



Homeland Security Investigations

STATEMENT OF

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REGARDING A HEARING TITLED

“Ensuring the Safety and Well-Being of Unaccompanied Children, Part II”

BEFORE THE

UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

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Chairman Durbin, Ranking Member Graham, and distinguished members of the Committee, thank you for the opportunity to testify regarding the role of U.S. Immigration and Customs Enforcement Homeland Security Investigations (HSI) in investigating federal crimes relating to the trafficking and exploitation of unaccompanied children. I am honored to be here today with my esteemed colleagues on this panel.

Introduction

This month marks my 30-year anniversary as a career federal law enforcement official. I have served as a Special Agent investigating a wide variety of crimes, a supervisor of teams of agents, and later as the Special Agent in Charge of an HSI field office. In my current role, I serve as the Director of the Department of Homeland Security (DHS) Center for Countering Human Trafficking (CCHT), which is located within HSI.

The CCHT's mission is to advance counter human trafficking law enforcement operations, protect victims, and enhance prevention efforts by aligning DHS's capabilities and expertise. Essentially, we are building capacity across DHS and supporting HSI criminal investigations of human trafficking worldwide, whether sex trafficking or labor trafficking, including forced labor in the supply chain. We do this through training and providing multi-disciplinary operational and strategic guidance from subject matter experts throughout DHS. We greatly appreciate that Congress codified the CCHT just last year, recognizing the promise and the need driving the creation of a cross-cutting coordination center.

The CCHT celebrated its third anniversary five days ago on October 20th. In this brief time, we have supported more than 400 significant and large-scale criminal human trafficking investigations with technical assistance, enhanced intelligence, and funding. The CCHT is equipped and positioned to support investigations that are sophisticated, complex, or novel, including traffickers who use opioids to control victims, exploit temporary worker visas or unaccompanied children, or conduct their illicit activities using social media.

The scope of my testimony today is related to criminal human trafficking investigations once an agency of first contact for unaccompanied children notifies HSI. The two primary agencies of first contact that provide referrals are U.S. Customs and Border Protection (CBP) and the U.S. Department of Health and Human Services (HHS). While HSI executes a robust and comprehensive response to human smuggling, my remarks are focused on today's hearing topic, the exploitation of unaccompanied children after their arrival in the United States.

Please note that I use the term "victim" throughout as a defined law enforcement term given the scope of my testimony. However, I personally recognize—as does HSI—that victims transition to become survivors and persons with lived experience. We see it every day.

HSI's Counter Human Trafficking Mission

Human trafficking impacts national security, public safety, public health, and the U.S. economy, with human traffickers inflicting lasting and devastating physical, psychological, and financial harm on victims. HSI conducts approximately 1,000 human trafficking investigations annually;

identifies and assists hundreds of victims; and performs extensive outreach and trainings about human trafficking to law enforcement, nongovernmental organizations (NGOs), and the public. HSI informs noncitizen victims about the resources and immigration options available to them, such as Continued Presence, T visas and U visas.

With approximately 6,800 HSI special agents assigned to 237 U.S. cities and 93 offices in 56 countries, HSI has one of the largest international footprints in U.S. law enforcement. We have dedicated human trafficking investigative groups in each primary office across the United States. These agents participate in human trafficking task forces nationwide consisting of federal, state, and local law enforcement, as well as victim service providers, so that there is a cohesive approach to human trafficking within local areas of responsibility. The CCHT works to ensure all aspects of human trafficking investigations are fully pursued through the close coordination of all HSI Divisions.

HSI also employs specialized victim assistance personnel to assist with all victim-based HSI investigations, including human trafficking, child sexual exploitation, human rights violations, financial crimes, and identity and benefit fraud. These personnel—including forensic interviewers and victim assistance specialists—support victims using age and developmentally appropriate interviews and comprehensive referrals to social services.

The mission of HSI’s human trafficking investigations is two-fold. First, to proactively identify, disrupt, and dismantle domestic and transnational human trafficking organizations and minimize the risk they pose to national security and public safety. Second, to employ a victim-centered approach, whereby equal value is placed on the identification and stabilization of victims and the investigation and prosecution of traffickers. Over the past five years, HSI assisted more than 3,000 victims and arrested more than 8,000 subjects in connection with investigations involving human trafficking. These actions have led to more than 2,500 convictions for local, state, and federal violations. These are the most difficult, time-consuming, and heart-breaking cases that our personnel pursue, and I am grateful every day for their dedication and unwavering faith in justice.

Human Trafficking Versus Human Smuggling: Distinct Crimes

The terms ‘human trafficking’ and ‘human smuggling’ are often used interchangeably; however, they are distinct crimes. Human trafficking is the crime of compelling another person into labor or commercial sex through force, fraud, or coercion, or inducing a minor under the age of 18 into commercial sex. It is an exploitation-based crime against a person that does not need to involve travel or border crossings but can. Global estimates indicate that human traffickers victimize a staggering 27.6 million people worldwide, with an estimated 77 percent in forced labor and 23 percent in sex trafficking. Children represent 27 percent of forced labor and 8 percent of sex trafficking worldwide, though victims can be any age, race, gender, nationality, or immigration status.¹ HSI investigations show that traffickers operate within agriculture, landscaping, construction, hospitality, manufacturing, in private homes with nannies and domestic workers, restaurants, elder care, massage parlors – essentially, in jobs with low pay and few legal

¹ International Labour Organization, Walk Free, and International Organization for Migration, *Global Estimates of Modern Day Slavery: Forced Labour and Forced Marriage*, Geneva 2022.

protections, in the underground economy, and in the service industry.

By contrast, human smugglers engage in the crime of bringing people into the United States, or unlawfully transporting and harboring people already in the United States, in deliberate evasion of immigration law. Human smuggling is inherently travel-based and requires a border crossing. It may involve elements of violence such as hostage taking, kidnapping, extortion, physical assault, and sexual assault, however these aggravating factors and additional crimes do not constitute human trafficking, absent exploitation of another person for labor, services, or commercial sex.

Human smuggling can leave smuggled migrants at risk of human trafficking, either by persons associated with their smugglers, or by others they may later encounter. Human trafficking occurs when prohibited means of force, fraud, or coercion are used to compel labor, services, or commercial sex, or when a minor is exploited for commercial sex. HSI special agents, through experience, have learned that it is highly unlikely that an individual knows during their smuggling that they are destined for either forced labor or sex trafficking once they reach their destination in the United States.

HSI conducts extensive local community outreach to places where victims may turn to for help – organizations that advocate for worker rights, assist crime victims, or are faith-based to name a few. HSI relies on referrals from partnering federal, state, and local agencies which can include criminal law enforcement as well as civil law enforcement such as labor inspectors, health and safety inspectors, and fair housing and workplace investigators. Only once HSI starts a trafficking investigation, do we learn about the deception, debts, threats, and other coercive means used to exploit the victims for forced labor or sex trafficking, and whether an individual may also have been smuggled. Only then can we seek justice against the traffickers, who may or may not be associated with the smugglers who unlawfully and perhaps dangerously brought the individual into the country.

Human Trafficking Versus Child Sexual Abuse Material

HSI personnel around the world work tirelessly to protect children from exploitation by predators who are involved in the production, distribution, or possession of child sexual abuse material or who travel internationally to engage in illicit sexual conduct with minors. HSI employs the latest technology to collect evidence and track the activities of individuals and organized groups who sexually exploit children using the dark web, chat rooms, peer-to-peer networks, and other internet-based platforms.

These crimes may transition to human trafficking if a commercial sex act is introduced or filmed and distributed. From HSI's perspective, we are primarily identifying unaccompanied child victims in forced labor, not in child sexual abuse material.

Human Trafficking Versus Labor Exploitation

HSI has authorities to investigate forced labor. Therefore, when appropriate, HSI makes referrals to the U.S. Department of Labor (DOL) for violations of labor laws that do not rise to the level

of human trafficking under federal criminal statutes. HSI routinely works with DOL, most often through human trafficking task forces comprised of federal, state, and local law enforcement and victim service providers. Within these task forces, law enforcement entities can jointly work cases and refer cases to one another.

Referrals to HSI for Criminal Investigation Involving Potential Unaccompanied Child Victims

HSI is not an agency of first contact for unaccompanied children. HSI may receive referrals regarding unaccompanied child victims as we do for any other human trafficking case. These referrals may come from CBP and HHS, but generally come from human trafficking task forces, trusted NGOs, community-based partners locally, the National Human Trafficking Hotline, or anyone who has called the HSI hotline in response to the DHS Blue Campaign's national public awareness.

One of those first contact agencies is CBP, which refers all instances where human trafficking is suspected to HSI. In Fiscal Year (FY) 2022, HSI initiated 24 human trafficking investigations originating from CBP information. This referral process is generally conducted at the local level whereby the CBP sector, port of entry, or field office coordinates with the HSI field office. CBP does not contact the CCHT. It is more common that CBP transfers the child to HHS custody, then HHS identifies potential human trafficking through its extensive screening, and then notifies a local HSI office.

HHS is another first contact agency. HSI and HHS coordinate in two ways regarding unaccompanied noncitizen children who may be human trafficking victims. First, if HHS suspects potential criminal activity involving an unaccompanied noncitizen child, they contact the nearest HSI office. Provided HSI has jurisdiction, we will investigate.

Second, per the Trafficking Victims Protection Reauthorization Act of 2008, HHS is required to consult the U.S. Department of Justice (DOJ), DHS, and NGOs before they provide an unaccompanied child identified as a trafficking victim with federal benefits entitled as "interim relief." The HHS Office on Trafficking in Persons and the CCHT have an established process for these consultations. If there is a nexus to the United States and the child is willing to be interviewed, the CCHT forwards the summary information to a local HSI office for investigation. However, most consultations are related to claims of trafficking in the child's country of origin, not in the United States, and therefore HSI has no jurisdiction to investigate. In the last year, HSI provided hundreds of consultations and did not find federal criminal jurisdiction warranting a referral for investigations in any of the consultations.

HSI remains available to anyone and any agency that wants to report human trafficking.

HSI Criminal Investigations & Initiatives

From its criminal investigations, HSI sees that traffickers use the same tactics against unaccompanied children as they do for any other victim. They make false promises of school and good jobs to earn money to send home to family. They force them into long hours of work for

little or no pay. They make victims work in conditions that are often poor, dangerous, or inhumane. They threaten victims with arrest, deportation, physical harm, and/or harm to family in their home country. They create or build upon debt so that their work becomes never-ending. This is why the CCHT and HSI invest so much into seeking justice for the victims we encounter. In FY 2022, HSI assisted 765 human trafficking victims: 459 adults and 306 children.

Over the last three fiscal years, HSI has opened more than 3,000 investigations into human trafficking and related federal, state, or local violations. Statistically, there are fewer labor trafficking than sex trafficking investigations because labor trafficking can be especially difficult to detect, investigate, and prosecute. This is for several reasons, including isolation of the victims, limited sources of corroborating evidence, and challenges in earning the trust of victims to elicit their statements. As a result, HSI fully supports the National Action Plan to Combat Human Trafficking that calls for an increased focus on forced labor and, over the next year, the CCHT is establishing an entire unit of 15 personnel dedicated to supporting forced labor investigations.

The CCHT is also part of an interagency Forced Labor Initiative with the goal to increase federal prosecutions of criminal forced labor violations. Under this initiative, the CCHT coordinates with DOJ's Human Trafficking Prosecution Unit, the Federal Bureau of Investigation, the Executive Office for United States Attorneys, the Department of State's Bureau of Diplomatic Security, and DOL's Office of Inspector General, Occupational Safety and Health Administration, and Wage and Hour Division. Members meet monthly to identify significant investigations to support through specialized expertise and strategic guidance. The initiative has a substantial focus on forced child labor and, for example, has been analyzing reports, complaints, and other indicators of potential trafficking of unaccompanied children to initiate and advance federal investigations. The initiative has yielded U.S. Attorney's Offices' support for specific HSI investigations, for which we are grateful.

Victim-Centered Approach

HSI is first and foremost about the people it is here to protect and serve, therefore, identifying and assisting victims is paramount. The CCHT includes the words "Victims First" in its logo as a reminder of why we do this work.

At HSI, a victim-centered investigation and prosecution means focusing the investigation and prosecution around the victim while minimizing any undue stress, harm, and trauma to the victim. Using this approach prioritizes victims' rights, safety, and interests. It is key to successful trafficking investigations.

Being victim-centered is a responsibility of all personnel in accordance with federal law, including the Victims' Rights and Restitution Act, 34 U.S.C. § 20141, and the Crime Victims' Rights Act, 18 U.S.C. § 3771. Special agents conducting trafficking investigations receive specific training on victims' needs and trauma so that they can best work with them. HSI forensic interview specialists conduct fact finding interviews that are designed to elicit accurate and complete information in an investigation and are developmentally appropriate for children. HSI

Victim Assistance Program Specialists make sure that victims receive referrals for any services they may need in the aftermath of the crime. Such referrals are based on the unique needs of the victim and can be comprehensive to include case management, shelter, clothing, food, medical and mental health care, legal assistance, immigration assistance, employment placement, and education. We offer age-appropriate services to children and referrals for community-based services to parents and guardians. HSI immediately refers unaccompanied children to HHS to take custody and to provide assistance through its programs.

Challenges

Our Victim Assistance Program serves to provide the necessary and legally mandated victim services that help to ensure victims are put on a path to recovery. Currently we do not have enough victim assistance specialists for every office participating in a human trafficking or child exploitation task force, where there is a consistent demand for services. This puts an undue burden on our special agents who must take on that role while also conducting their criminal investigations.

Just as victim assistance is so very important, HSI personnel hear victim accounts and seek evidence about the worst of humanity, and they carry that with them the rest of their lives. They need professional and peer support to maintain their mental health. HSI needs a permanent peer and clinician support program that addresses the secondary trauma HSI personnel experience from working human trafficking cases.

Additionally, I bring your attention to an Office of Management and Budget-approved DHS legislative proposal transmitted to this Congress regarding statutory improvements for Continued Presence (CP). The proposal would bring much needed clarifications and reduce barriers to ultimately ensure that the currently underutilized CP is fully available, accessible, and used. These improvements would likely increase the number of noncitizen victims who receive CP and greatly aid them in their recovery. Simultaneously, it would strengthen human trafficking investigations at the federal, state, and local level because more noncitizen victims would achieve greater stability that would allow them to better cooperate with law enforcement.

Conclusion

HSI is committed to using every authority and resource available to make federal criminal arrests of human traffickers and to identify and assist the victims. We remain available for reports, referrals and tips of human trafficking from our federal interagency partners here today; other federal, state, local, tribal, and territorial law enforcement; and victim service providers and NGOs. We will continue to focus on increasing forced labor investigations, including forced child labor investigations, through strong existing partnerships.

Thank you again for the opportunity to appear before you today and for your continued support of HSI and its law enforcement mission. I look forward to your questions.