

OPENING STATEMENT OF SEN. McCASKILL - September 26, 2018

Thank you Mr. Chairman. Before I get into the FAMILIES Act, I just briefly want to mention two bills on this markup that are important to me. First, I want to thank the Chairman for working with Senator Lankford and me on the Federal Acquisition Supply Chain Security Act. The Kaspersky situation was a wake-up call, and this bill will put in place a systematic way for federal agencies to ensure that national security interests are considered during the federal contracting process. We can't keep playing whack-a-mole and discovering only after the fact that there is a technology on every computer in the federal government that exposes our information to our adversaries.

Second, I just want to briefly talk about Arla Harrell. Arla was one of the last surviving Missourians who underwent mustard gas experiments as part of the military's chemical defense research program during World War II. Until recently, the government repeatedly failed to adequately acknowledge and properly compensate our service members for the harm they suffered as a result of these experiments. Earlier this Congress, we passed the Arla Harrell Act as part of the Harry W. Colmery Veterans Educational Assistance Act of 2017 which was then signed into law by President Trump, which helped Arla and other veterans get the benefits they deserved to deal with the effects of their mustard gas exposure. Sadly, Arla Harrell passed away earlier this year, and today we are moving forward with a bill to name the post office in Macon, Missouri in his honor. I know this is a small gesture of appreciation, but it's a way to honor heroes like Arla, and I thank the Chairman for moving this bill today.

Now I'd like to turn to the FAMILIES Act. I want to thank the Chairman for holding the Flores hearing last week and for postponing a vote on his FAMILIES Act today. As you often

say, Mr. Chairman, the first step to resolving a problem is laying out the realities. Unfortunately, I think that hearing left us with more questions than answers.

After our hearing, I think there are a few clear areas of agreement, and Mr. Chairman, you always say at these markups that we do our best work when we focus on areas of agreement. Based on the hearing last week, I think these are two things we can agree on:

- 1) Families should not be separated, except in rare cases where it's in the best interests of the child; and
- 2) We need more judges and support staff.

But unfortunately, in a lot of other respects, the hearing, and Mr. Albence's testimony and answers in particular, were very concerning because they were inconsistent with information that DHS had provided to our staffs on multiple issues. I just want to run through a few key discrepancies here:

- 1) ICE reported failure rates for ATD of 7.1% for family units and 4.4% for single adults for FY 2016, in its report to the Appropriations Committees. In last week's hearing, Mr. Albence stated that the ATD absconder rate is 27.7% for family units and 16.4% for non-family participants in FY 2018 through July 31st. That seems like a really big jump to me. I'd like to get to the bottom of why these numbers are so wildly different.
- 2) Mr. Albence stated that nearly 30% of family units are cutting off their ankle bracelets at the beginning of the ATD process. This seems exceedingly unlikely. GPS monitoring saw a total of 2,590 absconders in FY 2016. Based on the total population of those being monitored, if all of these were families, then at most 12.5%

- of family units on GPS absconded. I'd like to get the facts on this. Also, when ankle monitors are cut off, the folks monitoring the bracelets are made aware. Why doesn't ICE go after those folks, and if they do, how many have been caught and deported?
- 3) Mr. Albence implied that there were folks on ATD that absconded after receiving final orders of removal, but I am not aware that ICE has any so-called "end-to-end" ATD programs where families are monitored from the minute they leave ICE custody until the minute they are deported or granted asylum. If there are or have been any end-to-end monitoring programs like that, I'd love to hear how successful they were.
 - 4) Mr. Albence stated that detention is cheaper than ATD because ATD participants often stay enrolled for several years or more, compared to 40 days average in detention. According to our calculations, which are based on cost data provided by DHS and which we're happy to share with your staff, the cost of 40 days in family detention – for just one parent alone, excluding children – costs the same as 8.6 years on ATD. Even comparing 40 days in single adult detention costs the same as 3.4 years on ATD. And Mr. Edlow stated at the hearing that the average non-detained case completion time of 2.1 years. So if the argument is that detention ends up being cheaper, I think that's something we need to be absolutely certain of. At the end of the day, if we're going to get this right, we need to balance good stewardship of taxpayer dollars, what's in the best interest of the children, and making sure we're spending every dollar on homeland security in the most effective way possible.

We will have a lot more questions for the record that we will be submitting. But if we can't get basic facts from DHS, I don't see how we are going to be able to find bipartisan agreement on a solution.

So here's what I propose. Let's put a bill together now on the two things we know we can agree on. Let's give DOJ more judges and staff and make clear that, as a matter of policy, families should not be separated, with exceptions for the health and safety of the child. We can vote on it next week if you'd like, assuming it gets referred to our Committee.

At the same time, let's get answers from DHS to all of these questions that we have coming out of that hearing. Let's get the facts straight before we give DHS a blank check to start building family jails. Once we have the facts, then let's see if we can find some reasonable middle ground so that we can find something that works for ICE but that is humane and decent and considers the needs of these children who are being caught up in this mess through no fault of their own.

So I'd ask you, Mr. Chairman, will you commit to receiving answers to our questions for the record so Mr. Albence can clarify some of his statements and get us the real facts and data, before we move forward with negotiations on a potentially long-term, bipartisan solution?

Thank you, Mr. Chairman.