

STATEMENT OF CHAIRMAN ROB PORTMAN
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
Oversight of Efforts to Protect Unaccompanied Alien Children from Human Trafficking & Abuse
REMARKS AS PREPARED
August 16, 2018 PSI Hearing

We're here today because this Subcommittee is continuing to conduct oversight into an issue that we've been following for more than three years now, going back to 2015. We have an interest in ensuring that unaccompanied minors are protected from human trafficking and other forms of abuse. We also have an interest in ensuring that these children appear at their immigration court proceedings and we care about upholding the integrity of our immigration system.

Let me begin by saying I am concerned that some in the administration and some here in Congress misunderstand the scope and purpose of our three-year investigation and the report that we're discussing in this hearing. I would think every member of this panel agrees that our broader immigration system is broken. Of course, I'm not suggesting we all agree on the solutions. But that is not what this investigation and report are about. In particular, some believe we should be addressing the 'push factors' that drive people to come to our borders—in particular, the conditions in the Northern Triangle countries of Guatemala, El Salvador, and Honduras. These are legitimate and very difficult issues, and I know the Ranking Member has been very involved in these issues, as I have been and other members have been, but that is not the focus here today. That's not what we're here about.

We are focused on the very narrow issue of what happens to children who already have come into our country and who have been apprehended by our government. We want to ensure they are treated appropriately and that they make it to their immigration court proceedings. Unfortunately, we have seen examples of children placed with sponsors being trafficked, and right now, the best information that we have is that about 50 percent of these children do not show up for their immigration court proceedings.

This is not a partisan issue, and, let's face it, there is plenty of blame to go around. The specific, tragic occurrence of children being placed with human traffickers that initiated this Subcommittee's investigation happened under the Obama administration. But this is a systemic problem that has continued under the Trump Administration. We're interested in solving this problem.

We want to ensure these kids get proper care, but also expedite the enforcement of these cases in a timely and responsible way. This is our chance to get this right.

Since 2012, more than 200,000 children without legal status have crossed our borders without a parent or guardian. The law calls these children 'unaccompanied alien children' or UACs. These children frequently face significant trauma on their way here. And once they are here, as one Department of Health and Human Services official recently characterized it, they are 'in a legal no-man's land.'

These children are typically apprehended by U.S. Customs and Border Protection of the Department of Homeland Security. Then, within 72 hours, under law DHS transfers them to an HHS Office of Refugee Resettlement facility. At this point, HHS becomes responsible for these children's care.

HHS typically places these children with sponsors, which can be their parents or other family members, but also sometimes other, unrelated adults.

In 2015, I learned that HHS had placed eight of these children with human traffickers. Those traffickers then put those children, all minors, into forced labor situation on an egg farm in my home state in Marion, Ohio. The traffickers threatened the children and their families with violence and death. The children worked for 10 to 12 hours a day as they lived in squalor.

This Subcommittee investigated, and we released a comprehensive report in 2016 finding that HHS failed to do basic background checks on the trafficker who came forward to sponsor these children.

We also found that no government agency claimed any responsibility for these children once the government placed them with sponsors—even sponsors who are not the children's parents or legal guardians. To this day, that remains the case, even though we believe the law gives HHS continuing responsibility, especially if they are not placed with a parent or legal guardian.

HHS and DHS promised to do better. They did improve their background check process—and I commend them for that. But they still have not taken enough responsibility for the welfare of these children post-release.

In February 2016, after our hearing and calls from this Subcommittee for better coordination between the agencies, DHS and HHS entered into a Memorandum of Agreement. They agreed to create a specific Joint Concept of Operations, or JCO, to document and improve their processes related to unaccompanied children. As part of the Memorandum of Agreement, they committed to completing that JCO no later than February 22, 2017.

They missed that deadline. Not by a week, not by a month, but by more than a year. So we held another hearing, and after being pressed on why the JCO was unfinished, the departments promised to complete it by July 30, 2018, a few weeks ago. They finished it on July 31—seventeen months later than they had committed to do so.

Unfortunately, the JCO only reiterates on paper the insufficient policies that have been in place for years through previous administrations. It's important to put processes on paper so the left hand knows what the right hand is doing, and I'm glad they did that. But the JCO largely reiterates the status quo, and does little to improve unaccompanied children's safety and ensure UACs show up to their immigration court proceedings.

That said, we think it's important that the public see the JCO to understand it for themselves. We are working with the departments to get a version of the JCO that is appropriate to release, and we are waiting for final sign-off. I'm not prepared to release it unless the administration agrees that it's appropriate to release it.

I'm disappointed the departments did not take this opportunity address problems we've all observed for years and I think are widely acknowledged. Unaccompanied children are still crossing our borders. HHS is still placing them with sponsors and then losing track of them. At our last hearing in April, HHS testified that they had started calling sponsors 30 days after placement to check on the children. I think that's good that they're making these calls, which started in 2015 apparently. But it was troubling that for the three-month time period from October to December 2017, HHS testified that they 'could not ascertain with certainty' the whereabouts of 1,475 children, and that 28 children had run away from their sponsors. And, again, they argue they have no responsibility to know where those children are. Remember, that's just one three month period. **We need an update on those children today. How are those calls going? What are the results? As well as determining, going forward, what are we going to do about the information that we get from those calls.**

Yesterday, Sen. Carper and I released a report on the problems the Subcommittee has identified with the UAC program. It details the lack of progress from HHS and DHS in improving programs designed to care for these children, ensure their safety, and ensure they appear at their immigration court proceedings.

Currently, 80,266 UAC cases are pending before the immigration courts—more than 8,000 of them have been pending for more than three years. The longer these children wait, the less likely they are to appear for their court proceedings. Today, 53 percent of unaccompanied children never show up for their court proceedings—an increase of 12 percent since 2016.

I know this is a difficult situation—and the gentlemen here before us from the administration are faced with a very difficult task. It's not easy, but these federal agencies have failed to address most of the recommendations for improving the UAC program offered by this Subcommittee and the Government Accountability Office. We need to know why.

We have a serious problem on our hands. These children are at risk for trafficking and abuse. When these children do not appear for their hearings, they lose their chance to argue for immigration relief, and many remain in this country illegally, which undermines our nation's immigration laws. In those cases, the judge usually enters an in absentia removal order, we may hear about that today. But most are never actually removed. The best number we have is that only three percent are deported. The current situation is not good for these children or our immigration system.

The Subcommittee's report compiles our findings based on two and a half years of oversight. I urge you to read it. It addresses a wide range of issues, from problems with the JCO to the backlog of immigration court cases.

As I said earlier, there is plenty of blame to go around. But I'm a lot more interested in solving this problem than making this into a partisan issue. I hope we don't do that today because this is our chance to get this right. We're working on legislation and I wanted to be sure we had this hearing first so that we could hear from experts from the administration as we're working on that bipartisan legislation. I appreciate Sen. Carper working closely with me on this issue.

I look forward to talking with our witnesses today about how we can improve this system to ensure these children's safety and the integrity of our immigration system.