



U.S. Immigration and Customs Enforcement

STATEMENT

OF

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REGARDING A HEARING ON

*“The 2014 Humanitarian Crisis at our Border: A Review of
the Government’s Response to Unaccompanied Minors One Year Later”*

BEFORE THE

U.S. SENATE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL
AFFAIRS

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INTRODUCTION

Chairman Johnson, Ranking Member Carper, and distinguished members of the Committee, thank you for the opportunity to appear before you today to discuss the U.S. Immigration and Customs Enforcement (ICE) role in addressing issues related to unaccompanied children (UC) arriving in the United States.

As you know, in 2014 there was an unprecedented surge of families and unaccompanied children from Central America to the United States. Among the reasons for this increase are push and pull factors such as better economic conditions in the United States, the desire to be with family members who are already present in the United States, and escalating violence in Central American countries, e.g., violent street gangs and drug cartels. Through the whole of government, we continue to address this humanitarian and border security issue in a manner that is comprehensive, coordinated, and humane. While ICE is one of several agencies involved in the processing of unaccompanied children, ICE plays a critical role by quickly and safely transporting unaccompanied children from U.S. Customs and Border Protection (CBP) custody to the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) custody, and effectuating removal orders as appropriate following the conclusion of immigration proceedings.

Apprehension and Processing

When CBP encounters a child attempting to enter the United States without permission, CBP begins the interview process to determine the child's status, reviews available documentation, and determines if the child is accompanied by a parent or legal guardian. During processing of a minor, immigration officers serve the minor (assuming he/she is old enough to

participate meaningfully in this process) with relevant forms to inform the minor in their native language of his or her rights and the usual flow of the process. During this process, CBP also screens the minor for any human trafficking indicators and any claim of credible fear. If human trafficking indicators are identified during screening or at any time while the UC is in CBP custody, CBP is required to notify ICE Homeland Security Investigations (HSI) for further follow-up, analysis, and possible investigatory action. HHS is also notified and the child is transferred to their custody.

Under the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), an unaccompanied child who is a national of Canada or Mexico may be permitted to withdraw his or her application for admission and be returned to the child's country if there are no human trafficking indicators or claims of fear, and the child is able to make an independent decision to withdraw his or her application for admission. Pursuant to other provisions of the TVPRA, unaccompanied children who are nationals of noncontiguous countries, such as Honduras, Guatemala, or El Salvador, are placed in removal proceedings before an immigration court. The vast majority of children encountered in the Rio Grande Valley during last year's influx came from these three countries and were placed in removal proceedings. Under the TVPRA, while immigration judges maintain jurisdiction over removal proceedings, U.S. Citizenship and Immigration Services (USCIS) has initial jurisdiction over any asylum claims filed by UC. Thus, UC may file asylum applications directly with USCIS while they are in removal proceedings. This provision allows UC to have their asylum claims initially heard in a non-adversarial setting by a specially-trained USCIS asylum officer. If relief is not granted, the application is renewed before the immigration judge in removal proceedings.

CBP is responsible for the short-term care of UC, but once a determination is made that the child is an unaccompanied minor, the Department of Homeland Security (DHS) is required by law to transfer UC to HHS/ORR for care and placement. ICE is responsible for their transfer to HHS/ORR. UC are not housed in ICE's detention facilities. In fiscal year (FY) 2012, ICE transfers of UC to HHS/ORR reached nearly 12,000. In FY 2013, that number nearly doubled to 23,000. In FY 2014, DHS transfers of UC to HHS rose to nearly 58,000. As of the end of the third quarter of FY 2015, we have seen a return to more manageable numbers with 18,246 UC transferred to HHS, though this is still high relative to the historic levels we saw prior to FY 2012.

Placement of Unaccompanied Children

Consistent with the TVPRA, except in exceptional circumstances, DHS is required to transfer the custody of a UC to HHS/ORR within 72 hours after determining that such child is unaccompanied. In accordance with the *Flores* Settlement Agreement, and as required under TVPRA, HHS/ ORR places UC in the least restrictive setting that is in the best interest of the child, subject to considerations such as danger to self, danger to others/the community, and risk of flight. Once HHS notifies DHS that a shelter bed is available, it is DHS's responsibility to quickly and safely transport the unaccompanied child from CBP custody to HHS/ORR. ICE transports UC via ground, commercial air, and ICE charter flights. ICE has implemented procedures for efficiently transferring UC that have streamlined the process and allowed our Enforcement and Removal Operations (ERO) officers to continue to perform their other responsibilities.

All 24 ICE ERO field offices have primary and back-up juvenile coordinators, each of whom receive annual, specialized training with respect to the unique vulnerabilities of children. These Field Office Juvenile Coordinators serve as local subject matter experts on the proper processing, transportation, and placement of UC; monitor operational practices for compliance with regulations, standards, and policy; and are on call 24 hours a day, 7 days a week.

During the limited time ICE maintains physical custody of a UC for transport, and pending his or her transfer to HHS/ORR, such minors are separated from adult detainees for their safety. During this time, minors are also provided with regular access to snacks, milk, juice, consular officials, telephones, and other resources.

Through USCIS, UC may also seek various forms of relief (such as asylum) or pursue Special Immigrant Juvenile status or other programs designed to assist victims of crime and human trafficking.

Removal of Unaccompanied Children

Once removal proceedings have concluded and a final order of removal is issued, ICE may take appropriate enforcement action based on the Department's stated priorities. Since 2012, 7,013 UC have been removed from the United States and returned to their countries of origin. Of those, 1,682, 2,347, and 601 were repatriated to Honduras, Guatemala, and El Salvador, respectively.¹

DHS has taken a number of important new steps to deter unlawful migration in the first place. First, the President and the Secretary have reiterated that recent arrivals and those attempting to cross the border are priorities for apprehension and removal. Second, Secretary

¹ Note that these removal counts are based on designation of unaccompanied children at time of initial book-in and individual aliens may no longer be under the age of 18 at the time of removal.

Johnson and Director Saldaña have personally met with high level officials from Mexico, Honduras, and Guatemala to secure their cooperation in stemming the flow of their citizens into the United States. As an example, in recent years, ERO implemented the Guatemalan and Honduran pilot initiatives in the Rio Grande Valley region to streamline repatriations to these countries and to decrease the average length of stay of individuals in ICE custody. Third, DHS and the Department of State have established in-country refugee processing in Guatemala, El Salvador, and Honduras, for eligible children of those lawfully present in the United States. DHS continues to encourage families to take advantage of that program. Early indications are that our efforts are working. Compared to this time last year, CBP total apprehensions along the southwest border are down by 34 percent, and the numbers of UC apprehensions are down by 51 percent. To be clear, the humanitarian influx is a seasonal challenge and we are still in the season when the influx occurred last year. Nevertheless, I am confident that we will not see a repeat of last year's unprecedented numbers this year.

CONCLUSION

We are better prepared than ever before to deal with the arrival of unaccompanied children along the southern border and one year later, we are seeing a decrease in those illegally crossing our borders. With the Committee's support, we continue to work closely with our sister agencies to address the care of and processing of unaccompanied children arriving in the United States.

Thank you again for the opportunity to appear before you today and for your continued support of ICE and its law enforcement mission. I look forward to answering any questions.