



# U.S. Immigration and Customs Enforcement

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STATEMENT

OF

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REGARDING A HEARING ON

*“The Unaccompanied Children Crisis: Does the Administration Have a Plan to Stop the Border Surge and Adequately Monitor the Children?”*

BEFORE THE

U.S. SENATE  
COMMITTEE ON THE JUDICIARY

February 23, 2016

## INTRODUCTION

Chairman Grassley, Ranking Member Leahy, 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, an unprecedented sharp increase of families and unaccompanied children from Central America arrived to the United States. Among the reasons for this increase are both push and pull factors (e.g., violence in Central America, misperception about U.S. immigration policy that led people to believe they would be able to remain in the United States, lack of employment opportunities, and the desire to be with family members who are already present in the United States). Through the Administration's whole-of-government approach, we continue to address this issue in a manner that is comprehensive, coordinated, and humane.

ICE is one of several Federal agencies involved in handling the cases of UC who arrive in the United States. ICE plays a critical role by quickly and safely transporting UC from U.S. Department of Homeland Security (DHS) custody to the custody of the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR), and effectuating removal orders as appropriate, following the conclusion of immigration proceedings.

### *Background*

Under the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), an unaccompanied child who is a national or habitual resident of Canada or Mexico and who is apprehended at the border may be permitted to withdraw an application for admission and be returned to his or her country of origin if there are no human trafficking indicators or claims of

fear of return, and the child is able to make an independent decision to withdraw the application. UC who are nationals or habitual residents of contiguous countries who are not eligible to be voluntarily repatriated are required to be placed in removal proceedings before an immigration court if DHS is seeking to remove them. Consistent with the TVPRA, a UC from a non-contiguous country who is encountered at the border is generally issued a Notice to Appear and placed in removal proceedings before an immigration judge in the U.S. Department of Justice's Executive Office for Immigration Review (EOIR). Like all individuals, UC are afforded an opportunity to claim asylum, humanitarian relief, or other immigration relief under our laws. As a matter of policy, ICE personnel must screen any UC encountered by ICE for potential trafficking indicators, regardless of citizenship or nationality. In cases of potential victimization, ICE coordinates with investigative authorities and victim assistance resources for follow-up. The vast majority of children encountered in the Rio Grande Valley during the 2014 influx came from the non-contiguous countries of Honduras, Guatemala, and El Salvador.

#### *Transfer of Unaccompanied Children*

Absent exceptional circumstances, once a determination is made that the child is an unaccompanied child, DHS – including ICE – is required by law to transfer the child to ORR within 72 hours for care. During the limited time UC are held with ICE, pending transfer to ORR, they are separated from adult detainees for their safety and are provided with regular access to snacks, milk, juice, consular officials, telephones, and other resources.

All 24 ICE ERO field offices have primary and back-up Field Office Juvenile Coordinators (FOJCs), each of whom receive annual, specialized training with respect to the unique vulnerabilities of children. These FOJCs serve as local subject-matter experts on the proper processing, transportation, referral and transfer of UC to ORR custody; monitor

operational practices for compliance with regulations, standards, and policy; and are on call 24 hours a day, 7 days a week.

Once HHS notifies ICE that a shelter bed is available, it is ICE's responsibility to quickly and safely transport the unaccompanied child to ORR. ICE transports UC via ground, commercial air, and ICE charter flights. In order to avoid the potential strain that UC transfers can place on ICE Enforcement and Removal (ERO) resources at times, such as that which occurred during the 2014 influx, ICE has implemented a contract for such transfers, which has alleviated the need for ERO personnel to effectuate such transportation duties and freed up ERO officers to continue to perform other law enforcement responsibilities. Further, the President's 2017 Budget includes base funding to effectuate the transfer of up to 75,000 UC, with additional contingency funding available should UC transfers exceed prior year levels.

### *Human Smuggling*

ICE Homeland Security Investigations (HSI) is the primary investigative arm within DHS and is responsible for the investigation of human smuggling. From October 2013 until the present, ICE has initiated over 4,100 investigations and has arrested approximately 6,900 individuals for human smuggling related violations. ICE utilizes an interagency and multi-disciplinary approach to combat human smuggling. ICE supports and expands designated operations and investigations to identify those significant organizations, pathways, and trends that highlight key vulnerabilities within the human smuggling cycle that can be exploited by the United States Government. DHS, ICE, and HSI are actively engaged in investigations to identify organizations responsible for smuggling these children from their respective countries into the United States.

### *Removal of Unaccompanied Children*

For UC with final orders of removal issued by EOIR, ICE takes appropriate enforcement action based on DHS's immigration enforcement priorities. Under the TVPRA, ICE must ensure that each removal is fully coordinated with host government authorities. Coordination with foreign officials includes: providing the unaccompanied child an opportunity to communicate with a consular official prior to departure, repatriating at a designated port of entry, and ensuring that a receiving government official or designee signs for custody to record the transfer, in addition to other requirements specific to each country, such as certain hours during which repatriations can be conducted. The majority of UC repatriations conducted by ICE occur via commercial air or charter flight, and, during transport, children must be accompanied by appropriate personnel.

Between fiscal year (FY) 2012 and FY 2015, ICE removed 7,643 UC from the United States including 1,813 to Honduras, 2,517 to Guatemala, 2,485 to Mexico, and 663 to El Salvador.<sup>1</sup>

### *Steps to Address the Issue*

As you are aware, DHS has taken a number of important steps to deter illegal immigration. Secretary Johnson has made clear that recent border entrants and those apprehended attempting to cross the border unlawfully are top enforcement priorities as indicated in the November 2014 enforcement priorities memorandum. Consistent with our laws and values, recent border crossers, including those apprehended as unaccompanied children, who are

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<sup>1</sup> Removal counts are based on designation of UC at time of initial book-in and individual subjects may no longer be under the age of 18 at the time of removal.

unable to establish they are eligible for relief and exhausted appeals have been, and will continue to be, ICE removal priorities.

Secretary Johnson, Director Saldaña, and I have also personally met with high level officials from Mexico, Honduras, El Salvador, and Guatemala to secure their cooperation in stemming the illegal flow of their citizens into the United States. These partnerships have also resulted in enhanced cooperation between ICE and law enforcement partners in Central America and Mexico to combat and prosecute human trafficking and smuggling organization networks illegally smuggling hundreds of individuals – including children and families – throughout Central America and Mexico into the United States.

### **CONCLUSION**

With the Committee's support, we continue to work closely with our sister agencies to address the care and processing of UC arriving in the United States consistent with the requirements of controlling law, and to prioritize threats to national security, public safety, and border security as we enforce our immigration laws.

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.