

Secretary

U.S. Department of Homeland Security
Washington, DC 20528



Homeland
Security

March 28, 2019

United States Senate
Washington, DC 20510

U.S. House of Representatives
Washington, DC 20515

Dear Members of Congress:

I am writing to you with an urgent request. For many months now, the Department of Homeland Security (DHS) has been tracking a surge in migrant arrivals at the U.S. southern border. It is the responsibility of DHS to secure our borders, enforce our immigration laws, and provide appropriate humanitarian protections to those who need it. Indeed, Congress has explicitly directed DHS to take operational control of the southern border. But today I report to you that we are increasingly unable to uphold that responsibility given the emergency situation. We are grappling with a humanitarian and security catastrophe that is worsening by the day, and the Department has run out of capacity, despite extraordinary intra-Departmental and interagency efforts. I am especially concerned about the level of families and unaccompanied children arriving at our borders and in federal custody. Accordingly, DHS requests immediate Congressional assistance to stabilize the situation.

The border numbers paint a picture of a dire situation. Late last year, DHS was apprehending 50,000 – 60,000 migrants a month. Last month, we apprehended or encountered more than 75,000, the highest in over a decade. And this month, we are on track to interdict nearly 100,000 migrants. What we are seeing is nearly unprecedented in the modern era. Unlike previous flows, these migrants are not arriving in high numbers, one-at-a-time. They are arriving in large groups. In a normal year, DHS would encounter one or two groups of over 100 migrants. Already in this fiscal year, we have encountered nearly 100 large groups comprised of 100+ migrants, nearly half of which have arrived in remote locations. Our men and women on the frontlines are simply not resourced to handle these levels, and I report to you today that we are struggling to transport and process—let alone adequately care for—this many individuals coming into our custody, especially those in hard-to-reach areas.

The volume of “vulnerable populations” is unsustainable. Our system has been able to cope with high numbers in the past, but the composition of today’s flows makes them virtually unmanageable. Historically, the vast majority of aliens we encountered were single-adult males from Mexico who could be quickly removed after a short period of detention if they had no legal right to stay. Today, the majority are families and unaccompanied children, who pose a unique

challenge to the system because most cannot be easily cared for, efficiently processed, or expeditiously removed, due to resource constraints and outdated laws. The result is a dangerous and growing backlog of individuals in custody that has forced us to begin releasing large numbers of aliens, most of whom will never appear for their immigration court hearings, further exacerbating “pull” factors into the United States. Unfortunately, Alternatives to Detention, such as ankle-bracelet monitoring, have proven expensive in the long run and ineffective at ensuring removals ordered by an immigration judge.

Now we face a system-wide meltdown. DHS facilities are overflowing, agents and officers are stretched too thin, and the magnitude of arriving and detained aliens has increased the risk of life-threatening incidents. At the present time, Customs and Border Protection (CBP) has more than 1,200 unaccompanied alien children (UACs) in custody, hundreds of which have been with CBP for days, an unacceptable length of stay in facilities not designed to hold children for extended periods. By law, most of these children must be transferred to the Department of Health and Human Services (HHS) for care in residential shelters. While HHS is taking steps to rapidly add thousands of shelter beds, the system is hitting peak capacity. In addition to UACs, CBP has at least 6,600 families in custody, bringing the total number of children sitting in CBP facilities to approximately 4,700. We are doing everything possible to address these numbers and reduce backlogs, but they are a symptom of a broken system.

My greatest concern is for the children, who are put at high risk by this emergency and who are arriving sicker than ever before after traveling on the treacherous trek. Our agents and officers are performing more than 60 hospital visits a day—many to ensure young people get immediate treatment—and we now are regularly seeing individuals arrive with life-threatening conditions. Moreover, as agents get pulled off the line to escort migrants to receive medical assistance, we are left with even less capacity to handle new arrivals. The humanitarian situation cannot be ignored. Reports of violence and sexual assault along the route are now pervasive, meaning that many arriving migrants require especially focused care. In some cases, girls as young as 10 years old in DHS custody require pregnancy tests so we can be sure they get essential medical support. And with increased flows, smugglers and traffickers are forcing more people into inhumane conditions along the journey and putting lives in danger. They are preying on innocent people for profit and exploiting this crisis to line their pockets by breaking our laws.

Our most urgent need is to increase throughput to avoid threats to life and property. At present, DHS border and immigration facilities are at (or over) capacity with serious over-crowding. We need additional temporary facilities as soon as possible in order to process arriving aliens, especially those entering illegally between ports of entry. Immigration and Customs Enforcement (ICE) has been urgently working to acquire additional bed space and to speed up transfers of individuals into their custody, but DHS has nonetheless been forced to temporarily release adults and families directly from Border Patrol custody. This prevents us from detaining them to ensure that they are afforded the most expeditious process under immigration law and, where appropriate, removed. Without additional assistance, we will be forced to increase the releases of the single-adult population from ICE—the only population for which we can currently effectively enforce U.S. immigration laws. As such, we are witnessing the real-time dissolution of the immigration system.

Moreover, HHS will likely need many more beds as the influx of children grows. In HHS custody, children receive accommodations appropriate for young people while they await placement with adult sponsors in the United States. However, because of the surge in arrivals, CBP has high numbers of children that have not been transferred. As noted earlier, HHS is taking steps to rapidly add thousands of shelter beds. But in the short term, HHS is still approaching its maximum capacity and will very likely require thousands of additional beds in the coming weeks and months. I must emphasize how important it is to quickly transfer children out of border locations, which are not designed for long-term stay and are especially inadequate for the care of young people. A potential overflow of children in DHS custody represents our most acute humanitarian risk.

But bed space is not the only issue. To cope with the overall volume of arriving migrants, a resource surge is needed throughout the system to ensure efficient throughput and proper care. This includes medical teams, vehicles and transportation workers, legal services, and more. We need temporary processing facilities with full humanitarian and staffing support. And we now project that we will need at least hundreds of additional personnel to support CBP and ICE in providing humanitarian and operational assistance, including conducting welfare checks, preparing meals, and accounting for personal property.

In light of the above, DHS requests immediate assistance from Congress, including emergency resources and specific authorities to cope with the escalating situation.

At this time, DHS is assessing the resources needed to make up for shortfalls and sustain critical operations. While recent appropriations provided DHS with additional humanitarian and operational funds, the Department is projecting we will exceed these resources and be unable to uphold basic mission requirements because of the severity of the flow. I will be working with the Office of Management and Budget to provide you additional details in the near future, but the situation is so dire we want to make notification to you now that we will require additional resources to reduce system backlogs to ensure immediate safety and care of individuals in our custody.

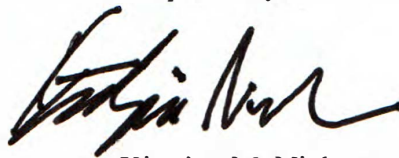
DHS also seeks authorities to address the underlying causes of this emergency and to restore order, while ensuring we can provide humanitarian assistance to those who need it. Most immediately, we need the authority to treat all arriving migrant children equally. Currently, we can reunite many unaccompanied children from Mexico with their families and return them home, when appropriate, but we are legally unable to do so for children from non-contiguous countries. The result is that hundreds of Central American children come into our custody each day, await transfer to HHS care, and, ultimately, are placed with a sponsor in the United States. This serves as another dangerous “pull” factor. DHS seeks authority to return UACs to their families and home countries in a safe and orderly manner if they have no legal right to stay. In the coming days, I will transmit proposed legislative language to Congress to fix this, along with measures to allow DHS to keep alien families in custody *together* through the immigration process and to allow asylum-seekers to apply for U.S. protection from within Central America, rather than take the dangerous journey north. These legislative solutions will help address the root causes of the emergency.

In the meantime, I am doing everything within my authority to prevent the situation from getting worse. This week I met with senior Mexican officials to discuss what can be done on their side of the border to help stem the historic flows. I also signed a first-ever regional compact with the countries of the Northern Triangle—El Salvador, Guatemala, and Honduras—to address irregular migration, counter human smuggling and trafficking, and crack down on transnational criminal organizations that are also fueling the crisis. Operationally, we are redirecting resources and personnel from across the Department toward border security and migration management, we are putting out a call for volunteers from non-border missions, and we continue to receive support from interagency partners. We also plan to redirect field office personnel staffing ports of entry to help address the humanitarian situation. But once again, this will not be enough.

We need Congress to act immediately to address the growing emergency. Let me be clear: the journey of any migrant—especially at the hands of a smuggler or trafficker—is not a safe one. And the migrant surge has made matters worse, not only for U.S. border security but for the safety of migrants themselves. We must be able to come together on a bipartisan basis to take action. We have common cause. We all want to enforce the laws of the United States, ensure a safe and orderly migrant flow, protect our communities, reduce the flow of drugs, facilitate legal trade and travel, secure our borders, and support vulnerable populations. This is one of the most serious crises the Department of Homeland Security has ever faced, and we need your help.

Copies of this letter have been sent to the Speaker of the House; the Majority and Minority Leaders in the Senate and House; and the Chairmen and Ranking Members of the Senate Appropriations Committee, Senate Judiciary Committee, Senate Homeland Security and Governmental Affairs Committee, House Appropriations Committee, House Judiciary Committee, and House Homeland Security Committee.

Respectfully,

A handwritten signature in black ink, appearing to read 'Kirstjen Nielsen', written in a cursive style.

Kirstjen M. Nielsen
Secretary