

**Adequacy of the Department of Health and Human Services' Efforts to Protect
Unaccompanied Alien Children from Human Trafficking**

January 28, 2016

Senator Claire McCaskill

Opening Statement

Thank you, Chairman Portman. I would like to thank you for bringing the topic of this hearing and the Subcommittee's investigation to my attention. This has truly been a cooperative and bipartisan investigation, and I appreciate the opportunity to work with you to bring these issues to light.

If the Ohio cases you just described represented the total number of unaccompanied children exploited by their sponsors, we would be justified in holding this hearing. As the Subcommittee has discovered, however, the unaccompanied children who were trafficked in Marion are only a few of those who have fallen prey to trafficking or abuse by their sponsors.

HHS placed one 16-year old with a sponsor who claimed to be her cousin. In fact, he was completely unrelated to her and had paid for her to come to the U.S. as a sort of mail-order bride. The minor, who had endured a sexual assault in her home country, was forced to have sex with her sponsor. She appealed to a post-release services provider for help and was ultimately removed by Child Protective Services. In another case, a 17-year old was released to an unrelated "family friend" who reported living with three additional unrelated adult men. HHS released this teen to the sponsor without conducting background checks on any of the unrelated adult men with whom he would be living, without conducting a home study of his sponsor's home, and without providing him with post-release services. Last June, this minor contacted

HHS to let the agency know his “sponsor” was actually the son of a labor recruiter, who had approached the teen in Guatemala about an opportunity to work in the U.S. Upon being placed by HHS with the sponsor, the minor was forced to work almost 12 hours per day in conditions that made him ill. The teen ultimately ended up living in a home belonging to his employer, along with 14 other employees, before running away.

Similar examples fill the case files reviewed by the Subcommittee: vulnerable and traumatized minors abused by their sponsors, or forced to engage in backbreaking labor for little or no pay, while being housed in unsanitary and dangerous conditions.

This is not just a failure of our moral obligation to protect the most vulnerable—it is a failure of a legal obligation as well. Under the 1997 Flores Agreement, the Trafficking Victims Protection Reauthorization Act (or TVPRA), and other statutes, HHS has responsibility for ensuring that unaccompanied minors are released to sponsors capable of providing for their physical and emotional wellbeing. At a minimum, HHS must make an independent finding that a child’s sponsor, quote, “has not engaged in any activity that would indicate a potential risk to the child,” unquote. For many children, HHS failed to fulfill this fundamental responsibility.

The Subcommittee’s investigation also revealed that HHS has failed to address systematic deficiencies in their placement process, even after these deficiencies were highlighted by the Ohio case. In many cases reviewed by the Subcommittee, HHS failed to ensure that the relationship between a child and a proposed sponsor was properly verified, failed to detect individuals who attempted to sponsor multiple children, failed to ensure sponsors had adequate income to support the children under their care, failed to conduct background checks on all adults living in a sponsor’s home, and failed to employ home studies and post-release services to

detect red flags for abuse and trafficking. In addition, the Subcommittee found that HHS does not even maintain regularized, transparent guidelines governing the UAC placement process and has not established specific policies and programs to protect unaccompanied minors from traffickers—despite a clear mandate from Congress in 2008 to do so.

Further, HHS has failed to fulfill its obligation to clarify its role in the UAC placement process with respect to the other various federal agencies tasked with caring for unaccompanied minors in government custody. Despite a 2008 recommendation from the HHS Office of Inspector General, HHS has not established a memorandum of understanding with DHS to clearly delineate the roles and responsibilities of each department. In fact, HHS and DHS have failed to even agree on which department has responsibility for ensuring the safety of children released from HHS custody. Moreover, despite clear and unqualified statutory language vesting the care and custody of all unaccompanied alien children with the Secretary, HHS continues to assert that its custody of these children—and by extension its power to insist on post-release contact and services for these children—terminates upon their release of these children to sponsors. So when children placed by HHS find themselves in the terrible scenarios I described moments ago, HHS's response is "It's no longer my problem."

Given these significant failures, we would have expected HHS to have taken prompt and aggressive action to improve its policies and procedures. During an interview with the Subcommittee in October, however, the ORR Deputy Director of Children's Services indicated she was unaware of *any* failure to follow HHS procedure in the Marion cases or *any* potential policy change that would have prevented those events. Nor has *any* HHS official accepted responsibility for the outcome in Ohio during conversations with the Subcommittee.

I am encouraged by the Department's decision, as of just a few days ago, to begin requiring background checks for other adults living in a sponsor's home and to prevent individuals with certain felony convictions from sponsoring children. Unfortunately, it isn't enough.

I have spoken too many times from this dais about the need for transparency and accountability in the federal government. I have spoken too many times about the importance of establishing clear lines of authority between government agencies. As a mother and grandmother, my heart goes out to these children who have already suffered so much. As a lawmaker dedicated to improving the effectiveness of government, I am outraged by HHS's failure to meet its legal obligations and protect the most vulnerable individuals who reach our borders. Today, I hope to find some answers.

I thank the witnesses for being here, and I look forward to their testimony.