

**USCCR – Trauma at the Border: The Human Cost of Inhumane Immigration Policies  
Congressional Hispanic Caucus – Member-level Panel Discussion  
December 4, 2019, 2:30pm**

**Planned Remarks of Commissioner Michael Yaki  
Chair of USCCR Report Subcommittee**

This was certainly a report born out of crisis and born out of love in many ways.

The Commission majority's desire to issue this report even more quickly than we did was thwarted in two ways. The first was an unprecedented refusal by the Administration to answer any of the interrogatories that we directed to them over the course of this investigation.

I have been on this Commission since 2005. I have been with Democratic Presidents, Republican Presidents. I've been with Democratic Administrations and Republican Administrations. I've been where Republican majorities on this Commission have asked questions of Democrats, and vice versa. This is a rare, and possibly the only, occasion in which two separate agencies – the U.S. Departments of Homeland Security and Health and Human Services -- with clear responsibility for an issue that we cared about absolutely refused to respond to us. And in fact, the Department of Homeland Security seemed to indicate its belief that there was actually no basis for any of our inquiries into these matters.

The second reason this took longer than I think any of us thought was that we did not realize just how much of a moving target this would become. What started off as an investigation that focused on a family separation order under a zero tolerance policy that was supposedly rescinded by the Administration quickly evolved into a situation, even now, where we see the Administration attempting to undermine the Flores Settlement, where we have heard recent reports about more denied/deferred action threatening to remove people lawfully here, including children who are on waiting lists for, or receiving, life-saving medical care in the United States.

There is a change not in this country, but rather in this Administration, that departs from the course that this nation has steered ever since the pilgrims landed in Massachusetts in 1620. America was a land where people came to find that which they could not get from where their home was, whether it was religious freedom, whether it was political freedom, whether it was freedom of tyranny or violence. That has always been the hallmark of who we are.

What we have seen in the past year and a half to two years has a marked shift by this Administration to essentially say America is closing its doors to people whom its decides, in its discretion, in its judgment, do not deserve to be here. And that is a sad, sad commentary on our country, on this Administration.

The United States Commission on Civil Rights has an obligation, a duty to speak up, as is often said, for the least of us, for the people who are the tired, the poor, the huddled masses yearning to be free. That is who we have been and who we are, and, God willing, will continue to be.

**Statement of Commissioner Michael Yaki, as published in *Trauma at the Border: The Human Cost of Inhumane Immigration Policies***

In the spring of 2018, the revelation that the Administration’s Zero Tolerance policy at the southern border was separating young children – some as young as infants – from their parents, shocked the conscience of this nation and this Commission. According to information this Commission has obtained, over 14,000 children may have been separated from their parents. Worse, the conditions of this separation exacerbated the trauma felt by children already fleeing violence or dangerous crossing conditions. In a report issued by the Office of the Inspector General for HHS – issued after the main body of this Report was finalized – the OIG found:

“[S]eparated children exhibited more fear, feelings of abandonment, and post-traumatic stress than did children who were not separated. Separated children experienced heightened feelings of anxiety and loss as a result of their unexpected separation from their parents after their arrival in the United States.”

“Facilities reported that children with longer stays experienced more stress, anxiety, and behavioral issues, which staff had to manage. Some children who did not initially exhibit mental health or behavioral issues began reacting negatively as their stays grew longer. . . . longer stays resulted in higher levels of defiance, hopelessness, and frustration among children, along with more instances of self-harm and suicidal ideation.”

To this day, there is still tremendous uncertainty over the number of children who are still separated from their parents and who are yet to be reunified.

In hindsight, the subject matter of this Report, particularly its findings, should come as no surprise to anyone who has followed the Administration's rhetoric. Beginning in 2013, the current President made no secret of his animus toward immigrants from Central America. During 2018, when the Administration began taking the actions that impelled the action of the Commission and the production of this latest report, the language took an even darker tone.

In May of 2018, the President referred to the border surge of immigrant applicants as "animals" during a White House meeting attended by the press:

"You wouldn't believe how bad these people are. These aren't people, these are animals, and we're taking them out of the country at a level and at a rate that's never happened before."

In June 2018, Trump tweeted:

"They don't care about crime and want illegal immigrants, no matter how bad they may be, to pour into and infest our Country." "We cannot allow all of these people to invade our Country."

Later that year, Trump ramped up his rhetoric by equating responding to the "invasion" with war-time language.

"But, you know, it's like liberating, like a war, like there's a foreign invasion."

"This is an invasion of our Country and our Military is waiting for you!"

"It's like an invasion. They have violently overrun the Mexican border... This is an invasion, and nobody is even questioning that . . . All we know is they're pretty tough people when they can blast through the Mexican military and Mexican police."

“No nation can allow its borders to be overrun. And that’s an invasion. I don’t care what they say. I don’t care what the fake media says. That’s an invasion of our country.”

The language of the President sets the tone for his Administration. Rather than understanding that those coming here are seeking, for many reasons, a better life, the President equates them as invaders, as sub-human, unworthy of any response other than as a direct military threat to our country. Is it any wonder that his Administration’s treatment of children and families, detailed in our Report, shows deliberate indifference and reckless neglect towards their well-being?

In many ways, this is worse than the casual racism that has permeated the President’s actions since he took office. By usage of imagery invoking invasion, of infestation, of a people who are animals or sub-human, the President has recycled and repeated tropes of racism that were used in some of the darkest days of our country’s history and our world’s experience.

The world just observed the 75th anniversary of D-Day, the event that was the beginning of the end of Hitler’s grip on Europe. But for the 5 years of war that preceded, Hitler had been able to move apace to construct the machinery of genocide, a machine greased and fueled by mass hatred led by the Nazi propaganda state that labeled Jews, Gypsies, LGBT people, and disabled people as “Untermenschen” – literally, subhuman.

In our nation’s history, the racism felt by immigrant communities has been well documented. Fervor against Asian Americans began in the 1800s, where anti-Chinese agitation resulted in the passage of the Page Act, the Chinese Exclusion Act of 1882, and the California Alien Land Law of 1913<sup>15</sup>, culminating in the inevitable and war-like animus, Executive Order 9066, the order that interned Japanese Americans during World War 2.<sup>16</sup> In all these instances, the language clamoring for and justifying these actions were couched in terms of “invasion” and, in all instances, characterizations of the Asians as having characteristics and traits inferior to whites.

On a personal note, the legacy of the Chinese Exclusion Act was felt personally by my mother’s family. My mother’s father was a diplomat for the Chinese government, one of the first generation of their home-grown intelligentsia that went overseas and represented the fledgling country that had struggled to throw off the decades of colonial rule that had suppressed Chinese

sovereignty. As part of China's mission to the League of Nation, he had warned about the dangers of Japanese expansion in Asia. In 1942 he found himself and his family stranded in the United States while traveling back from his post in Europe. As a diplomat, he found himself exempted from the Exclusion Act – until the war ended, and despite the repeal of the Exclusion Act during the War, the number of Chinese immigrants allowed was set so low that it took a private bill of Congress to allow them to stay.

Ironically, just some miles away, a second-generation Japanese American family found itself being forcibly removed from the business and the land that they owned, targeted by the nation of their citizenry because of their national origin. The exploitation of anti-Japanese fervor was directed inward, at our own citizens, families, children, and resulted in the incarceration of my father and his family in the Arizona desert. It is precisely this kind of anti-“other” rhetoric and actions that the present day Administration reiterates, on a daily basis, against Central Americans, against immigrants from Africa and the Middle East, against persons whose culture and skin color are not, as the President has said, from Norway.

There are legitimate debates to be had over the issue of border security. There can be legitimate debates on the issues regarding allocation of resources and processes at the border. Our 2015 report raised these same issues. These are issues that should and must be debated and decided by our Executive and Legislative Branches. This report contains recommendations designed to alleviate the conditions to both prevent and reduce the need for and time for detention.

But once an individual or family who has either surrendered to, or been detained by, our border personnel, they come under the jurisdiction of the United States, and because of that, the jurisdiction of the U.S. Commission of Civil Rights is undisputed. Contrary to the beliefs of this Administration's Department of Homeland Security and the Department of Health and Human Services<sup>19</sup>, these families and individuals are covered by our law and our Constitution. At the instant of detention, an individual within the custody of border enforcement personnel not only deserves to be but is expected to be treated humanely, with respect, and the compassion that any person seeking the comfort and climes of our shores should be provided. Ripping families apart as a means of intimidation, as a means of coercion, is contrary to everything our country stands for in the world. Characterizing these families and individuals from Central America as invaders, as people who are less than human, harkens back to day of discrimination past that we choose to

bury – rightfully – in our past. Demonizing immigrants who have endured hardship is contrary to our founding mythology of the Pilgrims, contrary to the origin stories of millions of Americans whose ancestors sailed from distant points of the compass to our welcoming shores.

Perhaps Trump, who seems to be fond of a past that does not and cannot exist anymore, should go back in time just over two decades ago, when another President made these remarks that stand in stark contrast to the hateful rhetoric of the last two years:

A man wrote me and said: ``You can go to live in France, but you cannot become a Frenchman. You can go to live in Germany or Turkey or Japan, but you cannot become a German, a Turk, or a Japanese. But anyone, from any corner of the Earth, can come to live in America and become an American."

Yes, the torch of Lady Liberty symbolizes our freedom and represents our heritage, the compact with our parents, our grandparents, and our ancestors. It is that lady who gives us our great and special place in the world. For it's the great life force of each generation of new Americans that guarantees that America's triumph shall continue unsurpassed into the next century and beyond. Other countries may seek to compete with us; but in one vital area, as a beacon of freedom and opportunity that draws the people of the world, no country on Earth comes close.

This, I believe, is one of the most important sources of America's greatness. We lead the world because, unique among nations, we draw our people -- our strength -- from every country and every corner of the world. And by doing so we continuously renew and enrich our nation. While other countries cling to the stale past, here in America we breathe life into dreams. We create the future, and the world follows us into tomorrow. Thanks to each wave of new arrivals to this land of opportunity, we're a nation forever young, forever bursting with energy and new ideas, and always on the cutting edge, always leading the world to the next frontier. This quality is vital to our future as a nation. If we ever closed the door to new Americans, our leadership in the world would soon be lost.

This is the America I believe in. This is the America that most Americans believe in. This is the future of a country that will soon be majority-minority, but one where we are all, at our core, Americans who believe in the ideals that have made the country the beacon of liberty throughout the world. The faces may change, part of our culture may change, but the essence of our Republic, our democracy, will always remain a constant. And that is our ultimate strength as one nation, indivisible.

In the face of an American ethos and history that have rejected and apologized for our past misdeeds with regard to our immigrant communities, the Trump Administration stands in dark, cold contrast for its choice of deliberate cruelty. The purposeful policies of this Administration in its characterization and treatment of Central American refugee families, in its deliberate cruelty and intentional infliction of trauma on the most vulnerable amongst us – children -- stands as a moral low for an Administration seeking to outdo itself in moral lows.