Diego Sector (May 9, 2023)

Q Do you know how much an individual would pay a transnational criminal organization to be smuggled into the United States in the San Diego Sector?

A Yes. We have ballpark numbers.

Q What are those numbers?

*A It varies. And I think the easiest -- it's a business model that they use. **So on land, right now, to cross on our 60 miles of land border, on average it costs about \$8,000 per person. It's between [\$]8,000 and [\$]12,000 depending on. On the water, it's generally between \$12,000 and \$20,000 per person.** They also use different ways to manage. So if they have a large group of 200 or 300 people, sometimes they will only have to pay \$400 or \$500 per person because it's quicker and it's easier for them to move those folks in places.¹³⁸*

[...]

Q Okay. Do the transnational criminal organizations charge extra for individuals who are seeking to evade apprehension entirely, if you know?

A Yes. From what we have gathered from people, depending -- it costs more to go through an area that has a better chance of getting away.¹³⁹

[...]

Q Are you concerned about the public safety risk that could be presented by an individual who is paying that premium to evade Border Patrol in terms of prior criminal history, of removal history –

A Yes.

Q -- or other factors?

A Yes.¹⁴⁰

John Modlin, Chief Patrol Agent, Tucson Sector (July 26, 2023)

Q And turning briefly to human smugglings, you said earlier that cartels are responsible for the majority of human smuggling that you see in your sector. Is that correct?

*A So -- yeah. So if someone's being smuggled, they're using a criminal organization. **So what's interesting about the border certainly that has changed significantly, when I started -- you know, when I started in '95, people could***

*just get to the border and cross on their own. You know, now nobody crosses without paying the cartels. So the cartels, you know, determine when people cross, you know, how many people cross at a time, all of that. It's all -- it's all controlled by them.*¹⁴¹

[...]

Q So we might have hit on this already, but is it fair to say that all individuals who illegally cross the southwest border must go through the cartels?

*A At least in the Tucson Sector, absolutely everyone does. No one does without. We have experienced when people try to, and we've seen them beaten for trying to cross without paying the fees.*¹⁴²

Joel Martinez, Chief Patrol Agent, Laredo Sector (June 1, 2023)

Q What kind of tactics do they use in their smuggling process?

A For starters, if you go down the river without their permission -- every section of river has a boss that owns that particular part of the river. If you go down there without their permission, they can either beat you or hit you with, like, a paddle, and they've been known to shoot people, you name it. That's how they -- they rule through intimidation, so that's a very common practice. The other day, we had two people wash up to our shores, and they had no identification on them, but we're thinking they were migrants that went down there without permission. One of them had his head halfway blown off, and the other one was shot between the eyes.

Q Do you often come across migrants that have experienced assaults, essentially, by the cartel?

A Yes.

Q And you learn that through interviewing the migrants?

*A Yes.*¹⁴³

[...]

Q You mentioned kidnappings. What does a cartel kidnapping look like, and why do they do it?

A They do it to -- they kidnap usually either family members or, if there's a family unit coming, they'll kidnap one of the -- they'll grab one of the kids and they'll -- just to make sure that they get paid at the end of the day.

Q So they'll hold a child –

A A child or a wife or a sister or a brother, whatever.

Q -- to wait for payment –

A Uh-huh.

Q -- and then release the child after payment?

A Uh-huh.

Q Okay.¹⁴⁴

Joel Martinez, Chief Patrol Agent, Laredo Sector (June 1, 2023)

A So I mentioned the fact that the cartels are telling you that they can bring you across with no problem. I mean, they consider you a commodity, not a human being, and they will stop at nothing to make money. So you being a commodity, it doesn't matter if something happens to you. So they're gonna lock you in an 18-wheeler; they're gonna walk you through the brush, and if you fall behind because you sprain your ankle, they're gonna leave you behind to find your own way home. They have no regard for human life. And I mentioned the fact of the San Antonio 50 that passed away in the back of an 18-wheeler, including two children, and I said, it's not worth it. I believe at the end I said, nothing is worth your life, and crossing the border illegally should not be a death sentence, so please think twice before you cross the border illegally.¹⁴⁵

Jason Owens, Chief Patrol Agent, Del Rio Sector (May 5, 2023)

A I think the smugglers and the transnational criminal organizations, they – make no mistake about it, that is our adversary. That is the ones that we are faced against every single day. And the migrants themselves are looked upon as simply a product to make money off of in terms of how the smugglers see it. They are going to use every single advantage that they can to try and make more money or to defeat us in the process of doing that, and that includes false messaging, that includes spreading lies about what the journey entails and what these migrants will face.¹⁴⁶

John Modlin, Chief Patrol Agent, Tucson Sector (July 26, 2023)

Q So what is the difference between human trafficking and human smuggling?

A So, yeah. And there is a distinction and certainly a lot of people use them interchangeably. But smuggling is when someone pays to enter the country illegally. So they know what they're doing. They're just paying \$10,000, \$7,000 to be smuggled into the United States. Trafficking is where there is a victim that's being brought to the United States under false pretenses. So you might see it with an Eastern European woman who thinks she's coming to be a maid, but she's going to be sex trafficked and forced into prostitution. That's sort of a classic example of that.

Q What other circumstances are individuals trafficked into?

A So there is forced labor. There is the sex trade. They can be forced into, I guess, indentured servitude. So those sorts of things.¹⁴⁷

Aaron Heitke, Chief Patrol Agent, San Diego Sector (May 9, 2023)

Q Have you noticed any other abuses by smugglers or cartel members on migrants beyond the bandits?

A We see trafficking. We see, unfortunately, a large amount of assaults. And this is -- it's not just within Mexico, but it's on the entire journey. It's very common that female migrants are raped during the process. It's also very difficult to be able to get them to talk. Most of them believe it's just part of the payment as they go up. It's unfortunately very regular within the population.

Q Do you try to screen people for being victims of crime?

A We do, yes.¹⁴⁸

Jason Owens, Chief Patrol Agent, Del Rio Sector (May 5, 2023)

Q Okay. And then the majority of illicit drug smugglers operating in your sector, are they working for the cartels?

A Everybody that is bringing illicit traffic across the border in some form or fashion is connected to or working for the larger cartels.¹⁴⁹

Dustin Caudle, Deputy Chief Patrol Agent, Yuma Sector (September 28, 2023)

Q Do you know what the trends that you're currently seeing in narcotic interceptions are?

A Narcotics are -- the interdictions are up in Yuma Sector. Yuma Sector is not a well-known narcotic corridor. Again, it's mostly a human smuggling-type corridor. Those are clearly defined with the cartels, but fentanyl is up. Cocaine is up. Heroin is up.¹⁵⁰

Conclusion

Since these interviews were conducted, the chaotic situation at the southwest border has continued. For example, the Tucson sector recorded approximately 17,500 encounters of illegal border crossers in just one week in late November, having just experienced over 55,000 encounters in that sector alone in the month of October.¹⁵¹ The overwhelming situation resulted in the closure of a Border Patrol checkpoint, and had a direct impact on lawful trade and travel in the area with the closure of the port of entry at Lukeville, Arizona by CBP's Office of Field Operations to all vehicles and pedestrians.¹⁵² Preliminary reports indicate that December 2023 set a record for the most encounters of illegal aliens on the southwest border in history for any month, shattering numerous records previously set by this Administration: there were over 302,000 encounters of illegal aliens on the southwest border, with approximately 250,000 of those made by Border Patrol of individuals who crossed illegally in between the ports of entry.¹⁵³

As policymakers and elected officials consider options to remedy the crisis, they should especially consider the expert opinions of seasoned Border Patrol agents, including those who were interviewed from the nine southwest border land sectors. Strategies that include adequate and timely consequences for those who enter illegally, limiting the use of release on recognizance into the interior of the country, and strategic deployment and maintenance of border barrier systems are essential to reducing the high flow of illegal immigration at the southwest border. These strategies will also reduce the effectiveness of TCOs facilitating and benefiting from the chaos, while enhancing national security.

The Committees thank the Agents for their time and candor.

¹ U.S. Border Patrol Monthly Apprehensions (FY 2000 – FY 2019), U.S. CUSTOMS AND BORDER PROTECTION (accessed Nov. 27, 2023) available at <https://www.cbp.gov/sites/default/files/assets/documents/2021-Aug/U.S.%20Border%20Patrol%20Monthly%20Encounters%20%28FY%202000%20-%20FY%202020%29%20%28508%29.pdf>.

² About DHS, Creation of the Department of Homeland Security, DEP'T OF HOMELAND SEC. (accessed Nov. 30, 2023) available at <https://www.dhs.gov/creation-department-homeland-security>.

³ Immigration: Apprehensions and Expulsions at the Southwest Border, CONGRESSIONAL RESEARCH SERV. (Dec. 22, 2021).

⁴ U.S. Border Patrol Monthly Apprehensions (FY 2000 – FY 2019), U.S. CUSTOMS AND BORDER PROTECTION (accessed Nov. 27, 2023) available at <https://www.cbp.gov/sites/default/files/assets/documents/2021-Aug/U.S.%20Border%20Patrol%20Monthly%20Encounters%20%28FY%202000%20-%20FY%202020%29%20%28508%29.pdf>.

⁵ See Newsroom, Southwest Land Border Encounters, U.S. CUSTOMS AND BORDER PROTECTION (accessed Nov. 27, 2023) available at <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

⁶ Timothy H.J. Nerozzi & Griff Jenkins, *Migrant encounters at southern border hit record 302K in December, sources say*, FOX NEWS (Jan. 1, 2024); see also Bill Melugin (@BillFOXLA), X (Jan. 2, 2024 at 10:54am), available at <https://twitter.com/BillMelugin/status/1742212865803911284>.

⁷ *On the Front Lines of the Border Crisis: A hearing with Chief Patrol Agents: Hearing before H. Comm. on Oversight & Accountability*, 118th Cong., at 29 (Statement of John Modlin, Chief Patrol Agent, Tucson Sector, U.S. Border Patrol).

⁸ *On the Front Lines of the Border Crisis: A hearing with Chief Patrol Agents: Hearing before H. Comm. on Oversight & Accountability*, 118th Cong., at 29 (Statement of Gloria Chavez, Chief Patrol Agent, Rio Grande Valley Sector, U.S. Border Patrol).

⁹ See Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability to Troy A. Miller, (Acting) Commissioner, U.S. CUSTOMS AND BORDER PROTECTION (Feb. 26, 2023).

¹⁰ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent John Modlin, at 93-94 (July 26, 2023).

¹¹ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Dustin Caudle, at 114 (Sept. 28, 2023).

¹² H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Jason Owens, at 69-70 (May 5, 2023).

¹³ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent John Modlin, at 79 (July 26, 2023).

¹⁴ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Jason Owens, at 96 (May 5, 2023).

¹⁵ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent John Modlin, at 91 (July 26, 2023).

¹⁶ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Aaron Heitke, at 28 (May 9, 2023).

¹⁷ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Jason Owens, at 40 (May 5, 2023).

¹⁸ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent John Modlin, at 49-50 (July 26, 2023).

¹⁹ U.S. Customs and Border Protection, *Along U.S. Borders* (Aug. 2023).

²⁰ See H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Jason Owens, at 13 (May 5, 2023).

²¹ Press Releases, Statement from Secretary Mayorkas on CBP Leadership Transitions, DEP'T OF HOMELAND SECURITY (June 9, 2023).

²² See H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Jason Owens, at 12-31 (May 5, 2023).

²³ Salvador Rivera, *San Diego Sector gets new Border Patrol boss*, BORDER REPORT (July 7, 2023).

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- ²⁴ See H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Aaron Heitke, at 13-14 (May 9, 2023).
- ²⁵ *Id.* at 69.
- ²⁶ See H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Gregory Bovino, at 12 (July 12, 2023).
- ²⁷ See *id.* at 13.
- ²⁸ See *id.* at 22.
- ²⁹ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Dustin Caudle, at 10 (Sept. 28, 2023).
- ³⁰ *Id.* at 13.
- ³¹ *Id.* at 117.
- ³² *Id.* at 89.
- ³³ See H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent John Modlin, at 10 (July 26, 2023).
- ³⁴ See *id.* at 10.
- ³⁵ *Id.* at 37.
- ³⁶ See H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Anthony Good, at 11 (June 29, 2023).
- ³⁷ See *id.* at 13-14.
- ³⁸ See *id.* at 12.
- ³⁹ *Id.* at 61.
- ⁴⁰ See H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Sean McGoffin, at 13-14 (Apr. 25, 2023).
- ⁴¹ See *id.* at 11-12.
- ⁴² See *id.* at 25.
- ⁴³ See H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Joel Martinez, at 10-11 (June 1, 2023).
- ⁴⁴ See *id.* at 11.
- ⁴⁵ *Id.* at 10.
- ⁴⁶ See H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Gloria Chavez, at 9 (Sept. 26, 2023).
- ⁴⁷ See *id.* at 9-10.
- ⁴⁸ *Id.* at 16.
- ⁴⁹ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Jason Owens, at 41-42 (May 5, 2023).
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- ⁵³ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Gloria Chavez, at 37 (Sept. 26, 2023).
- ⁵⁴ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent John Modlin, at 96 (July 26, 2023).
- ⁵⁵ *Id.* at 93-94 (emphasis added).
- ⁵⁶ *Id.* at 96 (emphasis added).
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- ⁵⁹ *Id.* at 114 (emphasis added).

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- ⁶⁰ *Id.* at 83-84 (emphasis added).
- ⁶¹ *Id.* at 30-31.
- ⁶² *Id.* at 31 (emphasis added).
- ⁶³ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Jason Owens, at 27-28 (May 5, 2023) (emphasis added).
- ⁶⁴ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Anthony Good, at 68 (June 29, 2023) (emphasis added).
- ⁶⁵ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Gloria Chavez, at 37 (Sept. 26, 2023) (emphasis added).
- ⁶⁶ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Gregory Bovino, at 102-103 (July 12, 2023) (emphasis added).
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- ⁶⁸ Presidential Actions, Proclamation on the Termination Of Emergency With Respect To The Southern Border Of The United States And Redirection Of Funds Diverted To Border Wall Construction, THE WHITE HOUSE (Jan. 20, 2021).
- ⁶⁹ Proclamation 9844, Declaring a National Emergency Concerning the Southern Border of the United States, 84 Fed. Reg. 4949 (Feb. 15, 2019).
- ⁷⁰ Exec. Order No. 13767, 82 Fed. Reg. 8793 (Jan 25, 2017).
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- ⁷² Video, President Biden Says Border Wall Doesn't Work After Waiving Federal Laws for More Construction, C-SPAN (Oct. 5, 2023).
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- ⁷⁸ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Jason Owens, at 66 (May 5, 2023).
- ⁷⁹ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Gregory Bovino, at 68 (July 12, 2023).
- ⁸⁰ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Dustin Caudle, at 24 (Sept. 28, 2023).
- ⁸¹ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Jason Owens, at 69-70 (May 5, 2023) (emphasis added).
- ⁸² H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Aaron Heitke, at 35-36 (May 9, 2023) (emphasis added).
- ⁸³ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Joel Martinez, at 31 (June 1, 2023) (emphasis added).
- ⁸⁴ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Gregory Bovino, at 68 (July 12, 2023) (emphasis added).
- ⁸⁵ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent John Modlin, at 79-80 (July 26, 2023) (emphasis added).
- ⁸⁶ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Anthony Good, at 34 (June 29, 2023) (emphasis added).
- ⁸⁷ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Dustin Caudle, at 26-28 (Sept. 28, 2023).
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- ⁹⁴ *Id.*
- ⁹⁵ See MaryAnn Martinez, *1.5M 'gotaways' have slipped into the US under Biden—three times as many as during 3 years of Trump*, NEW YORK POST (May 15, 2023).
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- ⁹⁸ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent John Modlin, at 91 (July 26, 2023).
- ⁹⁹ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Sean McGoffin, at 30-31 (Apr. 25, 2023).
- ¹⁰⁰ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Jason Owens, at 96 (May 5, 2023) (emphasis added).
- ¹⁰¹ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Aaron Heitke, at 34-35 (May 9, 2023).
- ¹⁰² *Id.* at 136 (emphasis added).
- ¹⁰³ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Jason Owens, at 41-42 (May 5, 2023).
- ¹⁰⁴ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent John Modlin, at 91 (July 26, 2023) (emphasis added).
- ¹⁰⁵ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Dustin Caudle, at 41 (Sept. 28, 2023).
- ¹⁰⁶ *Id.* at 40-41.
- ¹⁰⁷ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Aaron Heitke, at 28 (May 9, 2023).
- ¹⁰⁸ 9/11 Commission Report, NAT'L COMM'N ON TERRORIST ATTACKS UPON THE U.S. (July 22, 2004).
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- ¹¹⁸ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent John Modlin, at 80-81 (July 26, 2023) (emphasis added).

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- ¹²⁰ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Joel Martinez, at 22 (June 1, 2023).
- ¹²¹ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Aaron Heitke, at 28-29 (May 9, 2023).
- ¹²² *Id.* at 28 (emphasis added).
- ¹²³ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Jason Owens, at 96 (May 5, 2023).
- ¹²⁴ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Joel Martinez, at 43 (June 1, 2023).
- ¹²⁵ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Dustin Caudle, at 90 (Sept. 28, 2023) (emphasis added).
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- ¹³⁸ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Aaron Heitke, at 33-34 (May 9, 2023) (emphasis added).
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- ¹⁴³ H. Comm. on Oversight & Accountability, Transcribed Interview of Chief Patrol Agent Joel Martinez, at 84-85 (June 1, 2023) (emphasis added).
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