



U.S. Immigration and Customs Enforcement

STATEMENT

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

REGARDING A HEARING ON

“THE MS-13 PROBLEM: INVESTIGATING GANG MEMBERSHIP AS WELL AS ITS
NEXUS TO ILLEGAL IMMIGRATION, AND ASSESSING FEDERAL EFFORTS TO END
THE THREAT”

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

Wednesday, June 21, 2017
226 Dirksen Senate Office Building

Chairman Grassley, Ranking Member Feinstein, 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 (UAC) arriving in the United States.

ICE enforces 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 46 foreign countries, the men and women of ICE execute our mission humanely, professionally, and always in accordance with the law.

Enforcing Immigration Laws

Our immigration enforcement efforts are led by the more than 6,000 law enforcement officers of Enforcement and Removal Operations (ERO). These dedicated officers enforce our Nation's immigration laws by identifying, arresting, detaining, and removing removable 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 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 immigration enforcement through the faithful 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 removable 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 can pose a threat to national security and public safety. This is particularly true for aliens who engage in criminal conduct in the United States.

ICE arrests are up 37 percent since the same time period last year, charging documents issued are up 47 percent, and detainers issued are up 75 percent. Thus far in this fiscal year, through June 3, 2017, ICE has removed 155,338 aliens from the United States and repatriated them to 181 countries around the world; these are aliens who posed a danger to our national security, public safety, or the integrity of the immigration system. Of those removed, 55 percent (85,474) had criminal convictions. ICE has also issued 87,288 detainers and 71,021 charging documents; maintained an average daily population of 39,102 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 June 5, 2017.

Combating Transnational Criminal Organizations

ICE investigators 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 Homeland Security Investigations (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.

Last year, ICE investigations led to the disruption or dismantlement of transnational criminal organizations (TCOs). ICE made more than 32,709 criminal arrests, including arrests of more than 4,606 transnational gang members. ICE also seized 1.5 million pounds of narcotics, made 2,203 seizures for violations of U.S. export laws and regulations, and seized nearly \$541 million in currency and monetary instruments. Additionally, ICE identified and assisted more than 2,000 crime victims, including 435 human trafficking victims and more than 820 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 takes very seriously the threat to national security that transnational organized crime represents, and ICE 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's success against gangs is our ability to use a multifaceted approach to attacking violent crime by applying appropriate investigative strategies and law enforcement authority. Working in accordance with President Trump's January 25, 2017, Executive Order: *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'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 is a TCO that includes members in the United States and El Salvador, where gang leadership directs and controls cells, often referred to as "cliques", in the United States. In October 2012, as a result 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.

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 57,000 criminal and administrative immigration arrests of gang leaders, members, and associates, including more than 7,000 MS-13 gang leaders, members and associates.

From Fiscal Year (FY) 2016 to FY 2017 (as of June 4, 2017), ICE has made more than 8,000 criminal arrests of gang leaders, members, and associates that resulted in more than 2,600 convictions so far. Additionally, during this same time period, ICE made 1,117 administrative immigration arrests of gang members.

Project New Dawn

From March 26 to May 6, 2017, ICE and our law enforcement partners executed the most recent SURGE operation, Project New Dawn, which resulted in 1,378 arrests. Of those 1,378 arrests, 1,098 were criminal arrests and the remaining 280 were administrative immigration arrests. As a result of this effort, 238 firearms, close to \$500,000 in currency, and more than 271 kilograms of illicit narcotics were seized. This surge was designed to identify and investigate the membership of and criminal activities committed by transnational criminal street gangs throughout the United States. Most of the individuals arrested during Project New Dawn were U.S. citizens, but 445 foreign nationals from 21 countries in Central America, Asia, Europe and the Caribbean were also arrested. Of the 1,378 individuals arrested, 1,095 were gang members or gang associates (762 gang members and 333 associates of gang members). 903 were charged with criminal offenses and 192 were arrested administratively for immigration violations. The remaining 283 individuals arrested claimed no gang involvement. The majority of arrestees were affiliated with MS-13 (104), Sureños (118), Bloods (137), and Crips (104). Enforcement actions occurred around the country, with the greatest activity taking place in the Houston, Newark, Atlanta, and New York areas.

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 domestic roots can be traced to Los Angeles, California, the group has migrated to cities throughout the country, and has become one of the largest and most violent street gangs in the United States.

From FY 2016 to FY 2017 (as of June 4, 2017), ICE HSI has made 602 criminal arrests of MS-13 gang leaders, members, and associates that resulted in 153 convictions so far. Additionally, during this same time period, ICE HSI made 170 administrative immigration arrests of MS-13 members.

The 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.

Currently, ICE has 87 domestic and international gang investigations targeting MS-13 members and networks in Long Island, New York; New York City; New Jersey; Boston,

Massachusetts; Maryland; Northern Virginia/DC; Norfolk, Virginia; Columbus, Ohio; Colorado; Detroit, Michigan; Nashville, Tennessee; 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 ICE ERO also focuses its arrests on U.S. Code Title 8 (Aliens and Nationality), ICE ERO may target MS-13 and other gang members on the basis of their immigration status, 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. As an example, this month, ICE ERO worked with the Northern Virginia Regional Gang Task Force to arrest an MS-13 gang member who posed a threat to the community, and last month, worked with Salvadoran, state, and local authorities to arrest an MS-13 gang member in Houston, Texas, wanted in El Salvador for aggravated homicide.

In November 2016, a body was discovered in a shallow grave in Montgomery County, Maryland. ICE HSI Baltimore and the Montgomery County Police Department, with assistance from ICE HSI Newark, concluded that this was an MS-13-related homicide. The subsequent investigation revealed that the victim was lured online by MS-13 members. In March 2017, three MS-13 members were indicted on federal kidnapping charges. This is an ICE HSI Baltimore-led investigation worked in conjunction with Montgomery County Police Department.

Since December 2015, ICE HSI Baltimore has been investigating several other violent MS-13 cliques in Maryland, including one responsible for the murder of a rival gang member. ICE HSI Baltimore, working in conjunction with Montgomery County Police Department, obtained evidence of the murder and other criminal activity committed by MS-13 members, leading to the indictment of eight MS-13 members for various federal charges, including Murder in Aid of Racketeering.

In March 2015, ICE HSI Los Angeles and the Los Angeles Police Department (LAPD) began investigating several MS-13 members of a notoriously violent MS-13 clique that was believed to be responsible for multiple unsolved homicides in Los Angeles, California. During this investigation, ICE HSI Los Angeles and LAPD identified the nationwide and international MS-13 network and obtained evidence that linked them to the unsolved homicides. In December 2015 and January 2016, ICE HSI Los Angeles and LAPD, with assistance from the Drug Enforcement Administration, arrested more than two dozen MS-13 members and associates for homicide, attempted homicide, extortion, narcotics trafficking, and gang conspiracy offenses. In October 2013, ICE HSI Charlotte and partner law enforcement agencies began investigating a violent MS-13 clique operating in Charlotte, North Carolina that was responsible for three homicides and multiple attempted homicides. In May 2015, 37 MS-13 members and associates were indicted and arrested for Racketeering Influenced Corrupt Organization (RICO), Murder in Aid of Racketeering, narcotics, and firearms violations. As of February 2017, 34 MS-13 members and associates have been convicted and sentenced with three of the indicted MS-13

members remaining fugitives. This investigation was worked in conjunction with the Charlotte-Mecklenburg Police Department, North Carolina Alcohol Law Enforcement, and the Federal Bureau of Investigation Charlotte Field Office.

In February 2014, ICE HSI New York received information that four MS-13 members kidnapped and murdered a fellow MS-13 member, whose body was discovered on a Long Island beach with a single gunshot to the back of the head. The investigation revealed that the suspects mistakenly believed that the victim was cooperating with law enforcement. Subsequently, ICE HSI New York obtained an indictment for the four MS-13 members that committed the homicide. The four MS-13 members were later convicted for the crime. This investigation was worked in conjunction with the New York Police Department and the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

Beginning in 2013, ICE HSI Baltimore has been investigating several MS-13 cliques that were believed to be responsible for several unsolved murders in Montgomery and Prince George's Counties, Maryland. Of the 16 indicted MS-13 members, 15 were convicted for eight (8) homicides, six (6) attempted homicides, kidnappings, assaults, extortions, and witness tampering and intimidation that took place between 2010 and 2013. The lone fugitive is awaiting extradition from Guatemala. This investigation was worked in conjunction with Montgomery County Police Department and Prince George's County Police Department.

Unaccompanied Alien Children

As you know, in 2014, an unprecedented surge of families and unaccompanied alien children from Central America tried to enter the United States along the southwest border. Among the reasons for this 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, we continue to address this humanitarian and border security issue in a manner that is comprehensive, coordinated, and humane. ICE, as one of several Federal agencies involved in the processing of unaccompanied alien children, 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.

Under the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), an unaccompanied alien child 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 Department is seeking to remove them. The vast

majority of UAC encountered along the U.S. southwest border in 2014 came from these three countries and were placed in removal proceedings. 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, UAC may renew his or her application before the immigration judge in removal proceedings.

Once a child is determined to be a UAC, the TVPRA requires DHS to transfer the UAC to HHS/ORR, which is responsible for temporary care of the child and his or her release to suitable sponsors pending the outcome of their immigration proceedings. It is generally ICE's responsibility to quickly and safely transport UAC to HHS/ORR. In FY 2016, DHS transferred 57,040 UAC to HHS/ORR. In FY 2017 (through June 3, 2017), DHS has transferred 29,537 UAC to HHS/ORR.

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.

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 UAC; 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, and pending his or her transfer to HHS/ORR, such children are separated from adult detainees for their safety. During this time, these unaccompanied children are also provided with regular access to snacks, milk, juice, consular officials, telephones, and other resources.

Removal of Unaccompanied Alien Children

For UAC 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 flight and, during transport, children must be accompanied by appropriate personnel. Between FY 2012 and FY 2016, ICE removed a total of 10,188 UAC from the United States, including 1,005 to El Salvador, 3,408 to Guatemala, and 2,413 to Honduras.¹

Conclusion

Thank you again for the opportunity to appear before you today and for your continued support of ICE and its law enforcement mission. ICE is committed to investigating MS-13 gang violence, disrupting the MS-13 pipeline, and dismantling their criminal enterprises.

We would be pleased to answer any questions.

¹ Note that these removal counts are based on designation of unaccompanied alien children at time of initial book in and individual aliens may no longer be under the age of 18 at the time of removal.