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Written Statement by

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On

“Oversight of HHS and DHS Efforts to Protect Unaccompanied Alien Children from
Human Trafficking and Abuse”

Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
United States Senate

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Mr. Chairman, Senator Carper, Subcommittee members, thank you for the opportunity to provide written testimony on the matter of Unaccompanied Immigrant Children in Ohio.

My name is Jessica A. Ramos and I am an attorney for Advocates for Basic Legal Equality, Inc. or ABLE. ABLE is a non-profit legal services provider dedicated to assisting eligible low-income individuals achieve self-reliance, and equal justice and economic opportunity. I am a member of ABLE's Agricultural Worker and Immigrant Rights Practice Group, and have been representing unaccompanied immigrant children throughout the entire state of Ohio since 2009. I have worked on more than 400 Unaccompanied Immigrant Children (UAC) cases and have represented children from as young as a few months old, to teenagers and young adults.

I have been asked to share my experience working with these vulnerable children since the Department of Health and Human Services (HHS) made certain policy changes two years ago aimed at preventing labor trafficking of unaccompanied immigrant children to avoid tragedies like the Ohio egg farm case, from being repeated. My observations in Ohio during the last two years are very similar to those in previous years – HHS and the Office of Refugee Resettlement (ORR) expend little to no resources on UACs reunified with sponsors in Ohio, although when utilized, ORR resources can have a profound effect on the safety and wellbeing of these children. Many of my experiences have been echoed by colleagues across the country.



The Absence of Services in Ohio

By the time I meet with most of our child clients, ORR has already abdicated all responsibility for them. The good and caring sponsors will sometimes tell me of the steps they had to complete to retrieve the child from ORR custody, which usually include submitting paperwork, such as copies of identification documents or birth certificates, and getting their fingerprints taken. This is all done to ensure the child is being released to a safe home. But in all my years of representing UACs in Ohio, I have had only a handful of clients who received home studies or any post-release services. Those few children who received home studies and post-release services greatly benefited from those programs; however, I believe many more children suffer without these services.

Home studies and post-release services can make an immense difference to a child. For example, one client, who I will call Andrés, was placed with a “category 3” sponsor, which means a sponsor who is not related to the child, and received extensive services from ORR both pre- and post- release. He had been severely neglected for many years before coming to the United States with barely any language skills at the age of five. Now, he is thriving – he loves playing soccer and is one of the chattiest students in his class. In the process of vetting potential sponsors by conducting home visits and background checks, several initial sponsors who would not have been able to provide Andrés with the care he needed were dropped from consideration until ORR could find an appropriate sponsor to care for him during the pendency of his immigration court proceedings.

Even children such as Andrés, who initially receive post-release services, have many challenges after those short-term services end. Once these ORR post-release services ended, Andrés’ family has struggled to identify the qualified mental health care providers that he needs. In many parts of rural Ohio, like the community where Andrés lives, there are few resources available for undocumented children who may not speak English. Even if there were a mental health counselor and interpreter who could work with Andrés, they would likely have little to no understanding of the complex issues UAC children face and the differing cultural competency components of care that are vital to providing proper and appropriate treatment. When post-release services are provided by ORR, specialists may travel from urban areas to assist with treatment. And despite having received post-release services, Andrés’ caregiver was unaware that ORR was the agency providing the services and that additional services may be available.

While the situation is challenging for children like Andrés, it can be even more challenging for children who are not provided post-release services, which is true for the majority of cases in Ohio. When these services are not provided, in my experience, the child is exposed to increased risk. Many of our clients have suffered through horrible tragedies and hardships, and some arrive traumatized from their experiences. The effects of these problems on the children, however, may not manifest themselves immediately. Rather, in children, effects of trauma may present themselves months or years later and in many different ways: behavior, eating, sleeping, school work, etc. I understand that ORR assesses whether a child needs post-release services while the child is still in ORR custody. Therefore, a child whose needs arise after release is left to navigate a complex system, hopefully with the help of a supportive sponsor, but with no other outside monitoring or assistance. The lack of availability of post-release services for UACs who

were not initially identified as needing those services is a huge deficit area, one which can be compounded when the child is placed with a sponsor who is not providing safe and appropriate care.

The Need for Continued Monitoring of UACs Post-Release

Such was the case with my client Mayra, who arrived when she was 15. She was released to her uncle who was married and had children. However, not long after Mayra arrived, her uncle started making sexual advances towards her. She felt afraid and uncomfortable and decided to run away. The only other person she knew was an aunt who would allow Mayra to move in with her, but only if Mayra paid for all her own living expenses. Mayra started working three days a week and only attended school the other two days. Her job was across the river in a neighboring state, but she did not have a car or a driver's license, so she had to pay a 45-year-old man to drive her to and from work across state lines. She worked at a warehouse, filling mail orders for a major corporation and made minimum wage. Eventually she stopped going to school all together because she was not making enough money to pay the rent and buy her food and her aunt was threatening to kick her out. The school threatened to file truancy charges and withdraw her enrollment. They eventually withdrew her from school, but never referred her for truancy charges, even after we requested it as a possible way for the system to pay attention to Mayra. After a year of this, her aunt decided that Mayra was not contributing enough to the household. The aunt and her family moved out of the apartment they had shared with Mayra and left her all alone. Now she was solely responsible for the rent and utilities. Mayra sought help from ABLE, and as her attorneys, we took her to juvenile court and asked a magistrate to order Children's Services to take her into custody. However, the magistrate said she did not have the power to force Children's Services to provide her shelter and care. Children's Services told the magistrate that because all of Mayra's basic needs were being met, albeit through her own efforts working without authorization and not attending school as mandated by law, she did not need their protection.

We discussed the options with Mayra. We told her that maybe ORR would take her back, but that would mean she would be placed in another state. She was willing to consider it. Having never made any contacts with ORR, I called the national office in Washington, D.C. and left a message. Someone returned my call saying that the only way ORR would take a child back into custody was if a federal agency, such as Immigration and Customs Enforcement (ICE), referred the child back to ORR. The agency representative said I should contact the Enforcement and Removal Operations (ERO) juvenile coordinator at my local ICE field office. Upon calling the field office, at first, no one was able to tell me the name of the juvenile coordinator. Finally, after reaching the juvenile coordinator, he said he had never heard of referring a child to ORR, so he would have to talk to his boss, but that this did not seem like something they would do. After all, having nowhere to live and no one to care for Mayra was not their concern. I never heard from the juvenile coordinator again and none of my other messages were ever returned. The Trafficking Victims Protection and Reauthorization Act (TVPRA) already grants ORR the authority to provide care and assistance to post-release UACs; it is simply not happening based on my experiences.

Meanwhile, Mayra continued to survive on her own. We were her lifeline. We helped her get food vouchers and continued representing her before the juvenile court and the Immigration Court. Mayra continues working and caring for herself. She turned 18 and the juvenile court dismissed her case, but not before issuing an order stating that someone should have cared for this child and that she had no one else. Mayra's immigration case is still pending.

I would like to be able to say that Mayra's case was an anomaly, but the truth of the matter is that for a small percentage of unaccompanied children, their caretakers – be it “category 3” sponsors or even parents – do not adequately care for them. And the state welfare systems do not always step up or see it as their job to provide safety for these children. I have seen cases where Child Protective Services has intervened in the lives of unaccompanied children and have gone above and beyond to act in the best interest of those children, regardless of their immigration status. But Mayra's case is not the only case where I have had Children's Services refuse to accept an unaccompanied immigrant child. In one instance, I walked my client Nayeli into the local Children's Services office with her suitcase after my client said she could no longer stay with her abusive 19-year-old brother. Children's Services did not believe her, despite physical evidence of battery, and sent her back to live with her brother. As was the case with one of the Ohio egg farm children, the sponsor brother turned social services away when they later came to the home and Children's Services closed the case, despite my client's repeated requests to keep it open and her continued plea for help. Case workers later told me that it would just be best if she went back to El Salvador, without knowing anything about what her previous home life situation had been there. There was a high risk that Nayeli could have fallen into a predator's hands, and we should all be thankful it did not happen. Nayeli recently received her green card. She has been my client for more than seven years and I have watched her grow up. Crying, she hugged me and said that I was the closest thing that she had ever had to a mother. This was with me seeing her twice a year in person and speaking with her on the phone maybe a half a dozen times a year. But I was there for her. I made sure she did not fall completely off the grid. When she was couch-surfing and I did not know where she was, I would drive three hours from my office to her school and friends' houses and look for her. No one else did these things – just her lawyer.

The Importance of Legal Representation

In these cases, we attorneys are the only ones paying attention. Even some Immigration Judges have expressed their concern about the safety and well-being of their Respondents given the lack of resources available and are at a loss as to where to refer the children for help. Without us, these children are left untethered – vulnerable to predators and potential trafficking. As demonstrated in Mayra's case, even with our intervention, attorneys are not always able to solve all the issues UACs face, but at least we can minimize the risk and try to ensure that these children do not slip through the cracks. In the late summer of 2014, when the number of unaccompanied immigrant children began to spike in Ohio, several non-profit immigration legal service providers and pro bono attorneys banded together to respond to the overwhelming need. Thanks to these efforts, and additional financial support received from various sources - including the now defunct justice AmeriCorps program through the Department of Justice - Ohio developed a robust system of pro bono representation. With our partners, Catholic Charities of Cleveland, we run a “Friend of the Court” system where every child is screened and assisted with their first court hearing. From there, cases are placed with pro bono attorneys or

organizations like ABLE and Su Casa. Because of these pro bono efforts and the efforts of paid private attorneys, 70% of unaccompanied children in Ohio are represented in their immigration proceedings. However, that still leaves 30% of children unrepresented, a number that is growing. This is not a fair system of justice.

Legal representation is vital to ensuring that unaccompanied children are well-cared for, that they comply with the legal process, such as attending court hearings and ICE check-ins, and that their due process rights are respected by the ever-aggressive enforcement agencies and the courts. Assistant Chief Immigration Judge Jack Weil testified in 2016 that he had “taught immigration law literally to 3-year-olds and 4-year-olds. It takes a lot of time. It takes a lot of patience. They get it. It’s not the most efficient, but it can be done.” I have a hard time making my three-year-old nephew understand bedtime, let alone a complex area of law that takes years to master.

As Immigration Judge Dana Leigh Marks stated in 2014, immigration cases can often have life or death consequences, especially in asylum cases. However, Immigration Court essentially hears “what amount to death penalty cases heard in traffic court settings.” So, to combine these two statements made by Immigration Judges themselves, having a child confront the adversarial immigration court system alone without legal guidance is akin to asking a child to perform delicate neurosurgery. That certainly serves no one’s best interests – not the child, the court, the government, or the country. Legal representation for children provided by the government is one small step toward equalizing the situation for these children.

Attorneys also assist in keeping children from being exploited financially. For example, in Ohio, the Immigration Court is located in Cleveland, in the northeast corner of the state. However, according to ORR statistics, the largest population of UACs in the state reside in Cincinnati in the southwest corner – about four hours away from Cleveland. With no reliable means of public transit, many children are forced to pay unscrupulous drivers to transport them to Cleveland for their hearings. Routinely, children are paying upwards of \$400 per trip to comply with their court appearances. However, once represented, attorneys routinely file motions for telephonic appearances, which are normally granted by the Immigration Judge.

Statistics show that represented children are far more likely to attend their court hearings than unrepresented children. And continued contact with children by their attorneys means that someone, other than sponsors who may or may not be reliable and most of whom have not been vetted through home studies, is watching out for the children. It is worth pointing out that none of the victims of the egg farm trafficking case were represented by an attorney. Universal representation of children in legal proceedings is one way to protect them from falling victim to predators and those who do not have their best interest at heart. It also protects their due process rights and assists the Immigration Courts with processing their cases more effectively than when dealing with pro se children.

The Competing Interests of Enforcement and Child Safety and Welfare

But attorneys can only do so much. Increasingly, even with representation, a number of draconian enforcement measures put children further at risk. Throughout Ohio, we have had reports of ICE showing up at prospective sponsors' homes before a child has been placed there. ICE proceeds to accuse the potential sponsor of smuggling the unaccompanied child who identified the potential sponsor. Some of these potential sponsors have even been detained and placed in removal proceedings because they stepped forward to act as a potential sponsor. When asked about this new tactic, a district deputy director for ICE ERO in Detroit told me that it had always been ICE's policy to target sponsors, however this was not our experience in Ohio until recently.

Another former UAC client of mine named Ester found herself in this situation. Ester had recently married and had a baby when ICE unexpectedly showed up at her house. Her application for relief is still pending (as it has been for more than four years now), so she did not expect ICE to be there for her. Her husband already had a green card, so they should not be looking for him either, she thought. The ICE officers immediately began to threaten to arrest her and separate her from her newborn baby. They told her she would be deported. They asked her how much she had paid to bring her sister to the United States. Confused, Ester told the officers she did not have any sisters in the U.S. Unbeknownst to her, one of her younger sisters had just presented herself at the border. Ester frantically explained that she had no idea that her younger sister had left Guatemala to come to the U.S. Eventually, after intervention from community members and begging and pleading from my client, ICE left. But Ester was understandably hesitant to sponsor her sister after that experience. Other children whose sponsors are taken into custody are left looking for more tenuous family connections or friends to sponsor them, and these sponsors are less likely to have the children's best interests at heart, exposing them to potential danger.

One additional theme that has become more apparent in this age of increased enforcement is the desperate need for more coordination amongst agencies on both sides. As was demonstrated in Mayra's case, ORR and ICE do not have consistent policies or procedures to coordinate care and protection for UACs, as mandated under the TVPRA. Additionally, ORR does not adequately promote the availability of post-release services when needs arise outside of detention. Having an agency that is tasked with coordinating care and follow-up with these children, such as ORR, would be one step towards ensuring that the risks of endangerment are minimized.

DHS also routinely resists recognizing the protections afforded to unaccompanied children under the TVPRA. DHS' narrowing interpretations of eligibility for relief, aggressive tactics of stripping UAC status from children, and opposing all motions in court leave more children vulnerable to exploitation. DHS' tactics lengthens children's time in legal limbo as we must fight determinedly for simple things like obtaining a continuance in court.

DHS' aggression can even interfere with accomplishing its own mission, and the agency's actions often serve no government interest. This was the case for my former client Mario from Honduras who wanted to take Voluntary Departure and return to Honduras. Because his parents were missing, he was unable to secure a travel document on his own. I inquired with ERO about

effectuating Voluntary Departure at no cost to the him as provided by the TVPRA. For months, my messages and inquiries went unanswered. Eventually, Mario turned 18 and DHS immediately filed to terminate his UAC status to avoid having to assist him with Voluntary Departure at no cost, despite my attempts to secure this for well over six months. My client agreed that he would buy his own ticket, but he still needed to obtain a travel document. I contacted DHS to see if they would at least assist him with this because individuals must be 21 before Honduras will issue a passport without both parents' signatures. The Assistant Field Office Director told me "it's not our job to help people ma'am." He said that my client would just have to take a deportation order, at which point, DHS could assist him in getting a travel document.

Closing

This prioritization of enforcement over humanity is endangering the welfare and safety of children. My clients, despite having been born in another country and not speaking English, are still, above all things, children. Children who deserve to be safe from harm. Children who deserve a chance, just like our own children. Children, like my four-year old client Oscar, who could only talk to the Immigration Judge about his Spiderman shirt and his shoes that light up, and not about his legal defense to stay in this country. Once in government custody, ORR has a responsibility and a legal mandate to ensure these children safety while their claims are processed. I believe more coordination is needed to effectively guarantee these protections. Legal representation for children is another way to safeguard the security of these children. I appreciate the dedication of Chairman Portman and this committee for protecting the well-being of my clients and holding ORR accountable. Thank you for allowing me to testify today and I would be happy to answer any questions.