



# U.S. Immigration and Customs Enforcement

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STATEMENT

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U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

“TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT (TVPRA) AND  
EXPLOITED LOOPHOLES IN REGARDS TO UNACCOMPANIED ALIEN CHILDREN”

BEFORE THE

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY  
SUBCOMMITTEE ON BORDER SECURITY AND IMMIGRATION

Wednesday, May 23, 2018  
226 Dirksen Senate Office Building

Chairman Cornyn, Ranking Member Durbin, and distinguished members:

Thank you for the opportunity to appear before you today to discuss the mission of U.S. Immigration and Customs Enforcement (ICE), its efforts to disrupt, dismantle, and investigate violent gang activity within the United States, and its role in addressing issues related to unaccompanied alien children (UACs) arriving in the United States.

ICE's mission is to protect America from cross border crime and illegal immigration that threatens national security and public safety. To that end, we enforce approximately 400 federal laws governing border control, customs, trade, and immigration to promote homeland security and public safety. With more than 20,000 employees and more than 400 offices across the United States and in 50 foreign countries, the men and women of ICE execute our mission humanely, professionally, and in accordance with the laws passed by Congress.

### **Enforcing Immigration Laws**

Our immigration enforcement efforts are led by the more than 6,000 law enforcement officers of Enforcement and Removal Operations (ERO). In the face of innumerable challenges and complexities, these incredibly dedicated and professional officers enforce our Nation's immigration laws by identifying, arresting, detaining, and removing criminal and illegal aliens. To ensure the national security and public safety of the United States, and the faithful execution of the immigration laws, our officers may take enforcement action against any removable alien encountered in the course of their duties who is present in the United States in violation of immigration law.

During his first two weeks in office, President Trump signed a series of Executive Orders (EOs) that laid the policy groundwork for the Department of Homeland Security (DHS) and ICE to carry out the critical work of securing our borders, enforcing our immigration laws, and ensuring that individuals who pose a threat to national security or public safety cannot enter or remain in the United States. These EOs establish the Administration's policy of effective border security and interior immigration enforcement through the faithful, equitable execution of the laws passed by Congress. The orders implement new policies designed to stem illegal immigration and facilitate the identification, apprehension, detention, and removal of criminal and illegal aliens.

The heightened enforcement of our nation's immigration laws in the interior of the United States is critically important to the national security and public safety of the United States. Aliens who illegally enter the United States, or even those who overstay or otherwise violate the terms of their visas, have violated our Nation's laws and many pose a distinct threat to national security and public safety. This is particularly true for aliens who engage in criminal conduct in the United States.

ICE ERO arrests are up 23 percent since the same time period last year, charging documents issued (72,118) are also up 23 percent, detainers issued (97,038) are up 35 percent, indictments are up 96 percent and convictions are up 146 percent. Thus far in this fiscal year, through April 28, 2018, ICE has removed 140,041 aliens from the United States; these are aliens who posed a danger to our national security, public safety, or the integrity of the immigration

system. Of those removed, 54 percent (76,042) had criminal convictions. ICE ERO has also maintained an average daily population of 40,907 in detention and monitored an average of 69,933 participants daily under the Intensive Supervision Appearance Program III contract or Alternatives to Detention program, as of April 30, 2018.

## **Combatting Transnational Criminal Organizations**

ICE HSI Special Agents protect the United States against terrorists and other criminal organizations through criminal and civil enforcement of federal laws governing border control, customs, trade, and immigration. As the largest investigative arm of the Department of Homeland Security (DHS), ICE HSI utilizes its broad legal authorities to investigate immigration and customs violations, including those related to export control, human rights abuses, narcotics, weapons and contraband smuggling, financial crimes, cybercrime, human trafficking and smuggling, child exploitation, intellectual property thefts, transnational gangs, immigration document and benefit fraud, and worksite enforcement. The Fiscal Year (FY) 2018 Budget maintains ICE's critical operations at home and abroad and increases our efforts to target and combat dangerous transnational gangs and other criminal organizations.

In FY 2017, ICE HSI investigations led to the disruption or dismantlement of transnational criminal organizations (TCOs). ICE HSI made more than 32,958 criminal arrests, including arrests of more than 4,800 transnational gang members. ICE HSI also seized 981,586 pounds of narcotics, made 1,205 seizures for violations of U.S. export laws and regulations, and seized nearly \$524 million in illicit currency and assets. Additionally, ICE HSI identified and assisted 518 human trafficking victims and more than 904 child exploitation victims.

During the last two decades, transnational organized crime has expanded dramatically in size, scope, and impact, which poses a significant threat to national and international security. ICE HSI takes very seriously the threat to national security that transnational organized crime represents, and ICE HSI targets TCOs at every critical location in the cycle: internationally, in cooperation with foreign counterparts, where transnational criminal and terrorist organizations operate; at our Nation's physical border and ports of entry, in coordination with U.S. Customs and Border Protection (CBP), where the transportation cells attempt to exploit America's legitimate trade, travel, and transportation systems; and in cities throughout the United States, where criminal organizations earn substantial profits off the smuggling of aliens and illicit goods.

As directed by the President's Executive Order 13773, *Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking*, ICE will continue to give a high priority and devote sufficient resources to dismantling TCOs and subsidiary organizations. ICE will continue to focus on cooperative work and data sharing with other federal agencies, as well as work with foreign counterparts by sharing intelligence and law enforcement information when appropriate and permitted by law.

## **Gang Enforcement**

The key to ICE HSI's success against gangs is its ability to use a multifaceted approach to attacking violent crime by utilizing its unique civil as well as criminal authorities to deter,

disrupt, and dismantle transnational criminal gangs. Working in accordance with President Trump's January 25, 2017, Executive Order 13768: *Enhancing Public Safety in the Interior of the United States*, ICE is committed to ensuring the safety of the American people in communities across the United States by faithfully enforcing our Nation's immigration laws.

Transnational gangs, specifically the Mara Salvatrucha, or MS-13, perpetrate numerous violations within ICE HSI's purview, including human smuggling and trafficking, narcotics smuggling and distribution, identity theft and benefit fraud, money laundering, weapons smuggling and arms trafficking, cyber-crimes, kidnapping, extortion, and export violations. MS-13 members reside in the United States, El Salvador, and other countries in the region. The gang leadership in El Salvador attempts to direct cells, often referred to as "cliques," in the United States.

In October 2012, because of evidence supplied by ICE and other input by U.S. interagency partners, the Treasury Department's Office of Foreign Assets Control designated MS-13 as a TCO, the first time a gang has been designated. ICE has leveraged its expertise in financial and transnational gang criminal investigations to develop and implement a strategy to identify, exploit, and disrupt MS-13's global financial networks.

### **Operation Community Shield**

In 2005, ICE initiated Operation Community Shield (OCS), an international law enforcement initiative that combines the expansive statutory criminal and civil enforcement authorities of ICE to combat the growth and proliferation of gangs throughout the United States. Through our longstanding working relationships with our state, local, tribal, and foreign law enforcement partners, this initiative helps ICE locate, investigate, prosecute, and where applicable, immediately remove gang members from our neighborhoods and ultimately from the United States.

OCS is the primary platform through which ICE executes its anti-gang initiatives, including Specialized Urban Response – Gang Enforcement (SURGE) operations. On an annual basis, ICE initiates SURGE operations, during which ICE special agents, working with our federal, state, local, tribal, and international anti-gang law enforcement partners, collaboratively address gang problems within their jurisdictions by utilizing our unique enforcement authorities and intelligence.

Since the inception of OCS, ICE and its partner agencies have made over 63,000 criminal and administrative immigration arrests of gang leaders, members, and associates, including more than 8,500 MS-13 gang leaders, members, and associates.

From Fiscal Year (FY) 2017 to FY 2018 (as of May 3, 2018), ICE HSI has made more than 7,355 criminal arrests of gang leaders, members, and associates that resulted in more than 2,200 convictions so far. Additionally, during this same period, ICE made 1,400 administrative immigration arrests of gang members.

## **Operation Raging Bull**

In response to the public safety threat posed by MS-13, from October 8, 2017, through November 11, 2017, ICE HSI and our federal, state, local, and foreign law enforcement partners executed Operation Raging Bull - an enforcement operation designed to disrupt the MS-13 criminal enterprise by targeting members and associates who pose the greatest public safety threats and continue to provide financial support that funds their violent criminal activity. As a result, 267 MS-13 leaders, members, and associates were arrested throughout the United States and in El Salvador.

During Operation Raging Bull, of the MS-13 arrests within the United States, approximately 30 percent originally entered as unaccompanied alien children (UAC). It is important to note that ICE's strategy when combatting transnational gangs such as MS-13 is to develop leads based on gang affiliation primarily and not on the fact that the person may have entered the United States as a UAC. In most circumstances, ICE HSI learns about UAC status at the time of apprehension.

## **MS-13 Activity in the United States**

MS-13 is a transnational criminal street gang comprised primarily of immigrants or descendants of immigrants from El Salvador. Although the gang's roots can be traced to Los Angeles, California, the group has migrated to cities throughout the United States and Central America, and has become one of the largest and most violent street gangs in the United States.

From FY 2017 to FY 2018 (as of May 3, 2018), ICE HSI has made 964 criminal arrests of MS-13 gang leaders, members, and associates that resulted in 148 convictions so far. Additionally, during this same period, ICE HSI made 486 administrative immigration arrests of MS-13 members.

ICE HSI's National Gang Unit oversees ICE's expansive transnational gang portfolio and enables special agents to bring the fight to these criminal enterprises through the development of uniform enforcement and intelligence-sharing strategies.

Through ICE's investigations into MS-13, we have researched and investigated MS-13's sophisticated communication and financial network and determined that its primary source of income is generated through extortion and prostitution. They also generate money through drugs, weapons, and human trafficking.

One of the primary strengths of ICE's anti-gang efforts is our ability to work across the DHS enterprise to harness information and data that allows us to navigate through the targets within each clique, gain visibility into territories in which they operate, and formulate an interactive investigative strategy to dismantle their operations. In July 2017, ICE HSI's National Gang Unit, CBP (CBP), and U.S. Citizenship and Immigration Services (USCIS) formed a DHS MS-13 Working Group to eliminate redundancies and intelligence gaps, ensure that all Components' equities are maximized, and to provide visibility to the Department's enforcement Components. Additionally, the U.S. Bureau of Prisons has dedicated critical intelligence resources to the DHS MS-13 Working Group. Through a "Unity of Effort," DHS will be able to

more effectively combat MS-13's global criminal enterprise by proactively preventing violent crime. To date, the DHS MS-13 Working Group has coordinated the apprehension of 15 MS-13 and 18th Street fugitives within the United States that were wanted for murder and other gang offenses in El Salvador.

Currently, ICE HSI has over 130 domestic and international gang investigations targeting MS-13 members and networks in Long Island, New York; New York City; New Jersey; Boston, Massachusetts; Delaware; Maryland; Northern Virginia/DC; Norfolk, Virginia; Columbus, Ohio; Colorado; Detroit, Michigan; Nashville, Tennessee; North Carolina; Dallas, Texas; Houston, Texas; Miami, Florida; Los Angeles; Fresno County, California; San Jose, California; San Francisco, California; Honduras; and El Salvador.

### **Federal, State and Local Law Enforcement Partnerships**

ICE ERO also plays a significant role in combatting the MS-13 gang through the identification, arrest, and removal of gang members who are in the country illegally. Because ERO primarily enforces Title 8 of the U.S. Code (Aliens and Nationality), ERO targets MS-13 and other gang members on the basis of their immigration violations, without the need to establish additional criminality. ICE ERO accomplishes this aspect of its public safety mission, in part, through its partnerships with international, federal, state, and local law enforcement agencies. Some examples include:

In October 2017, ERO was contacted by the Northern Virginia Regional Gang Task Force (NVGTF) requesting assistance in locating and arresting an MS-13 gang member who was wanted in Santa Barbara County, CA, for four counts of murder, four counts of conspiracy to commit murder, and four counts of gang participation. ERO's MCAT in cooperation with several local and state police departments, assigned to the NVGTF, administratively arrested the suspect in Dumfries, Virginia. He was extradited to California where he is currently awaiting trial.

In January 2018, ICE ERO worked with NVGTF to arrest an MS-13 gang member who posed a threat to the community. ERO's Mobile Criminal Alien Team (MCAT) worked with Salvadoran, state, and local authorities to arrest the MS-13 gang member in Henrico, VA, Virginia who was wanted in El Salvador for gang participation.

In October 2017, ICE ERO was contacted by Fairfax County Police Department (FCPD) requesting assistance in locating and arresting an MS-13 gang member who was also an ICE fugitive. In June 2014, the alien entered the United States illegally as an unaccompanied alien child (UAC) and was later released to his mother by U.S. Border Patrol. He was arrested by ERO and is currently in ERO custody pending removal hearing.

Based on the outstanding relationships ERO has established with its state and local partners, in April 2018, ICE ERO was again contacted by FCPD major crimes unit requesting assistance with a gang-related abduction of a juvenile female. ERO responded to the scene of a traffic stop in which the missing juvenile's backpack was found in the trunk. Through investigative means, ERO was able to determine two individuals in the car were affiliated with MS-13 and arrested them, while FCPD arrested two other occupants on charges related to the juvenile's abduction. Subsequent to these arrests, the juvenile was returned home safely.

Similarly, ICE HSI partners with other federal, state, local, and international law enforcement agencies while conducting criminal investigations. As demonstrated in the examples below, these mutually-beneficial partnerships result in the arrests and convictions of violent criminals and ultimately, safer streets and communities.

Operation Matador, operating under the DHS Transnational Organized Crime Initiative (TOCI), is a joint initiative comprised of HSI, ERO, and the ICE Office of Principal Legal Advisor (OPLA), CBP, USCIS, and state and local law enforcement partners targeting criminal gang activity on Long Island, New York with a focus on MS-13. From May 2017 through May 9, 2018, Operation Matador has been responsible for the arrests of over 280 MS-13 leaders, members, and associates. Of the over 280 MS-13 arrests, 117 arrestees, or approximately 41 percent of Operation Matador's MS-13 arrests, originally entered the United States as UACs.

On April 5, 2018, 12 MS-13 members were indicted in the U.S. District Court for the Northern District of California for federal Racketeering Influenced Corrupt Organizations (RICO), Violent Crimes In Aid of Racketeering (VICAR), and narcotics and firearms offenses. This is an ICE HSI-led investigation worked in conjunction with the Santa Cruz, California Police Department.

On March 29, 2018, six MS-13 members were indicted in the District of Maryland for RICO and VICAR offenses related to attempted homicides and homicides relating to multiple bodies buried in an Annapolis, Maryland park. This is an ICE HSI-led investigation worked in conjunction with the Anne Arundel County, Maryland Police Department.

On March 14, 2018, an MS-13 member was convicted at trial for Murder in Aid of Racketeering and other racketeering-related offenses. Six other MS-13 co-conspirators had previously been convicted. The lone fugitive is currently incarcerated in El Salvador serving a lengthy prison sentence. This is an ICE HSI-led investigation worked in conjunction with Montgomery County, Maryland and Prince George's County, Maryland Police Departments.

On July 31, 2017, three MS-13 members were indicted in the District of Maryland for conspiracy to commit a Hobbs Act Robbery offense. These MS-13 members were involved with multiple violent acts, including armed robbery, kidnapping, and carjacking of two Maryland-based taxi services who market themselves to Spanish speaking clientele. The case is currently pending trial and is an ICE HSI-led investigation in conjunction with the Montgomery County, Maryland Police Department.

### **Unaccompanied Alien Children**

In FY 2014, an unprecedented surge of families and UACs from Central America tried to enter the United States along the southwest border. Since the initial UAC influx in FY 2012, there have been 245,944 UAC initial ICE Book-ins. While numbers decreased slightly in FY 2017, UAC Initial Book-ins are again on the rise; in FY 2018, UAC Initial Book-ins have increased 25% over the last two months compared to counts at the same time last year.

Among the reasons for that increase were push and pull factors such as violence in the Northern Triangle countries of El Salvador, Guatemala, and Honduras (e.g., violent street gangs and drug cartels); better economic and educational opportunities in the United States; and the desire to be with family members who were already present in the United States. Reaction to U.S. immigration policy at the time—real or perceived—is also one of the pull factors that led to the surge. Through the whole of government approach, we continue to address this humanitarian, border security, and public safety issue in a manner that is comprehensive, coordinated, and humane. ICE, as one of several federal agencies involved in the processing of UACs, plays a critical role by quickly and safely transporting unaccompanied alien children to U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) custody after encounters at the border or in the interior. ICE also effectuates removal orders, as appropriate, following the conclusion of immigration proceedings.

While this administration has made strong efforts to address certain factors that lead to illegal immigration, the most essential reforms require legislation. This includes amending the *William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008* (TVPRA) to ensure that all UACs are treated the same regardless of their country of origin. Under the TVPRA, a UAC encountered at the border who is a national of Canada or Mexico may be permitted to withdraw his or her application for admission and be returned to the child's country of nationality or of last habitual residence if there are no human trafficking indicators or claims of fear, and the child is able to make an independent decision to withdraw his or her application for admission. Pursuant to other provisions of the TVPRA, UAC who are nationals of noncontiguous countries, such as Honduras, Guatemala, or El Salvador, are placed in removal proceedings before an immigration court if the DHS is seeking to remove them. The vast majority of UAC encountered along the U.S. southwest border come from these three noncontiguous countries. Under the TVPRA, while immigration judges maintain jurisdiction over removal proceedings, U.S. Citizenship and Immigration Services (USCIS) has initial jurisdiction over any asylum claim filed by UAC. Thus, UAC may file asylum applications directly with USCIS while they are in removal proceedings. This provision allows UAC to have their asylum claims initially heard in a non-adversarial setting by a specially-trained USCIS asylum officer. If relief is not granted, the UAC may renew his or her application before the immigration judge in removal proceedings.

### **Transfer of Unaccompanied Alien Children**

Consistent with the TVPRA, except in exceptional circumstances, DHS is required to transfer the custody of a UAC to HHS/ORR within 72 hours after determining that such child is unaccompanied. In accordance with the *Flores* Settlement Agreement, and as required under TVPRA, HHS/ORR places UAC in the least restrictive setting, subject to considerations such as danger to self, danger to others/the community, and risk of flight. Once HHS notifies DHS that a shelter bed is available, it is DHS's responsibility to quickly and safely transport the UAC from CBP custody to a shelter funded by HHS/ORR for this purpose. ICE transports UAC via ground, commercial air, and ICE charter flights. In FY 2017, ICE had 39,977 UAC Initial Book-ins. In FY 2018 (through April 30, 2018), ICE has 24,601 UAC Initial Book-ins.

All 24 ICE ERO field offices have primary and back-up juvenile coordinators, each of whom receive annual, specialized training with respect to the unique vulnerabilities of children.



These Field Office Juvenile Coordinators serve as local subject matter experts on the proper processing, transportation, and placement of UACs; monitor operational practices for compliance with regulations, standards, and policy; and are on call 24 hours a day, seven days a week.

During the limited time ICE maintains physical custody of a UAC for transport, pending his or her transfer to HHS/ORR, such children are separated from adult detainees for their safety. During this time, these UACs are also provided with regular access to snacks, milk, juice, consular officials, telephones, and other resources.

### **Removal of Unaccompanied Alien Children**

For UACs ordered removed by an immigration judge, ICE takes appropriate enforcement actions to remove them from the United States. Under the TVPRA, ICE must ensure that each removal is fully coordinated with host government authorities. Coordination with foreign officials includes: providing the unaccompanied child an opportunity to communicate with a consular official prior to departure, repatriating at a designated port of entry, and ensuring that a receiving government official or designee signs for custody to record the transfer, in addition to other requirements specific to each country, such as certain hours during which repatriations can be conducted. The majority of UAC repatriations conducted by ICE occur via commercial air or charter flights and, during transport, children must be accompanied by appropriate personnel. Between FY 2012 and FY 2017, ICE removed a total of 13,786 UACs from the United States, including 1,491 to El Salvador, 4,855 to Guatemala, and 3,424 to Honduras.<sup>1</sup>

### **Conclusion**

Thank you again for the opportunity to appear before you today and for your continued support of ICE and its critical law enforcement mission. ICE is committed to investigating gang violence, disrupting the MS-13 pipeline, and dismantling their criminal enterprises. We look forward to continuing our work with Congress and our local, state, and federal partners in a coordinated, cooperative effort to secure our communities from the scourge of gang violence, protect UACs from transnational smuggling operations, and to close the loopholes within federal immigration law that help these gangs to flourish.

We would be pleased to answer any questions.

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<sup>1</sup> Note that these removal counts are based on designation of unaccompanied alien children at time of initial book in (between FY09-FY17) and individual aliens may no longer be under the age of 18 at the time of removal.