

**Prepared Statement of Chairman Rob Portman
and Ranking Member Claire McCaskill
Permanent Subcommittee on Investigations**

**Hearing on “The Unaccompanied Children Crisis: Does the Administration
Have a Plan to Stop the Border Surge and Adequately Monitor the
Children?”**

**Senate Judiciary Committee
February 23, 2016**

We would like to thank the Committee for holding this hearing and for allowing us to offer comments on an issue that deserves Congress’s attention. The unaccompanied alien children crisis is not going away. According to recent numbers, it seems to be worsening. Apprehensions of unaccompanied alien children (UACs) are higher now than they were at this time during the record surge in Fiscal Year 2014. As Chairman and Ranking Member of the Permanent Subcommittee on Investigations, we conducted a bipartisan investigation into HHS’s UAC placement process. That investigation led to a staff report and a hearing, which found significant problems with HHS’s procedures for placing UACs with unrelated sponsors.

Under federal law, when migrant children appear at this country’s borders unaccompanied by their parents, HHS is responsible for placing them with sponsors while the UACs await their immigration proceedings. In July 2015, we launched a bipartisan investigation into HHS’s placement of UACs with adult sponsors. The investigation was in response to a July 2015 federal indictment of a labor trafficking ring in Ohio. Law enforcement charged six defendants with forcing multiple victims to work on egg farms in Marion County—about 50 miles north of Columbus. A number of those victims were UACs who HHS allegedly placed with sponsors in Ohio and elsewhere. Some of the sponsors were involved in the labor trafficking ring.

The details of the crime are startling. According to the indictment, the minor victims were compelled to work six or seven days a week, twelve hours per day. The traffickers repeatedly threatened the victims and their families with physical harm, and even death, if they did not work or surrender their entire paychecks. The indictment alleges that the defendants “used a combination of threats, humiliation, deprivation, financial coercion, debt manipulation, and monitoring to create a climate of fear and helplessness that would compel [the victims] compliance.”

We were shocked to learn of these tragic events. It is intolerable that human trafficking could occur in our own backyard. But what makes the Marion cases

even more alarming is that a U.S. government agency was responsible for delivering some of the victims into the hands of their abusers. Our review of the facts underlying the July 2015 indictment prompted us to investigate whether the Marion cases were the result of a series of missteps or, instead, systemic deficiencies in HHS's UAC placement program.

On January 28, the Subcommittee issued a 51-page report that detailed the troubling findings of its six-month, bipartisan investigation. The Subcommittee concluded that the Department of Health & Human Services' process for placing unaccompanied children suffers from serious, systemic defects. The Subcommittee's investigation focused on what HHS calls Category 3 sponsors—those who have no close relation to the child, and therefore resemble foster-care providers or similar temporary custodial arrangements.

Serious deficiencies found by the Subcommittee include:

- **HHS's process for verifying the alleged relationship between a UAC and an individual other than a parent, guardian, or close family member is unreliable and vulnerable to abuse.** In general, HHS accepts the alleged relationship between a Category 3 sponsor and a UAC (e.g., "neighbor from home country") if a person claiming to be the child's family member corroborates it. In a number of cases, however, parents who consented to the placement of their children with certain sponsors were also complicit in the child's smuggling. In the Marion cases, for example, several victims' family members attested to the asserted relationship, but there was a reason: The human traffickers held the deeds to some of the families' homes as collateral for the child's journey to the United States. The sooner the child was released from HHS custody, the sooner they could begin working to repay the debt. Other cases revealed that parents have deceived HHS by claiming that a relationship existed between the sponsor and the UAC when it did not.
- **HHS is unable to detect when a sponsor or group of related sponsors is seeking custody of multiple unrelated children.** The agency could not detect that sponsors in the Marion cases were collecting multiple, unrelated children—a warning sign of a potential trafficking ring that warrants, at a minimum, additional scrutiny.
- **HHS has failed to conduct adequate background checks.** Throughout the time period examined by the Subcommittee, HHS did not conduct background checks on all relevant adults. HHS's longstanding policy was to conduct background checks only on the sponsor, and not on any other adult listed as living in the sponsor's home or on the person designated as the child's "backup" sponsor. And if that check turned up a

criminal history, HHS policy was that *no* criminal conviction could disqualify a sponsor, no matter how serious. Effective January 25, 2016, HHS has strengthened its background check policies.

- **HHS does not adequately conduct home studies.** Home studies are universally performed in foster care placements, but the HHS agency commonly places children with sponsors without ever meeting that sponsor in person or setting eyes on the home in which the child will be placed. The agency performed home studies in less than 4.3% of cases from 2013 through 2015. No home studies were conducted in the Marion cases.
- **After a child's release to a sponsor, HHS allows sponsors to refuse post-release services offered to the child—and even to bar contact between the child and an HHS care provider attempting to provide those services.** That policy caused HHS to miss a potential opportunity to uncover the crime perpetrated in the Marion cases when one of the victim's sponsors refused to permit access to the child.
- **Many UACs fail to appear at immigration proceedings.** Ensuring the UAC's appearance at immigration proceedings is a principal task of a UAC's sponsor, and failure to appear at an immigration hearing can have significant adverse consequences for an alien child. Based on Department of Justice data, 40% of completed UAC immigration cases over an 18-month period resulted in an *in absentia* removal order based on the UAC's failure to appear.

These deficiencies in HHS's policies expose UACs to an unacceptable risk of trafficking and other forms of abuse at the hands of their government-approved sponsors. HHS must do more to ensure the safety of UACs it takes into custody. Beyond the Marion, Ohio case files reviewed by the Subcommittee, the Subcommittee identified and reviewed multiple cases involving post-placement trafficking of UACs and cases with serious trafficking indicators. The Subcommittee, however, is unable to estimate with any certainty the total number of UACs subjected to trafficking or other abuses, in part because HHS maintains no regularized means of tracking such cases.

The Subcommittee also learned that no federal agency accepts responsibility for UACs placed with Category 3 sponsors during the period after a UAC's placement and before his or her immigration hearing. HHS told the Subcommittee that its longstanding view has been that once a UAC is transferred to the care of a sponsor, HHS has no further authority or responsibility for the child. HHS also explained that, although it was aware of the *Flores* Agreement provision acknowledging Immigration and Naturalization Service's authority to terminate

placements for violation of a sponsorship agreement, HHS had never invoked that provision and was unsure whether it or the Department of Homeland Security (DHS) would be the proper agency to do so.

We recognize the need for continued oversight of the UAC program. We will continue to work with HHS to promote improvements to the program and accountability for the UACs in its care. Thank you for your work on this matter and for your support of the Subcommittee's efforts.