

Oversight of Federal Efforts to Combat Human Trafficking

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Thank you, Ms. Jackson Lee and Mr. Biggs, for the opportunity to testify today. Human trafficking is a horrific crime that our society must strive to eradicate. In his update to the National Action Plan to Combat Human Trafficking last December, President Biden declared his commitment to “keeping the fight to end human trafficking at the forefront of our national security agenda.”¹ Yet at the same time, the President has instigated a historic collapse of border security and immigration enforcement that has actually invited and facilitated human trafficking in numerous forms. Further, the Biden catch and release policies and policies that govern the placement of unaccompanied minors offer an irresistible opportunity for labor and sex trafficking to occur. In addition, loose regulation of guest worker programs, especially the H-2A and H-2B programs, have resulted in numerous major incidents of trafficking and indentured labor. Congress must intervene, not only to shore up the laws where needed, but to insist that President Biden enforce existing laws and improve regulations within his authority to end the border chaos that enables trafficking to flourish.

Flood of Illegal Migrants Has Overwhelmed Federal Agencies, Border Communities, and NGOs

When he took office, President Biden inherited what many experts considered to be the most secure land borders in U.S. history, with expanded and improved barriers, updated technology, and more personnel, all of which was backed up by policies that deterred migrants from crossing illegally. Within a short time, that relatively secure southern border was transformed into a chaotic, lawless, and dangerous frontier, with cartels and criminal smuggling organizations strategically orchestrating crossings of hundreds of migrants at a time, so as to occupy and distract the Border Patrol, thus enabling them to move other loads of more sinister individuals and illicit drugs across at less risk of interdiction. The incentive: the understanding that a large share of migrants who are apprehended by the Border Patrol, especially minors and those arriving with minors, will soon be released and transported to their destination, sometimes with an order to appear for supervision or for a court hearing, with little expectation that they will comply or qualify to remain legally.

From the very beginning, President Biden began dismantling a laundry list of policies that had succeeded in controlling the years-long wave of illegal migrants hoping to take advantage of our dysfunctional asylum system and court rulings that require minors and those arriving with minors to be released into the country. Biden ordered an end to construction of the border wall system; terminated the Migrant Protection Protocols that sent tens of thousands of alleged asylum seekers to wait in Mexico; cancelled agreements with transit nations to offer safe haven to migrants and enforce their borders; relaxed application of Title 42 pandemic controls so that minors and families could enter; began awarding immigration parole to tens of thousands of illegal crossers, in defiance of the intent of Congress; extended Temporary Protected Status (TPS) to citizens of more nations and more recent arrivals; established strict

¹ [National-Action-Plan-to-Combat-Human-Trafficking.pdf \(whitehouse.gov\)](#)

limitations on interior enforcement to suppress deportations of all but the most egregious criminals; and launched plans for a new asylum system designed to expedite the legalization of illegal border crossers.

Not surprisingly, the number of illegal border crossers has exploded, in response to what the migrants call Biden's "invitacion." The Border Patrol encountered more than 221,000 illegal crossers this March, the highest monthly total in 22 years, which is a 33 percent increase over this February, and a 27 percent increase over last March.² The total number of encounters so far this fiscal year is 1.06 million. According to a recent court filing, this March about 98,000 of the illegal migrants, or about 44 percent, were promptly released into the interior, rather than detained or returned, as the law calls for. (56% were expelled under Title 42 or Title 8 authority).³ Most of those released are family units and unaccompanied minors, but some are single adults.

In addition, in March an estimated 62,000 illegal crossers were detected by border technology or sign cutting, but evaded Border Patrol apprehension, often because agents are occupied processing large groups of families and unaccompanied children. These so-called "gotaways" are estimated to number about 300,000 so far this fiscal year.⁴ These are the crossers who do not want to be processed and released, but who want to avoid contact with the Border Patrol, and these loads are more likely to include traffickers and future traffickers (as in the San Antonio case described below), as well as trafficking victims who cannot be spotted by authorities.

Thus the total number of illegal aliens arriving in March was approximately 160,000. If this pace continues for the next six months, that would mean an additional 960,000 new illegal alien arrivals by the end of the fiscal year, putting the total at well over 1.5 million for the year. But most experts expect the pace of illegal arrivals will not stay the same, but increase dramatically if President Biden proceeds with his announced plan to lift Title 42 policies and implement a more lenient asylum system that allows even more of the illegal crossers to enter.

The high likelihood of release is what is motivating more and more people from around the globe to put themselves in the hands of criminal smuggling organizations to attempt the crossing. Some of those who are tempting prospective migrants are human traffickers. Easy access to the United States is an irresistibly lucrative business opportunity for them. Immigration and Customs Enforcement (ICE) has said that the criminal organizations involved are raking in more than \$10 million a day, or \$6 billion a year.⁵

Human Trafficking is Facilitated By Lenience and Chaos at Border

In many cases, the traffickers promise naïve migrants jobs in the United States, and instead lure them into indentured servitude, peonage, sex trafficking, extortion, or demand that they work for the smugglers to pay off their debts to the traffickers. For example, the lenient policies that result in families

² U.S. Customs and Border Protection, Custody and Transfer Statistics, [Custody and Transfer Statistics FY2022 | U.S. Customs and Border Protection \(cbp.gov\)](#).

³ U.S. Department of Justice, "Defendants' Monthly Report for March 2022," filing in *Texas v Biden*, [Microsoft Word - Texas v. Biden - Defendants' Monthly Report for March 2022 \(courtlister.com\)](#).

⁴ Bill Melugin and Adam Shaw, "62,000+ illegal immigrants got past Border Patrol agents in March: sources," Fox News, April 1, 2022, [62,000+ illegal immigrants got past Border Patrol agents in March: sources | Fox News](#).

⁵ John Condon, acting assistant director of international operations at ICE/HSI, quoted in Stephen Dinan, DHS: Cartels earn up to \$6 billion a year from smuggling migrants, *Washington Times*, August 4, 2021, [DHS: Cartels earn up to \\$6 billion a year from smuggling migrants - Washington Times](#).

with children being released into the country provided convicted human trafficker Concepcion Malinek, of Chicago Ill., with a profitable scheme of exploiting migrants. Malinek would recruit families in Guatemala to pay her tens of thousands of dollars apiece to cross the border illegally with a minor, transport them to Chicago, give them fake identification documents, set them up with factory jobs (including some of the minors), give them sleeping space in her small, unsanitary house, and then withhold more than half of their earnings for rent and other bogus charges.⁶ From one account:

“There were no white picket fences or endless shopping sprees in Malinek’s America,” Assistant U.S. Attorney [Christopher V. Parente](#), who prosecuted the case, told the judge. “Instead, the victims were packed like sardines into Malinek’s basement, and together they fought off the roaches, lice, mold and desperation of their new life.”

The teen girl’s father said he paid \$14,000 for the two of them to be smuggled into the U.S. When they were nabbed at the border, he said, they gave Malinek’s name as the place they would live while their immigration case was pending. They were released under those conditions.

Malinek then charged him \$18,000 for getting him from the border to her Illinois home, he said. At the sandwich factory, he earned \$1,956 a month and paid nearly \$1,000 of that to Malinek — \$200 to his debt, \$200 for transportation to and from work, \$35 for a phone and \$424 for “bills.”⁷

In other cases, desperate, unsuspecting, or opportunistic parents will arrange for their child to cross with a trafficker to work in the United States at a farm or factory, or worse. In one of the most notorious cases, teenagers and adults were found to have been trafficked to work at an egg farm in Ohio:

... The defendants and their associates recruited workers from Guatemala, some as young as 14 or 15 years old, falsely promising them good jobs and a chance to attend school in the United States. The defendants then smuggled and transported the workers to a trailer park in Marion, Ohio, where they ordered them to live in dilapidated trailers and to work at physically demanding jobs at Trillium Farms for up to 12 hours a day for minimal amounts of money. The work included cleaning chicken coops, loading and unloading crates of chickens, de-beaking chickens and vaccinating chickens.⁸

The case was investigated and prosecuted seven years ago, but the policies of the Department of Health and Human Services, which by law assumes custody of the minors from the Border Patrol, have changed very little since then, as is discussed below. The Biden administration’s main priority has been to move the minors out of government custody as quickly as possible, rather than to conduct meaningful inquiry into the child’s situation or to ensure that the minor is placed in an appropriate and safe household.

⁶ Jason Meisner, Cicero woman sentenced to 6 1/2 years in forced labor case targeting Guatemalan immigrants, *Chicago Tribune*, April 19, 2021, [Cicero woman sentenced to 6 1/2 years in forced labor case targeting Guatemalan immigrants – Chicago Tribune](#).

⁷ Stephen Dinan, “Concepcion Malinek convicted for forcing Guatemalan migrants to labor,” *Washington Times*, April 22, 2021, [Concepcion Malinek convicted for forcing Guatemalan migrants to labor - Washington Times](#).

⁸ U.S. Department of Justice, “Two Defendants Plead Guilty to Forced Labor Scheme that Exploited Guatemalan Migrants at Ohio Egg Farms,” August 25, 2015, [Two Defendants Plead Guilty to Forced Labor Scheme that Exploited Guatemalan Migrants at Ohio Egg Farms | OPA | Department of Justice](#).

Last year, the federal government reportedly stopped releasing unaccompanied minors in at least two locations – Enterprise, Ala. and Woodburn, Ore. -- due to concerns about labor trafficking. The Department of Justice and two other federal agencies launched investigations based on suspicious clusters of arriving minors: “Some of these situations appear to involve dozens of unaccompanied minors all being released to the same sponsor and then exploited for labor in poultry processing or similar industries without access to education,” according to an email from a Justice official.⁹ So far, one couple in northern Alabama has been convicted of money laundering and conspiracy to transport illegal aliens unlawfully, and the other investigations apparently are still in progress.¹⁰

Some unaccompanied minors end up staying for longer terms in lightly supervised youth shelters, foster care, or with a sponsor, and then become vulnerable to enticement into gangs and/or sex trafficking. Just last week, in San Antonio, a man (an illegal alien who has been deported 15 times) was arrested for allegedly prostituting and sexually assaulting a teenage girl who was being sheltered by her trafficker last year at a stash house used for human smuggling. “State police said Diaz-De la Cruz, who is known as Karlos, housed the girl and allowed men to have sex with her for \$150, according to an affidavit supporting his arrest. In exchange, Diaz-De la Cruz would provide the girl with money, food and shelter.”¹¹ The alleged trafficker had been deported last year, but was arrested last week on a South Texas ranch after once again crossing illegally with a large group.

The establishment and resurgence of the transnational gang MS-13 in the Washington DC-Maryland-Virginia area, whose members are largely illegal aliens, many of whom originally arrived as unaccompanied minors, has brought an increase in cases of brutal sex trafficking in the area. The gang preys on young teenage girls who run away from shelters, foster care, or broken homes:

In the United States, victims of MS-13 tend to be Latino immigrant girls or girls from the Northern Triangle countries who came into the country as unaccompanied minors.... HHS places minors either in foster care, with family or a sponsor.... MS-13 preys on the vulnerability of the unaccompanied minors; some have previously suffered sexual abuse either in their home country or during the trip north; others lack a community and do not speak English. Members of MS-13 seek out the vulnerable young girls [using violence and other coercive tactics to intimidate the girl](#) into having sex for money to help financially support the gang. Runaways are also appealing to the MS-13. Family problems, transitions from foster care and economic problems are some of the reasons that unaccompanied minors run away from their homes. Many of the unaccompanied minors may have experienced sexual abuse, exploitation or physical abuse in their home countries or during their migration to the United States and even more suffer from poverty and lack of a stable social network. These are all factors that make young girls more susceptible to human trafficking.¹²

⁹ Ben Penn and Ellen Gilmer, “U.S. Probes Trafficking of Teen Migrants for Poultry-Plant Work,” Bloomberg Law, August 19, 2021, [U.S. Probes Trafficking of Teen Migrants for Poultry-Plant Work \(bloomberglaw.com\)](https://www.bloomberglaw.com).

¹⁰ Reuters, “Federal agencies probe migrant exploitation in Alabama chicken industry,” February 8, 2022, [Federal agencies probe migrant exploitation in Alabama chicken industry | News | Marianas Variety News & Views \(mvariety.com\)](https://www.mvariety.com).

¹¹ Taylor Pettaway, “Undocumented migrant arrested, charged with trafficking, prostituting, sexually assaulting a teenage girl in San Antonio,” *San Antonio Express News*, April 19, 2022.

¹² Human Trafficking Search, “The Connection between the Mara Salvatrucha and Human Trafficking,” August 24, 2017, [The Connection between the Mara Salvatrucha and Human Trafficking \(humantraffickingsearch.org\)](https://www.humantraffickingsearch.org).

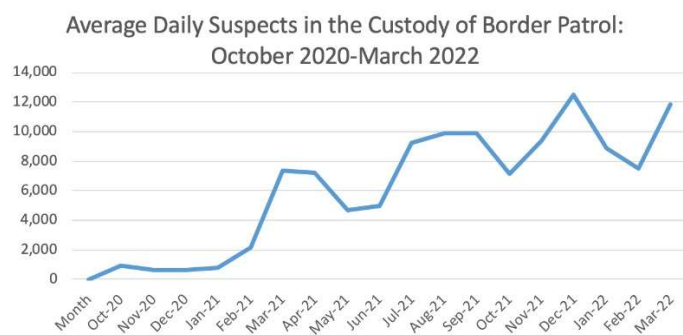
One typical case occurring in the area resulted in the prosecution of eleven MS-13 gang members for sex trafficking, assault, and other charges related to the prostitution of a 13-year old and 16-year old runaways.¹³

These are just a few of the cases that have been discovered, although after significant harm has been done to the victims. Each one of these cases represents a failure in border security and often a failure in government policies. Obviously human trafficking is an ancient problem, but the rapid deterioration of border security and immigration enforcement under the Biden administration have invited even more trafficking at the border, and created even more opportunities for trafficking in the interior of the country.

Biden Policies Increase Opportunity for Human Trafficking

First, this historic surge of illegal crossers has swamped the Border Patrol, and other federal agencies involved. Experts agree that the United States literally has lost operational control of the border. Agents interviewed in the media describe it in desperate terms: “as bad as it’s ever been,” with frequent overtime required, an increase in the number of assaults against agents, more difficult rescues of migrants in danger, more vehicle chases of smuggling loads, and, especially more time spent off the line to process migrants for release. Numerous observers have reported that at any given time, about half the agents on duty will be processing migrants rather than patrolling the border or apprehending migrants, which increases opportunities for the cartels to move other types of loads through unfenced and unpatrolled parts of the border.

Pressure to process migrants swiftly, rather than thoroughly, prevent officers from doing proper screening and vetting of those they apprehend. The average number of apprehended aliens in the custody of the Border Patrol now is more than ten times the number that it was 18 months ago; from 919 per day in October 2020 to 11,838 per day in March 2022 (see Figure 1 below).



Source: Customs and Border Protection

It is not only the Border Patrol that is overwhelmed; the continuing rush of illegal migrants has swamped border communities from Yuma to Brownsville, wherever there are areas lacking physical barriers along the border. In December, Yuma mayor Douglas Nicholls declared a state of emergency due to the border crisis. Even inland from the border, last week, San Antonio mayor Ron Nirenberg wrote to DHS Secretary Mayorkas about the “unsustainable increase” in migrants. He said that from

¹³ U.S. Department of Justice, “MS-13 Members and Associates Arrested for Sex Trafficking a Minor,” August 5, 2020, [MS-13 Members and Associates Arrested for Sex Trafficking a Minor | USAO-EDVA | Department of Justice](#).

March 19-29, an average of 628 migrants were staying in local shelters, parks, or at the airport.¹⁴ Said Congressman Henry Cuellar (D-Texas) about the concerns: ““When you start hearing San Antonio officials talking like the border officials, saying 'We need help, we need help,'...then we know that the impact has rippled up 150 miles or further.”¹⁵

These are the conditions that are ideal for human trafficking. Even the non-government organizations, like migrant assistance groups and other humanitarian organizations that serve all those in need, are sounding alarms and reporting significant increases in migrants in need of help. Shelters, soup kitchens, and even public parks are overflowing with migrants. These human service entities are a critical backstop to the government in detecting human trafficking, but if they are overwhelmed, they cannot be as effective in that role.

Policies on Unaccompanied Minors Fail to Protect Them From Trafficking

The policies that govern the placement of minors who arrive unaccompanied are inadequate to prevent these minors from being placed in inappropriate environments that include labor and sex trafficking situations and participation in or exposure to criminal gangs. These policies have always been inadequate, in part due to the unmanageable volume of cases, but have been loosened even more by the Biden administration, increasing opportunity for bad actors to exploit the system.

The systemic deficiencies were described in detail in the Senate report following the investigation of the Ohio egg farm in 2014.¹⁶ They included poor vetting of sponsors and their households for suitability and financial stability, low standards for sponsors, allowing individuals with criminal histories and without legal status to sponsor minors, failure to monitor the minor’s well-being after placement, and failure to deliver post-release services.

While the Trump administration adopted a number of policies recommended by the bipartisan investigators, including more thorough background checks and questioning of prospective sponsors, many of these reforms have been reversed by the Biden administration as it struggles to deal with the new influx and in its decision to prioritize swift release from federal custody over vetting of sponsors. These practices stray from well-established best practices for foster care, refugee, and similar child placements, greatly increase the risk of problems for the youth and increase the likelihood that some will end up being victimized by traffickers.

According to HHS, the sponsors who come forward to take custody of these minors receive little meaningful vetting.¹⁷ They typically are subject to a biographical name check for criminal records, but are fingerprinted only if staff are able to articulate a reason why the placement might be a problem, not to discover information that might suggest a risk. Similarly, home studies to evaluate the environment to which the minor will be released or the sponsor’s credibility or financial stability are done only in very rare cases, such as with child trafficking victims they have discovered; very young (under 12 years),

¹⁴ Guillermo Contreras, “Nirenberg asks for federal money to help deal with migrant arrivals in S.A.,” *San Antonio Express News*, April 21, 2022.

¹⁵ Rep. Henry Cuellar, quoted by Rosa Flores and Rosalina Nieves, “San Antonio is sounding the alarm as Title 42 is set to end,” CNN, April 20, 2022, [San Antonio is sounding the alarm about ending Title 42 - CNN](#).

¹⁶ Staff Report, *Protecting Unaccompanied Alien Children from Trafficking and Other Abuses: The Role of the Office of Refugee Resettlement*, U.S. Senate Permanent Subcommittee on Investigations, [Majority & Minority Staff Report - Protecting Unaccompanied Alien Children from Trafficking and Other Abuses 2016-01-282.pdf \(senate.gov\)](#).

¹⁷ Fact Sheet, HHS Administration for Children and Families, February 1, 2022, [uac-program-fact-sheet.pdf \(hhs.gov\)](#).

disabled or abused children; or if a sponsor has volunteered to take in multiple kids. Contrary to best practices, other adults in the sponsoring household are not routinely subject to fingerprinting or investigation.

There is no meaningful monitoring of the minors' activities or well-being after they leave government custody and are placed with a sponsor. They are not required to accept post-release services, and in many cases the sponsors have blocked case workers from contact with the minors. In fact, the government usually loses track of the minors after release, either because the minors and their sponsors refuse to communicate, the youth moves to another household, drops out of school and services, and skips out on immigration hearings. As a result, it is difficult for authorities to detect situations where a minor is a victim of labor trafficking or coerced into indentured labor or other exploitation – until it is too late, and the damage to the victims is already done.

In June 2014, a 16-year old girl from Honduras approached Baltimore County, Md. police, telling them she had been smuggled into the United States to live with a 42-year old man, Pedro Lara Portillo, who claimed to be her guardian, and was forced into a sexual relationship:

Federal investigators say that Lara had coordinated with the girl's mother and arranged to pay fees to a contact in Mexico so that she could cross into the country after leaving Honduras. From there she entered the U.S. alone, crossing the border in Texas, according to court documents. The teen aged gave Lara's name to officials working with the Office of Refugee Resettlement, and he falsely told them she would have her own room, according to court documents.¹⁸

In the Virginia MS-13 sex trafficking case, after running away from a group home in Fairfax, Va, the teen victims were horribly beaten to initiate them into the gang, and then repeatedly forced to engage in prostitution both to members of the gang and outsiders. From once court document:

MINOR 2 was sex trafficked by numerous MS-13 gang members and associates shortly after she and MINOR 3 ran away from Shelter Care on August 27, 2018. According to MINOR 2, MINOR 3 informed her that she would engage in sex in exchange for money, food, and other things that MINOR 2 needed. During interviews with law enforcement, MINOR 2 and MINOR 3 both discussed staying at the residence of MOISES and JOSE ELIAZAR, two brothers who lived together... in Woodbridge, Virginia.... MINOR 2 informed law enforcement that multiple men engaged in sex with MINOR 2 in the wooded area behind MOISES' apartment. ...Geolocation data obtained during the investigation shows that MINOR 2 was harbored at multiple locations in Northern Virginia and Maryland....Numerous social media conversations involving MOISES, GUTIERREZ, and others, show their active involvement in finding different residences to harbor MINOR 2 for purposes of commercial sex.¹⁹

As of February 16, 2022, there were approximately 9,781 UC in HHS care – which is significantly lower than the numbers in custody last year, even though the number of arrivals has dramatically increased. The average time for unaccompanied minors to remain in HHS custody dropped from 102 days in FY2020 to 37 days in FY2021, even as the number of referrals for placements increased

¹⁸ Ian Duncan, "Unaccompanied minor from Honduras alleges abuse by guardian," *Baltimore Sun*, August 4, 2014.

¹⁹ Affidavit in Support of Criminal Complaint and Arrest Warrant in *United States v MOISES et al*, July 31, 2020.

from 15,381 in FY2020 to 122,731 in FY2021.²⁰ In 2021, HHS and its contractors performed only 5,468 home studies for placements, out of the 122,731 referrals (a rate of 4%), in contrast to 1,913 home studies done in 2020, out of 15,381 referrals (12%). In 2021, there were only 21,894 minors who received post-release services from HHS and its contractors – a larger number than the 15,160 who received them in 2020, but a smaller percentage out of the much larger case load in 2021.

This influx has so severely strained schools, foster care systems, health care, and other social support systems that several states (South Carolina, Iowa, Nebraska, South Dakota, Texas and Florida) have announced that they will not participate in the resettlement of unaccompanied minors.

In the case of South Carolina, the state determined that the arrival of any large group of children needing foster care placement would be an unacceptable burden on the state’s existing capacity for “timely and stable placements and other services and supports.”²¹ The order further states that in light of a recent class action settlement agreement (*Michelle H. v Haley*) that requires the state to address numerous problems in its foster care placement system, including the number of foster homes, a case worker shortage, and the availability of health services, the governor determined that:

...accepting placements of unaccompanied migrant children entering the United States via the southern border into residential group care facilities or other foster care facilities located in, and licensed by, the State of South Carolina would unduly limit the availability of placements for children in South Carolina and would present a threat of harm to the children in such facilities and would constitute a failure of any such facility to keep the facility safe to care for children as contemplated by [SC law].

Some researchers have concerns that foster care systems in America are a significant pipeline to human trafficking. Statistics are hard to come by and vary by state, but experts have concluded that the prevalence of foster care children who end up as child sex exploitation victims is perhaps as high as 50 percent.²² As South Carolina Governor McMaster articulated, when the foster care system is unnecessarily strained every month due to an influx of thousands of newly arrived non-citizen children needing to be placed in facilities, group homes, or with foster families, then all of the children in the system lose.

Labor Trafficking Facilitated by Lax Oversight of Visa Programs

Last month, on March 31, three men were sentenced in federal court in Brunswick, Ga. for their role in a major human trafficking and forced labor case. “These men engaged in facilitating modern-day slavery,” said the US Attorney who prosecuted the case as part of a multi-agency investigation dubbed Operation Blooming Onion. The main conspirator, Javier Sanchez Mendoza, age 24, recruited more than 500 Central Americans to obtain H-2A visas for temporary farm jobs, and then exploited and threatened them, forcing them to work in deplorable conditions for little or no pay, according to the court documents.

²⁰ Office of Refugee Resettlement, “Facts and Data,” [Facts and Data | The Administration for Children and Families \(hhs.gov\)](https://www.hhs.gov/facts-and-data).

²¹ Governor Henry McMaster, Executive Order No. 2021-19, filed on April 12, 2021, [2021-04-12 FILED Executive Order No. 2021-19 - Prioritizing SC Children.pdf](#).

²² Michelle Lilley, “An Unholy Alliance: The Connection between Foster Care and Human Trafficking,” Human Trafficking Search, 2016, [Copy-of-An-Unholy-Alliance-The-Connection-Between-Foster-Care-and-Human-Trafficking.pdf \(humantraffickingsearch.org\)](#).

A key victim testified during sentencing that Mendoza selected her from another work crew after her arrival in Georgia from Mexico and brought her to live with him, maintaining control through threats and intimidation and raping her repeatedly for more than a year – including deceiving her into believing she had married him. When she escaped, he kidnapped her at knifepoint from a home where she was babysitting children who were playing in their front yard. Law enforcement agencies tracked her to Mendoza’s Jesup mobile home, where after her rescue the officers found a shrine to Santa Muerte – “Saint Death” – decorated with her hair and blood in what was believed to be a prelude to her murder. Mendoza faces pending state charges for aggravated assault related to that incident.²³

Similar incidents have occurred under the H-2B visa program, available to employers for seasonal unskilled non-farm labor, and nearly every other temporary work visa program. As one study put it, conditions that create vulnerability for trafficking victimization are “built into” the temporary work visa programs.²⁴ The job opportunities are irresistibly tempting to the victims, and many go into debt to pay the recruiter for the visa, although that is a violation of the visa program rules. Once in the United States, the traffickers can exercise control over the victims’ movements, and the victims are isolated and often unaware of how they can escape from their situation and get help.

The government agencies responsible for the programs (State Department, Labor Department and US Citizenship and Immigration Services) are more focused on placating employers who demand a limitless supply of workers than they are on detecting fraud, abuse and labor trafficking. They rarely investigate the claims of the employers seeking labor or look into the labor contractors that profit the most from the visa programs and which do the recruiting and/or trafficking. In the past, trafficking situations often were discovered during worksite audits and raids by ICE, but the agency has all but abandoned worksite enforcement.

Instead, Congress repeatedly has given DHS the authority to increase the number of H-2B visas. This year, President Biden elected to add 35,000 H-2B visas for FY 2022, and admissions in other temporary work categories are rising as well.

Recommendations

Congress and the President have many options available to them to prevent, deter and better detect human trafficking. In general, if the government can better control illegal immigration and legal visa programs, it will better control human trafficking. The following steps should be taken:

- 1) update the Trafficking Victims Protection Act to change the way arriving minors are handled, with the primary emphasis on swiftly returning them to their families in their home countries;
- 2) earmark funding for ICE/Homeland Security Investigations for the increased investigation and prosecution of transnational human labor and sex trafficking by foreign nationals, to include and expansion of worksite investigations and transnational gang disruption;

²³ Department of Justice, “Three men sentenced to federal prison on charges related to human trafficking,” March 31, 2022, [Three men sentenced to federal prison on charges related to human trafficking | USAO-SDGA | Department of Justice](#).

²⁴ Sarah Crowe, “Human Trafficking on Temporary Work Visas: A Data Analysis 2015-2017,” Polaris, [Human-Trafficking-on-Temporary-Work-Visas.pdf \(polarisproject.org\)](#).

- 3) use appropriations authority to more effectively ensure that the executive branch is faithfully enforcing immigration laws according to congressional intent, including specifying how funds will be used for border enforcement, detention, and processing of specific categories of illegal border crossers, visa overstays, asylum applicants, and criminal aliens, and to include sufficient resources to detain illegal border crossers in the border area and a larger number of criminal aliens, deportation recidivists, fugitives and absconders, and to allow releases and alternatives to detention only in specified types of cases;
- 4) override the judicial rulings that prevent the government from keeping families together in custody while their deportation cases are resolved. Establish a more efficient due process to resolve the cases quickly and that does not incentivize crossing the border illegally with a child;
- 5) establish boundaries on the executive branch use of parole authority and the issuance of work permits, to prevent a president and his agencies from limitless discretion and abuse of this authority;
- 6) require federal agencies to notify state and local authorities about the transport and release of aliens in their jurisdiction, to include information on the number, locations, and expected needs of newly arriving migrants who are released pending immigration proceedings;
- 7) direct and fund HHS to better screen, place and monitor unaccompanied minors who are allowed to enter the country, and to disclose and share relevant information with government agencies and the public. The placement process must comport with state regulations on foster care placements, to include universal home studies, background checks, financial assessment, vetting of all household members, and periodic in-person monitoring of the minor's well-being;
- 8) reform the SIJ program to reduce fraudulent and frivolous cases, enable USCIS to have sole discretion for determining eligibility under the law, and limit access to minors who are entirely lacking appropriate guardianship either here or in their home country;
- 9) reform the asylum system to avoid encouraging fraudulent, frivolous, or unqualified applicants, share the responsibility of providing safe haven with other countries in the region, and reverse results of judicial intervention that has eroded the standards for eligibility that Congress established;
- 10) establish consequences for state and local sanctuary policies that prohibit local law enforcement agencies and officers from communicating effectively with federal immigration authorities, as these sanctuary policies can interfere with proper investigation of human trafficking;
- 11) reform work visa program rules to more effectively deter trafficking, such as by requiring more work site visits, credentialing for labor contractors, imposing accountability for employers hiring or contracting for illegal or trafficked labor, and reducing the numerical limits on these programs;
- 12) create more opportunity for state and local governments to investigate and penalize human trafficking and the illegal migration, human smuggling, identity fraud, and illegal employment that incentivize and facilitate this scourge.