



Department of Justice

STATEMENT OF

**JAMES MCHENRY
DIRECTOR
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES DEPARTMENT OF JUSTICE**

BEFORE THE

**PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL
AFFAIRS
UNITED STATES SENATE**

FOR A HEARING ENTITLED

**“OVERSIGHT OF HHS, DHS, AND DOJ EFFORTS TO PROTECT
UNACCOMPANIED ALIEN CHILDREN FROM HUMAN TRAFFICKING
AND ABUSE”**

PRESENTED ON

AUGUST 16, 2018

Statement of

James McHenry

Director

Executive Office for Immigration Review

Department of Justice

Before the

Senate Committee on Homeland Security and Governmental Affairs

Permanent Subcommittee on Investigations

Entitled

Oversight of HHS, DHS, and DOJ Efforts to Protect Unaccompanied Alien Children from Human Trafficking and Abuse

August 16, 2018

Mr. Chairman, Ranking Member Carper, and other distinguished Members of the Subcommittee, thank you for the opportunity to speak with you today regarding the Department of Justice's role in efforts to protect unaccompanied alien children (UAC) from human trafficking and abuse. Stopping human trafficking and abuse is a top priority for the Department, and I welcome the opportunity to talk about the Department's efforts in ending this scourge, especially in the context of illegal immigration.

Before discussing UAC specifically, let me first provide information about the Department's anti-trafficking work in general. The Department marshals numerous resources across many different components to combat human trafficking and abuse. Earlier this year the Attorney General convened a Human Trafficking Summit to emphasize the Department's strong commitment to fighting this menace and to discuss ways to build on its successes in combating trafficking. All 94 of the Department's U.S. Attorneys' Offices have designated Human Trafficking Coordinators, and they have developed anti-trafficking strategies for their districts in order to help ensure effective enforcement of the law. Their efforts are assisted by the Department's Human Trafficking Prosecution Unit (HTPU), which focuses on forced labor, transnational sex trafficking, and sex trafficking of adults; and Child Exploitation and Obscenity Section, which focuses on sex trafficking of minors within the United States and the sexual exploitation of minors outside of the United States when it is committed by United States citizens or permanent residents. In FY 2017 the Department secured convictions against nearly 500 traffickers, and its prosecution efforts on this front continue unabated.

The Department also works with other federal agency partners, including the Department of Homeland Security (DHS), and with international partners and foreign governments, in order to fight trafficking both in the United States and abroad. In 2017, for example, the Department, working in conjunction with DHS and the government of Mexico through a bilateral initiative, secured convictions against eight members of the Rendon-Reyes Sex Trafficking Organization for sex trafficking adults and minors from Mexico and Central America.

The Department's efforts to combat trafficking also extend beyond criminal prosecutions. For instance, the HTPU provides anti-trafficking training and technical assistance to federal, state, and local enforcement partners. The Department also works with trafficking victims to help ensure their rights are respected and recover any restitution. The Department administers numerous grant programs related to anti-human trafficking efforts, principally programs to aid survivors. In FY 2017, the Department invested more than \$47 million in programming to combat human trafficking, with most funding supporting direct services to survivors.

In accordance with the law, the Department has established policies to ensure that UAC in the United States are protected from traffickers and other individuals who may seek to harm them. For aliens in removal proceedings, employees of the Department's Executive Office for Immigration Review (EOIR) follow established protocols, as required by law, for referring cases of suspected child abuse or human trafficking. For UAC in particular, EOIR also administers the Legal Orientation Program for Custodians of UAC (LOPC) in cooperation with the Department of Health and Human Services. The LOPC provides legal orientation services to custodians of UAC, including information regarding a custodian's responsibility to ensure the UAC's appearance at all immigration proceedings and a custodian's responsibility to protect the child from mistreatment, exploitation, and trafficking. The LOPC currently operates in fifteen locations nationwide and is supported by a nationwide call center.

In the immigration context human trafficking often goes hand-in-hand with alien smuggling and schemes to facilitate the improper entry of aliens into the United States, as both traffickers and smugglers seek to exploit weaknesses in border security and enforcement of the law. Children who are smuggled into the United States are especially vulnerable to human trafficking. Consequently, the Department prioritizes criminal enforcement of immigration laws passed by Congress. Further, it maintains no blanket exemption from prosecution for those who violate the laws passed by Congress, including for smugglers and human traffickers.

Executive Order 13767 directed the Attorney General to establish guidelines and allocate resources to ensure that border prosecutions enforcing the immigration laws Congress has passed are a high priority of the Department. On April 11, 2017, the Attorney General issued a memorandum to all federal prosecutors outlining certain immigration-related offenses, including alien harboring and smuggling under 8 U.S.C. § 1324, as high priorities for criminal prosecution. Additionally, the Attorney General directed each district to designate a Border Security Coordinator to be responsible for, among other activities, overseeing the investigation and prosecution of these offenses. Further, Executive Order 13773 made the dismantling of transnational criminal organizations, including human trafficking rings, a clear policy priority of the Executive Branch.

Although the Department of Justice generally has no operational or logistical role in either the care or processing of aliens for removal, including UAC, it recognizes that UAC in immigration proceedings are an issue of significant concern. There are over 80,000 pending UAC cases currently before EOIR, which is approximately eleven percent of the overall pending caseload. Over seventy percent of those cases have been pending for over one year. In FY 2018 to date, only 9600 UAC cases have been completed in immigration court, compared to 135,000 non-UAC cases that have been completed. Furthermore, each month approximately 580 UAC

fail to attend their immigration proceedings, and the rate of UAC removal orders issued *in absentia* has risen significantly since FY 2014. Approximately 6000 to 7000 UAC annually have failed to attend their immigration court hearings in recent years, and UAC are about twice as likely to fail to appear for immigration court as the overall alien population. In short, the data reflects significant concerns with UAC cases in immigration proceedings related to ensuring both that UAC appear at their hearings and that UAC cases are resolved in a timely manner consistent with due process.

Our current immigration system faces numerous challenges, ranging from a lack of clarity regarding criminal grounds of removability to space and resource constraints to the use of litigation to make nationwide law rather than the use of rulemaking or legislation. Issues with UAC in immigration proceedings have added to these challenges, as have efforts by traffickers to exploit weaknesses in the overall system. Despite these challenges, the Department of Justice is unequivocally committed to bringing to justice anyone who engages in the abominable crime of human trafficking, including the trafficking of UAC, and it stands ready to work with Congress to strengthen existing laws in order to achieve that goal.