

# PROTECTING THE HUMAN RIGHTS OF FOSTER CHILDREN

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## HEARING BEFORE THE SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW OF THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE ONE HUNDRED EIGHTEENTH CONGRESS

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## **PROTECTING THE HUMAN RIGHTS OF FOSTER CHILDREN**

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**THURSDAY, DECEMBER 14, 2023**

UNITED STATES SENATE,  
SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 1 p.m., in Room 226, Dirksen Senate Office Building, Hon. Jon Ossoff, Chair of the Subcommittee, presiding.

Present: Senators Ossoff [presiding], and Blackburn.

### **OPENING STATEMENT OF HON. JON OSSOFF, A U.S. SENATOR FROM THE STATE OF GEORGIA**

Chair OSSOFF. The Subcommittee on Human Rights and the Law will come to order. And I'll begin just by letting everybody know that there's a vote on the floor right now, Senators with a variety of other obligations. But we know Ms. Gaston, that you've got a hard stop after about an hour, so we're going to go ahead and begin, and Members will come and go throughout the hearing.

Eight months ago, the Subcommittee opened a bipartisan inquiry into the safety and human rights of children in foster care across the United States, because protecting America's most vulnerable children from abuse and neglect is a moral imperative.

We're talking about the most vulnerable children in the United States. Children who have been abused and neglected. Children who have been trafficked. And for these children, State foster agencies are meant to be a sanctuary, a safe haven, and often a last resort.

Naturally, I take the greatest interest and have the highest obligation in and to children in my home State of Georgia. And as a result, the Subcommittee as part of this inquiry, has undertaken a deep dive case study into the safety of foster care in Georgia, where we have found significant evidence that children have been left vulnerable to abuse and neglect, where children have been trafficked, harmed after being placed with unfit caregivers, placed in isolation and conditions akin to solitary confinement at group homes.

And the Subcommittee recognizes that these represent national dynamics and trends and challenges that impact the safety and welfare of vulnerable children across the country.

So today we're going to dive deeper into the Federal Government's efforts and responsibilities to protect children in foster care from abuse, from neglect, from sex trafficking, hearing from distin-

guished witnesses, representing the Department of Health and Human Services, and the Federal Bureau of Investigation.

We will hear first from Rebecca Jones Gaston, who is the Commissioner of HHS Administration for Children and Families, and the previous Director of Child Welfare for the State of Oregon. Commissioner, again, we know you have other commitments this afternoon, and we will work to accommodate your schedule and appreciate your attendance.

And after Commissioner Jones Gaston, we will hear from Deputy Assistant Director Jose Perez of the Federal Bureau of Investigation, who helped lead Operation Cross Country which recovered 200 victims of sex trafficking, many of them children who had gone missing.

If the witnesses would please rise and raise your right hands so you can be sworn in.

[Witnesses are sworn in.]

Chair OSSOFF. Let the record reflect that the witnesses answered in the affirmative. Please take your seats.

And Commissioner Jones Gaston, we will begin with your opening statement when you're ready.

And just a reminder, both, to please ensure that the red light under your microphone is illuminated when you wish to speak. Thank you.

**STATEMENT OF HON. REBECCA JONES GASTON, COMMISSIONER, ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, WASHINGTON, DC**

Commissioner JONES GASTON. Chairman Ossoff, Ranking Member Blackburn, and distinguished Members of the Committee, thank you for the opportunity to appear today on behalf of the U.S. Department of Health and Human Services.

I'm Rebecca Jones Gaston, Commissioner for the Administration for Children, Youth and Families, within the Administration for Children and Families.

Thank you also for the years of strong bipartisan support and partnership on child welfare prevention efforts, which provided the foundation for and enabled the passage of the Family First Prevention Services Act, FFPSA. ACYF is committed to supporting parents, caregivers, and children through holistic and proactive approaches that focus on keeping families together and preventing unnecessary involvement with the foster care system.

I hear routinely from young people and families that have experienced the child welfare system, that many families could have stayed safely together if support for their concrete needs had been met. As part of our commitment to advance prevention and family preservation, the lived experience of families who've encountered the system will continue to be informing our policies and our programs.

We're working with States and Tribes to shift the focus of the child welfare systems, helping them implement Family First and promoting cross system collaborations that recognize the child welfare system alone cannot support family well-being. This effort will take time and cannot be done solely at the Federal level.

The President's Fiscal Year 2024 budget, including proposals to reauthorize increased funding for and amend the Promoting Safe and Stable Families Act, Title IV-B of the Social Security Act, and the Runaway and Homeless Youth Act, would expand and provide incentives for the use of the Title IV-E Prevention Services program, and provide additional support for Tribes and support youth who are at risk or victims of commercial sexual exploitation and human trafficking.

ACYF's Children's Bureau provides leadership to improve the safety, permanency, and well-being of children and families. We partner with Federal, State, and local agencies, as well as Tribal nations, directing the implementation of monitoring and data systems designed to assess and ensure Tribal grant recipients, States, and the courts meet established standards and outcomes for the Federal child protection adoption and foster care, and guardianship programs.

We participate in a variety of activities to carry out this mission, such as funding essential services, supporting innovation, sharing research, offering training and technical assistance in monitoring child welfare services, and working with States, Tribes, territories, to improve child welfare delivery, achieve positive outcomes for children and families, and ensure that every child and youth has a family and permanency.

The Children's Bureau Regional Offices conduct ongoing joint planning with States and Tribes for the development of the strategic 5-year Child and Family Services plan, and updates through the annual progress and services report.

Further, regional offices provide direct technical assistance to grant recipients and, in partnership with other divisions, conduct the Child and Family Services Review, otherwise known as CFSR, Title IV-E eligibility under the Social Security Act, and other reviews.

One of the most impactful means by which we assist States in ensuring the safety, permanency, and well-being of children and families they serve, is through regulatory action.

In September of 2023, the Biden-Harris administration issued a "final kinship rule" and two proposed rules that once implemented will have profound impacts on child well-being in the child welfare systems in America.

These three rules are designed to remove barriers to keeping families together, where eligible, allow for reimbursement for legal representation to help stabilize families, and reduce the need for more formal child welfare system involvement, including fairness in the child welfare system, and improve safe and appropriate placements for all youth.

Collectively, along with the Family First Act, these rulemakings represent perhaps the most substantial advances in child welfare in a generation.

Thank you for the opportunity to discuss ACYF's mission and work. I look forward to working with Congress as part of our shared collective efforts to ensure the safety, permanency, and well-being of children and families. I'm happy to answer your questions.

[The prepared statement of Commissioner Jones Gaston appears as a submission for the record.]

Chair OSSOFF. Thank you, Commissioner Jones Gaston. We will now hear from you, Deputy Assistant Director Perez.

**STATEMENT OF JOSE A. PEREZ, DEPUTY ASSISTANT DIRECTOR, CRIMINAL INVESTIGATIVE DIVISION, FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, DC**

Mr. PEREZ. Good afternoon, Chairman Ossoff, Ranking Member Blackburn, Members of the Subcommittee. Thank you for the opportunity to come to you here today to speak about an important topic, human trafficking, which includes sexual exploitation of children and sex trafficking.

My name is Jose Perez. I'm the deputy assistant director in the FBI's Criminal Investigative Division. Under my investigative responsibilities, I have our Violent Crime Program, Transnational Organized Crime Program, and also, more specifically for today, the Crimes Against Children Program.

We at the FBI have no more important mission than protecting the most vulnerable among us, especially children. This work is a priority in all our 56 field offices around the country. We can't stop human trafficking alone, so we partner closely with numerous State, Federal, and local law enforcement agencies, as well as non-governmental, and non-profit agencies on the front lines to address the threat across all angles and provide valuable victim assistance as one coordinated team.

Human trafficking, or trafficking in persons, is a crime in which a person is exploited for labor, services, or commercial sex acts. It occurs in every region of the United States and throughout the world, and is perpetrated by an array of actors from individual criminals to more structured criminal organizations.

Often trafficking occurs together with other criminal conduct, such as financial crimes, narcotics trafficking, online sexual exploitation of children, sextortion, and other types of crimes of violence.

Sex trafficking of adults includes the recruitment, solicitation, and transportation of a person for the purpose of commercial sex facilitated through force, fraud, or coercion.

Any exploitation of a minor for commercial sex is human trafficking. And child sex trafficking does not need to involve any type of proven physical force or coercion.

Similarly, labor trafficking also includes a recruitment harboring and transportation of a person, but for the purpose of subjection to forced labor or involuntary servitude. Labor trafficking can occur in any industry and is prevalent in agriculture, domestic work, construction, landscaping, factories, and manufacturing.

Human traffickers come from a wide variety of backgrounds and demographic categories, and are oftentimes facilitated by criminal enterprises and transnational criminal organizations.

Criminal enterprises often operate in plain sight and can go undetected for decades affecting hundreds of victims before being identified.

Victims often do not leave their situations because they fear their traffickers, or have a distrust toward law enforcement, or a lack of understanding of their basic rights. Trafficking can affect anyone

regardless of age, race, sex, or ethnicity. Still, vulnerable populations tend to be at higher risk for being trafficked.

Traffickers can and will identify and exploit vulnerabilities, and they often control their victims' resources, their safety, and their living and working conditions. Traffickers can also have access to services that can exert power over their victims. The FBI investigates all forms of human trafficking, including child sex trafficking, regardless of the victim's age or nationality.

But as I mentioned, we can't do it alone. We work with our external partners, primarily National Center for Missing & Exploited Children, or NCMEC. We have personnel embedded not only to identify and locate victims, but also to help hold the subjects accountable who are victimizing children. Social welfare agencies are often some of our best partners in identifying trafficking schemes, as well.

We collaborate with these organizations through multidisciplinary teams, which are comprised of different entities working together to coordinate forensic interviews, medical exams, counseling, and other services. Additionally, we combat human trafficking and child exploitation by working with our Federal, State, and local partners.

Through the FBI's more than 85 child exploitation and human trafficking task forces spread out around the country amongst our 56 field offices consisting of hundreds of FBI agents and over 800 task force officers, this approach has yielded many positive results.

Just this month in Los Angeles, a man was sentenced to life in prison for recruiting teenage girls and an adult for commercial sex work. The subject advertised victims for commercial sex on websites and facilitated responses to online ads by arranging in-person meetings with their victims. The subject victimized at least three minor girls and used threats of force and coercion to traffic a young adult—all for his own profit.

The Los Angeles Child Exploitation and Human Trafficking Task Force coordinated with several law enforcement agencies and NCMEC throughout this case. Still, we're working to build more relationships and provide training to private organizations because awareness is key and the problem is not contained. Each of the FBI's 56 field offices receives regular complaints regarding human trafficking and child exploitation.

We're also part of the ongoing DOJ Forced Labor Working Group, as well as other working groups aimed at executing the White House's National Action Plan to combat human trafficking. We also have an entire division devoted to victim services and a cadre of victim specialists who are key to integrating victim-centered services in all of our Federal investigations.

Members of the Subcommittee, we appreciate your support in this realm. Thank you so much for the opportunity to speak.

[The prepared statement of Mr. Perez appears as a submission for the record.]

Chair OSSOFF. Thank you, Mr. Perez. And before I ask questions, I'll yield in a moment to Ranking Member Blackburn for her opening statement.

I just want to say, before I do that, I have observed few Members of the Senate who have demonstrated a more sustained commit-

ment to child protection and the prevention of child trafficking than Senator Blackburn. And we identified early in this Congress that the protection of vulnerable children was an important shared priority.

We've also collaborated with the introduction of the Filling Public Safety Vacancies Act, to empower local law enforcement with the resources they need, and are now working together to try to pass our REPORT Act, which would, Mr. Perez, as you alluded to, empower NCMEC to provide law enforcement agencies with more and better information to prosecute online child exploitation.

So, I thank Ranking Member Blackburn for her collaboration and participation, and yield to you now, Senator, for your opening statement.

**OPENING STATEMENT OF HON. MARSHA BLACKBURN,  
A U.S. SENATOR FROM THE STATE OF TENNESSEE**

Senator BLACKBURN. Well, and thank you for that.

And yes, I think our REPORT Act is scheduled to go on the hot-line today, and it already has a House Sponsor.

I want to thank each of you for being here. And Mr. Chairman, thank you for the hearing and for building this out a little bit.

Mr. Perez, I so appreciated your remarks, and we're doing this at a time that I think so many people have lost sight of how important it is to protect children. And to your point, Mr. Perez, how important it is to go after these traffickers.

And they're out there, you know they exist, they're on social media, and NCMEC is trying to go after them. And it is vitally important that we go after these traffickers and these people that are making a profit off of going after the most vulnerable among us.

And I know the Chairman knows, some of you may know, for the last several weeks I've been trying to figure out and to subpoena the records for Jeffrey Epstein's plane to find out who was on that plane.

I've been so disappointed that Chairman Durbin has continued to block this because Jeffrey Epstein had, probably, what is the most high-profile sex trafficking ring we've ever seen, ever heard about. It was high-profile, high-dollar people that were predators on these young girls.

And I don't know why there is a push to block these records. We need to have access to this. We need to know who was on that plane, who was participating in this. They redacted those records in the Ghislaine Maxwell trial. But getting to the bottom of this is important.

And as we talk about protecting children and providing for them, and the role of the Federal Government in this, for goodness sakes, let's try to figure out what HHS has done with 85,000 migrant children, and where they are, whose hands they are in, the labor trafficking that you talked about.

I find it unconscionable that 85,000 children we cannot find. Just as I find it unconscionable that Chairman Durbin would have continued to block my request to subpoena those flight logs.

But we appreciate, so much, that you all are here today, and Mr. Chairman, your leadership on these issues, I appreciate. Thank you.

Chair OSSOFF. Thank you, Senator Blackburn. And certainly, we will ensure that our witnesses have the opportunity should they wish, and should Senator Blackburn ask to respond to those points.

I want to begin, Commissioner Jones Gaston, discussing the role that HHS plays in protecting foster children across the country.

The Child Abuse Prevention and Treatment Act requires child welfare agencies to have procedures to receive, screen, and investigate reports of child abuse and neglect, and requires those States to include child sex trafficking in their definition of abuse and neglect. How does HHS ensure that State child welfare agencies screen-in victims of child sex trafficking in practice and not just as a matter of policy on paper?

Commissioner JONES GASTON. So, the oversight of child welfare agencies across the country that are IV-E agencies receiving Federal funds from the Children's Bureau, we have a oversight process called the Child and Family Services Review. And that process involves case review, data review, and interviews with young people, community members, parents that are involved in the cases that are being reviewed. That's the primary mechanism for oversight in the long term.

States are also required to have a Title IV-E plan that they've submitted, and that includes the policies and procedures that they have in place that adhere and follow Federal law and regulation. And those plans are reviewed and approved at the Children's Bureau.

Chair OSSOFF. I appreciate that, and where I want to press a little bit further here is, having a plan or a policy documented on paper is an important start. If there are failures to implement those plans or policies, if it's policy without effective practice, then the objective of ensuring that vulnerable children are protected may not be achieved.

Are there tools in statute or in practice that HHS either has or lacks to ensure, for example, that this requirement that child sex abuse cases be screened-in and not screened-out upon a report or an allegation that these policies are implemented? Do you need more tools in order to ensure that those policies are implemented?

Commissioner JONES GASTON. So when the requirement came out that child abuse—that calls to the hotline that indicated concerns around trafficking needed to be screened-in, efforts were made in providing technical assistance and support to jurisdictions to understand what the law is and make plans for how they were going to implement that practice.

Some required State legislative actions, some required regulatory action at the State level. ACF has the overarching Federal rules and regulations. Each State actually runs their child welfare system and has their definition of what child abuse and neglect are. So I want to make sure that's clear.

And then through the Child and Family Services Review that I spoke about is one mechanism for review. We have regional offices that do joint planning with agencies in regards to how they are implementing the requirements that exist federally, and technical assistance mechanisms that are available and provided to State agencies regarding workforce training, ability to connect with others

that have already made changes in regards to those rules and regulations.

And again, through the review process, or if an issue gets raised up to us, there is then the process of possibly doing partial reviews, where we're going in and seeing in a case review process, if the Federal rules and regulations are being followed in the actual practice on the ground.

Chair OSSOFF. Okay. We'll dig in a little bit more on that in a moment. First, I want to talk about children who are reported missing or who run away and are recovered. Federal law requires State child welfare agencies to have policies and procedures in place to screen children who were recovered after running away from foster care. And the purpose of that screening is to determine whether they were victims of sex trafficking and to provide appropriate services.

A 2022 HHS Inspector General Audit, examining the records of children who were recovered after going missing from care across five States, found that in most cases reviewed, there was no evidence that these children had received the required screening. My question for you is, how does HHS work with States to improve compliance with those screening requirements?

Commissioner JONES GASTON. Well, first of all, the safety of children is priority for us, and we are working really closely with our partners in the Office of Trafficking in Persons, and just last year issued an information memorandum that identified, again, the requirements that exist, but also resources for training and then doing technical assistance through our regional offices to ensure that States have the appropriate policies and practices in place, and identifying technical assistance in their development of the various assessment tools that they have, and in working in close partnership with our, with our OTIP partners in regards to continuing to provide training and learning opportunities for, for the IV-E agencies that we serve.

Chair OSSOFF. Okay. Let's talk a little bit about NCMEC and we'll get into this with the FBI as well, but Commissioner, under Federal Law, of course, State foster care agencies are required to report children missing from care to the National Center for Missing & Exploited Children or NCMEC, as well as to the National Crime Information Center.

But an HHS OIG audit from March of 2023, reviewing data collected from 46 State child welfare agencies across the country, found that 45 percent of the missing child episodes in the review sample, were never reported by States to NCMEC. So how can HHS, and how does HHS work with these State agencies to improve their compliance with the requirement that there be reporting to NCMEC of children missing from care?

Commissioner JONES GASTON. So one of the mechanisms that we've done is issue information memoranda and program guidance in regards to the requirements and through our regional offices, then doing review to make sure that the IV-E agencies have the appropriate processes in place and offering them technical assistance in areas where they identify they need assistance in improving practice in regards to their workforce.

And again, working really closely with our OTIP partners in making sure that we are providing assistance, technical assistance, and awareness out to the IV-E agencies regarding the tools that are available, and the technical assistance that's available so that they can be working on improving their practice.

Chair OSSOFF. Let's talk about the medication of children in foster care. So, to receive Federal funding for child welfare services, States are required to have a plan for the oversight of prescription medications, including psychotropic and opioid medications that are prescribed to children in foster care.

A 2018 HHS OIG Review for a sample of foster children in five States found that one in three children in foster care who were treated with psychotropic medications did not receive the required treatment planning or medication monitoring.

What is HHS doing, what can HHS do to appropriately and adequately monitor the use of psychotropic medication and the State policies and procedures and practices governing the medication of children with psychotropic drugs?

Commissioner JONES GASTON. The Child and Family Services Plan, which is a 5-year plan that we do joint planning with State agencies in, is one place where they are required to report what their plans and strategies are for managing the care of the children that they are over. And then there are annual progress review reports that are submitted.

And so through that and the relationship with the regional offices and the technical assistance that we provide, in addition to the Child and Family Services review, which is a periodic review, is opportunity for us to have conversations and dig in with jurisdictions about what their practice looks like, how they're doing, and what assistance they need to continue to improve, or if they need assistance in identifying examples of policies and procedures that they need to implement at the State level.

Chair OSSOFF. Thank you. And the Subcommittee's heard substantial concern from advocates, attorneys, as well as former foster youth about over medication and the appropriate use of opioids and psychotropic medication for foster children. So, we'll want to dig in a little more deeply there.

At this time, I would yield to Ranking Member Blackburn for her first round of questions.

Senator BLACKBURN. And thank you so much, Mr. Chairman. And I'm so pleased that you brought up the process of vetting these sponsors, because this is something that causes us a tremendous amount of concern and something that news reports have covered. And periodically we will read about people that are improperly vetted, and of course, the issue we have right now with the 85,000 migrant children who cannot be found.

And much of that we've seen reports of these children working in factories. We have seen reports of these children being in processing plants, food processing plants. So they're being used for labor.

So, Ms. Gaston, I know it's a little bit too much to do in a hearing and a 5-minute questioning, but what I would like for you to submit to the record is what you send to the States as best practices for vetting these individuals. And also, the amount of time

that generally is spent on vetting these people who are going to be sponsors. These are vulnerable children, and they are expecting someone to take care of them. And the fact that it is a check the box process as has been reported in some instances, I think we should all hope that we do better than that for these children. So, if you will submit that for the record, I would appreciate that.

Commissioner JONES GASTON. So ACF is absolutely committed to the safety and well-being of the children that are served through our programs. ACYF has a purview over the child welfare system. My colleagues at the Office of Refugee Resettlement have purview over the sponsor——

Senator BLACKBURN. I'm aware of that.

Commissioner JONES GASTON [continuing]. That I believe you're speaking to. And I will be working with them to make sure the information that you're requesting——

Senator BLACKBURN. That's right.

Commissioner JONES GASTON [continuing]. Is submitted.

Senator BLACKBURN. That's right. We need to have that for the record, because there should be a best practices, and we should not read more reports about children who are being used for child labor, children that are being put in sex trafficking rings, children who have sponsors who are improperly vetted and abuse them. We can do better than that. So, thank you.

Mr. Perez, let me come to you for a moment. I've talked a little bit about the need for us to have more transparency, more accountability, more commonsense solutions. And as we look at the persistence of trafficking and especially the sex trafficking that takes place of children, and the Tennessee Bureau of Investigations gave me a stat. Once every 2 minutes, a child in this country is bought or sold for sex. Once every 2 minutes. These are little ones.

So, when we talk about the things that are wrong, whether it's the migrant children, whether it's the foster children, whether it is children that are being recruited and groomed, if you were on this side of the dais, and you said, "Here are some immediate things that you could do." What would you encourage? Where would you encourage us to go first?

Mr. PEREZ. Thank you for the question, Senator. I would say number one, when we're talking about resources there's kind of a few lanes with that. We can always do more with more resources. We always want to be strategic with what we have and make sure we're implementing and aligning those resources properly.

If I was going to point to one thing, one of our biggest challenges when we're talking about human trafficking, and I touched on some links to transnational organized crime, or let's say more sophisticated criminal actors operating in some organized fashion——our biggest challenge across the board is the ability to defeat end-to-end encryption.

Traditionally, our recipe for success in defeating criminal actors, really across the board historically, lawfully identifying an organization, identifying ways to exploit communications, money movements, those kinds of things, and through lawful access through legal process from the court, obtain proper information from communications, those kinds of things.

The ability to move to end-to-end encryption does not really require that much level of sophistication. Many off-the-shelf applications accessible to children are end-to-end encrypted. Our inability to exercise use of legal process to obtain that information, to identify the proper means and methods of a criminal organization to then defeat it, are incredibly hampered by the use of end-to-end encryption.

Senator BLACKBURN. So having the REPORT Act pass, which would require—would enable NCMEC to hold things that come in on the cyber tip line longer, would be helpful?

Mr. PEREZ. Generally, ma'am, we try not to comment on pending legislation, but again, any ability to allow us—

Senator BLACKBURN. Okay.

Mr. PEREZ [continuing]. Use of proper—

Senator BLACKBURN. All right.

Mr. PEREZ [continuing]. Legal authority would be beneficial.

Senator BLACKBURN. That—that sounds good. Now, when you talk about transnational crime and identifying organizations, I've got to bring this forward again, because I asked Director Wray about this a couple of weeks ago when he was before us, and we've got one of the biggest, most well-known most high-profile sex trafficking rings ever in this *Jeffrey Epstein* case.

And Director Wray didn't give me a very complete answer when I asked about transparency around that case, and about releasing those flight logs so we can know who all else is involved in this. And you talk about the need to get information from these organizations and information from the court.

Why would you not release these flight logs? Why would there be a protection of not going after releasing this information? Why would you not make public that information? Why would you not make public all of the video that has been captured from Jeffrey Epstein's Palm Beach townhouse, which the FBI has?

Mr. PEREZ. Ma'am, I'm aware of the interaction with Director Wray from, I believe, last week or the week before. Our team would be happy to work on any formal responses. I'm not aware of any subpoenas that have come to the FBI for formal requests, but we—

Senator BLACKBURN. No, you haven't gotten a subpoena because the Chairman ended up adjourning twice before I could bring forward my request for a subpoena. But you're talking about the need—the need to get this information from these groups, and here you have a group, an organization, and we can't get the information.

And it is just ridiculous that we are sitting here, we have laws on the books, we have expectations of agencies, and we have a need for information. You've got it. We can't get it. Thank you, Mr. Chairman.

Chair OSSOFF. Thank you, Ranking Member Blackburn. I want to continue, Mr. Perez, with a discussion about the National Center for Missing & Exploited Children as well as NCIC, the National Crime Information Center.

According to data from NCMEC's website, in 2022, there were 359,000 entries into the NCIC database for missing children—359,000.

How does the FBI track and prioritize which missing child cases are federally investigated? What is the burden sharing between local, State, and Federal agencies when those reports come in? And how do you decide what gets escalated, what gets referred, and who the lead agency is for a particular case?

Mr. PEREZ. Thank you, sir. We receive information or allegations, if you will, of a kidnapping from a variety of different elements. It could be from a private citizen, it could be from local law enforcement, or from NCMEC. Reports of missing children might not necessarily equate to something that gives us judicial authority or statutory authority to investigate.

Usually how we identify and prioritize these would be, if there's indication of a child—a child of tender years, 12 and under, who's gone missing based on some type of suspicious circumstances, with some indication that it was involuntary or that they're being held against their will, or that they were, again, taken from an environment against their will and being held, then that is something we would immediately deploy resources to.

Usually in these instances, local police are usually the first responders, if you will, in this instance where a family member or a victim of the child might—would probably call local law enforcement, we would immediately engage in those situations. We have regularly, I've been a part of a number of those. And when it's a child of tender years, really regardless, if there's an immediate identification of some type of suspicious circumstances, we will launch resources to embed with the local police to make that determination.

Oftentimes, this could be a runaway situation, but we want to vet that out and work with our local partners. So if there's—as far as a lead agency, that can kind of ebb and flow, we will work continuously with our local partners through our task forces or otherwise to determine really just the best avenue ultimately for prosecution.

But in those instances, when a child has gone missing under truly suspicious circumstances where we believe it's a kidnapping, that is a all-hands-on-deck scenario for an entire FBI field division potentially, where we're going to work and really put our badges to the side, regardless of the department, and the number one priority there is the recovery of that child, secondarily, making sure we identify that—the subject and hold them accountable.

Chair OSSOFF. I appreciate that breakdown and it's instructive. I would note that last month NCMEC testified before this Subcommittee that children who go missing from foster care are especially vulnerable to being trafficked. And we've heard from experts, advocates, attorneys who represent victims of child sex exploitation and trafficking who have testified to the particular vulnerability of foster children to trafficking.

You testified in your opening statement that each of the FBI's 56 field offices have received complaints about human trafficking, reports of human trafficking, and that the FBI is working to build more relationships and awareness. Talk about what that means. How are relationships and awareness a piece of this enforcement and investigation process?

Mr. PEREZ. So, the relationship piece, sir, really goes across all our programs and violations, if you will, at a field office level. So we continually look to engage with our Federal, State, local law enforcement partners to identify violations, human trafficking, child exploitation, really a variety of threats, if you will, that we can offer assistance.

So, whether there is an immediate Federal nexus or not, we're always looking to provide resources to local law enforcement.

In addition to that, we regularly engage through private sector outreach, and interactions with non-government agencies or organizations, who might have access to information or might be what we would refer to as a trip wire, an element where someone can provide us advance, real-time notice of some type of threat. So, we do that through our field offices.

We have a section of partner engagement. We have a number of entities throughout the field offices and at headquarters that really drives interaction with private sector, with non-government entities. Our Victim Services Division expends a lot of time working with local police departments, too, to try to build that relationship to when we do identify victims of a Federal crime, to make sure we're providing proper victim services. So, I would say that's regular engagement.

On the human trafficking piece, we're also working to really share best practices on prosecutions, on investigations, so that we can be better at investigating, holding people accountable, prosecuting these cases, and then providing the necessary services to the victims. So, we do that, again, through communication and collaboration.

Chair OSSOFF. Thank you, Mr. Perez.

Commissioner Jones Gaston, we discussed earlier in this hearing some of the requirement standards, conditions of receiving Federal support for State governments and State agencies. HHS provides many millions of dollars each year to State foster care systems nationwide, and as a condition of receiving Federal funding, those State foster care agencies and State welfare systems are subject to monitoring by HHS. We've discussed some of that.

You described in your testimony that one of the primary ways that HHS monitors State foster care performance are the Child and Family Services Review process. And among other things that process, the CFSR process, measures whether States are adequately assessing risk and managing safety threats to children, whether they are making concerted efforts properly to address reports of abuse and neglect, to assess risk, again, assess risk, and manage safety. First of all, why is it important that HHS monitor States' performance in this area?

Commissioner JONES GASTON. Well, safety for children is paramount. And our oversight of the application and implementation of Federal requirements in child welfare agencies is a piece of that. The ability to have appropriate responses and timeliness is critical. And again, as has been stated, for vulnerable children and being, being able to provide protections for children that need it.

The CFSR process, as stated, is our primary monitoring tool that we have. However, I do want to just note that we also have the ongoing relationship and work that the regional offices do with the

State agencies during that monitoring process, but also as issues arise and the ability to talk about how things are being implemented, questions that we might have about the outcomes that children are experiencing are an important part of that.

Chair OSSOFF. And so, for States that are not in substantial conformity with those Federal standards we discussed—adequately assessing risk and managing safety threats—what is HHS’ role in helping to improve their performance?

Commissioner JONES GASTON. So, the CFSR process involves a sampling of cases where there’s a deep dive into the following of the procedures and requirements at the Federal level, conversations and interviews with young people, parents, foster parents, community members, partners all involved in family and children’s lives. And then it is assessed whether or not they are in compliance or not in conformity with the, the expected measure.

If there’s non-conformity, then there is a process that plays out around building a program improvement plan. And that is done with our team and the State agency’s team in identifying what strategies are going to be employed, what is the benchmark that they’re working toward improving to, and then having ongoing conversations and check-ins along the way during that 2-year period. If at the end of that program improvement plan, the State still has not successfully met the set measure in the plan, then there is a financial penalty that is applied to that agency.

Chair OSSOFF. And am I correct that Georgia DFCS is one of those State child welfare programs that was penalized because it did not complete its program improvement plan?

Commissioner JONES GASTON. Yes. Every State that’s been through a Child and Family Services Review has been involved in a program improvement plan. Georgia, at the end of the third round of the CFSR, did not successfully meet the marker in the program improvement plan, and was issued a penalty.

Chair OSSOFF. In addition to monitoring by HHS, Federal law requires States to establish citizen review panels comprised of members who have expertise in child welfare to evaluate and issue annual reports on the States’ efforts to fulfill its child protection obligations. Why is it important for States to have these panels in place?

Commissioner JONES GASTON. Child welfare can’t do its work alone. The work of protecting children and working with families is, in fact, a community and societal responsibility. And so having citizens of the community as part of an assessment process and digging into doing case reviews and giving a non-agency perspective on what’s happening around a particular case or overall in regards to the agency’s practices, is important to be able to have diverse perspectives and insight into what’s happening in order to be able to really fully continue to focus on and—continued improvement in practice and striving for better and better outcomes.

Chair OSSOFF. Thank you, Commissioner. I want to take a moment and note since there’s been some lively discussion, some criticism earlier of the Full Committee’s engagement on these issues that protecting children from sexual exploitation has been one of this Committee’s—when I say this Committee, I mean the Full

Senate Judiciary Committee—top priorities in this and the last Congress.

The Full Committee held a hearing on kids' safety online. I expect, based upon conversations with Chair Durbin, that next month there will be a hearing with Big Tech CEOs to discuss their failures to protect children from online exploitation.

And Chair Durbin and Ranking Member Graham have issued subpoenas to three of those CEOs. This year the Committee has reported to the full Senate six bipartisan bills to help protect child safety online. And one of those, for example, is my and Ranking Member Blackburn's REPORT Act.

And I understand that in the previous Congress, Senator Blackburn and Chair Durbin led legislation that was signed into law that eliminated statutes of limitation for Federal civil suits by survivors of childhood sex abuse.

I also have a note here from Chair Durbin making clear his intention and willingness to work with Senator Blackburn on a bipartisan basis to obtain records relevant to the *Jeffrey Epstein* case, that Ranking Member Blackburn noted. And so I want to make sure that that was made clear for the record since Chairman Durbin has another engagement at this time and isn't here.

I want to continue with the FBI, Mr. Perez, and dig in further on the efforts that are being made to investigate and prosecute the trafficking and exploitation of children. In August of this year, the FBI reported that during Operation Cross Country—and I believe you were intimately involved in this operation—that 200 victims of sex trafficking, many of whom were children and who had gone missing, were recovered.

Were all the children who were reported missing, all the children who were found who had gone missing, had they been reported properly to NCIC as a missing child at the time that they were recovered by law enforcement?

Mr. PEREZ. Sir, I do not have that answer. I can tell you that when we encounter—a few things, we look to identify locations of victims and also at times through identification. Sometimes when we say “identification,” that could be in an online case where we've identified a child victim that's being exploited, and then there's also a “locate”—meaning that we've actually physically located a child that's being exploited. I don't have information to speak specifically if all those children were entered into NCIC or not, sir.

Chair OSSOFF. Thank you, Mr. Perez. Are you familiar with child advocacy centers? These are the national, regional, and local organizations that help coordinate the investigation, treatment, and prosecution of child abuse?

Mr. PEREZ. Yes, sir.

Chair OSSOFF. In your view, why are these child advocacy centers valuable partners for the FBI and other law enforcement agencies to help recover missing and trafficked children?

Mr. PEREZ. So, one of our strategies is, when it comes to exploitation of children and adults, we look to take a victim-centered trauma-informed approach, meaning that beyond holding the perpetrators accountable, we want to make sure that we're providing the proper care and techniques when discussing the abuse with the

victim, and ensuring that we do not continue a pattern of abuse. So, we do that.

We've taken steps internally within the FBI to expand that, to develop what we refer to as our child adolescent forensic interviewers, meaning that every time we encounter a child victim, we have trained personnel, professional personnel who are fully dedicated to have those communications and ensure that we get proper information, but at the same time that we're not re-victimizing a child. We seek to do that across the country.

However, resources being limited, there's oftentimes where we look to really augment those resources through the Child Advocacy Center. So we'll partner up with those elements depending, sometimes, if our resources are not available or either provide a venue for the interview or those kinds of things. So it's an invaluable partner. It really just augments our ability to treat victims in an informed way, in a sensitive way to make sure that we prevent re-victimization.

Chair OSSOFF. Thank you, Mr. Perez.

Commissioner, we've got about 6 minutes till you have to depart. We talked about the CFSR process. We've talked about the program improvement plans that are developed jointly whether issued to States that are in substantial non-conformity with the Federal standards, for example, on assessing risk and managing safety threats to children.

You noted that penalties can be assessed in some cases where the program improvement plan is not fully, properly, successfully implemented.

Earlier when we were talking about, for example, the requirement under CAPTA that States include child sex trafficking and their definition of abuse and neglect, or that the requirement that child welfare agencies screen-in victims of child sex trafficking in practice and not just in policy.

And that's an important distinction because putting something in a policy manual is not always the same thing as implementing that policy in practice by your State partners. Here we're talking about State child welfare and foster care agencies.

In the case of a CFSR, you have a remedy: the PIP program, penalties associated with non-compliance. So, before we get into remedies on other aspects, my first question is, is that working? Is that driving an improvement in performance, an improvement in compliance with these Federal standards by State foster cases?

I ask this because as we contemplate legislative solutions to strengthen the protection of vulnerable children across the country, we need to understand whether the tools with which we've already empowered you are sufficient as you are implementing them.

Commissioner JONES GASTON. Thank you, Chairman. The CFSR, we're in our fourth round. It has been in place since the early 2000s. And I had mentioned earlier that every State when they go through the review ends up in some form of a program improvement plan. Many jurisdictions have been able to actually successfully exit their program improvement plan without a penalty. And so to that end, I would say that the review process does work in the instance of being able to hone in, identify strategies in partnership with the States.

I think continued quality improvement is something that we are continually working on with the levers we do have and the technical assistance we can provide. The oversight of the child welfare system—rather, I'll correct that. The oversight of the Federal implementation and the Federal rules sits with ACF. The actual implementation of the child welfare system and the running of the child welfare system is at the local level, at the State level.

And so it does require partnership and working really closely with the jurisdiction in that balance between practice and policy, as you're indicating.

Chair OSSOFF. And so, in the other conditions, requirements, and standards, you know, CFSR, you have a program improvement plan process. There are penalties where there's failure to implement the program improvement plan. It sounds to me like what you're saying is that you think that those incentives are driving States—not in all cases, we discussed Georgia—faced a penalty for not successfully completing its program improvement plan, but other States are—many States are, according to your testimony, completing those program improvement plans successfully. And the sense I'm getting is that you think that's working.

For Federal standards that are not captured directly by the CFSR asking you earlier, for example, if a State does not successfully implement policies and procedures to screen children who are recovered after they've been missing for sex trafficking. And this OIG report looked at five States and found that in most cases there was no evidence that the children had been appropriately screened by the State agencies—to be clear, not by HHS, but by the State agencies.

When we were discussing that problem, what I heard was you can provide technical assistance, you can provide best practices, you can remind States of the Federal standards, but do you have a remedy akin to the program improvement plan and the penalties associated with it? Are there sticks and carrots, or are there just best practices that you communicate to the best of your ability within the confines of your relationship with that State agency?

Commissioner JONES GASTON. Well, the other mechanisms that we have are to do partial reviews. If there's an issue that comes to our attention, we can go in and do a partial review, which in many ways would mirror the CFSR process, but around a particular issue and can issue corrective action plans, depending on the area in which it sits, as far as the legislative statutory driver would depend on what the mechanism is, and whether or not there is a significant financial penalty that can be employed or not.

Chair OSSOFF. I've got you for about three more minutes. So please drill down on those partial reviews as concisely and precisely as you can, what those corrective action plans entail and what happens if States don't successfully implement them?

Commissioner JONES GASTON. The partial reviews would be looking at whatever the particular issue. So, they usually come about because an issue has been raised, or there is a concern around following a particular Federal requirement and digging into that.

The reviews would include talking with individuals, the case review—similar case review processes as we would do in the CFSR

and working with the jurisdiction in regards to what they have done and then issuing a corrective action plan.

And then regarding the penalties and the actions beyond that, would depend on what the circumstance was and was it tied to a CFSR review and those sort of things. And happy to be able to have my team—work with my team to get back with you around the various funding streams, and the mechanisms that we have related to penalties related to those different funding streams, if that makes sense.

Chair OSSOFF. Yes. We're going to adjourn here in a moment to let you attend to that engagement that you have. But this is where I would like your commitment here at this hearing, that you and your colleagues will be responsive as you have been thus far, and provide the technical assistance that this Subcommittee may need to consider how statutes might change so that you have the tools you need to hold these State agencies accountable.

The reason that we are looking so intensely at this issue—and I believe that both you, Commissioner, and you, Mr. Perez, at the FBI share this commitment based upon this testimony—is because what is happening to foster children across the United States is unacceptable.

The placements in homes where the caregivers are not appropriately vetted—and this Subcommittee has heard testimony from the mother of a child who was murdered by one of those unvetted caregivers—it's unacceptable.

The number of children who are going missing from foster care across the United States, and the number of children who are then likely, according to NCMEC statistics, victims of sex trafficking is unacceptable.

The reports that this Subcommittee has received about congregate care settings that sound comparable to detention or incarceration, and which drive some of these children, according to the testimony we've heard, to run away, because in a State foster agency, what is meant to be their sanctuary, they're treated like prisoners, and then upon running away find themselves preyed upon by traffickers. It's unacceptable.

And the reason that we are holding these hearings is to understand, in large part, what Congress can do about it. So, your testimony here today has helped to inform us.

But we need to go deeper, Commissioner, on whether the tools that are at your disposal are sufficient to drive the kind of change that is urgent.

Because as Ranking Member Blackburn said, citing the statistic about how frequently a child in this country is bought or sold or sexually trafficked, there is absolute urgency every day that we protect these children.

And we're going to continue to press you, and I hope continue to work with you to improve these systems.

Thank you, both, for your testimony here today. Please, I just want a one-word commitment from each of you that you will timely and fully to the best of your ability respond with further information and technical assistance the Subcommittee may require moving forward. Commissioner?

Commissioner JONES GASTON. We'd be happy to do that.

Chair OSSOFF. Mr. Perez?

Mr. PEREZ. Yes, sir.

Chair OSSOFF. Thank you, both, for being here. And the Subcommittee will adjourn momentarily following this important note.

The hearing record will remain open for 1 week for statements to be submitted into the record. Questions for the record may be submitted by Senators by 5 p.m. on Thursday, December 21st.

The hearing is adjourned.

[Whereupon, at 2:04 p.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]



**Testimony of**

**Rebecca Jones Gaston  
Commissioner  
Administration on Children, Youth and Families  
Administration for Children and Families  
U.S. Department of Health and Human Services**

**Before the**

**Committee on the Judiciary  
Subcommittee on Human Rights and the Law  
United States Senate**

**December 14, 2023**

**Introduction**

Chairman Ossoff, Ranking Member Blackburn, and distinguished Members of the Committee, thank you for the opportunity to appear before you today on behalf of the U.S. Department of Health and Human Services (HHS). My name is Rebecca Jones Gaston, and I am the Commissioner for the Administration on Children, Youth, and Families (ACYF) within the Administration for Children and Families (ACF).

I want to start by thanking Congress for the years of strong bipartisan support and partnership on child welfare prevention efforts—partnership which provided the foundation for and enabled the passage of critical legislative achievements like the Family First Prevention Services Act (FFPSA). This work has long been a topic that both sides of the aisle have agreed on, supported, and prioritized.

In my testimony today, I will provide an overview of ACYF's priorities to better serve children, youth, and families and the activities of its Children's Bureau (Bureau or CB) to improve the safety, permanency, and well-being of those children and families involved or at the risk of being involved in our nation's child welfare systems. Additionally, I will address the Bureau's oversight role regarding the compliance of state plans for Child Welfare Services with the requirements of the Social Security Act (the Act). Lastly, I will highlight recent ACYF rulemaking efforts intended to support kin caregivers, improve safe and appropriate placements for all youth, and promote adequate legal representation for children, parents, and caregivers.

**Priorities**

We know that children do best with their own families. The ACYF's priorities reflect a commitment to supporting parents, caregivers, and children through holistic and proactive approaches that focus on keeping families together whenever we safely can and preventing unnecessary involvement with the foster care system. The Biden-Harris Administration continues to focus on robust implementation of the FFPSA and the landmark changes to funding preventive services that it created.

Our focus on prevention includes increasing supports and services, such as funding mental health programs and substance use treatment and recovery, for children, parents, and families before they are in crisis. I hear routinely from youth and families that have experienced the child welfare system that many of their families could have stayed safely together if support for their housing, child care, mental health, substance use services, and/or other concrete needs had been met. As we continue to advance toward this goal of prevention and family unity, we will remain committed to having our policies and programs be informed by the lived experience of those American families who have encountered the system.

This effort will take time and cannot be done solely at the federal level. Together, we are working with states and tribes to shift the focus of child welfare systems from out-of-home placement to prevention and family preservation. We are doing this by continuing to help states implement the FFPSA, a bipartisan, seminal law that opened Title IV-E funding to focus on prevention, and by promoting cross-system collaborations that recognize that the child welfare system alone cannot support family well-being.

The President's fiscal year (FY) 2024 budget would make tremendous strides toward meeting these goals, including proposals to reauthorize, increase funding for, and amend the Promoting Safe and Stable Families Act (PSSF), Title IV-B of the Act, and the Runaway and Homeless Youth Act. These proposed changes would further the shift toward a prevention-oriented child welfare system that centers child and family well-being at every step of the process; expand and provide incentives for the use of the Title IV-E Prevention Services program; provide additional support for tribes; and support youth who are at risk of or victims of commercial sexual exploitation and human trafficking.

**Oversight**

The Children's Bureau provides federal leadership to improve the safety, permanency, and well-being of children and families. These are not mere words; they are the guiding principles that drive our every action, interaction, and oversight of Title IV-E child welfare agencies. Our efforts underscore the paramount importance of child safety as a primary outcome. The Bureau continually seeks ways to prevent unnecessary involvement of child welfare agencies with families, such as supporting the previously mentioned provision of prevention services through state's Family First Prevention Services Plans and collaborating with partners to serve families and children when they need it, where they need it, and how they need it. When there may be a need for a child welfare intervention, we are committed to advancing efforts to ensure safety, permanency, and well-being.

The Act authorizes HHS to review state child and family service programs to ensure conformity with the requirements in Titles IV-B and IV-E. The Bureau partners with federal,

state, tribal, and local agencies and directs the implementation of comprehensive monitoring protocols and data collection systems designed to assess and ensure states, tribal grantees and the courts meet the standards and outcomes established for the federal child protection, adoption, foster care and guardianship programs. The CB participates in a variety of activities to carry out this mission, including:

- Funding essential services and helping states and tribes operate their child welfare systems;
- Supporting innovation through competitive, peer-reviewed grants for research and program development;
- Offering training and technical assistance to improve child welfare service delivery;
- Monitoring child welfare services to help states and tribes achieve positive outcomes for children and families;
- Sharing research to help child welfare professionals improve their services; and
- Working with states to ensure that every child and youth has a permanent family or family connection.

The CB's core technical assistance and monitoring plan is led by its regional offices. Regional office teams work directly with states and tribes to ensure compliance with program requirements of the formula and entitlement grant programs under Titles IV-B and IV-E of the Act and the Child Abuse Prevention and Treatment Act (CAPTA). The regional offices conduct ongoing joint planning with states and tribes which includes discussions, consultations, and negotiations in all areas of child welfare services and the development of five-year strategic plans, called the Child and Family Services Plan (CFSP), and annual updates of CFSP progress,

called the Annual Progress and Services Report. In partnership with other CB divisions, the regional team monitors state performance and compliance with requirements by conducting Child and Family Services Reviews (CFSR), Title IV-E eligibility under the Act, and other reviews. Regional offices stay informed of current issues with assigned grant recipients through the monitoring of media summaries, state legislative activity, data collection systems' reports, and other information. Additionally, the regional teams provide direct technical assistance to grant recipients, as well as referrals to CB's technical assistance providers, to support improved safety, permanency and well-being outcomes, and compliance with requirements.

The CFSRs are a core monitoring tool for the CB. These reviews are designed to help states improve child welfare services and the outcomes for families and children who receive services by identifying strengths and needs within state programs, as well as areas where technical assistance can lead to program improvements. The reviews emphasize accountability and are conducted in collaboration with the state.

The CFSRs examine outcomes for children and families in three areas: safety, permanency, and child and family well-being. Within these three areas, seven outcomes are assessed through statewide data and onsite review of cases. The reviews also examine seven additional systemic factors that affect the process and capacity of states to deliver services, quality of services delivered to children and families, and the outcomes they experience. States found out of conformity with Federal requirements develop and complete a program improvement plan and face financial penalties for failing to successfully complete that plan.

**Regulatory Action**

As stated above, ACYF's goal is to assist states in ensuring the safety, permanency and well-being of the children and families they serve. One of the most impactful means by which we promote these outcomes is through regulatory action. I am pleased to have this opportunity to discuss three recent regulatory actions taken by the Biden-Harris Administration that, once implemented, will have a profound impact on child welfare systems in America. Together, these rulemakings, along with the Family First Prevention Services Act, represent perhaps the most substantial advances in child welfare in a generation. These three rules are designed to remove barriers to keeping families together, improve safe and appropriate placements for all youth, and increase fairness in the child welfare system.

*Kinship Final Rule*

ACYF believes that families belong together. Today, millions of children across America are primarily cared for by grandparents, aunts and uncles, and other relatives, who provide a safe and loving home when parents are unable to. Research emphasizes the benefits of keeping children with their own relatives when parents are unable to take care of them, highlighting the importance of close connections, preservation of cultural identity, and enhanced placement stability compared to non-relatives. But when children go live with family members, it is most often in emergency situations which may result in unanticipated expenses for the relative caregivers. Data demonstrates that many relatives who care for their family members are more likely to live in poverty—circumstances in which financial support can make all the difference in providing for the child's care.

On September 27, 2023, HHS issued a final regulation to allow states to remove barriers for kin caregivers to become licensed foster care providers, and therefore receive full financial support from the state, by creating separate licensing standards for kin caregivers. Previously, all foster homes needed to meet the same licensing standards, whether the caregiver was family or not. While everyone, including kin caregivers, will continue to be subject to criminal background checks and other critical safety requirements, states can now create a new standard that recognizes that when family steps in, they should have a simple and straightforward path to receiving full financial support.

*Safe and Appropriate Placements Proposed Rule*

When children cannot stay with their own families, they deserve a placement free of hostility, mistreatment, or abuse where they can thrive. Research shows that children and youth who are LGBTQI+ and are involved with the child welfare system can be particularly vulnerable. They may be at a high risk for varying degrees of foster family rejection, neglect, exploitation, and hostility. These youth may receive poor treatment by child welfare systems connected to their gender expression or identity, or sexual orientation, and deal with unstable placement, including multiple foster care placements and a higher probability of placements in congregate care settings. Research shows that LGBTQI+ youth in foster care can face higher rates of homelessness and experience higher rates of attempted suicide.

In alignment with the Executive Order on [\*Advancing Equality for LGBTQI+ Individuals\*](#), on September 28, 2023, HHS issued a proposed rule seeking to ensure that, as part of their statutory requirements to provide safe and appropriate care to all children in foster care, clarifies

how states should fulfill these requirements for LGBTQI+ youth in foster care. The rule recognizes the vital role that faith-based providers play in supporting our nation's child welfare system, and the importance of upholding religious freedom protections. No individual foster parent or private provider would be required to be designated as a provider for youth who identify as LGBTQI+. However, the state would need to ensure a sufficient supply of foster placements that are prepared to care for these youth in a supportive manner, including by providing foster homes caring for LGBTQI+ youth the training they need to address their unique needs. No child should be fostered in a home where they face hostility or abuse because of their sexual orientation or gender identity or be exposed to harmful practices like so-called "conversion therapy." This rule is vital to address the harms faced by LGBTQI+ youth.

*Legal Representation Proposed Rule*

All families, regardless of income or access to resources, deserve a fair chance to stay together. Many families that come to the attention of a child welfare agency are in the midst of or recovering from familial, health, housing, or economic challenges. Access to independent legal representation can help stabilize families and reduce the need for more formal child welfare system involvement, including foster care. Outcome data from legal service programs and pilot projects demonstrate that providing independent legal representation to address a family's civil legal issues can successfully help keep families safely together, expediting permanency.

The third rule, as also proposed by HHS on September 28, 2023, would allow for financial reimbursement to help cover costs of an attorney providing independent legal representation for a child who is eligible for Title IV-E foster care under the Act or that child's

parent or kinship caregiver in civil legal proceedings as part of the foster care plan. It would also allow for legal representation for a Title IV-E agency, any other public agency, or tribe that has an agreement in effect under which the other agency has placement and care responsibility of a Title IV-E eligible child; and would allow for legal representation of an Indian child's tribe when the child's tribe intervenes in any state court proceeding for the foster care placement or termination of parental rights of an Indian child who is in title IV-E foster care.

Thank you for this opportunity to discuss the mission and work of ACYF's Children's Bureau to better serve children, youth, and families. I look forward to working with Congress, including this Committee, as part of our shared collective efforts to ensure the safety, permanency, and well-being of children and families. I would be happy to answer any questions you may have.



## **Department of Justice**

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**STATEMENT OF**

**JOSE A. PEREZ  
DEPUTY ASSISTANT DIRECTOR  
CRIMINAL INVESTIGATIVE DIVISION  
FEDERAL BUREAU OF INVESTIGATION**

**BEFORE THE  
SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE**

**AT A HEARING ENTITLED  
“PROTECTING THE HUMAN RIGHTS OF FOSTER CHILDREN”**

**PRESENTED  
DECEMBER 14, 2023**

**Statement for the Record  
Prepared for Jose A. Perez  
Deputy Assistant Director, Criminal Investigative Division  
Federal Bureau of Investigation**

**Hearing Before  
the Senate Committee on the Judiciary  
Subcommittee on Human Rights and the Law**

**December 14, 2023**

**Introduction**

Good afternoon, Chairman Ossoff, Ranking Member Blackburn, and Members of the Subcommittee, and thank you for inviting me here today to have an important discussion about a crime that is present throughout the country and the world—Human Trafficking, including the Sex Trafficking and Exploitation of children.

My name is Jose Perez. I am a Deputy Assistant Director within the Federal Bureau of Investigation's (FBI) Criminal Investigative Division, or CID. In my position I oversee various investigative programs for the FBI, including Violent Crime and Gangs, Transnational Organized Crime, as well as Crimes Against Children and Human Trafficking, which I'll focus on today.

We at the FBI have no more important task than protecting the most vulnerable among us—especially children—so this work is a priority in all of our 56 Field Offices across the country. But we can't stop Human Trafficking alone, so we partner closely with numerous federal, state, and local law enforcement agencies as well as non-governmental agencies and non-profits on the front lines to address the threat across all angles and provide victim assistance as one coordinated team.

**What is Human Trafficking?**

Human Trafficking, or trafficking in persons, is a crime in which a person is exploited for labor, services, or commercial sex acts. It occurs in every region of the United States and throughout the world, and is perpetrated by an array of actors—from individual criminals to more structured criminal organizations. Often, trafficking occurs together with other criminal conduct, such as financial crimes, narcotics trafficking, online child sexual exploitation, sextortion, and other types of violence.

Sex Trafficking of adults includes the recruitment, solicitation, and transportation of a person for the purpose of a commercial sex facilitated through force, fraud, or coercion. Any exploitation of a minor for commercial sex is Human Trafficking and Child Sex Trafficking does not need to involve any type of physical force or coercion.

Similarly, Labor Trafficking also includes the recruitment, harboring, and transportation of a person, but for the purpose of subjection to forced labor or involuntary servitude. Labor trafficking can occur in any industry and is prevalent in agriculture, domestic work, construction, landscaping, factories and manufacturing.

Human traffickers come from a wide variety of backgrounds and demographic categories and are often times facilitated by criminal enterprises and transnational criminal organizations. Criminal enterprises often operate in plain sight and can go undetected for decades, affecting hundreds of victims before being identified. Victims often do not leave their situations because they fear their traffickers or have a distrust towards law enforcement, or a lack of understanding of their rights.

Trafficking can affect anyone regardless of age, race, sex, or ethnicity. Still, vulnerable populations tend to be at a higher risk of being trafficked. Traffickers can and will identify and exploit vulnerabilities, and they often control victims' resources, safety, living and working conditions. Traffickers can also have access to services that can exert power over their victims.

#### **FBI Actions and Successes**

The FBI investigates all forms of human trafficking, including child sex trafficking, regardless of the victim's age or nationality. But we can't do it alone. As I mentioned, we work with external partners—primarily with the National Center for Missing and Exploited Children (NCMEC), where we have personnel embedded—to not only identify and locate victims but also hold those who victimized them accountable. Social welfare agencies are often some of our best partners in identifying trafficking schemes as well. We collaborate with these organizations through multi-disciplinary teams (MDTs), which are comprised of different entities working together to coordinate forensic interviews, medical exams, counseling, and other services.

Additionally, we combat Human Trafficking and Child Exploitation by working with our federal, state, and local partners through our more than 85 FBI Child Exploitation and Human Trafficking Task Forces nationwide consisting of approximately 800 task force officers.

This approach has yielded many positive results. Just this month, a Los Angeles man was sentenced to life in prison for recruiting teenage girls and an adult for commercial sex work. The subject advertised victims for commercial sex on various websites, and facilitated responses to online ads by arranging in-person meetings with the victims. The subject victimized at least three minor girls and used threats of force and coercion to traffic a young adult – all for his own profit. The FBI Los Angeles Child Exploitation and Human Trafficking Task Force coordinated with multiple law enforcement partners and the NCMEC throughout this case.

Still, we're working to build more relationships and provide training to more private organizations, because awareness is key, and the problem isn't contained—each of the FBI's 56 Field Offices have received complaints regarding human trafficking. We're also part of the ongoing DOJ Forced Labor Initiative Working Group, as well as other working groups aimed at executing the White House's National Action Plan to Combat Human Trafficking. We also have an entire division devoted to Victim Services, and a cadre of Victim Specialists who are key to integrating victim-centered services into all of our federal investigations.

**Conclusion**

Members of the Subcommittee, we appreciate your support in this area, your time today spent discussing this important issue, and your continued assistance in helping us combat this threat.

Thank you again for the opportunity to testify before you, and I'm happy to answer any questions you may have on this topic.