



Statement of

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Committee on the Judiciary
United States Senate**

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Chairman Tillis and Ranking Member Durbin, thank you for the opportunity to appear before this Subcommittee on behalf of the Department of Health and Human Services (HHS). As Acting Assistant Secretary for Children and Families, I oversee the work of the Office of Refugee Resettlement (ORR), which is responsible for the care and placement of unaccompanied alien children (UAC). In my testimony today, I will provide a brief overview of the program and then focus on ORR's Community Safety Initiative. The goal of this initiative is two-fold: we want to equip UAC with the tools they need to avoid gangs and violence, and we want to ensure that the UAC we release from our custody do not pose a danger to our communities.

Current State of the Program

I would like to begin by giving you a brief update on the current state of the program. In fiscal year (FY) 2017, 40,810 UAC were referred to ORR from the Department of Homeland Security (DHS). In FY 2018 (through April), we have had 25,961 referrals. Although April of FY 2017 had the lowest referrals since FY 2012, referrals started to slowly increase in May 2017, and today are significantly higher than just a couple of months ago. To illustrate, in April 2017, ORR had 633 referrals; while in April 2018, ORR had 4,387 referrals.

At this time, we have no temporary facilities open at Department of Defense locations. The last one closed in February 2017. As of April 2018, we are operating one temporary influx facility at a Department of Labor site. ORR now has its largest permanent shelter capacity in its history at over 10,000 beds, and we continue to maintain the majority of our shelter capacity along the southern border.

In FY 2017, 94 percent of UAC referred to ORR came from Honduras, Guatemala, and El Salvador. To date in FY 2018, 93 percent of referred children come from those countries. UAC from 13 to 17 years old made up 83 percent of referrals in FY 2017 and 87 percent in FY 2018.

In FY 2017, UAC typically stayed in ORR custody for 51 days and so far in FY 2018 (through April), the average length of care has been 57 days. ORR releases the majority of UAC to sponsors. In FY 2017, ORR released 93 percent of UAC to sponsors. Of those, ORR released 49 percent to parents, 41 percent to close relatives, and 10 percent to other-than-close relatives or non-relatives. In FY 2018, we have released 90 percent of UAC to individual sponsors and of those sponsors, 42 percent were parents, 47 percent were close relatives, and 11 percent were other-than-close relatives or non-relatives. We are currently in the process of developing a more rigorous system to screen and vet potential UAC sponsors.

Community Safety Initiative

At the beginning of this Administration, the program learned of the involvement of released UAC in gang activity in New York. This incident, along with experiences of gang members in ORR care, served to confirm what we knew already; while homeland security and juvenile justice are not ORR's areas of expertise, we cannot fulfill our responsibilities under law with an approach that is neglectful of either. This prompted the creation of the ORR Community Safety Initiative. The initiative has made strides in four areas: education of staff, safeguards for UAC against gang involvement, cooperation with law enforcement, and implementation of policies to protect our communities.

Education of Staff

Ensuring that all levels of ORR staff and particularly grantees at ORR facilities that work with UAC on a daily basis are knowledgeable about gangs is critical to the security of our facilities. Dangerous gang members must be placed in secure facilities where they cannot harm or recruit other UAC. In order to make that happen, we must be able to recognize gang members when we see them, and that comes from education. ORR wants to expand and increase the education of its grantees and staff.

In the area of education, ORR has partnered with DHS and local gang experts to deliver trainings to ORR's post-release services providers in some geographic areas on how to identify MS-13 and other gang colors and signs, as well as whom to notify if providers become aware of gang activity. DOJ is also providing guidance to ORR on gang prevention programs for UAC, which is currently being piloted at some of our shelter sites.

ORR federal field specialists, who act as local ORR liaisons with care providers and stakeholders, have increased their participation in local and regional anti-gang task forces. Their participation strengthens our partnerships with law enforcement and helps ORR staff stay informed about MS-13 and other gang activity in their areas. This renewed participation is underway in Long Island, Northern Virginia, and Texas.

ORR headquarters staff, including project officers, health and policy division staff, and other UAC program staff, recently received training from local law enforcement on gang activities, recruitment, and prevention. In our funded facilities, ORR strengthened the risk assessment

process, including using the Ohio Youth Assessment System (OYAS) tool in all secure and staff secure facilities. OYAS is a tool that identifies a youth's risks, needs, and responsivity factors. It is designed to assist case managers and clinicians in making appropriate case decisions and determining treatment needs of a youth in custody.

ORR may uncover a UAC's gang membership through its assessments of the UAC while the UAC is in its custody. The care provider may learn information regarding the UAC's past criminal or gang history through self-disclosures by the UAC during the assessment process. For instance, the care provider asks the UAC about his or her involvement with gangs and criminal activity during the initial assessment process and during subsequent ongoing assessments while the UAC is in ORR custody. Additionally, UAC receive weekly counseling sessions where they may self-disclose previous gang or criminal activity to their assigned clinician. The clinician or the UAC's case manager will document this information in case notes and relevant assessments and notify the ORR federal field specialist. If the information was previously undisclosed or unknown, ORR will follow up with DHS in an attempt to verify this information.

Safeguards for UAC against gang involvement

Although there are UAC in ORR care who are gang members, to our knowledge most UAC are not. Yet, UAC are at potential risk of recruitment into criminal gangs such as MS-13 and Barrio 18, posing a danger not only to themselves but also to their communities. ORR has instituted a number of interventions for UAC and sponsors designed to reduce and address the risk of gang recruitment.

We recognize that UAC referred to ORR have to adjust to a new country, culture, and language. Although they are with their sponsors when released, they do not have their traditional support structures in place, which may make them particularly vulnerable to gang recruitment that exploits the UAC's need for a sense of belonging and safety. That is why we have taken measures to engage with UAC sponsors when we release UAC from our care, alerting them to the potential danger of gang recruitment and activity so they are prepared to help the UAC avoid such dangerous activity. We also recently added materials to our sponsor release packets to give sponsors information about gangs and gang prevention. Additionally, ORR has worked with the Executive Office for Immigration Review to incorporate gang prevention information into the legal orientation program for sponsors.

Knowing that UAC released into U.S. communities are at heightened risk of recruitment into criminal gangs, ORR is also focusing on interventions while UAC are in ORR custody designed to help prevent later gang involvement post-release. A specific gang prevention program for youth recommended by the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP), the Gang Resistance Education and Training (GREAT) gang prevention curriculum, is being piloted in several facilities. ORR anticipates expansion of the GREAT program to other ORR residential care facilities based on lessons learned from the pilot.

Cooperation with Law Enforcement

ORR considers work with federal, state and local law enforcement to be a top priority in its Community Safety Initiative. To strengthen our ties with the DHS, ORR recently signed a Memorandum of Agreement on information sharing. While DHS has always shared information

on UAC suspected of or known to be involved in criminal gang activity, under the MOA, DHS will share with ORR more detailed background information on each UAC upon initial referral and transfer to ORR. When the MOA is implemented, this change will assist ORR in strengthening its initial placement decisions, particularly in cases where the UAC has a gang affiliation or criminal background.

Policy

As part of the Community Safety Initiative, we are assessing all of our UAC policies and procedures through a safety and juvenile justice lens. Recently revised policies include clarification on the distinction between youth needing placement in one of our secure facilities and a youth needing placement in what is known as staff secure (or medium security) facility.¹ The policies now address the situation of UAC who self-report gang involvement. In determining whether to place UAC into secure facilities, ORR now takes this self-disclosure into consideration.² UAC placed in secure care receive further assessments to ensure the placement is appropriate. Along with guidance on placement, the revised policies include a change in the process for the release of UAC from secure and staff secure facilities.

ORR made a significant policy change to allow notification of local authorities when UAC from secure and staff secure facilities are released in their communities – although I want to

¹ *ORR Guide: Children Entering the United States Unaccompanied*, § 1.2.4 “Secure and Staff Secure Care Provider Facilities.” (June 2017), <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-1#1.2.4>. “ORR only places an unaccompanied alien child in a secure facility if the child: 1. poses a danger to self or others; or 2. has been charged with having committed a criminal offense.” “A staff secure facility is a licensed child care facility for UAC who require close supervision, but do not require placement in a secure care provider facility.”

² *Id.* (“In determining whether to place a youth in secure care, ORR considers if the unaccompanied alien child: . . . has self-disclosed violent criminal history or gang involvement prior to placement in ORR custody that requires further assessment . . .”).

emphasize that ORR never knowingly releases dangerous UAC with current gang affiliations, except under court order.³ ORR is currently working to implement this policy.

In the case of Suffolk County, on Long Island, New York, the ORR Director has been in contact with Suffolk County Police Commissioner Sini on a number of occasions. ORR has assisted Suffolk County police with their investigation of MS-13. The Suffolk County Commissioner in turn has agreed to inform ORR whether any gang involvement of former UACs began before, during, or after time in ORR care, if that information surfaces during local investigations. ORR is working to inform Suffolk County of releases of UAC into that community.

The Community Safety Initiative will continue to be a top priority for ORR. In the coming year, we hope to expand the GREAT gang prevention program, further develop our partnerships with juvenile justice and law enforcement entities and put into place gang-prevention educational programs in all our facilities.

Conclusion

Thank you for this opportunity to update you on ORR's recent efforts in the UAC program, and for your commitment to the safety and well-being of UAC and the communities in which they reside. I look forward to working with you on our Community Safety Initiative, our continuing improvement of policies and procedures, and all facets of the UAC Program. I would be happy to answer any questions you may have.

³ *ORR Guide: Children Entering the United States Unaccompanied*, § 1.2.4 "Sharing Information with Local Communities." (Oct. 2017) <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-5#5.9>. "In order to better protect our communities, and in response to requests for such information, when releasing a UAC from secure or staff secure care, ORR notifies local law enforcement in an unaccompanied alien child's community."