



Statement by

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Chairman Grassley, Ranking Member Leahy, and members of the Committee, thank you for inviting me to discuss the Department of Health and Human Services' (HHS) responsibilities regarding unaccompanied children. The Office of Refugee Resettlement (ORR) in the HHS Administration for Children and Families (ACF) cares for unaccompanied children referred to its custody and is responsible for the process of releasing children to their parents, relatives or other appropriate sponsors with whom they can live during the pendency of their immigration proceedings. ORR is mindful of the vulnerability of these children and is continually looking for ways to strengthen the program's safeguards. Unaccompanied children who make the dangerous journey from Central America to the United States, often in the hands of human smugglers, come in search of a better life. Many of these children are fleeing poverty and violence, or seeking to rejoin their parents or close relatives. Clearly, these are vulnerable children in difficult circumstances, and we endeavor to provide the most appropriate care to each child referred to us, with the strongest a commitment to their safety and well-being. In my testimony today, I will describe the role that HHS plays in relation to unaccompanied children under Federal law, and discuss a set of key developments in relation to our responsibilities in recent months.

Role of the Office of Refugee Resettlement

HHS is responsible for coordinating and implementing the care and placement of unaccompanied children referred to ORR.¹ Our mission has two key parts. The first is to create a safe and healthy environment in our shelters, one that ensures access to nutritious food, clean clothes, sanitation, education, and medical services. The second is to identify the least restrictive

¹ Under the Homeland Security Act of 2002, (P.L. 107-296), an unaccompanied alien child (UC) is defined as “a child who (A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom – (i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody.” 6 U.S.C. § 279(g)(2).

placement that is in the best interest of the child, usually with a sponsor, for each child while they await the outcome of their U.S. immigration proceedings, subject to considerations of risk of flight, and danger to the child or community.

Until FY 2012, the number of children referred to HHS's Unaccompanied Children Program each year was generally in the range of 6,000 to 7,000. Those numbers increased considerably from 2012 through 2014. In FY 2012, 13,625 were referred, 24,668 in FY 2013, and 57,496 in FY 2014. The numbers declined in FY 2015 to 33,726, but were at high levels in the first quarter of FY 2016.

We are continuing to assess the program in order to make both operational and policy improvements, identifying the most efficient ways to use our appropriated funds.

Background

Most children determined to be unaccompanied arrive at the border between the U.S. and Mexico. When they do arrive, the Department of Homeland Security (DHS) refers them to ORR within 72 hours, except in exceptional circumstances.

When unaccompanied children are referred to ORR, they are cared for in one of a network of shelters while staff work to determine if they have appropriate sponsors with whom they can live during the pendency of their immigration proceedings. Pursuant to Federal law and the Settlement Agreement in *Flores v. Reno*, a consent agreement approved in 1997, a child in HHS care receives medical, dental, and mental health services; education services; recreational opportunities; a legal rights presentation and access to legal services; access to religious services; case management services, which include services to identify a parent, relative, or other

appropriate sponsor; and clinical counseling on a weekly basis to treat any mental and emotional health issues, like depression or post-traumatic stress.

HHS funds state-licensed shelters through grants to non-profit organizations with appropriate experience caring for children. In addition to the onsite and desk monitoring activities of discrete aspects of the program already conducted of these grantees, we are committed to ensuring that our shelters are subject to comprehensive onsite monitoring no less than biennially. HHS currently funds shelters in 12 states, but the majority of shelters are within 250 miles of the Southwestern border.

Capacity Planning

Operating the Unaccompanied Children Program presents challenges because of uncertainties about how many children will arrive and when. Incorporating lessons learned from the summer of 2014, when caseloads increased quickly, HHS has adjusted a number of its practices to more flexibly and efficiently respond to fluctuations in migration while also maintaining high standards of care for this vulnerable population.

Because of the large fluctuations in arrival numbers throughout the year, it is appropriate to have a mix of “standard” beds that are available year-round, and “temporary” beds that are brought online as needed in the event of increases in arrivals. Accordingly, HHS developed a bed capacity framework with grant and contract mechanisms that allow us to have a sufficient base number of standard beds, with the ability to quickly add temporary beds, which has improved ORR’s ability to accommodate changing flows. ORR will continue to update its bed capacity planning to account for the most recently available data, including information from interagency

partners, to leverage available funds to be prepared for possible increases in caseloads. The President's FY 2017 Budget proposes a contingency fund for this program that would provide additional resources only if referrals exceeded what could be accommodated with existing resources; if enacted, the contingency fund would help ensure ORR had sufficient capacity to adjust to large and unpredictable fluctuations in need for shelter capacity. Without a contingency fund, our ability to respond to significant increases in migration is compromised.

Unaccompanied Child Assessment

Soon after a child arrives at an ORR shelter, the child is screened by a case worker during the initial intake process to determine, among other things, if there are indications that he or she may be a victim of trafficking or abuse, has a disability, or has mental health needs, such that additional services might be appropriate. Staff at the ORR-funded care provider also conduct a more thorough assessment, covering biographic, family, legal/migration, medical, substance use, and mental health history. Upon arrival at a shelter, a child is also provided with a complete medical examination within 48 hours. This examination includes a general medical screening, which is conducted by either a doctor or nurse practitioner. All children receive age appropriate care including vaccinations as well as screening for tuberculosis and certain other communicable diseases, following guidelines from the Centers for Disease Control and Prevention. Every unaccompanied child that enters ORR's care is screened for signs of trafficking, and ongoing assessments of the child are conducted throughout the child's stay in ORR care.

This information is documented in each child's case file and periodically reviewed as necessary throughout the child's stay in ORR custody. The information is used to evaluate

whether a potential sponsor can provide for the particular needs of a child and whether the child might qualify for a home study and/or post-release services.

Placement of an Unaccompanied Child with a Sponsor

The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) requires that we seek to place children in the least restrictive setting that is in the best interest of the child, prioritizing the child's safety and well-being as well as any danger the child may pose to him or herself or to others in the community and any risk of flight. Accordingly, we seek to identify an appropriate sponsor for the child while he or she is in a shelter. Initially, we seek to place a child with a parent or a close relative; in FY 2015, 87 percent of sponsors were parents or close family members. If a parent or close relative is not available, we explore whether it is possible to place the child with a more distant relative or a family friend recommended by the parent. If it is impossible to identify an appropriate sponsor, and the unaccompanied child does not return to his or her home country, the unaccompanied child will remain in an HHS shelter or be placed in ORR-funded foster care until the child turns 18 or until immigration proceedings are completed, whichever occurs first. If immigration proceedings are not completed or a final order of removal has been issued, HHS remands the youth to the custody of DHS when the unaccompanied child turns 18.

Before placing a child with a sponsor, HHS goes through a multi-step assessment process with the goal of ensuring that a sponsorship will be safe and appropriate.

Evaluation of the Suitability of the Sponsor

One aspect of assessing a sponsor's application involves requiring information needed to verify

his or her identity and relationship to the child. To prove a sponsor's identity, ORR requires all sponsors to submit one form of government-issued photo identification and a copy of their birth certificate. To prove the sponsor's relationship to the child, ORR requires certain documentation depending on the relationship of the sponsor to the child (e.g., for a parent, the child's birth certificate showing the parent's name would be required). If there is a question as to the authenticity of the documents, ORR will work with the issuing country's consulate or embassy to verify the documents. The potential sponsor must also provide information and supporting documents so that ORR can assess his or her ability to care for and provide for the well-being of the child, including identifying potential risk factors or other safety concerns. In addition, ORR considers both the child's and the child's parent's or legal guardian's perspective on the child's potential release to a particular sponsor.

Background Checks

Potential sponsors for unaccompanied children are required to undergo criminal public records and sex offender registry background checks and complete a sponsor assessment process. Additionally, a fingerprint background check is required whenever the potential sponsor is not a parent or legal guardian. When the potential sponsor is a parent or legal guardian, a fingerprint background check is required when there is a documented risk to the safety of the minor, the minor is especially vulnerable, and/or the case is referred for a home study, or in any case where criminal history is revealed by the criminal public records check or sex offender registry check. The fingerprints are cross-checked with the Federal Bureau of Investigation's (FBI) national criminal history and state repository records, which includes DHS arrest records. For an unresolved criminal arrest or issue still in process, ORR may conduct an additional state or local check to assist in locating arrest records or other criminal offense details.

ORR-funded care providers request a child abuse and neglect (CA/N) registry check for potential sponsors in any case where a home study is conducted or where a special concern is identified. Additionally, as of March 2015, care providers conduct CA/N checks if the sponsor is unrelated or distantly related (e.g. a second cousin) to the unaccompanied child. CA/N checks are obtained on a state by state basis for all localities in which the potential sponsor has resided in the past five years.

In January 2016, ORR enhanced its background check policy to require that all adult household members and individuals identified in the sponsor care agreement (the “back-up” care givers) complete a criminal public record check. Additionally, all potential sponsors, adults living in the household of a potential sponsors, and individuals identified in the potential sponsor’s care plan in case a sponsor becomes unavailable (“back up” care providers) are now subject to sex offender registry checks.

Home Studies

A home study is an in-depth investigation of the potential sponsor’s ability to ensure the child’s safety and well-being. The process includes home visit(s), in-person sponsor interviews and possibly interviews with other household members, and post-release services. Additionally, all potential sponsors, including parents and legal guardians, as well as adults members of their households and identified back-up care providers, are subject to fingerprint criminal background checks in cases where a home study is conducted. The TVPRA requires home studies in four situations:

- 1) The child is a victim of a severe form of trafficking;

- 2) The child is a special needs child with a disability as defined in section 3 of the Americans with Disability Act of 1990;
- 3) The child has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened; or
- 4) A child's proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking based on all available objective evidence.

In addition, the Secretary is authorized to conduct home studies in other cases where the Secretary determines them to be necessary. On July 1, 2015, mandatory home studies were extended for all children age 12 and under for whom the potential sponsor is a distant relative or a non-relative. ORR further extended mandatory home studies on July 27, 2015 for all children, regardless of age, who are being released to a non-relative sponsor who has previously sponsored or proposes to sponsor more than one child to whom the sponsor is not related.

Decision to release a child

The decision to release a child to a sponsor is based on the best interest of the child, taking into account the totality of the circumstances. Each release decision has three levels of review by trained professionals, with the final sign off for release granted by ORR federal field specialists.

ORR will deny release if the potential sponsor is not willing or able to provide for the child's physical or mental well-being; the physical environment of the home presents risks to the child's safety and well-being; or release of the unaccompanied child would present a risk to him or herself, the sponsor, household, or the community.

In the event that a background check of a potential sponsor or adult household member(s), or individual identified in a sponsor care plan, reveals a criminal history or a safety issue, the care

provider evaluates this information and works with the potential sponsor to obtain detailed information on any charges or adjudications that have bearing on a sponsor's ability to provide for the child's physical and mental well-being. Sponsorship assessments have always given consideration to the nature, seriousness, and relevance of any criminal convictions, and it has always been ORR's practice to deny release to sponsors where there are indications that the sponsor presents a risk to the child's safety. ORR recently enhanced its policies to better ensure that children are not released to unsafe sponsors or environment. ORR policy establishes a categorical denial of release to a potential sponsor that is not a parent or legal guardian if the potential sponsor or a member of the potential sponsor's household has been convicted of certain felonies, such as a crime against a child, a violent crime, drug-related offenses, or trafficking, or has pending or substantiated criminal charges that may adversely impact their ability to care for the child. Similarly, ORR will reject any sponsor care plans that identify a "back up" care provider who has a disqualifying criminal history.

In the great majority of cases, we are able to place a child with a parent, relative, or other appropriate sponsor. In FY 2015, 91 percent of children who were released from shelters were released to a parent, relative, or non-relative sponsor. The remainder of those released were remanded to DHS' custody because they had reached 18 years of age; were repatriated to their country of origin; or were placed in the Unaccompanied Refugee Minor (URM) program.

Post-Release Services and Resources

ORR provides post-release assistance to many children and sponsors. Post-release services are intended to help link the child and/or the sponsor with community services or other on-going assistance. Post-release service providers coordinate referrals to supportive services in the

community where the unaccompanied child resides and provide other child welfare services, as needed. In the event that a post-release service case worker finds the home unsafe, he or she is required under state and local laws to report those conditions to state child protective services or local law enforcement.

Under the TVPRA of 2008, as amended, ORR is required to offer follow-up services or “post-release services” in cases where there has been a home study. Additionally, the TVPRA specifies that ORR may provide follow-up services in cases involving children with mental health or other needs that could benefit from ongoing assistance from a social welfare agency. In July 2015, ORR began a pilot project to expand post-release services to all unaccompanied children released to a non-relative or distant relative sponsor, as well as children whose placement has been disrupted or is at risk of disruption within 180 days of release and the child or sponsor has contacted the ORR Help Line.

In addition, HHS took two further important steps in 2015 to extend assistance after children have been released from ORR custody. In May 2015, ORR expanded the scope of calls received by its Help Line to provide unaccompanied children a resource for safety-related concerns, as well as sponsors a resource for assistance with family problems and child behavior issues, referrals to community providers, and assistance finding legal support and enrolling unaccompanied children in school. Every child released to a sponsor is given a card with the Help Line’s phone number. In August 2015, ORR also began conducting check-in telephone calls with sponsors and the unaccompanied child in their care, 30 days following the child’s release. The call is intended to identify any issues with respect to child safety and to provide sponsors with a resource for assistance with family problems and child behavior issues, referrals to community providers, and assistance finding legal support and enrolling unaccompanied

children in school. If the care provider believes that the child is unsafe, the care provider must comply with mandatory reporting laws, State licensing requirements, and Federal laws and regulations for reporting to local child protective agencies and/or local law enforcement.

Legal Services

Before we release a child to a sponsor, the sponsor must agree to ensure the child will attend immigration proceedings and report to the U.S. Immigration and Customs Enforcement (ICE) for removal if subject to a removal or voluntary departure order. The sponsor must also agree to notify the Department of Justice Executive Office for Immigration Review (EOIR) within five days of any change of address or phone number of the minor, and to notify U.S. Citizenship and Immigration Services (USCIS) within ten days of any change of address. In addition, the sponsor must agree to attend a legal orientation program provided by EOIR if it is available in the community where the sponsor resides. HHS notifies DHS of the name and address of the sponsor both prior to and after the child is released and informs EOIR of the current address of the sponsor at the time that the child is released.

In addition, ORR supports pro bono representation and provides ORR-funded direct representation or court appearance support for children in its long-term foster care program, those seeking voluntary departure or those imminently facing an order of removal or otherwise without reunification options while in custody. ORR also provides direct representation for a limited number of children released locally from their care provider facility and for other children post-release.

Enhancing the Safety and Well-Being of Unaccompanied Children

Despite ORR's efforts to place children with appropriate sponsors, a set of deeply dismaying cases occurred in Marion, Ohio, where dishonest people exploited the system and broke the law in order to take advantage of unaccompanied children and their families. We share others' outrage and concern. When we learn of fraud or cases of exploitation, we immediately begin to work with all appropriate law enforcement agencies and state child welfare organizations so that the children's safety is secured and that those who took advantage of them are brought to justice to the full extent of the law.

As we have outlined above, HHS has taken steps in the past year to strengthen our processes for sponsor assessment and release, and we continue to evaluate how we can further improve these protections. We have expanded circumstances in which we do child abuse and neglect checks, expanded home studies, increased post-release services, broadened the availability of our help line, established 30 day check-in calls after children are released to sponsors, clarified our policies relating to disqualifications based on criminal convictions, and expanded criminal background checks for all adult household members and back-up care providers.

We took a number of these steps before the Marion indictments, but the facts in the indictment exposed ways in which our processes could be exploited and we have taken additional steps to address those. After the indictments, we broadened home studies to include circumstances in which an unrelated potential sponsor was seeking to sponsor or had sponsored more than one child; directed grantees to search our information system for cases in which a sponsor was seeking to sponsor multiple children or multiple unrelated children were being released to a single address; and broadened our criminal records and child abuse and neglect checks to include household members of potential sponsors and individuals identified in the sponsor's care plan.

HHS continues to closely examine its policies in light of this case and the Subcommittee's Report to identify areas where we can strengthen our programs and better assure the safety and wellbeing of unaccompanied children. We appreciate the recent work of the Senate Homeland Security and Governmental Affairs Committee's Permanent Subcommittee on Investigations, and we are reviewing the Subcommittee's Report to identify additional steps we can take beyond those that we have already taken in the last year.

Conclusion

We welcome working with this Committee and Congress in efforts to improve the program. Thank you for the opportunity to discuss this critical issue with you. I would be happy to answer any questions.