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## United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

July 15, 2021

The Honorable Dick Durbin  
Chair  
United States Senate Committee on the Judiciary

Dear Chair Durbin,

We write today to request that you hold a full Senate Judiciary Committee hearing on the current state of the border as soon as possible. There is a severe humanitarian and public health crisis at the southern border due to the recent surge in migrants, including unaccompanied children. It is imperative we do not let this surge continue due to our complacency. We must elicit testimony from key witnesses, including Homeland Security Secretary Alejandro Mayorkas, and officials from U.S. Customs and Border Protection (CBP). Hearing from those tasked with managing this crisis will aid the Committee in doing its part to protect the vulnerable, and restore order to the border. Lives are depending on it.

During the 116<sup>th</sup> Congress, the full Committee held four hearings with key Department of Homeland Security witnesses, including two hearings on the border crisis with then-Acting Secretary of Homeland Security Kevin McAleenan. At least two of the full Committee hearings, a CBP oversight hearing and a COVID-19 Immigration and Customs Enforcement best practices detention hearing, were held at the request of then-Ranking Member Feinstein. We ask that you kindly return the favor and allow a hearing on the border in Committee as migrant and smuggling encounters continue to rise.

As I'm sure you are aware, this past March, April, and May, CBP apprehended historic numbers of migrants not seen in over 15 years. So far this fiscal year, CBP has encountered 929,868 migrants at the border.<sup>1</sup> That is almost as many migrants encountered in all of 2019, and almost double the total numbers seen in all of 2018 and 2020. These increased numbers are testing the limits of CBP's processing capacity. CBP is overwhelmed with feeding, clothing, testing, and caring for migrants, and as a result, have had to turn attention from the important tasks of interdicting fentanyl, cocaine, and heroin and facilitating lawful travel and trade. CBP has managed to do its best to perform these important tasks while dealing with the additional health concerns associated with the COVID-19 pandemic.

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<sup>1</sup> CBP Southwest Land Border Encounters, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>

Smugglers and cartels are making billions of dollars off our broken border by preying on vulnerable migrants. Yet, the Biden administration has not proposed any meaningful solution to shut off the flow and regain control. In fact, President Biden has made conditions at the border much worse. In his first months in office, President Biden rescinded successful policies such as the Migrant Protection Protocols, reinstated “catch and release,” eliminated safe third country agreements with Northern Triangle nations, and stopped applying Title 42 public health authority used slow the spread of COVID-19 to unaccompanied children and anyone else deemed “exempt” by this Administration. As a result, the number of migrants crossing our borders has increased at an alarming pace.<sup>2</sup>

These migrants, especially the often tender-aged unaccompanied children, are reportedly subjected to abusive conditions by smugglers and criminals on the journey to the United States. In the past few months, CBP officials have reported several heart-breaking incidents involving young children. Along the New Mexican border, a smuggler was caught on camera dropping a 3-yr-old and a 5-yr-old from a 14-foot border fence into the United States. Along the Texas border, a six-month old was thrown in the Rio Grande River after her mother was assaulted by the smugglers she paid to transport them. In both situations, it is clear the smugglers have no regard for the human life they are transporting. These migrants are commodities. And if they were not found and rescued by the courageous women and men of the Border Patrol, they would have likely starved or dehydrated to death, or succumbed to the harsh desert elements. Unfortunately, these stories are not unique. We know migrants arrive severely dehydrated, terribly ill, and as victims of sexual assault, including brutal gang-rape, on a regular basis.

The most egregious part about the border crisis is that it could be solved if only we take appropriate action. The Committee shouldn’t stand by and watch this catastrophe unfold yet again. We must hear from the Department of Homeland Security about the problem so we can find a workable solution. If we don’t, we’re afraid we will have no one to blame but ourselves.

We look forward to hearing from you soon.

Sincerely,



Lindsey O. Graham  
U.S. Senator



Josh Hawley  
U.S. Senator

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<sup>2</sup> A FY20 Homeland Security Investigations threat assessment found that migration trends depend “greatly” on migrants’ (and therefore smugglers’) perceptions of U.S. immigration policies and enforcement efforts. The assessment found that migrants “often make decisions based on rumors and word-of-mouth from family, lawyers, or other migrants and react quickly to changes—real or perceived—using their informal social networks.”

cc: Charles E. Grassley, Ranking Member, Senate Judiciary Committee